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FSA bankers' pay code: employment contracts to be renegotiated

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The Financial Services Authority (FSA) recently released a consultation paper entitled 'Reforming Remuneration Practices in Financial Services'. Under the new proposals banks must terminate or amend all employment contracts to ensure compliance with the FSA code on bankers pay by November 2010. The proposals are expected to affect about 45 banks and investment firms. However, these proposals are controversial because of the need to balance FSA requirements with the demands of existing employment law. .

Banks and investment firms in question, will now have to terminate or amend all their employment contracts to ensure compliance with the FSA code on bankers' pay by November 2010. This deadline will mean that the new rules would affect every employee, no matter what their seniority, by next year's round of bonuses. Arguably, this is an effort by the FSA to stamp out the perceived excesses of recent years.

There will also be wide-ranging repercussions for employers and employees. Although the FSA recognises that time is needed for firms to change the arrangements agreed with their employees, the underlying assumption throughout the Consultation Paper has been that no contracts would have 'remuneration obligations' to employees for periods exceeding a year. However, contracts for many senior executives include 'remuneration obligations' extending beyond an annual basis. As these employees have legal rights careful consideration will be necessary to change their employment terms without falling foul of the law.

The ultimate effect of such regulations is likely to result in a flood of bankers leaving the larger financial institutions and setting up their own, less heavily regulated businesses.

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