

# Financial Services Update

Edinburgh

Simon Morris – 4 March 2009

## Looking at ...

1. What's going on?
2. What does this mean for firms?
3. FSA getting personal
4. Freedom of Information Part II
5. (In)equitable Life Part II
6. The 2009 target

# 1. What's going on?

## Cause

- Securitised credit model gets complicated
- Credit extends while standards fall
- Property booms
- Leverage increases
- Liquidity risk underestimated
- Risk mispriced

# What's going on?

## And effect

1. Localised credit concerns
2. Confidence weakens – Northern Rock 9/07
3. Strains accumulate – Bear Stearns 3/08
4. Losses accumulate – F Mac & F Mae 7/08
5. Confidence collapses – B&B; Icesave 9/08
6. Government intervention

## 2. Changed regulatory engagement

- ▶ New capital and liquidity rules... but also
- ▶ Calling on firms to manage risk...and
- ▶ Exercise of enforcement “to make a real difference”

## A new supervisory focus

- ▶ A new attitude
- ▶ Business as usual isn't any more
- ▶ “show me” becomes “prove it”
- ▶ Ring fencing capital
- ▶ Denying expansion
- ▶ Challenged viability
- ▶ Calling for prudence and caution

# Governance

- ▶ What FSA is looking for
  - Due process in decision making
  - What committees?
  - What terms of reference?
  - What records?
  - Was the focus on customers or shareholders?

### 3. Proposals for approved persons

- ▶ Codify the duties of NED
  - Maintain independence
  - Scrutinise
  - Satisfy on governance and systems
- ▶ Extend CF1/CF2 to non-regulated controllers
  - How can they discharge?
- ▶ FSA practice
  - Interview
  - Discipline



## Current illustrations of personal liability

- ▶ APER 1 – director aware firm misleading customers
- ▶ APER 2 – CF10/112 failed to ensure oversight
- ▶ APER 3 – [market conduct]
- ▶ APER 4 – Misled FSA on capital guarantees
- ▶ APER 5 – Chief Exec did not monitor compliance
- ▶ APER 6 – Chief Exec failed to monitor advice
- ▶ APER 7 – failure to ensure adequate systems

## Discharging personal responsibility

- ▶ The “good” manager
  - Investigates and takes responsibility for action
- ▶ The “good” non executive
  - Understands & challenges

## And the three commandments

- ▶ **Proper control** – have you mapped the business & identified the risks?
  - How did you manage them?
  - How did you manage subordinates?
- ▶ **Skilful management** – do you fully grasp it?
  - What MI do you you get?
  - What do you do with it?
- ▶ **Business is compliant** – how is it monitored?

## 4. FOIA decision – LAUTRO 12

- ▶ FSA cannot disclose if (i) prohibited; or (ii) personal data
- ▶ FSA may withhold to protect commercial interests but must disclose unless (i) real & significant risk of damage; (ii) public interest requires withholding
- ▶ FSA may withhold to protect regulatory function but must disclose unless public interest requires withholding
- ▶ LAUTRO 12/mystery shopping cases

## 5. (In)equitable Life

1. GAD failed to address low reserves → lost opportunity ✓
2. FSA wrongly allowed credit for financial reinsurance → hid weaknesses ✓
3. FSA gave misleading information ✓

### Redress

1. Ex gratia
2. Government accepted areas only
3. Hardship cases
4. Payment is years away

## 6. The 2009 target is...

- ▶ Risk management
- ▶ Systems and controls
- ▶ Stress testing
- ▶ Financial crime
- ▶ Embedding TCF
- ▶ Senior management commitment