

FCA on conduct regulation for authorised foreign banks

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On 13 November, Clive Adamson, FCA Director of Supervision delivered a speech on what conduct regulation means for authorised foreign banks (AFBs), and the FCA's expectations of AFBs. Of particular interest, are Mr Adamson's comments on the FCA's regulatory approach to AFBs, its thoughts on the emerging business models of overseas banks operating in the UK, and the relevance of the increased risks of financial crime:

- Along with the PRA, the FCA is considering the role of branches and subsidiaries. As the FCA's remit as a conduct regulator applies whether or not a firm passports in or is based in the UK, non-UK firms should be mindful of UK and FCA requirements, particularly of preserving the integrity of the legal entity. The FCA is also striving towards greater clarity of responsibility and accountability in the supervision of international firms so as to avoid firms exploiting situations of regulatory arbitrage.
- The FCA is keeping a watching brief over a number of new emerging markets (including Islamic Finance). As markets regulator, the FCA is in discussions with relevant stakeholders to understand the implications of the government's plans to launch a sovereign Sukuk and create a new Islamic index on the London Stock Exchange for sharia-compliant financial products.
- The FCA has discussed with the Association of Foreign Banks some of the more difficult issues arising out of its review of how financial-crime risk in trade finance is being controlled. In particular, discussions have focussed around the assessment of whether goods are appropriately priced or might be dual use (that is, goods that can be used for both military and civil purposes and can be subject to sanctions). The FCA believes that banks can generally do more than most are doing now.

The FCA has started a piece of thematic work on how 20 small banks are managing risks posed by high-risk customers, including politically exposed persons (PEPs) and correspondent banks, as a follow-up to the FCA's 2011 anti-money laundering (AML) thematic review. The work will test whether banks are following the guidance in this area. Mr Adamson states that the FCA will take a dim view of banks that continue to run unacceptable risks without adequate control. The FCA intends to report on its findings in 2014.

Please contact Withers' UK Financial Services and Banking teams if the enhanced regulatory focus on AFBs is of concern.

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