



SECURITIES & INVESTMENT INSTITUTE DIPLOMA

WINTER 2008

CHIEF EXAMINER'S REPORT - REGULATION AND COMPLIANCE

The answers to the winter 2008 examination were solid. Candidates appeared to be following developments in the financial area and were able to deal with most of the more recent new issues such as with regard to the Markets in Financial Instruments Directive (MiFID), More Principles Based Regulation (MPBR) and the recent financial crises.

The answers to Section A were competent although candidates should still read the questions carefully and deal with the issues sought having regard to the allocated marks. Candidates should not waste time providing extended answers where possibly only half a mark or one mark is available for a point. Candidates should also not provide short or summary answers where four or three marks are available.

The weakest answers were provided to question 10 in Section A in connection with the relationship between the FSA, HM Treasury and Bank of England. The functions of the FSA are expressly set out in the FSMA with the relationship between the tripartite authorities being governed by a revised Memorandum of Understanding on Financial Stability entered into between them in 2006 which superseded the original MOU in 1998. This has received significant recent attention in connection with Northern Rock and the proposed revision to the structure of financial regulation to be adopted following the UK and global financial crisis.

The most commonly answered questions in Section B were 11 (approved persons and ethics) and 14 (market abuse) and then 12 (money laundering). Only a relatively few candidates attempted 13 on the application of the FSMA regime to private equity firms and their activities.

The Section C questions were answered evenly including 15 (executive pay and ethics), 16 (MiFID), 17 (MPBR) and 18 (financial crisis). Candidates had the opportunity of including substantial new material in questions 15 and 18, in particular, on executive pay and financial crisis following the recent press and regulatory reports in response to the continuing difficulties in the financial markets. Relevant domestic and international factors could also have been incorporated into either of these answers.

SECTION A

(1) High Level Standards

The High Level Standards are set out in or one of the FSA Handbook of Rules and Guidance. The purpose is to establish the general minimum standards of conduct with which regulated firms and their key personnel (approved persons) must comply at all times.

The High Level Standards consist of the:

- (a) **Principles for Businesses (PRIN);**
- (b) **Threshold Conditions (COND);**
- (c) **Senior Management Arrangements, Systems and Controls (SYSC);**
- (d) **Fit and Proper Test for Approved Persons (FIT);**
- (e) **Statements of Principle and Code of Practice for Approved Persons (APER); and**
- (f) **General Provisions (GEN).**

One mark for explanation of general purpose and half mark for each of sourcebooks within Block one up to **four marks**. There is no need to explain the structure of each of the individual sourcebooks although some additional discretionary marks may be awarded if necessary to make the total marks up to four.

(2) Conflicts of Interest

Firms must manage conflicts of interest fairly between itself and customers and between customers under PRIN 8.

Conflicts of interest can generally be dealt with either through **Disclosure, Declining to act, Chinese Walls** or maintaining an **Independence policy**. Special rules apply with regard to common platform firms under SYSC 10 and investment research under COBS 12. Disclosure is now only to be used as a measure of last resort under SYSC 10.

One mark for each correct reference up to **four marks**.

(3) Exempt Persons

Exempt persons are set out in the Exemption Order issued by the Treasury under s 38(1) FSMA. These include:

- (a) Government organisations and related bodies (including the Bank of England and National Savings Bank);
- (b) Other central banks;
- (c) Super-national organisations (such as the International Monetary Fund and World Bank);
- (d) Municipal banks and local authorities;
- (e) Charities;

- (f) Members of the professions;
- (g) Members of Lloyd's;
- (h) Appointed representatives;
- (i) Recognised Investment Exchanges (RIEs), Recognised Overseas Investment Exchanges (ROIEs) and Recognised Clearing Houses (RCHs).

Half mark for each correct reference up to **two marks**.

(4) Supervisory Principles

The supervisory principles set out in s 2(3) FSMA consist of the following:

- (a) efficient and economic use of resources;
- (b) management responsibility;
- (c) proportionate restrictions;
- (d) facilitate innovation;
- (e) maintain competitive position of UK markets;
- (f) minimise adverse effects on competition;
- (g) facilitate industry competition.

Half mark for each correct reference up to **three marks**.

(5) MLRO

The functions of the MLRO were set out under the Money Laundering Regulations and the FSA sourcebook (before withdrawal). The MLRO is still a controlled function and the person must be an approved person.

The functions of the MLRO can be listed as follows:

- (a) to receive reports of transactions giving rise to suspicious transactions;
- (b) to determine whether a suspicious transaction report should be filed; and
- (c) to make a suspicious transaction to the NCIS in appropriate cases.

Half mark for each correct reference up to **two marks**.

(6) Real Time Promotions

The conditions applicable to unsolicited real time financial promotions include:

- (a) requiring that the communication is covered by appropriate exemptions under the **Financial Promotion Order** (such as certified sophisticated investors);
- (b) covered by certain **Conduct of Business Rule (COB)** exceptions (such as market counterparties or intermediate customers);
- (c) **existing private customers** where the relationship '**envisages**' the call (that is actively encourages or requests the approach);
- (d) **marketable ungeared products** (such as regulated non-derivative collective investment schemes); or
- (e) services relating to **readily realisable securities** other than warrants (such as selling share dealing services in a stock indices rather than stock directly).

One mark for each correct reference up to **four marks**. Possibly half a mark for reference to general requirement that promotions must be clear, fair and not misleading if necessary.

(7) List Specialist Sourcebooks

The specialist sourcebooks set out in Block 5 include:

- (a) Collective Investment Schemes (COLL);
- (b) Professional Firms (PROF);
- (c) Lloyd's sourcebook (LLD);
- (d) Recognised Investment Exchange and Recognised Clearing House sourcebook (REC).
- (e) Credit Unions (CRED);
- (f) Electronic Money (ELM);
- (g) Electronic Commerce Directive (ECO).
- (h) Regulated Covered Bonds (RCB).

Half mark for each correct reference up to **two marks**.

(8) Purpose TCF

The purpose of the TCF initiative is to ensure that firms deal with their retail customers in a fair and appropriate manner at all times. This is based on PRIN 6 under which firms must pay due regard to their customers' interests and treat them fairly.

Treating customers clearly can be considered to fall within the FSA's consumer protection objective as well as promoting public understanding and maintaining confidence in the financial system under s 2(2) FSMA.

Product providers must ensure that all products are properly designed for their target market and sold with clear, understandable information through appropriate distribution channels. Distributors must ensure that customers have all of the information they require, products are suitable and that post-sales services comply with expectations.

Half mark for any correct reference up to **four marks**.

Reference may also be made to the TCF Consumer Outcomes with additional half-mark to be awarded as necessary up to four marks:

- (a) Consumers can be confident that they are dealing with firms where the fair treatment of customers is central to the corporate culture.
- (b) Products and services marketed and sold in the retail market are designed to meet the needs of identified consumer groups and targeted accordingly.
- (c) Consumers are provided with clear information and are kept appropriately informed before, during and after the point-of-sale.
- (d) Where consumers receive advice, the advice is suitable and takes account of their circumstances.

- (e) Consumers are provided with products that perform as firms have led them to expect and the associated service is both of an acceptable standard and as they have been led to expect.
- (f) Consumers do not face unreasonable post-sale barriers imposed by firms to change product, switch provider, submit a claim or make a complaint.

(9) Breach Financial Promotion

The consequences of breach of the restriction on the issuance of unauthorised or unapproved financial promotions are as follows:

- (a) the person is guilty of an offence and liable for up to six months imprisonment (on summary conviction) or two years (on indictment) or a fine or both (s 25(1));
- (b) agreements entered into in consequence of an unlawful communication are unenforceable against the other party who is also entitled to recover any money or property paid and compensation for loss sustained (s 30(2)(a) and (b));
- (c) a public or private censure may be imposed (s 205);
- (d) a general financial penalty may be imposed (s 206(1));
- (e) an action for damages may possibly be available (s 150(1));
- (f) an injunction may be issued (s 380(1));
- (g) the FSA may apply for a restitution order (s382(1)).

Half mark for each correct reference up to **two marks**.

(10) Financial Stability

The relationship between the FSA, the Treasury and the Bank of England (referred to as the Tripartite Authorities) are not directly dealt with under the FSMA although this is essential to the successful operation of the regulatory regime set up under the FSMA (as referred to in the question).

The relationship between the FSA, the Treasury and the Bank of England is governed by a separate Memorandum of Understanding (MOU) on Financial Stability under the terms of which the FSA essentially responsible for the day-to-day supervision of financial firms, the Bank of England for monetary policy and payment systems and the Treasury for the legislative and legal framework within which regulation conducted including international issues. The MOU also includes an express procedure for dealing with financial crises.

The operation of the MOU was critically examined following the wholesale funding difficulties experienced by Northern Rock and its subsequent nationalisation. This was referred to in the House of Commons Treasury Select Committee Report on Northern Rock and in the other consultation documents produced by the Tripartite Authorities with a revised MOU to be issued in due course.

A revised extended MOU has also been entered into between all financial regulators within the EU governing financial stability matters and financial crisis across Europe.

One or half mark for each correct reference up to **three marks**. Some discretion will have to be exercised in marking relevant answers.

SECTION B

(11) Approved Persons and Ethics

The question was concerned with possible breach of the approved persons regime and relevant ethical issues. Candidates should have noted the uneven assignment of the marks and provided appropriate detail under each section.

- (a) A general review of the approved persons regime set up under FSMA should have provided for the full eight marks. This includes all relevant core statutory provision and principal provisions contained in FIT and APER.

It would appear that Herbert would have been required to be approved to conduct a governing function as a director under CF1 and customer advisory functions under CF30 as well as systems and controls and significant management functions under CF28 and 29. These are set out in SUP 10.4. Herbert must also satisfy the requirements set out in FIT including honesty, integrity and reputation, competence and capability and financial soundness. The firm would have to have completed Form A which would have been returned to the FSA's Authorisation and Approvals Department.

The FSA may take disciplinary action specifically under s 66 FSMA against persons guilty of misconduct under the approved persons requirements. This is subject to appeal to the Financial Services and Markets Tribunal (FSMT).

- (b) Relevant factors may have been listed the answer structured with reference to the separate parts of the Handbook including FIT and APER as well as PRIN, COND and T&C. The 'whistle-blowing' provisions in the Public Interest Disclosure Act 1998 (PIDA) should also have been referred to as well as the FSA's other enforcement powers. Additional ethical considerations may also have been noted including the FSA's general approach to ethical issues (as set out in its October 2002 discussion paper) or possibly the SII Code of Conduct.

Relevant factors could have included:

- (i) Breach of s59 FSMA;
- (ii) Possible liability under s71 FSMA;

- (iii) Possible breach of FIT and COND;
- (iv) Breach of SUP 10.4;
- (v) Breach of PRIN 1 (integrity), 2 (skill, care and diligence), 3 (management and control) and 11 (regulatory relations);
- (vi) Breach by the firm of SYSC 2 (senior management arrangements), 3 (systems and controls), 4 (organisational requirements), 5 (procedures), 6 (compliance), 7 (risk controls) and 10 (conflicts of interest);
- (vii) Breach of APER 1 (integrity), 2 (skill, care and diligence), 3 (market conduct), 6 (skill, care and diligence), 7 (compliance) and 4 (regulatory relations); and
- (viii) Breach of SII 1 (honesty and fairness), 2 (integrity), 3 (compliance), 4 (good conduct), 5 (conflicts), 6 (professional competence) and 7 (personal standards).

Relevant action includes:

- (i) Holding immediate meetings with Herbert and relevant staff including Divisional Managing Director;
- (ii) Conducting internal review;
- (iii) Producing early compliance report for senior management;
- (iv) Possible suspension of Herbert and prevent contact between Herbert and his team as well as possible suspension of Managing Director;
- (v) Refer matter to audit committee or possibly non-executive board committee;
- (vi) Report to FSA;
- (vii) Confirm with FSA whether any transactions had to be reopened;
- (viii) Confirm relevant internal information and resources;
- (ix) Confirm Divisional Managing Director knowledge and complicity;
- (x) Consider possible disciplinary action against Herbert and Divisional Managing Director;
- (xi) Confirm suitability of Herbert and whether Herbert may have sufficient experience from internal perspective including possible conduct of internal examination to allow to act in advance of taking separate external qualification examinations; and
- (xii) Confirm whether firm breached SYSC in absence of adequate supervision.

Relevant corrective action may include:

- (i) Reviewing internal procedures concerning assessment of experience and expertise of staff and need to undertake external examination;
- (ii) Confirm adequacy of internal T&C arrangements;
- (iii) Confirm internal review procedures;
- (iv) Confirm internal disciplinary procedures; and
- (v) Confirm 'whistle-blowing' procedures in the event that senior management do not follow advice of Compliance Officer.

The Compliance Officer may also wish to confirm possible available exemptions under the approved persons and T&C rules and possibly take advice from FSA or SII.

The factors which would be taken into account may also include relevant enforcement action that the FSA may take for breach of the provisions referred to. The FSA's enforcement powers may be summarised. This would be in addition to possible liability under s71 FSMA.

- (c) The policy would generally not differ although additional reference may be made to preparing a specific report for the FSA on the breach and proposed corrective actions to be adopted. Reference may also have been made to the FSA's early settlement procedure.

(12) Sovereign Wealth Funds and Money Laundering

The question involved a simple application of the core UK money laundering provisions to a specific sovereign wealth fund situation. Candidates should have noted that the fund only intended to operate a representative office which would generally not require authorisation or permission and therefore not be a regulated person under FSMA. The fund's UK activities would generally have been carried out through the asset management firm appointed or another regulated firm.

- (a) The main provisions with regard to money laundering should have been noted including the POCA 2002 and Terrorism Act 2000 as well as the Money Laundering Regulations 2007 and relevant provisions contained in the FSA Handbook of Rules and Guidance. Candidates should have noted that the question was directed at the activities of the management firm. Reference may also have been made to the EU Third Money Laundering Directive although this was not strictly necessary.
- (b) The relevant offences contained in the POCA should have been noted with relevant defences. This includes assistance (ss327-329 POCA), failure to report (ss330-332 POCA), tipping-off (s333 POCA) and failure to report (s21a TA). Reference should also have been made to the more specific institutional provisions contained in the MLR 2007. Reference may also have been made to the amendments introduced under the Serious Organised Crime and Police Act 2005 (SOCPA).
- (c) Relevant customer identification, documentation and record requirements contained in the MLR 2007 as well as the Joint Money Laundering Steering Group (JMLSG) guidance should have been referred to with the revised risk-based approach adopted by the FSA under SYSC. As much relevant information should have been provided for the full four marks.
- (d) It is not clear from the question where the investment committee is located. If the sovereign wealth fund only has a representative office in the UK, it is not likely that the investment committee would be based in London. The investment committee will therefore operate out of the country in which the fund is based which may or may not be an EU country. Relevant international provisions may then have been referred to with regard to money laundering including those produced by the FATF as well as within the EU Third Money Laundering Directive. In practice, any UK money laundering compliance would be delegated to the London investment management firm.
- (e) The FSA requires that the senior management of authorised firms must provide direction and conduct oversight of the firm's anti-money laundering and anti-terrorist systems and controls. This includes appointing a director or senior manager with overall responsibility and appointing a suitably qualified MLRO. A relevant policy statement should be issued. Breach may be dealt with under general FSA enforcement

powers for contravention of SYSC or other high level principles. Reference may also be made to the statutory provisions imposing personal liability under the POCA and TA.

(13) Private Equity Funds and the FSMA

The question was concerned with the general application of the FSMA regime to the activities of private equity funds operating out of the UK. While funds are commonly established abroad such as in the Cayman Islands, they will be managed from a principal financial centre including the UK. The question could generally have been dealt with by re-applying general FSMA and Handbook provisions although some specialist information was useful.

- (a) The principal regulatory sources include PRIN (as well as COND, FIT and APER), SYSC and COLL (collective investment schemes) as well as the FSA discussion paper 6/6 on *Private Equity* and the thematic reviews contained in the FSA *Capital Markets Bulletins*.
- (b) Apart from general guidance within the FSA handbook, other more specific guidelines include the Walker Report on *Disclosures and Transparency in Private Equity* as well as guidance issued by the British Private Equity & Venture Capital Association.
- (c) Conflicts of interest may generally arise where the M&A division and PE division were dealing with the same company. The PE division may more specifically have been intending to purchase a company for the fund with the M&A division acting for a client that wished to purchase the company or shares in the same company. The conflict can be resolved through the application of general corrective measures including disclosure, independence policy, declining to act and Chinese walls as well as tailored training and briefing, IT security and possibly the use of code names.
- (d) This again raises the question of more specific conflicts of interest from an individual director's perspective as well as possible profit and even insider dealing. This could be dealt with by declining to act or disclosure as well as possibly by suspending or 'freezing' the director or the transaction. Reference may again be made to the adoption of specific conflicts policy in such areas as well as additional training and briefing.
- (e) Co-investment raises the issue of conflicts of interest between different companies in the group investing in the same entities. This can again be dealt with through disclosure or declining to act or more specifically by limiting the availability of preferential rights and terms and ensuring independence and specific formal and written procedures in such cases.

(14) Market Abuse

The question raised the issue of potential insider trading and market abuse in connection with the activities of a UK based hedge fund management company. This could generally be dealt with by applying insider trading and market abuse principles to the particular conversation that took place between the fund manager and an investment bank.

- (a) Six marks were available for explaining the general nature of the market abuse regime including specific offences having regard to the particular circumstances. As much

detail as possible should have been provided on relevant statutory and Handbook provisions. This includes the revised definition of market abuse in s118 FSMA and provisions contained in the Code of Market Conduct (COMC). Reference may also have been made to the EU Market Abuse Directive (MAD) although this was not strictly necessary.

- (b) The FSA should be notified with the FSA expected to undertake an investigation that would include issuing requests for documentation and further information. Corrective action would include launching an immediate internal review, possibly reconstituting a note of the telephone recording (making it expressly clear that this was a reconstruction of the earlier conversation), reviewing the manager's notes on the refinancing deal, reviewing relevant internal policies including with regard to market abuse, conflicts of interest and the firm's open-desk policy. The firm may also offer to reopen the contract and repay the profit generated from the transaction. The FSA's power to conduct investigations and obtain information, documents or interview style could be referred to as well as the enforcement powers available to the FSA. The FSA may wish to discuss the matter with staff from the Listing department or from the Luxembourg Stock Exchange or regulatory authorities in Germany.

Reference may be made to the Financial Services and Markets Tribunal (FSMT) decision on Paul Davidson (The Plumber) under Article 6 of the European Convention on Human Rights and the heightened standard of proof required of the FSA.

- (c) In conducting the review, reference may be made to all types of relevant risk including market risk (equity risk, interest rate risk, currency risk and commodity risk including price, volatility, liquidity and basis risk), credit risk (counter party and issuer risk as well as settlement risk) and operational risk (including regulatory, liquidity, delivery, political, human error, systemic, legal, IT, transaction and reputational risks). Specific reference could also be made to the relationship between reputational and ethical risk.

General requirements with the need to maintain adequate systems and controls specifically under SYSC should have been noted as well as the specific constituent elements of the market abuse and insider trading offences again. Relevant control systems should have been noted. Specific policies in connection with resolving conflicts of interest may also have been referred to including declining to act, disclosure, Chinese walls and independence policy although this was not strictly necessary. While the question was focused on market abuse, additional reference may have been made to relevant insider trading provisions although this was not strictly necessary. A relatively substantial answer was expected for the full six marks.

- (d) The relevant penalties and offences with regard to market abuse should have been noted as well as additional potential failings in connection with PRIN, APER and SYSC as well as the SII Code of Conduct.

SECTION C

(15) Executive Pay and Ethics

Executive pay packages have received significant attention following the recent financial crises. This specific regulatory concern that has arisen is with regard to the possible risk distorting effects that unbalanced incentive programmes can have on risk management with consequent effects on firm and market instability. The question could have been dealt with in a number of ways. Reference could, for example, have been made to the FSA's statutory objectives and supervisory principles in ss2(2) and (3) FSMA as well as to the high level standards contained in PRIN, SYSC as well as APER, COND, FIT and the SII Code of Conduct.

Specific provisions include PRIN 1 (integrity), 3 (management and control), 6 (customers' interest), 8 (conflicts of interest) and 11 (relations with regulators); SYSC 2 (senior management arrangements), 3 (systems and controls including remuneration policies), 7 (risk controls) and 10 (conflicts of interest); APER 1 (integrity), 2 (skill, care and diligence), 6 (skill, care and diligence in management) and 4 (regulatory relations); FIT 1 (honesty, integrity and reputation) and 2 (competence and capability); and SII 1 (honesty and fairness), 2 (integrity), 5 (conflicts of interest) and 7 (high personal standards). Reference may also have been made to COBS 9 (suitability), 10 (appropriateness), 12 (conflicts of interest), 2.3 (inducements), 11.6 (dealing commissions), 11.2 (best execution) and possibly 11.7 (personal account dealing).

Reference should have been made to the FSA CEO letter concerning remuneration packages in banks and possibly to the recent additional issues that have arisen with the partial nationalisation of major UK financial institutions following the recapitalisation announced by the Government on 8 October 2008. The FSA policy would generally appear to be to leave this to be dealt with within specific financial institutes including, in particular, at board level or through existing management arrangements for other senior staff. Firms must nevertheless avoid increasing or aggravating firm risks and exposures which fall within their risk management capability.

Candidates should also have including discussion on relevant ethical rather than purely legal or regulatory aspects of the problem. Reference could have been made to the FSA's general discussion paper 18 on Ethics of October 2002 and to the FSA's general approach in this area. Reference may also have been to the CEO letter of 10.11.2005 on conflicts of interest or cross-reference to the earlier discussion on high-level standards.

(16) Markets in Financial Instruments Directive (MIFID)

Candidates could have dealt with the question by initially referring to the EU Financial Services Action Plan (FSAP) and Lamfalussy Committee recommendations and EU financial committee structure. The specific objectives and background to the MiFID could then have been noted with the implementation date of 1 November 2007.

Additional detail could have been provided in connection with purpose, scope (including investment services and activities, financial instruments and ancillary services), exclusions, common platform firms and general provisions. Specific changes include the adoption of a home state control approach, extended licensing, multilateral trading facilities (MTFs), internalisers, transaction reporting and conduct of business amendments (including client

categorisation, best execution, information, execution only business, suitability, conflicts of interest and record-keeping).

As the question specifically referred to MiFID implementation, candidates should have referred to the changes made to SYSC and COBS specifically. Candidates should also have included comment on MiFID value and relevance which could either have been dealt with with reference to the directive specifically and/or the general objectives of the FSAP and European financial programme.

(17) More Principles Based Regulation (MPBR)

Reference should initially have been made to the FSA background paper on Better Regulation Action Plan in December 2005 which discussed the proposed move from detailed rules to the use of high-level principles. Specific objectives include focusing on outcomes and impact, Handbook simplification (such as with regard to the MIFID and COBS), increased flexibility and improved management supported by appropriate guidance where necessary. This forms part of the FSA's 'risk based approach' to regulation which focuses on its statutory objectives and principles. Reference could also have been made to the FSA's supervisory framework and ARROW II as well as its new Outcomes Performance Reports (OPRs). The MPBR policy was specifically approved by the National Audit Office (NAO) report in 2006.

The question also asked for specific comment on limitations (advantage) and deficiency (disadvantage). Relevant issues include greater flexibility, cost effectiveness, reduced regulatory obligation, improved compliance and adoption, increased regulatory efficiency and shorter rule book as against predictability, unfair or necessary cost, uneven application, uneven enforcement, possible abuse of power, conflicting interpretation and precedent, resource demands and training and regulatory delegation.

Candidates may also have referred to the general background to the FSMA and the move from an earlier self-regulatory approach to financial regulation under the Financial Services Act 1986 to a more rules based approach under the FSMA although one based on a clear statutory framework. The FSA has then taken this further forward with the increased emphasis on high-level principles rather than specific rules although in each case supported by relevant guidance issued under s157 FSMA.

(18) Financial Crisis

The open question of financial crisis could again have been dealt with in a number of ways. Reference may initially have been made to relevant UK or more general US and global developments in terms of financial crisis and instability. Relevant UK factors include the forced support for Northern Rock by the Bank of England and then its subsequent nationalisation following the failure of a private sector solution and then with the subsequent nationalisation of the Bradford & Bingley.

Reference could have made to the House of Commons Treasury Committee report in January 2008 and then to as many of the Tripartite (FSA, Treasury and Bank of England) reports as possible (including the initial *Banking Reform* discussion paper in October 2007 and subsequent *Financial Stability and Depositor Protection* consultation document in January 2008 and then additional papers in July 2008 on *Financial Stability* and *Special Resolution Regime* and then on *Cross-Border Challenges* in September 2008). The FSA also issued its own internal review into the supervision of Northern Rock in March 2008 which created the

'supervisory enhancement programme' (SEP). The Treasury brought the new Banking Bill before the House of Commons in October 2008 following the earlier Banking (Special Provisions) Bill in February 2008.

Reference may also have been made to relevant US, EU and other international developments including the Financial Stability Forum (FSF) report on *Enhancing Market and Institutional Resilience* in October 2008 as well as the G20 'Bretton Woods II' Summit in Washington on 14-15 November 2008.

As well as review the general background and emerging response to the crisis, candidates should have attempted to comment specifically on possible regulatory and supervisory failures within the FSMA regime as requested. In so doing, candidates may have incorporated references to more recent statements by FSA staff including Chief Executive Hector Sants and the FSA *Annual Report* and *Financial Risk Outlook* for 2008.