

Chartered Accountants' Hall  
PO Box 433  
Moorgate Place  
London  
EC2P 2BJ

**Tel** 020 7920 8721

**Fax** 020 7920 8545

**Email** [info@fraudadvisorypanel.org](mailto:info@fraudadvisorypanel.org)

[www.fraudadvisorypanel.org](http://www.fraudadvisorypanel.org)

2 November 2005

Ms Helen Roberts  
Handbook Review  
General Council's Division  
Financial Services Authority  
25 The North Colonnade  
Canary Wharf  
London  
E14 5HS

BY EMAIL: [Helen.roberts@fsa.gov.uk](mailto:Helen.roberts@fsa.gov.uk)

Dear Ms Roberts

**Response and Comments of the Fraud Advisory Panel to the FSA Consultation on CP05/10  
Reviewing the FSA Handbook (the "Consultation Paper")**

The Fraud Advisory Panel (the "Panel") is an independent body of volunteers drawn from the public and private sectors. The Panel's role is to raise awareness of the immense social and economic damage that is caused by fraud and to help both public and private sectors to fight back.

Members of the Fraud Advisory Panel include representatives from the law and accountancy professions, industry associations, financial institutions, government agencies, law enforcement, regulatory authorities and academia. The Panel works to encourage a truly multi-disciplinary perspective on fraud.

The Panel was established in 1998 through a public spirited initiative by the Institute of Chartered Accountants in England and Wales. Today, it is a registered charity and company limited by guarantee. The Panel is funded by subscription, donation and sponsorship.

The Panel welcomes the opportunity to comment on the Financial Services Authority's ("FSA") proposals to change the FSA handbook.

The focus of this response is to answer **question 6** of the consultation "Do you have any comments on the idea of extending our main generic provisions in Annex 2 to cover fraud risk?"

The draft Handbook text for Money Laundering provides for the revocation of the Money Laundering Sourcebook, and the insertion of brief high-level provisions in the Senior Management Systems and Controls Sourcebook (SYSC) as outlined in Annex 2 of the Consultation Paper.

In general, the Panel supports the proposals of the FSA in relation to changes in the AML regime. The removal of the detailed provisions in the Money Laundering Sourcebook, and the insertion of more clearly defined senior management and systems and controls requirements, backed by reference to the authoritative and comprehensive Guidance available from the Joint Money Laundering Steering Group Guidance Notes for the UK Financial Sector (JMLSG Guidance), provides a more balanced and proportionate approach to the fight against money laundering, which we believe will help to fully and effectively engage the financial services industries in this important element of the fight against crime.

The importance of the anti-money laundering (AML) regime in also dealing with fraud and other financial crimes should not be over-looked – fraud is a predicate offence for money laundering purposes (as are all other remunerative crimes). However, AML systems and procedures are not designed to deal with the risk of, or developing a climate conducive to, the development of fraud. Attempted fraud is not defined as attempted money laundering, and so does not come within the scope of AML prevention controls.

For these reasons, we believe that at this stage of its reform of the Handbook, it is essential for the FSA to ensure that the senior management of all financial services firms are given clear and certain responsibility for systems and controls to reduce and control all financial crime, including fraud in particular. The detailed changes to SYSC set out in the Annex 2 actually appear to be reducing the references made to financial crime, rather than increasing them (as we outline in the Appendix to this letter). In these circumstances, there must be a danger of the FSA being in a position of not taking its statutory responsibilities seriously, for the reduction of financial crime.

We would be supportive of the approach outlined in paragraph 2.25 of the consultation document – that is, material relating to the prevention of fraud should be pulled together in one place in the Handbook and a high level approach, rather than a detailed approach, should be taken. An appropriate way in which this could be done is to extend the high-level elements of the Handbook text on AML provisions to specifically cover fraud risk, and other elements of financial crime. We do not believe that it is appropriate for this action to wait, while the FSA is considering its response to the Markets in Financial Instruments Directive or the Capital Requirements Directives. Senior management should already be responsible for reducing the risks of all financial crime to their firms, consumers and the markets and we do not believe that this responsibility should or will be greatly affected by the terms of these Directives.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ros Wright', written in a cursive style.

**Ros Wright**  
Chairman

## Annex

### Annex 2 – Draft Handbook Changes for Money Laundering

The consultation proposes to retain the current paragraph 3.2.6 of SYSC, under the heading of “Compliance”, which runs:

A *firm* must take reasonable care to establish and maintain effective systems and controls for compliance with applicable requirements and standards under the *regulatory system* and for countering the risk that the *firm* might be used to further *financial crime*.

However, it is proposed to delete some of the other references to financial crime, including paragraph 3.2.7, which runs:

The *regulatory objectives* are defined in section 2 of the *Act* and include the reduction of *financial crime*. This objective is more fully described in section 6 of the *Act*. This describes *financial crime* as including any offence involving (a) fraud or dishonesty, (b) misconduct in, or misuse of information relating to, a financial market, or (c) handling the proceeds of crime.

This leaves SYSC with only very limited references to financial crime other than money laundering and none to fraud. The FSA are therefore currently effectively proposing to radically reduce the emphasis and focus on financial crime other than money laundering. This cannot be right, in the context of the generality of the FSA’s statutory objective of the reduction of financial crime.