Autumn 2015

Financial Insight

MOORE STEPHENS

Financial services

PRECISE. PROVEN. PERFORMANCE.

RRPs and ICAAPs

The specialised regulations around how firms manage their resources to support business-specific risks are evolving rapidly. As a bank, an IFPRU 730k investment firm or a member of a Group which includes an IFPRU 730k investment firm, ensure you have an RRP and a current ICAAP in place.

Further to the introduction of the Recovery and Resolution Directive (RRD), the PRA published a feedback statement and eventually transposed the RRD requirements into a specific section of the PRA Rulebook as applicable mainly to banks with effect from 19 January 2015. At the same time the FCA also added new Handbook rules within IFPRU 11 setting the requirements for IFPRU 730k investment firms in scope. Key topics including recovery plans, resolution plans, intra-group financial support and notification of failure or likely to fail protocols, are all covered.

Firms in scope are required to draft and submit a Recovery and Resolution Plan (RRP) to the competent regulator. Significant IFPRU firms have already had their first reporting due date and need to review their RRP annually. Non-significant IFPRU firms will see their first reporting reference dates between now and 30 June 2016 and must resubmit their RRP every two years.

Firms must take action in good time before the relevant due date, by creating a project team and obtaining specialist advice as they assemble information on their group structure, business model and capital and funding, all of which will feed into their RRP.

The RRP must include recovery options for addressing financial stresses caused by either specific problems or market-wide conditions that may affect the financial position of the firm or its group. The options to be considered must address both liquidity and capital difficulties and be consistent with their existing risk management framework, ICAAP and ILAA.

The effectiveness of those recovery options should be ensured by establishing appropriate assumptions and a comprehensive risk analysis, and then including preparatory measures, material obstacles to recovery and early indicators of a deterioration of the firm's finances.

Due to the nature of the RRP, firms should in particular review and evaluate all connected documents, including their ICAAP which should include a prescriptive approach to stress testing, reverse stress testing and scenario analysis, the incorporation of new risk categories and the new CRR terminology.

Inside

"Have you claimed your R&D tax credits?"
Page 2

"Could you reclaim more VAT?"
Page 2

"Regulators hone in on cyber security"
Page 3

"FRS 102 reminder"
Page 4

We are currently working with a number of firms, helping them to formulate their project team and plan, in order to deliver the RRP within the required timescale.

andrew.jacobs@moorestephens.com

Could you reclaim more VAT?

Businesses supplying goods under finance arrangements are encouraged to review their VAT claim position following a recent Court of Appeal decision in the case of Volkswagen Financial Services (UK) Limited.

HMRC's traditional approach to finance arrangements, such as hire purchase, is to treat all overheads as associated with the supply of finance – an exempt supply. This has meant no overhead VAT could be apportioned to the taxable supply of the physical goods and reclaimed.

Volkswagen Finance has now challenged this stance – and won the argument. "The Court of Appeal ruled this summer that there are two supplies taking place, so that some element of the overhead VAT must relate to the taxable supply," says Robert Facer, a VAT expert with Moore Stephens. "Therefore, some element of the overhead VAT must be reclaimable."

The Court did not, however, give any guidance on how the overhead VAT should be apportioned between the exempt and taxable supplies. "Nevertheless, the Court of Appeal sets legal precedent, so this creates an opportunity for other businesses to revisit their partial exemption method," Robert says. "They may now be able to reclaim some extra VAT. And depending what method they have been using, they could potentially go back four years."

It's possible there could still be further developments in the form of an appeal by HMRC or new guidance from the tax authority. "But there's no reason why businesses should delay taking action now," Robert says.

Please get in touch of you would like help in reviewing your own partial exemption method.

robert.facer@moorestephens.com

Could you reclaim more VAT?

Our specialist Innovation and Technology group successfully manages R&D claims for many financial services clients.

The UK has some of the most effective tax reliefs available for this type of expenditure. What surprises many clients, is that they are already likely to qualify for R&D tax credits. Below are the top myths preventing them:

1. R&D tax relief is only for companies with "men in white coats"
   Whilst pure research usually qualifies for R&D tax relief, any company that is involved in technological problem solving could be eligible for R&D tax relief. This can include companies who have developed digital platforms, security improvements and automated trade execution technology.

2. R&D tax relief is only for companies that are inventing something brand new
   You do not have to be inventing something brand new to qualify for this relief. More often than not it is claimed by companies who are improving existing products or internal processes.

3. We don't pay corporation tax so there is no benefit for us
   All companies, whether they are large companies or SMEs, who are not paying corporation tax can actually still get a cash credit through R&D.

4. If we try to claim for R&D tax relief, HMRC will start investigations into all our tax affairs
   All R&D claims in the UK are administered through specialist R&D HMRC offices. A quality report that is submitted with your claim should deal with all HMRC points of interest and concerns and not trigger an investigation.

Joseph Ingram, Innovation Technology consultant, suggests: "Most companies in financial services rarely imagine R&D tax credits could apply to them, yet the challenges the sector faces and the calibre of staff employed to overcome these means they are often perfectly positioned to take advantage of this relief".

joseph.ingram@moorestephens.com

Regulators hone in on cyber security

Regulators have flagged cyber-crime as a growing concern for financial services and are increasingly active in the industry.

The Bank of England plans to hold a 'war game' in November to test the sector's defences against attack and the SEC have also charged a series of individuals relating to a hacking of financial information.

Breaches in the confidentiality, integrity or availability of client data is significant, but the loss of customer or stakeholder trust in their service can be terminal.

Securing digital channels is a complex exercise, and one that draws on a range of governance, risk and assurance capabilities as well as in-depth technical and cyber security skills. Those that best control this risk:

- Balance opportunity and risk – throughout the organisation. They make sure everyone understands the opportunity offered and the threat posed by digital and information technologies.
- Integrate risk management – They actively manage the cyber security risk as a part of their enterprise risk management framework. They have a clear and continually improving architecture to make sure dynamic service development are built consistently with the risk appetite.
- Assume they have been hacked – They build technology that can not only defend against potential threats in depth, but that is resilient to breaches and that can detect and alert when an incident is taking place.
- Control the risk intelligently – They recognise that everyone's risk is different, and that blending control, insurance, outsourcing and expert advice can effectively manage this risk better than simply using technology.

Fast developing technology and the increased sophistication of attacks necessitates the need to continuously monitor the threat and to test on a regular basis.

steve.williams@moorestephens.com

Senior Managers Regime

The Senior Managers Regime is the replacement to the Approved Person Regime which in the first phase will apply to banks, building societies, credit unions and PRA designated investment firms, and will come into effect on 7 March 2016. The second phase will apply to all investment firms.

A senior manager's role will now fall far more specifically into one of the new Senior Manager Function's (SMF) than the previous Significant Influence Functions. A senior manager will either be an Executive SMF or an Oversight SMF, with a specific SMF number allocated depending on their role at the firm.

Among the new additions is the possibility for individuals to share a specific SMF where two individuals hold equivalent functions with equal responsibility, which will be assessed by the PRA before approving.

A relevant firm must submit a Statement of Responsibilities for each individual whom it seeks to approve in an SMF, including both responsibilities prescribed by the PRA rulebook and any additional responsibilities attached to that position within the firm. The firm will also be responsible for maintaining a Management Responsibilities Map, which sets out the management and governance arrangements.

The only mandatory SMFs will be SMF1 (Chief Executive), 2 (Chief Finance) and 9 (Chairman) for banks, building societies and investment firms subject to CRR, and SMF 8 (Credit Union Senior Manager) for a credit union. A firm will only be required to appoint other SMF's should any individuals hold the relevant role.

The FCA have announced that they intend to extend the scope of the SMR to all firms by 2018.

giovanni.giro@moorestephens.com

Profile: Steve Williams

Steve Williams is back! After three years on secondment with the UK government's National Audit Office (NAO), he rejoined Moore Stephens earlier this year.

Steve first came to Moore Stephens in 2008, but left for the NAO in 2012. "This gave me a tremendous intellectual challenge, and an opportunity to work with some fantastic people," he says. "It opened my eyes to new horizons and changed my view of how government works."

At the NAO, Steve had a number of roles, including directing studies and investigations across government and reporting these to Parliament. The reports would often support debates in Parliament itself and at the Public Accounts Committee. "I also ran security at the NAO and participated in reviews of the national cyber security policy," he says.

Now settled back into life as a partner at Moore Stephens, Steve is looking forward to working with clients and bringing all his experience to bear – drawing on his previous life with the firm, his NAO insights and his training as an IT auditor and security consultant. "I'll also be drawing on my experience in the financial sector, such as my work directing a thematic review for the UK Financial Services Authority, establishing an information security function in the UK on behalf of a US-based bank, and implementing enterprise risk management processes in asset management," he says.

Much of his work will involve non-statutory audit and advisory projects. "I'm looking to help clients with a wide range of issues, covering everything from operational risk and cyber security to Sarbanes-Oxley," Steve says. "Businesses today are operating to a different risk profile, and I want to help clients safely navigate the new challenges they face."

It's clear that Steve has retained his infectious enthusiasm. "I have all the qualities necessary to still be a passionate supporter of the Welsh national rugby team," he says.

steve.williams@moorestephens.com

FRS 102 reminder

As we have been trailing for some time now, the new UK GAAP framework, FRS 100,101 and 102, came into effect for accounting periods commencing on or after 1 January 2015. For many this will mean that the first set of accounts prepared under the new framework will be for the period ended 31 December 2015. As adoption of the new framework requires a full restatement of comparative figures within the financial statements, firms should not underestimate the impact this will have on their year-end accounts production and audit. With the year-end fast approaching, it is not too late to consider the impact first time adoption of the new framework will have and we would advise firms to conduct a detailed review as soon as possible. This is of course something that we can assist with, so please do get in touch with any queries.

jeremy.watkins@moorestephens.com

For more information please go to:
www.moorestephens.co.uk
Follow us on Twitter: **@MSFinSec**