aspida *Insights*

1st Floor, Tudor House, Le Bordage, St Peter Port, Guernsey GY1 1DB
+44 (0) 1481 741900 | info@aspidagroup.com
www.aspidagroup.com

Regulators – a vital stakeholder ?

It's obvious to most that knowing your stakeholders is key to success, but how many regulated financial services businesses consider a key external stakeholder to be regulators? In Guernsey, two bodies which clearly impact licensees are the Guernsey Financial Services Commission (GFSC) and the Financial Intelligence Service (FIS). The recent letter issued by the FIS to all boards of banks and fiduciaries in Guernsey is essentially a requirement for boards to confirm that the businesses for which they are responsible have properly discharged their duties in line with previous guidance issued by the FIS.

How did we get here ?

There have been recent cases where individuals acting in the capacity of MLRO have been cited in public statements and have suffered reputational damage. This is likely to have had three consequences which have led to the recent letter:

- A reluctance among individuals to assume this prescribed position for which they hold personal responsibility
- A huge increase in the number of SARs being reported to the FIS, for fear that failing to do so may be seen as poor judgment at a future point
- A reduction in the quality of information being submitted as part of the SARs, given the desire among MLROs to get such matters moved "off their desks" as quickly as possible

The language widely used among licensees to describe the role of regulators from their points of view appears to have become polarised between those who see regulators as "enablers of business" and those who take the negative view that they are "blockers of business". Further, there is concern amongst individuals working with licensees to improve the robustness of their business models that they may be "caught up" in any subsequent prohibitions despite their role to address shortcomings.

In our view, regulators need to fulfil roles which can be seen as conflicting. One relates to assisting the Bailiwick in the development of its financial sector (as, encouragingly, seen in the development of the GFSC's "Innovation Sandbox" initiative) whilst the other involves ensuring that business is not of the type which could be detrimental to our reputation, thus damaging that same sector.

However, the above comments regarding MLROs suggest that there is a perception that the regulators and competent authorities are increasingly more interested in playing their enforcement roles as opposed to a role of helping develop the sector locally. That is highly unlikely to be the case but it appears to be the common perception.

How do we resolve this ?

The traditional response is often that it is better to "keep one's head down" to avoid attention, which is not helpful. A lack of willingness to engage may stem from a lack of trust and that requires attention.

Consider the benefits which might flow from a truly collaborative relationship between licensees and regulators:

- Clarity over requirements of both parties
- Understanding of issues of high priority over coming year(s)
- Standardised formats for reporting

In the UK, the Joint Money Laundering Steering Group (JMLSG) is a private sector body made up of the leading UK Trade Associations in the financial service industry. The JMLSG produces guidance to assist those in financial industry sectors to comply with their regulatory obligations.

We already have a plethora of trade associations, but a more co-ordinated approach may be advisable. Whilst we recognise such a move will not happen without a conscious effort, it is our contention that the benefits of a truly collaborative relationship between licensees and regulatory bodies would be a hugely positive step for the local finance industry.

Simon Walker is Chief Operating Officer at Aspida Group