

Industry Seminar – 18 November 2015

Investment Supervision and Policy Division Presentation

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Thank you Louise. Anyone who knows me realises that, at heart, my instincts are libertarian, and that I have willingly contributed to changes to ensure regulation remains professional and proportionate. In my view, island prosperity and productivity is maximised when this equation is successfully solved.

I remain persuaded that risk-based, proportionate regulation, underpinned by caveat emptor, can be supported and of course our statutory obligations now clearly enshrine this approach. I remain convinced because, as Simon said yesterday, enforcement cases remain a small minority of the population.

But not only that, PRISM has done what it said on the tin. We have been able to anticipate problems before they arise rather than react after events. From stockbrokers to administrators, we have sought to bring rigorous challenge and to understand just how you make your money, and where the risks are. I have been particularly heartened that many of you have responded to this approach and been prepared to openly discuss issues with us in the knowledge that the team is trying to supervise you, rather than looking to trip you up.

For the forthcoming year, if you meet with us, you can expect more of the same. In particular, if you are an administrator or custodian, we will be particularly interested to see how clearly you can identify the risks inherent in your funds, and the distribution channels through which those funds have been sold.

So what can I tell you about the last year?

I can tell you what we have found

and what we are in the process of doing.

Slide: ISPD Current RMP Actions by Risk Category

Our main “findings”, or as we now call them, “risk mitigation points” are in the following areas of risk:

- Operational;
- Governance;
- Strategy/business model;
- Conduct; and
- Financial Crime

Have there been any overarching themes in 2015/2016 that these risks have pointed towards?

The answer is yes:

Slide: Key Themes

The need for firms to ensure:

- Sufficient Board oversight of compliance monitoring and risk; and
- Sufficient controls in place around outsourcing.

We have had, to say the least, some interesting conversations on these points, but I will leave that to our eminent actors to expound.

Slide: Thematics

On 8 October the Division commenced its first thematic: this one on alternative custodian arrangements for open ended funds.

Whilst I cannot see the Commission depreciating its appreciation of the oversight role of a custodian, we do adopt a flexible approach for schemes with certain asset classes and investor types.

We have designed this thematic to look more closely at those waivers issued in respect of alternative custody arrangements, for example where prime brokers have been appointed. We are testing how the oversight responsibility claimed is working in practice.

Last Friday was the deadline. We are now in the analysis stage. Although it is too early to comment in detail, I can say that the number of responses is lower than expected. There is still time to submit a response and, for once, there is not a late filing penalty.

We will be arranging some visits and intend to communicate our thoughts to you in Q1 next year.

In PRISM world, we will conduct a thematic annually. Other areas in our minds include

- difficult-to-value asset classes; and
- liquidity in funds ie just how well liabilities can match assets

Slide: Behaviour - Scenario

Now, in the past, here would come the slot where we would give some examples, and try and look at the guilty parties. This year, we thought we would hire some talented actors to sketch out a hybrid of some of our favourite interview moments of the last year. Three quarters of the way through the vignette, we will stop the video, talk, then roll it on. So, for those of you who like to ask consultants what a PRISM visit means, we are about to save you some money...

So would we do an enforcement referral here?

This slide shows options.

The main point to take away is that we would not necessarily go to enforcement at this stage – but nevertheless some of the findings might well be a shock to our interviewee and the Board of directors.