



Financial Services Authority

**From Graeme Ashley-Fenn
Director - Permissions, Decisions and Reporting**

To CEOs of all relationship managed firms

12 October 2009

Dear CEO

**APPROVING AND SUPERVISING SIGNIFICANT INFLUENCE FUNCTIONS –
OUR MORE INTRUSIVE REGULATORY APPROACH**

As the Director whose responsibilities include our Approved Persons regime, I am writing to clarify our new approach to approving and supervising persons performing significant influence functions (SIFs).

Our regulatory philosophy and more intrusive approach continue to place a great deal of emphasis on governance and consequently, the responsibilities of senior management of firms. In view of the shortcomings exposed by the financial crisis in the governance and risk management of some regulated firms, we made changes last year to how we approve and supervise persons performing SIFs, in particular we:

- introduced procedures to interview, at our discretion, candidates applying to perform certain SIF roles in particular firms; and
- placed greater emphasis on monitoring the performance of persons already performing SIF roles. This includes reviewing more critically the competence of persons performing SIFs as part of ARROW assessments.

Our expectations of persons performing SIFs are set out clearly in our rules and are well summarised by our [Statements of Principle for Approved Persons \(APER\) contained in our Handbook](#). Our assessment of the competence of persons performing SIFs will be based on these expectations.

We have also said previously that one of the key questions we expect relevant senior management of a firm to be able to answer is: What are the circumstances under which the firm will fail? In assessing competence, we will expect senior management to be able to demonstrate their understanding of the inherent risks in the business/markets and to articulate what plans are in place to mitigate the risk of failure.

As a critical component of our credible deterrence philosophy, we will take tough enforcement action against approved persons where we find evidence of culpable misconduct or a breach of APER due to competence failures (as well as cases of dishonesty and lack of integrity).

The interview process for candidates applying to perform SIFs:

Submitting applications in good time:

We understand that certain appointments are particularly sensitive and subject to time pressures, however, we cannot interview candidates prior to receipt of a fully completed application form and the conclusion of our pre-interview processes. Therefore, whilst we cannot pre-approve candidates, we expect:

- high impact firms subject to close and continuous monitoring to engage with us at an early stage (short listing of candidates) of the recruitment process for the roles of Chair, Chief Executive and Senior Independent Director; and
- all firms to submit all applications for approval in a timely manner.

Failure to do so may impede your ability to make public the appointment without having to add a caveat that the appointment is subject to regulatory approval. We would also expect firms to discuss any such announcement with us prior to making this public.

We also remind you of the need to assess which persons now require approval due to the changes that came into effect on 6 August 2009, detailed in the [Supervision Manual](#) of our Handbook, as a result of [PS09/14: The Approved Persons regime – significant influence function review](#). Whilst for existing firms there is a six month transitional period, applications will need to be submitted in good time to ensure compliance by this deadline.

Providing sufficient information in the application form:

An important point to remember is that it is the firm who is responsible for making the application to us for approval of a candidate, and that it remains the firm's responsibility to ensure that the candidate is fit and proper for the role in question. Therefore, the onus is on the firm making the application to provide sufficient information to satisfy us that the candidate is fit and proper under s61 of FSMA. The type of information that will help us to make our approval decision includes any supporting documentation (e.g. head-hunter or other similar reports) and details of the:

- responsibilities that the role involves;
- recruitment, referencing, interview and appointment process;
- due diligence undertaken by the firm to ensure the candidate is fit and proper; and
- rationale the firm has used to conclude that the candidate is fit and proper to perform the role for which approval is sought.

The interview:

The key purpose of the interview is to help us assess the candidate's fitness and propriety, including their competence and capability, to perform the role in question.

The interview (which takes place at our offices and normally lasts about 90 minutes), will explore a range of issues that are relevant to our approval decision, including, but not limited to the:

- responsibilities of a person approved by us to perform a controlled function;
- knowledge, skills and experience that the person will bring to the role;
- person's view of the main risks facing the firm and the role they play in managing them; and
- our expectations of the individual in performing the SIF role.

Therefore, it is important to ensure that the person is well prepared and has an adequate understanding of the firm's business model and the sector in which it operates, so that we can determine whether the person is fit and proper.

Normally, we would not expect the candidate to be accompanied by a representative of the firm at the interview. In certain cases, we may decide to meet separately with appropriate representatives from the firm to gain additional insight into the firm's due diligence undertaken on the candidate. Where the firm wishes to send along a representative to accompany the candidate, this should be discussed and agreed between the firm and ourselves prior to the interview taking place.

Post interview follow-up:

In circumstances where we decide to grant an application, we will provide written notice to the firm, who in turn, should notify the person concerned. In addition, we will normally write to the candidate setting out the key points of the discussion, which will include our understanding of the person's priorities during their first few months in post, and any action points agreed, which we will follow up as part of our normal supervisory activity. A copy of this letter will also be sent to the firm.

The Walker Review on governance of banks and other financial institutions:

Finally, in thinking about governance in general and the competence of persons performing significant influence functions, we would encourage you to study the recent publication of the [Walker Review](#) on governance of banks and other financial institutions. We have welcomed this review, will be contributing to the consultation process and will issue a paper in December 2009, which will outline our proposed response to the final recommendations of the review.

If you have any questions or comments on the content of this letter, please do not hesitate to contact me, or your supervision relationship team.

Yours sincerely

Graeme Ashley-Fenn