

# IMS Asset Management Regulatory Update 2008 – Issue 1

## Introduction

Welcome to first issue for 2008 of the Monthly Newsletter from IMS Consulting, the largest independent asset management and securities regulatory consultancy in the UK, with offices in London, New York and Connecticut. Our newsletter sets out some of the more important regulatory changes for asset managers and securities firms in the past month, focussing on FSA and SEC related developments.

The year so far has been characterised by falling and volatile markets, the biggest interest rate cut in the US for 23 years and doom and gloom emanating from a plethora of media orifices. Many commentators predict that this turmoil will continue for some time. In such conditions, many financial institutions will be concerned with falling income and/or profits, or going out of business. Regulatory considerations, therefore, may not be at the forefront of minds, although with the recent Société Générale fraud scandal which saw the bank wipe off nearly €5 billion of its full year profits, firms must continue their focus on regulatory obligations. As history shows, these are the times in which regulatory risks are heightened, particularly around valuation of assets and maintenance of risk and mandate limits.

Against this backdrop, and continued criticism of the FSA over the Northern Rock issue, Gordon Brown has called for a global financial regulator. This includes reforming institutions – such as the International Monetary Fund and the World Bank – that were created in an age where nations were more self-contained and national problems were less likely to go global. A global watchdog would, he opined, be better equipped to prevent crises and not just resolve them.

Our newsletter details a number of interesting regulatory developments. 2008 will see an overhaul to the FSA's regulatory reporting regime; we explore how this will affect investment and securities firms. There has been a change to the anti-money laundering regime and potential changes to the client money and assets sourcebook, the non-MiFID regime and the close links reporting requirement. There is also a proposal to remove the large exposures breach rule for many investment managers. Voluntary standards for hedge funds have now been finalised by the Hedge Fund Working Group and over in the US, a firm has been fined for allowing improper payments to be made to a hedge fund manager.

Please click [here](#) for a PDF of the whole content of this newsletter (printer friendly version).

We hope that you find this newsletter to be relevant and informative. If you have any further questions please contact Scott Wilson on [dsw@imsconsulting.co.uk](mailto:dsw@imsconsulting.co.uk), Stephen Burke on [sjb@imsconsulting.co.uk](mailto:sjb@imsconsulting.co.uk) or Chris Rexworthy on [cre@imsconsulting.co.uk](mailto:cre@imsconsulting.co.uk). Alternatively telephone 020 7408 2448 to speak to your usual IMS contact.

In addition, please e-mail Louise Yates on [lpy@imsconsulting.co.uk](mailto:lpy@imsconsulting.co.uk) with any feedback or subscription queries for future editions. We very much welcome feedback on the coverage of the newsletter as we wish to make it as relevant as possible.

To read previous newsletters, please refer to the newsletter section of our website, at <http://www.imsconsulting.co.uk/news/imsupdates.html>.

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## Integrated Regulatory Reporting

### Integrated Regulatory Reporting

2008 heralds another major change to the way the FSA regulates firms in the UK, with the introduction of Mandatory Electronic Reporting (“MER”). This is the first significant overhaul of the method of financial and capital reporting since the financial services regulation was introduced to the UK on the 1980s and will affect all investment firms. Click [here](#) for further details.

## Regulatory Updates

### Implementation of the 3<sup>rd</sup> EU Money Laundering Directive

The 3<sup>rd</sup> EU Money Laundering Directive was implemented into UK law on 15<sup>th</sup> December 2007 by means of the Money Laundering Regulations 2007. In addition, the Joint Money Laundering Steering Group (‘JMLSG’) has updated its industry guidance notes to reflect the new Regulations. Click [here](#) for a summary of the relevant changes.

### FSA surveys firms on the Client Assets Sourcebook

A survey on the Client Assets Sourcebook has been sent to relevant firms, as part of a review of this section of the FSA Handbook. For further details, please click [here](#).

### Update for non-MiFID firms

Click [here](#) to read about the FSA’s proposal to extend the high level common platform systems and controls regime to firms not subject to the Markets in Financial Instruments Directive or the Capital Requirements Directive.

### FSA considers removing annual close links reporting requirement

An FSA Consultation Paper is seeking views on proposals to remove the annual close links reporting requirement. Click [here](#) to read on.

### Large exposures – proposal to exempt certain investment firms

The Committee of European Banking Supervisors (CEBS) has proposed to the European Commission that the large exposure requirements should not apply to limited licence investment firms. Click [here](#) for further details.

### News round-up

Click [here](#) for a round-up of other regulatory developments that may be of interest, including a comment on conflicts of interest, Darling’s intention to give the FSA greater powers and why criticism of Sir David Walker is like water off a duck’s back.

## Sector Focus

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## **Hedge Fund Working Group publishes standards**

The Hedge Fund Working Group has published its Final Report which details Hedge Fund Standards. Click [here](#) for further details.

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## Focus on the US

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## **FINRA fines SMH Capital for Procedural Failures regarding Soft Dollar Payments, Distributing Improper Hedge Fund Sales Materials**

The Financial Industry Regulatory Authority (FINRA) fined SMH Capital Inc of Houston, TX, \$450,000 for inadequate supervisory procedures that allowed improper payments to a hedge fund manager. Click [here](#) for the full article.

This newsletter has been prepared by IMS Consulting Ltd to provide a summary of key regulatory developments. It does not purport to provide details of all relevant regulatory development for asset managers or indeed to give a complete analysis of the developments identified here.

### Disclaimer

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