

23 September 2011

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By email: [cp11\\_12@fsa.gov.uk](mailto:cp11_12@fsa.gov.uk)

Dear Ms Higginson,

***Re: BVCA Regulatory Committee response to FSA Consultation on Financial Crime: A guide for firms (CP11/12)***

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This response to the FSA consultation on Financial Crime: A guide for firms is made by the British Private Equity and Venture Capital Association ("BVCA"). The BVCA represents the overwhelming majority of UK-based private equity and venture capital firms.

**Summary**

We support the FSA's proposal to introduce a Guide on financial crime and consider that this has the potential to be a helpful resource, particularly for smaller firms, when reviewing internal financial crime policies in compliance with their obligations under SYSC 6.1.1.

The Guide will help firms avoid the potential confusion as to which areas their anti-financial crime policies should cover. SYSC 6.3 is entitled "Financial Crime" and yet includes provisions relating exclusively to anti-money laundering. Regulated firms' obligations for preventing financial crime and maintaining policies in pursuance of that aim are imposed by SYSC 6.1.1. Therefore, a resource



which highlights the variety of areas to be covered may reduce firms' confusion.

It is important that any such Guide is a concise resource which aids firms in developing their policies without creating further administrative burdens or imposing any compulsory obligations. We set out our responses to the Consultation questions below.

**Q1. Do you support our proposal to publish the Guide? If not, why not?**

The BVCA supports the proposed Guide on financial crime and agrees that a collation of the FSA's existing work in this area may assist regulated firms in identifying the areas on which they should focus when preparing and reviewing their financial crime policies.

**Q2: Do you think the Guide will achieve our publication aims? If not, why not?**

The guide, as currently drafted, is too broad to successfully achieve the stated aims. We note paragraph 2.7 of the Consultation which states that "as the number of thematic reports, and the period of time over which we have published them grows, it becomes harder for firms to keep track of the useful information the reports contain". It is precisely for this reason that the Guide itself must be concise – so firms can easily identify relevant areas to consider. Should firms wish to focus more thoroughly on a particular area then it is open to them to review the relevant sources on the FSA's website.

At its current length, there is also the chance that the Guide presents itself as difficult to digest and may not, therefore, receive the attention it merits. Regulated firms are aware of their many obligations and the various regulatory changes which are currently taking place and those which are due to take place in the near future. It can be challenging for regulated firms (even those with a large compliance function) to identify the areas on which to focus particular time and resources. A long and in depth Guide will be of less use to such firms than a concise and easily navigable source of reference.

**Q3: Do you consider that the Guide sets out with sufficient clarity which of its provisions apply to which firms? If not, how could we make it clearer?**

We support the FSA's approach in trying to navigate firms to the appropriate parts of the Guide. This could be added to by including an index directing firms to certain sections relevant to their size, business focus and client type.

**Q4: Is the Guide's structure and the use of self-assessment questions, good and poor practice and cases studies, helpful and clear? How could we make it clearer or more useful?**

The structure provides a clear way of identifying the policies and procedures that the FSA considers "good" and "bad" practices. The self-assessment questions are unnecessary as the practice that firms are encouraged to adopt is already clear.



**Q5: What other comments do you have about the structure of the Guide?**

As we have already noted, the potential benefit of the Guide is diluted by its size and the quantity of information contained in it. This could be remedied by refining the focus of the material on particular areas and by reducing the Guide's overall length.

**Q6: What comments do you have on the contents of the Guide?**

**Do you have comments on the specific chapters or the annex of Part 1?**

The Guide explicitly states that it is not to be used as a checklist by the FSA when considering a Firm's compliance with its obligations relating to financial crime. We support this view however we are not clear how this would be avoided if the Guide were to stay in its current form. The Guide provides examples of good and bad practice and it is expected that firms will consider these when establishing, implementing and maintaining their financial crime systems and controls. In order to demonstrate that it has performed such an exercise, firms will need to evidence which practices they have implemented and which practices they considered inappropriate for their firm. This has the effect of turning the Guide into a checklist.

Were the Guide drafted so as to provide high level details on the relevant areas with links to where firms could review further information, this would give firms greater scope to take a more considered approach to identifying the risks that they face and the types of policies that should be implemented in order to manage those risks.

**Q7: Is the inclusion of Part 2 of the Guide useful? What comments do you have on its contents?**

We do not think that the inclusion of Part 2 is helpful and consider that it should be removed. For firms who wish to research a particular area more thoroughly, it may be helpful to provide links to websites where the information can be found.

**Q8: Are there are topics not covered in the Guide which you would find it useful for us to address?**

We do not think any additional areas should be covered by the Guide. In addition, we do not consider that Data Security would fall within the remit of financial crime. Whilst we agree with the FSA that this is an important area and firms should ensure they have robust procedures to deal with relevant issues appropriately, it detracts from the focus on financial crime and should, therefore, be removed from the Guide.

**Q9: What comments do you have on our assessment of the equality and diversity issues we have identified?**




We agree with the assessment.

**Q10: Do you have any comments on this cost benefit analysis?**

We do not have any comments on the cost benefit analysis.

Yours sincerely



Margaret Chamberlain

Chair - BVCA Regulatory Committee

