Delivering a reduction of financial crime

Introduction

The FSA had a statutory objective to reduce the extent to which it is possible for a regulated business to be used for a purpose connected with financial crime.

In the *2012/13 Business Plan*, the FSA highlighted that credible deterrence and enforcement are at the centre of its strategic objective to reduce financial crime.

This chapter sets out how the FSA delivered on its *2012/13 Business Plan* aims, which were:

- supervisory initiatives, to engage and encourage the regulated sector to strengthen its defences, using various tools including intensive supervision and thematic reports; and
- other initiatives, including work on domestic and international policy work, deterring and preventing unauthorised businesses and working with partners across Government and law enforcement to tackle financial crime.

Supervisory initiatives

Thematic reports

In 2012 the FSA published two thematic reports relating to financial crime. Its report on *Anti-bribery and corruption system and control in investment banks* looked at how investment banks and similar firms manage the bribery and corruption risk in their business. The FSA found that although firms had started work to identify and assess their bribery and corruption risks and factor them into their anti-bribery and corruption controls, most had more work to do to meet regulatory requirements.

The FSA also published a report on *Banks' defences against investment fraud*. The FSA's work in this area highlighted that there was little governance of the specific issue of investment fraud in banks and made recommendations to the industry to address this. Following publication of the report, there was a roundtable at the FSA, both with firms included in the review and others to discuss the findings, make clear regulatory expectations and debate how to improve industry standards in this area. All attendees, and the FSA, agreed to work together to follow up on a number of new initiatives suggested during the meeting. These included improvements in information sharing and raising consumer awareness. Firms are expected to assess their own systems and controls taking account of the findings from thematic reviews, including examples of good and poor practice that were also in the FSA's publication *Financial Crime: A Guide for Firms*.

Financial crime risk

The FSA successfully designed, piloted and rolled out its Systematic Anti-Money Laundering Programme. This is a new programme of intensive, intrusive supervision to identify money laundering, financial sanctions and terrorist financing risks in the largest banks. Since the beginning of 2012, the FSA conducted detailed reviews of three major UK banks' anti-money laundering (AML) systems and controls. In general, there continues to be weaknesses in banks' management of high money laundering risk situations, including Politically Exposed Person relationships, so this will remain a key part of supervisory focus.

During 2012/13, the FSA also engaged closely with domestic and international standard setters on an effective risk-based approach for AML and counter terrorist financing standards. The FSA supported the Treasury on the revision of the Financial Action Task Force's (FATF) 40 recommendations and the methodology for the fourth round of mutual evaluations. The FSA also liaised closely with the European Commission on their review of the third Money Laundering Directive and with the European Supervisory Authorities (ESAs), working to address European AML issues.

Anti-Money Laundering enforcement actions

The FSA's thematic and supervisory work on Financial Crime is supported through taking enforcement action. In May 2012 it fined Habib Bank AG Zurich (Habib) £525,000 and its former Money Laundering Reporting Officer (MLRO), Syed Itrat Hussain, £17,500 for failure to take reasonable care to establish and maintain adequate AML systems and controls. Habib failed to establish and maintain adequate controls for assessing the level of money laundering risk posed by its customers. As MLRO, Hussain was responsible for overseeing Habib's AML systems and controls, but failed to ensure that these systems and controls were adequate.

In July 2012 the FSA took enforcement action against Turkish Bank (UK) Ltd (TBUK) in relation to its correspondent banking arrangements, fining the firm £294,000 for breaching the Money Laundering Regulations 2007. This fine highlights to firms the importance of maintaining appropriate and risk-sensitive AML policies and procedures, and adequate and on-going due diligence.

Unauthorised business

The FSA continued to take action against unauthorised investment businesses, including share frauds, landbanking and 'get-rich-quick' investment scams in 2012/13. The FSA received in the region of 6,000 reports each year about unauthorised activity in the UK. It identified the most serious matters posing the greatest risk to consumers and sought to stop them through a combination of methods including bringing legal proceedings against the perpetrators and publishing consumer warnings.

The main types of unauthorised activity that the FSA dealt with in legal proceedings included:

- share fraud/boiler rooms;
- landbanking (selling land on the false promise that it will increase in value when it achieves planning permission);
- get-rich-quick schemes offering false high yields; and
- formerly authorised individuals prohibited by the FSA from working in financial services who attempt to continue their activities under the radar.

The FSA took five civil actions this year and four actions in the criminal courts as well as publishing consumer warnings in respect of 144 unauthorised firms.

The FSA secured a key outcome in the High Court in a case against Asset Land which ran an unauthorised landbanking investment scheme. Asset Land was run by David Banner-Eve and Stuart Cohen, who were found by the High Court to have operated an unauthorised collective investment scheme. Through Asset Land they sold plots of land across the UK on the promise that investors would make substantial profits when the land was re-zoned and given planning permission. The business is believed to have taken around £15m from investors. The FSA took steps to put the companies into liquidation and make the individuals bankrupt in the hope of returning some funds to the firm's victims. Since 2011, reports of landbanking activity have dropped off dramatically. This is attributed to a combination of shutting down 13 of the largest and most egregious schemes together with a concerted consumer guidance campaign on the risks involved in buying land without planning permission from unauthorised firms.

The FSA also secured a significant outcome in a Supreme Court test case against Digital Satellite Warranty Cover Ltd, an unauthorised business offering satellite TV repair insurance. The FSA argued that the warranty product that the firm sold to the public amounted to a contract of insurance and that the firm needed to be authorised to continue selling it. This will have wider implications for more than 100 other unauthorised businesses that sell similar products to the public.

The FSA also disrupted an unauthorised FOREX trading scheme which netted around £6m from investors through the execution of search warrants and have charged two individuals Alex Hope and Raj Von Badlo for promoting and operating the scheme without authorisation. The FSA restrained £2.7m in bank accounts controlled by Hope under a Proceeds of Crime Act restraint order. The case is currently going through the courts.

Prohibited individuals

An area that the FSA focused on more this year involved individuals who have been prohibited by the FSA from conducting financial services who attempt to carry on their activities under the radar. It commenced a criminal prosecution against a prohibited independent financial advisor (IFA), Gary Hexley, and another former IFA, John Cooper, for giving investment advice without FSA authorisation. The two men are also charged with dishonestly concealing information about, amongst other things, their lack of authorisation and the suitability of the products that they were advising elderly and in some instances very vulnerable ex-clients to invest in. Both men are due to stand trial for these offences in September 2013. This was followed later in the year by another similar case in which the FSA charged another banned IFA, Michael Lewis, with 13 counts of breaching the General Prohibition and three counts of Assisting a Fraud by False Representation (contrary to the Serious Crime Act 2007 and the Fraud Act 2006).

Investment fraud

The FSA continued to scan the horizon for emerging trends in investment frauds. The FSA was particularly concerned by the growth of new alternative investment products such as carbon credits and rare earth metals that fall outside current legislation. It worked hard to raise consumer awareness about the risks posed by such products. In April 2012 it wrote to over 76,000 potential victims of investment scams, warning them that they might be targeted by fraudsters.

Working with others to tackle financial crime

The FSA regularly met with other agencies, such as the Serious Organised Crime Agency, the Serious Fraud Office and the National Fraud Intelligence Bureau, to ensure there is an effective, collaborative strategy for tackling investment fraud and was actively involved in projects coordinated by the Economic Crime Command (ECC) of the shadow National Crime Agency where there is an FCA interest. The FSA was represented on the board, intelligence group, operations group and other principal organs of the ECC. It also kept the Government informed about new trends that involve products that fall outside its remit.

The FSA also continued to dedicate resource to developing its domestic and international intelligence networks.

Domestically the FSA liaised with law enforcement and other agencies on a wide range of financial crime issues, from boiler room scams to pension liberation fraud and market abuse.

The FSA worked closely with law enforcement and regulatory partners across the world on a large number of financial crime and intelligence matters. This has included working with US authorities on money laundering allegations relating to HSBC and Standard Chartered and supporting European law enforcement agencies to bring down a network of boiler rooms that scammed thousands of victims of their money. Intelligence work was key in the successful prosecution of individuals connected with the three insider dealing cases it prosecuted this year, resulting in ten criminal convictions.

The FSA worked closely with the US authorities to understand the implications of breaches by UK banks of their US legal and regulatory obligations, and liaised with both the banks and the US authorities to ensure appropriate corrective action is carried out by the banks.