

Part 2: The Changing Regulatory Landscape

Conolly Tunnard comments on the impact on firms of the new emerging regulatory structure.

My first article ("Part 1") on the structure of the new regulatory regime outlined its framework. This second article considers what impact this may have on regulated firms.

As yet there is little information in the way of rule changes that will impact on regulated firms, however the broader impacts of the proposed changes on firms are emerging.

The regulated

How will the new regulatory structures affect regulated firms? A number of firms will have to tolerate being regulated by two separate entities, the PRA and the CPMA, which have separate agendas and separate objectives, and which both promise to be more intrusive in their regulation. In short, it is likely that there will be more regulation and closer supervision which will lead to more contact between the regulated and the regulator, requiring more resource to be devoted to regulation by firms.

Firms regulated by both the PRA and the CPMA will have to deal with the bureaucracies of both regulators, and this is likely to incur more work and more cost than the existing regime. Firms may have to employ more or separate individuals to deal with twin regulators. The skill sets for dealing with PRA regulation may well be different from those required to deal with CPMA regulation.

There will be a period of several years when there will be upheaval as the new regime develops and regulation settles down under the new structure. It is hoped that it is made clear which regulator does what so that the regulated will know, for instance, which regulator to apply to for permissions or approved person's status.

It is to be hoped that there will be co-ordination between the regulators so

that those firms that are dual regulated are regulated in a coordinated manner.

Firms will need to find extra resource to monitor developments and participate in consultation exercises as the new regulatory system unfolds.

The rule book regime will change, with the distinct possibility that each of the regulators will develop separate rule books, which will very possibly be largely based on model rulebooks developed at a European regulatory level. Much of the existing FSA handbook may be adopted by the new regulators, but there is every possibility that widespread changes and enhancements will be made to accommodate both European and UK regulatory initiatives. Firms will need to be alert as to how these impact on themselves. Understanding rules developments and applying them

will be the key to firms remaining compliant under the new regime.

Clearly regulation by both PRA and CPMA is likely to be more intrusive, as "light touch regulation" is seen as one of the failings that caused the banking crises. Prudential regulators will be using their judgement concerning firms' stability and capital adequacy, and firms will have to have staff with the experience to challenge the regulator's view if this is thought necessary. CPMA regulation could become more product-regulation based, as this appears to be the message coming out of Europe, and if this was to come into being, it would mean radical changes for firms to ensure compliance with new rules. To back up the new more rigorous intrusive approach to supervision, there will be a strong approach to enforcement to ensure credible deterrence. Under the new regime



firms can expect the regulator to take a tough line when it discovers wrongdoing or incompetence.

What should firms do now?

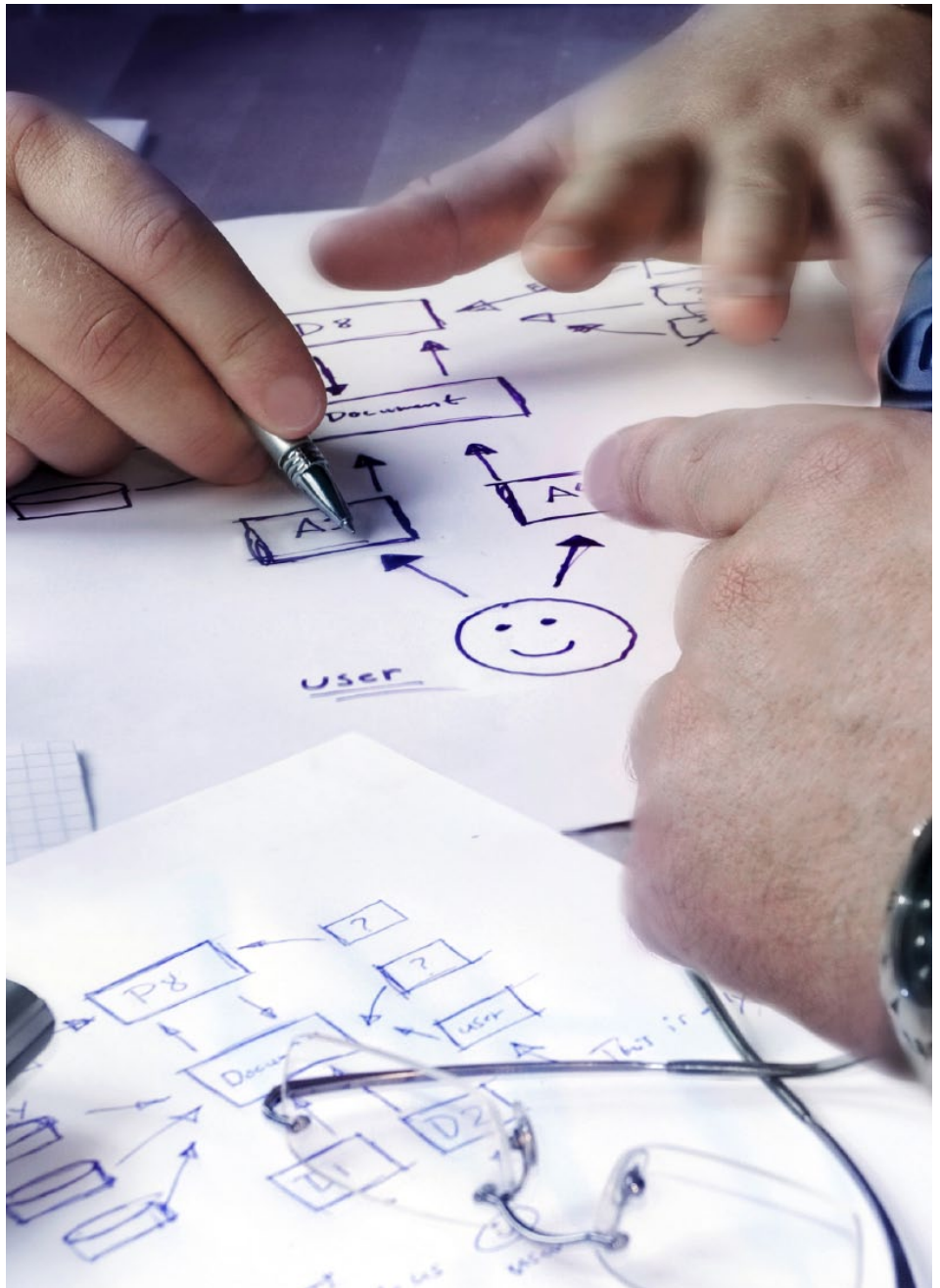
It is clear that firms should monitor the situation as it evolves. They should try to contribute to the consultation process either independently or through their trade bodies. If firms do not make their presence felt over the coming months, there is the chance that they will end up with a regulatory system that is difficult and expensive for them to deal with, and which incurs cost which may be difficult to pass on to the consumer. Firms can expect upward pressure on regulatory fees due to the cost of the new regulatory system, and firms should hold the new regulator, where they can, to account so that the increased costs are justified.

How can OAC help?

OAC will be producing a series of articles on this important issue as detailed changes emerge. We can, of course, advise firms how to accommodate the new regulatory requirements and rules, and the changes that they will need to make to remain compliant in the context of the new regulatory framework.

Download my other article "Part 1: The Changing Regulatory Landscape" at oacplc.com/publications/oac-topical-article-1010cc.pdf.

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