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by email to [cp15-42@fca.org.uk](mailto:cp15-42@fca.org.uk)

**Date: 4 February 2016**

Dear Sir

**RE: Consultation Paper 15/42: Quarterly No.11**

The Investment Association welcomes the opportunity to respond to the joint FCA's consultation.

The Investment Association represents the UK asset management industry. Our members manage over £5 trillion in the UK of assets on behalf of UK, European and international clients, both retail and institutional. Collectively, our members make up the second-largest asset management industry in the world.

Below, we have provided our responses to the questions raised in Chapters 2, 4 and 6 of your paper. Our answers to other chapters will be submitted separately.

Yours



**Adrian Hood**  
**Regulatory and Financial Crime Expert**

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**Q2.1: Do you have any concerns about our consequential amendment proposals for the rules and guidance on controllers?**

This change to the terminology should make no actual change to the way the rules work, increases consistency between FSMA and the FCA rules, and is thus unobjectionable.

We also note that SUP 11 Annex 6G has been revised to link terms to their glossary definitions. Also, in doing so several typos seem to have been introduced into the answer to Q5.

The addition of Q7A to SUP 11 Annex 6G is not mentioned in the text of Chapter 2.

**Q4.1: Do you have any comments on our proposed approach to amend EG7 in light of section 89NA FSMA?**

Given the requirement, under the Transparency Directive, to amend FSMA to give the FCA extended powers to suspend voting rights for shareholders in breach of the Directive, the FCA's proposals are inevitable.

**Q6.1: Do you have any comments on our proposals to require compliance reports for banks to be provided to us via the GABRIEL system?**

No comment.

**Q6.2: Do you have any comments on our proposal to amend the guidance notes relating to question C3.2 of MLAR?**

No comment.

**Q6.3: Do you have any comments on REP-CRIM (the new Financial Crime Report)?**

We consider that Section 2 of the report should only collect the data relevant to those parts of the business which are subject to the scope of the report (as set out in SUP 16.22.1R).



**Q6.4: Do you have any comments on the guidance notes for REP-CRIM?**

What is the purpose, as required by item 1B of the Guidance in 16 Annex 42BG, of firms reporting that they consider a country high risk unless they have a business connection with it? While I can understand that the FCA might value knowing that a country is operating in what it considers a high risk country, I see no value in a purely UK based firm informing the FCA that a foreign country, with which they have no connection, is considered, by them, to be high risk. Surely firms should only be reporting on high risk countries in which they are conducting business, or where they have clients.

With regard to questions 5, 8 and 13 is there any definitive list of which countries are deemed to fall within 'Europe'. I am thinking here of countries like Russia and Turkey which can be considered to have parts within, and parts outside, Europe.

Q11 – similarly, is Mexico in North America or Latin America? One term seems to be based on the language spoken, the other is more geographical. Several reference sources place Mexico in both groups.

Q26 – should the guidance notes make it clear whether this section should include investigative court orders relating to suspected benefits fraud?

Q27 – If a restraint order relates to more than one individual or account, should this be reported as one, or more than one, order?

Q30 – is this question only to be answered by firms that have appointed representatives, or is this now in a new section?

Q31 – the reference in the question quoted in the guidance needs revising. Also, should firms be looking at the percentage of an individual's time spent on fraud?

Qs 30 and 31 – It is not clear how these should be answered if a group has several regulated entities. An entity level report is required, so will there be a need to sub-divide the group FTE? Additionally, some organisations may conduct financial crime processes in the financial crime team (which will therefore be quite large) while others may embed much of this work in the operational teams (resulting in a smaller financial crime team). Therefore, the reported figures will differ and may be of limited value.

Q35 – how much detail does the FCA envisage firms entering in box 35A? What details of the 'perpetrator' does the FCA expect in Box 35B – names, nationalities etc? And finally is Box 35 C where the firm should enter 'increasing', 'unchanged' or 'decreasing'?

**Q6.5: Do you have any comments on the proposed application of this reporting requirement to credit unions and friendly societies where they undertake activities in scope of the proposed rules?**

No comment.



**Q6.6: Do you have any comments on the proposed revenue thresholds for relevant firms?**

No comment.

**Q6.7: The data we gather in the proposed Financial Crime Return could be used to compile aggregated and anonymised statistics to provide industry-wide views on fraud risks or high-risk jurisdictions, for example. This could inform a firm's own approach to the management of financial crime risks. Do you have any comments on this?**

We would greatly welcome feedback from the FCA on the aggregated data submitted to them under this new Return; especially that supplied under Q1B and Q35. This would prove extremely valuable to financial crime teams within regulated firms in targeting their resources in a risk based manner.

**Q6.8: Do you have any questions or comments about our CBA?**

The proposals apply REP-CRIM to: firms subject to the Money Laundering Regulations (MLRs); managing agents at Lloyds; and firms with permission to effect or carry out contracts of insurance, with some exemptions. Regulation 3(3)(c) makes it clear that the Regulations do not apply to investment firms exempted from MiFID under Article 2.

This would mean that the REP-CRIM requirements would not include OPS Firms. This would seem to make sense, as they are neither subject to the MLRs nor, due to their small size and the nature of their activities do they have much potential to prevent the FCA from achieving its financial crime objectives fully.