For those who have not been involved in the design of the structure, the FSA's announcement took many by surprise. Quite understandably, market participants were digesting the Food Standard Agency's morning announcement and asking themselves, and the wider industry questions about what it meant and how it would be implemented.

One such question concerned the requirement to "*submit valid novel food authorisation applications"* by the deadline of 31st March 2021, with the question being "***what is actually required by that date***?"

Thereafter, we then saw the responses from self-defined "industry leaders" and eminent "leading lawyers" and "experts". It was very disappointing to find that they either didn't know what it meant, or provided incorrect answers. One such "leading expert" posted:

> *"A Novel Food application only needs to be SUBMITTED by 31st March 2021 – question over whether it needs to have been granted. What does "valid" mean?"*

While we would not expect market participants to be aware of the legislation after which we are all speaking, one would have thought that a leading legal expert advising those within the industry might have an awareness of it.

The answer for current applications can be found in the Commission Implementing Regulation (EU) 2018/456 (reproduced below). We believe that in order to maintain continuity, and to ensure that the submission data will be aligned for UK and EU applications, the FSA will adopt a parallel process.

The answer is that there must be a "valid" application by the appointed date, which means that the receiving authority must have been afforded the opportunity:

- to assess the submitted dossier;
- to have concluded that all of the required information is present;
- to have concluded that all of the required information is in the required format; and,
- inform the business operator of their approval of validity decision.

If you want to know the answers to questions arising from the FSA proposed structure – ask the people who provided the blueprint for their adoption (*which can be found here*) – ***The Canna Consultants***.

Article 5

Procedures for verifying the validity of a consultation request

1. The recipient Member State shall without delay verify whether the consultation request complies with the requirements of Article 4.

2. Where the food business operator submits insufficient information in the consultation request, the recipient Member State shall request the food business operator to provide additional information or make the relevant updates to the consultation request within the time period specified by the recipient Member State.

3. The consultation request shall be considered not valid where:

   (a) the food business operator does not provide requested additional information or updated consultation request within the period specified by the recipient Member State;

   (b) the submitted additional information is insufficient to conclude that the consultation request is valid.

4. The recipient Member State shall decide on the validity of the consultation request and without delay inform the food business operator, the other Member States and the Commission of the decision. Where the consultation request is considered not valid, the recipient Member State shall provide the reasons for that conclusion.