



Newsletter 5 (June 2005)

Summary of recent financial services compliance and regulatory news

(1) Recent news from the financial services sector:

(a) Garda meeting for MLROs:

24th June 2005: Money Laundering Reporting Officers were invited to meet with the Garda for an update on recent issues including the new 'offence all financing of terrorism' and on-line filing of section 57 'suspicious activity/transaction reports'. The meeting was held on Friday 24th June at the Garda Club. We will email a summary of the key points to subscribers shortly.

(b) Implementing procedures and training to detect and prevent the 'offence of financing of terrorism':

8th July 2005: The requirement to adopt measures to prevent and detect the 'offence of financing terrorism' commences in two weeks (Friday 8th July). Not many firms and other designated bodies appear to appreciate that on and from 8th July they will be in breach of the Criminal Justice (Terrorist Offences) Act 2005 if they do not adopt measures to prevent and detect the offence of financing of terrorism. These measures include: establishing internal procedures for directors, officers and staff to follow; training such persons to enable them to identify transactions which may relate to the commission of an offence of financing terrorism; and instructing staff what to do when they identify such a transaction (i.e. reporting same to their manager/MLRO etc).

(c) Institute of Bankers/Irish Bankers' Federation "Complaints Handling in the New Regulatory Environment" Seminar:

14th June 2005: Also attended by members of the ACOI, this Complaints Handling Seminar provided a very useful insight into how the regulators see the new regime moving forward. The Seminar also provided some good practical tips and examples about how to handle complaints from both industry practitioners, the Irish Financial Services Ombudsman, IFSRA and the Financial Ombudsman Service (UK).

Two points will no doubt resonate with attendees: Firstly, Joe Meade's (the newly appointed Irish Financial Services Ombudsman and previous Data Protection Commissioner) comment that he expected senior managers to be on the phone for 1 to 1.5 hours a week handling complaints. Reinforcing the point, Mr. Meade referred back to his time as Data Protection Commissioner, informing the audience that all of his then staff took turns each week to answer calls from the public. One individual summed up the response of the majority of attendees by breaking into a round of applause. This signal from the new FSO should not be ignored, and it is obvious that the FSO wants firms to adopt a 'top-down culture' when it comes to complaints handling. Secondly, George Tracey (Head of Consumer Protection Codes, IFSRA) noted that IFSRA is 'not a fan' of automatically generated letters issued to consumers in response to complaints. In reply to a follow-up question, Mr. Tracey noted the difference between: (a) automatic-generated acknowledgements (of letters of complaints); and (b) automatic generated letters which (*and assumedly fail to adequately*) address the substantive issue of the complaint (comments in italics are those of the author).

Mr. Meade informed the audience of the scope of his new powers and the details of the types of persons who may lodge complaints with the FSO, including all personal customers, limited companies with a turnover of €3million or less and other unincorporated bodies including partnerships, charities, clubs, trusts etc. The FSO said he was considering naming firms with bad complaint handling procedures, but will also seek to balance this against identifying instances where a consumer's complaint is not upheld.

Mr. Tracey reminded firms of IFSRA's recent letter (May 2005) to industry firms addressing concerns arising from recent inspection visits relating to complaints handling procedures. That letter noted that firms are required to maintain a file of complaints received and to have in place, and be fully compliant with, an

adequate written procedure for the effective and proper handling of complaints (both oral and written complaints). IFSRA's letter stated that it had found many cases of non-compliance with this requirement.

International guest speaker Tony Boorman (Principal Ombudsman and Decisions Director, Financial Ombudsman Service, UK) gave a lively and interesting talk on the UK experience and for the first part of the Q&A session he was bombarded with questions from firms looking for more information on each point he raised.

Other speakers at the event included Joan O'Connor (Manager, Customer Care Unit, AIB Bank), Eimer O'Rourke (Secretary, Irish Mortgage Council), with opening comments from Pat Farrell (Chief Executive, Irish Bankers Federation).

(d) ACOI Breakfast briefing – "Fitness & Probity":

16th June 2005: Presented by Anne Troy, IFSRA, the breakfast briefing provided attendees with details of IFSRA's thinking behind Consultation Paper 11 (Fitness and Probity) and called upon the industry to respond with comments before 30th June to help IFSRA develop the framework for fitness and probity in the Irish regulated sector. Ms. Troy noted that issues such as firms being required to confirm the tax compliance status of senior executives/directors, especially foreign non-resident directors, is a hot topic.

(e) IFSRA's letter on FATF's evaluation of Ireland and the 'offence of financing terrorism':

In late March/early April, IFSRA issued a letter to those it regulates informing of: (a) an update to the FATF list of NCCTs; (b) the inclusion of China as FATF observer; (c) the upcoming evaluation of Ireland by FATF; and (d) the requirement that firms and senior management (especially the MLRO) be familiar with the revised 40 Recommendations and the 9 Special Recommendations of FATF. IFSRA's letter went onto say that certain types of institutions might be visited by the FATF evaluation team and that IFSRA expects MLROs and senior management to be familiar with the FATF requirements 'with a view to enhancing existing procedures where considered appropriate'. In addition, IFSRA recommended staff be briefed on FATF's Recommendations, particularly in the area of customer due diligence, as part of ongoing training programmes. A full copy of the letter is available at <http://www.antimoneylaundering.ie/GNDownload.html>

(2) Interested in having an article published?

Do you work in the field of compliance, whether it be as an in-house counsel, compliance officer, MLRO, risk management, a regulator, Garda, HR, any other regulatory position, lawyer or accountant in practice or auditor working in the fields of financial services, anti-money laundering, data protection, corporate governance etc? If you are and you would like to write an article on a topic within the broad remit of compliance, then contact Peter Oakes on +353 (0) 87 273 1434 or peter@complianceireland.com.

Compliance Ireland will be happy to talk with you about having your article published on its website at no cost to you. We get thousands of visits a month from around the world and many emails seeking advice on Irish and European regulatory compliance matters. This opportunity will assist both you (as you will be acknowledged as the author, with your website prominently displayed in your article) and **Compliance Ireland** disseminate specific and relevant compliance information to the Irish and wider community.

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Yours sincerely

Peter Oakes

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