

DFSA Annual Outreach Session

Monday, 25 June 2018

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Key Note Speech

**Bryan Stirewalt
Managing Director,
Supervision**

Upcoming Event for your Calendars

12 July 2018 – Visit from Ms. Sigal Mandelker, US Under Secretary for Terrorism and Financial Intelligence, U.S. Department of the Treasury

- In this role, Ms. Mandelker is charged with developing and implementing U.S. Government strategies to combat terrorist financing and money laundering, as well as other policies and programs to fight financial crime.
- Reporting to Ms Mandelker are: the Office of Foreign Asset Control (OFAC), the Financial Crimes Enforcement Network (FinCEN), the Assistant Secretary for Terrorism Finance and the Assistant Secretary for Intelligence and Analysis

Supervision Key Messages

**Bryan Stirewalt
Managing Director,
Supervision**

Key Messages and Trends

- A brief look at the themes in play at the Standard Setters
 - Basel Committee on Banking Supervision (“Basel Committee”)
 - International Association of Insurance Supervisors (“IAIS”)
 - International Organisation of Securities Commissions (“IOSCO”)
 - International Forum of Independent Audit Regulators (“IFIAR”)
 - Financial Action Task Force (“FATF”)
- Other items worth mentioning around the globe
- The DFSA in Action

Brief Look at the Basel Committee

- Finalising policy initiatives (e.g. market risk, G-SIB framework, Pillar 3 disclosures, regulatory treatment of accounting provisions under IFRS 9, regulatory treatment of sovereign exposures).
- Shifting focus toward supervision away from policy with new areas of emphasis and news emerging risks (e.g. cyber risk, proportionality).
- Ensuring full, timely and consistent implementation of the post-crisis reforms and evaluate the impact of post-crisis reforms
- ***Monitor and take note of the work of the Network for Greening the Financial System.***

Brief Look at the IAIS

- Completing work on post-crisis framework for mitigating systemic risk – ComFrame and International Capital Standard
- IAIS will increasingly pivot to a greater emphasis on enhancing supervisory practices including supervision of reinsurance
- Monitoring, evaluating and developing actions in response to emerging trends such as: Cyber security, FinTech and climate change
- Keep protecting policyholders while also being careful not to stifle socially useful innovation.
- ***Role of insurance and insurance supervision in sustaining long-term and inclusive economic development.***

Brief Look at the IOSCO

Recent IOSCO Annual Conference highlighted four key issues:

1. Focusing on the sale of unsuitable products to retail investors.
2. Dealing with the challenges of Fintech and digitalisation.
3. Monitoring the shift from active to passively managed collective investment schemes.
4. Promoting SME access to funding through capital markets.

Brief Look at the IFIAR

- IFIAR approved its first ever Strategic Plan with a theme of *Building Capability, Collaboration and Influence Across the Audit Regulatory Landscape*.
- With the objective of “Achieve significantly improved audit quality on a global basis”, IFIAR is working with the 6 largest audit firms (BDO, Deloitte, EY, KPMG, Grant Thornton & PwC) to reduce deficiencies in audits of listed Public Interest Entities.
- Focus on the role of Audit Committees.
- Role of IT in audit remains a key challenge.

Brief Look at the FATF

- Countering terrorist financing remains one of the highest priorities.
- Improving domestic co-ordination, international co-operation and information sharing.
- Improving transparency and the availability of beneficial ownership information
- Supporting financial inclusion, avoiding bank de-risking, mainly on correspondent banking and remittances.
- Engagement with FinTech and RegTech industries.

- EU Regulations
 - General Data Protection Regulations
 - MiFID II
- IFRS 9
- OECD Common Reporting Standards
- Cross-border cooperation and information sharing
- Fintech and Regtech
- Cyber Risks

Vision
Mission
Regulatory Approach

To be an internationally respected regulator, leading the development of financial services through strong and fair regulation

To develop, administer and enforce world-class regulation of financial services within the DIFC

To be risk-based and to avoid unnecessary regulatory burden

Strategic Themes in Action

Delivery

Execute core functions with professionalism & efficiency

Deliver world-class regulation & effective enforcement

Maintain quality as DIFC scale increases

Sustainability

Positively shape our environment & organisation for the long-term

Enhance organisational robustness & resilience

Build UAE National Capability

Support Dubai Government & DIFC Strategies

Jurisdictional Uncertainty

Engagement

Thoughtful & active engagement with key stakeholders:

Dubai & UAE Authorities

Regulated Firms & home regulators

Other Regulators

Global Standard Setters

Innovation

Creative & facilitative approach as a regulator & as an organisation:

Facilitate FinTech development

Be part of advances in RegTech

Working smarter

Regulatory Priorities

Financial Crime

Be vigilant in addressing all FC issues. Strengthen existing links with relevant local & federal bodies to mitigate FC risks

Conduct

Continue to emphasise conduct risk (generally more prominent than prudential) while providing appropriate prudential attention to firms expected to have rapid balance sheet growth

Standards Alignment

Demonstrate effective implementation of international regulatory standards via the FSAP & FATF process. In relevant areas, continue to align with EU standards. Uphold commitment to simplify the Rulebook.

DFSA Enforcement

Patrick Meaney
Head of Enforcement

- Joined the DFSA on 7 January 2018
- 25 year experience doing Financial Services and Markets Enforcement work
- Prior to DFSA, 7 years in Wholesale Enforcement at UKFCA
 - Predominantly LIBOR investigations but also ID, MM and CD investigations
 - Views on what worked well and not so well in FCA Enforcement

Risk Based Enforcement

- Prioritise investigations of:
 - Serious misconduct
 - Misconduct that poses the greatest risk
 - AML/CTF
 - Market abuse
 - Misleading the DFSA

Current Cases

Ongoing

- Fraudulent and dishonest conduct and misleading the DFSA at interview
- Unauthorised activity; and not co-operating with the DFSA's investigation
- Unauthorised activity; and customer due diligence and client asset failures
- Systems & Controls failures; AML client onboarding and client asset failures
- Systems & Controls failures; unauthorised activity; and improper use of funds
- Misleading and deceiving investors

DMC

- Obstructing a DFSA investigation
- Breaching Financial Services Prohibition
- Lack of fitness and propriety; and providing false information to DFSA

FMT

- Misleading the DFSA and lack of fitness and propriety

Court

- Not paying fine for unauthorised activity and misleading the DFSA

Credible Deterrence

- “Credible Deterrence” coined by Margaret Cole, former ED Enforcement FSA
- Promoted by IOSCO Committee 4 (DFSA was the pen-holder)
- About ensuring serious misconduct is detected and penalised in a way that deters others
- Consistent with DFSA philosophy to be risk-based and avoid unnecessary regulatory burden
- Credible deterrence also reassures compliant firms and individuals they are not at a disadvantage
- Compliant firms can tell us about non-compliant competitors

Individual Accountability

- We hold individuals, particular senior ones, accountable
- Taking action against individuals enhances credible deterrence
- Recognise the importance of fairness – try to take early NFA decisions

Settlement

- Settlement is timely, saves resources and increases predictability
- BUT we will not compromise the deterrent message
- Moving from open-ended settlement timelines to fixed settlement period
- Credit will be given for unusual cooperation (mitigation factor for penalty) e.g. early admission and remediation; and
- Obstructing or misleading us will either be a separate breach or an aggravating factor for penalty.

Policy and Strategy Update

Peter Smith
Managing Director,
Policy and Strategy



- AML- following completed and expected to come into force in late summer
 - CP 118 enhancements to deal with DFSA powers relating to DNFBPs
 - CP 120 – further enhancements to align our regime with the 2012 FATF Recommendations
- CP 115 – Phase 1 of the Funds review completed, introducing:
 - Exchange-Traded Funds
 - liquidity risk management controls for open-ended Funds
 - removing investor number limits in Fund definitions;
 - relaxing certain Property Fund related requirements.

These changes are awaiting Law changes to be approved by HH the Ruler
- Completed miscellaneous changes from CP 116 and CP 117:
- Property Crowdfunding – CP to be released shortly



... balance of 2018 and into 2019

- Funds (phase 2) – introducing Fund Platforms
- Resolution and client assets
- Providing Money Services
- Review regime for compliance responsibility and role of Compliance Officers
- Suitability of investment advice
- Over-the-Counter (OTC) derivatives
- Rules on internal audit
- Further Basel changes: large exposures, etc.





Thank You