



FSA budgets to become 'a larger and more expensive regulator'

Mar 18 2010 [Peter Elstob](#)

The Financial Services Authority yesterday announced a 9.9 per cent increase in its annual funding requirement for the coming year, to £454.7m. Having underspent in the current year, however, the regulator said it anticipated being able to reduce the 2010/11 AFR by £11m. Hector Sants, chief executive, said when introducing the regulator's [Business Plan](#) for 2010/11 that the FSA had moved from a "reactive" to a "proactive" approach to supervision, and this would entail more and higher quality personnel, supported by more sophisticated systems. The regulator planned to recruit 460 additional staff this year, both to deliver the more intensive supervision of the very largest firms, which it launched last year, and to implement [Solvency II](#), which it said was the largest project it had ever undertaken.

Sants said: "If society wants a more proactive approach it must accept that it will have a larger and more expensive regulator." He explained that the supervisory enhancement programme accounted for four per cent of the 9.9 per cent AFR increase.

Sants was at pains to emphasise the break the FSA has made with its "light-touch" past. He said: "[W]e have radically changed the way we operate. In particular, we have revised both our regulatory philosophy and the operating model which enables its delivery. There were various ways to describe our past philosophy. Politicians have characterised it as 'light-touch'. We had various derivations including principles-based; more principles-based. The new approach is termed 'outcomes-focused' and it is delivered through intensive supervision.

"The underlining principle of the 'old-style' FSA was that it would not intervene until something went wrong. It was a retrospective form of regulation. Intervention needed to be based on observable historical facts. This was well-supported by society and the City at the time. The new outcomes-based approach recognises that we will now intervene in a proactive way when we believe the results of a firm's actions will pose a risk to our statutory objectives."

Carmen Reynolds, a partner at White & Case LLP, found the regulator's characterisation of its previous approach as not intervening until something went wrong a little surprising. Reynolds told *Complinet*. "Whether the public and the City really understood that this was the approach which was being taken and what the consequences would be is impossible to know." She said, however, a more intensive approach to supervision was likely to be welcomed, provided that the FSA had the right people in place to understand the businesses and risks that they were supervising.

Sants also stressed the importance of the regulator's philosophy of credible deterrence. He said: "The focus of our enforcement action has shifted to taking a harsher stance. We are strongly committed to continuing to ensure the momentum we have generated is maintained in 2010/11, with our focus remaining on firms and individuals." He said the FSA had "a pipeline of significant cases" involving both insider dealing and market manipulation, and said it would also use criminal prosecution, where appropriate, to reinforce its change-in-control regime.

Reynolds said the FSA's recent successes in the criminal and enforcement arenas were likely to bolster credible deterrence, but added: "We are still to see any significant senior management responsibility cases coming through and of course, the level of future fines, seen by many as not supporting the credible deterrence line to date, will be critical."

Steve Leegood, a director of resource planning advisers Bryok, said the FSA's shift from a principles-based to an outcomes-focused approach was encouraging, as was the recognition that this would require better people, systems and analytical techniques. He warned, however, that the regulator's continued to focus on insider dealing could have the effect of further relegating other, at least equally significant, classes of market abuse.

Leegood told *Complinet*. "Reducing insider dealing is clearly a good thing, but it is not enough. Deterring the other forms of abuse is harder. This difficulty is exacerbated by an unintended consequence of the [Markets in Financial Instruments Directive](#), in that with fragmented markets, abuse is easier to disguise. No single pair of eyes can oversee the activity across all trading venues with sufficient completeness and accuracy."

Bryok and three other consultancies, BTA Consulting, Golden Advisors and Capstan Consulting, this week launched a report highlighting the increased potential for market abuse in the fragmented trading and data environment that MiFID has brought about in Europe. Brian Taylor, managing director of BTA Consulting, said: "Along with a new review of [MAD](#), the level of innovation and the degree of competition brought about by MiFID needs to be reduced, in our opinion. It's competition for competition's sake, and it's gone a bit too far, to the detriment of the quality of markets."

The four consultancies have formed a group, the Alliance of Independent Advisers to Financial Markets, or AVENUES, and on Friday they will be lobbying the European Commission with their concerns about widespread and increasing market abuse in the post-MiFID environment.

The FSA has continued to play a leading role, both through its membership of the Committee of European Securities Regulators and together with HM Treasury, in the European Union's reviews of MiFID, the Market Abuse Directive and the [Transparency Directive](#). In its Business Plan, the regulator has said: "We will press for the review of MiFID to maintain the existing framework for equities trading, but to make changes to enhance transparency, particularly to improve the consolidation of post-trade data, and to ensure competition between types of trading venue is on an appropriate basis."

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