

The letter of the 12<sup>th</sup> October 2009 to some 5,000 CEO’s of relationship managed firms expanded upon the statements made in the FSA’s Annual Report 2008/9 which reported on the introduction of interviews for anyone applying to undertake the roles of Chair, CEO, Finance Director or Risk Director in high impact firms. The report went on to say that other candidates could be “interviewed at the supervisor’s discretion – for example, if there are concerns about the compliance culture of the firm or the track record of the candidate.”

Between October 2008 and the year end 51 SIF interviews were carried out and some applications were withdrawn which must have caused great difficulties for both the firm and the individual. Where the application involves an internal candidate for the role the firm has the opportunity to “fill in the gaps” in the candidates competence but imagine the situation if you have resigned from one firm, joined another, subject to regulatory approval, and then been declined by the FSA.

Those declined gave interviews that raised questions concerning the candidate’s fitness or competence and yet it seems unlikely that the candidate had not been subject to a pretty rigorous recruitment process prior to such important appointments.

Our own experience is that in some, not all, cases, the more senior the appointment the less formality that may be observed. In some sectors the more traditional “asking around the market” or having worked with someone some years ago is sufficient along with a chat about the job and a presumption, based on the persons experience, that they will be suitable.

This must be too dangerous an approach now with the consequences of being declined by the FSA as a possibility and the doubt that an inappropriate candidate would cast on the controls the firm operates to recruit for key roles.

The FSA have not introduced any new rules or guidance on this topic because the standards have always been spelt out in the FIT and APER Handbooks as well as SUP Chapter 10.

To ensure that only appropriate candidates are selected and are ready for the FSA interview it is essential to have a clear process that will evidence the competence as well as financial soundness, integrity and reputation of the individual. Key elements include:

- Clear statement of the knowledge, skills and experience necessary for the role
- Evidence of any qualifications claimed
- Pre planned competency based interview questions and accurate recording of the results
- Use of formal tests of verbal and numeracy skills levels
- Examples of past work such as reports prepared, projects undertaken and the results
- Financial checks
- Police checks (probably this is the time to make these compulsory for new SIFs)

A useful amendment to an existing rule is SUP 10.13.12R which applies the requirement to firms providing references to a new employer of a SIF to disclose “all relevant information of which it is aware”.

It will be possible with this rule in force to ask for and receive more detailed information about matters such as the scope and responsibilities of the roles undertaken by the successful candidate and the length of time they were undertaken and stand more chance of getting an answer. Recruiting firms should specifically ask if there is any adverse information concerning the past performance of the individual.

Where adverse information is known and recorded this rule should help the recruiting firm but no doubt the HR function will be very wary of breaching employment law and wish to avoid prosecution. It has long been the practice to provide extensive information about financial

advisers with matters such as their persistency rate, complaints etc sent to a new employer under this rule. This is a choice between the devil and the deep blue as the FSA is likely to question a firm that fails to provide such adverse information which is relevant to the new company.

There will be some information to which only the FSA has prior knowledge of such as “whether, in the past, the person has been candid and truthful in all his dealings with any regulatory body and whether the person demonstrates a readiness and willingness to comply with the requirements and standards of the regulatory system and with other legal, regulatory and professional requirements and standards.” Quoted from the Form A Declaration.

As part of your recruitment process (internal or external), make sure that you emphasize to the applicant the importance of the accuracy of the declarations made and that an interview with the FSA is likely or possible. Also make the point that adverse information may not be relevant and important to the role and that it is far better to disclose even matters considered irrelevant if the question calls for that. I have seen applications rejected for failure to disclose information that would not have been relevant but having lied on the form it is very difficult to sustain an argument that you are honest.

As to the content of the interview itself, the matters the FSA is interested in may not have featured heavily (or at all) in the recruitment process. The FSA is understandably interested in the applicant’s familiarity with what the FSA expects. The “Dear CEO letter” spells out the importance of the understanding of the inherent risks to the business and be able to articulate what plans are in place to mitigate against those risks.

Do not send your applicant into the FSA interview without making sure they are properly prepared. Suggestions for that preparation are

- A refresher on the expectations of SIFs
- A summary of how the firm complies with the main areas of SYSC that apply
- Understanding of the business strategy and the risks being managed
- Review of the risk register, what the high risks are and how they are being addressed
- Run through the FSA’s hot topics in your sector and how the firm is addressing them

Last but not least, particularly for those who have not been involved in an ARROW visit, carry out a mock interview. This is an invaluable exercise in teasing out weak areas and providing at least one practice for such an important event.

The sorts of questions that will be asked are signposted in the letter. A few examples:-

What was the recruitment process you experienced?  
What are your main responsibilities in this role and what previous experience do you have?  
What are the risks you intend to focus on managing?  
What risks do you consider could cause the firm to fail?  
What is the strategy of the business going forward?  
How will you control your area of the business?  
What do you see as your role on the board?

As well as these more general questions if the role is specific, for example, a Finance Director, there will be more detailed questions about compliance with rules that apply, for example, client money or capital adequacy.

There is a great deal to do when recruiting for senior roles and this new tactic by the FSA will create more uncertainty for all concerned. It is however a shrewd move as it should cause firms to take a much greater interest in the rigour of the process and make sure that new people fit easily into a role and perform well.

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