

Consultation on new information gateway between FSA and claims management regulator

February 2009

Consultation on new information
gateway between FSA and Claims
Management Regulator

© Crown copyright 2009

The text in this document (excluding the Royal Coat of Arms and departmental logos) may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the document specified.

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

For any other use of this material please write to Office of Public Sector Information, Information Policy Team, Kew, Richmond, Surrey TW9 4DU or e-mail: licensing@opsi.gov.uk

HM Treasury contacts

This document can be found in full on our website at:
hm-treasury.gov.uk

If you require this information in another language, format or have general enquiries about HM Treasury and its work, contact:

Correspondence and Enquiry Unit
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Tel: 020 7270 4558

Fax: 020 7270 4861

E-mail: public.enquiries@hm-treasury.gov.uk

Printed on at least 75% recycled paper.
When you have finished with it please recycle it again.

ISBN 978-1-84532-565- 7
PU723

Contents

		Page
Chapter 1	Introduction	3
Chapter 2	Responding to the Consultation	5
Chapter 3	Information Gateway between the FSA and the Claims Management Regulator	9
Annex A	Draft Statutory Instrument	11

1

Introduction

Summary of proposals

1.1 This consultation document seeks views on proposed changes to the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 to introduce an Information Gateway between the Financial Services Authority and the Claims Management Regulator

1.2 This change would be implemented via the introduction of secondary legislation.

1.3 The purpose of the information gateway is to enable the sharing of information between regulators for regulatory functions. While it is expected to lead to an increase in the efficiency and effectiveness of regulatory activities, the proposal is not expected to lead to significant savings and will not impose additional costs. Therefore no Regulatory Impact Assessment has been produced.

2

Responding to the Consultation

How to respond

2.1 The Government welcomes the views of all stakeholders on the issues raised in this document. The consultation period begins with the publication of this document, and will run for 12 weeks. Please ensure that your responses reach us by 14 May 2009.

2.2 Responses to the consultation should be sent to:

Helena Forrest

Financial Services Strategy Team
Room 3/W2
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Tel: (+44) (0) 20 7270 5312

Fax: (+44) (0) 20 7270 4322

Email: Helena.Forrest@hm-treasury.gsi.gov.uk

2.3 This document can also be found on the HM Treasury website: <http://www.hm-treasury.gov.uk>

2.4 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the view of members were assembled.

2.5 All responses to this consultation will be shared with the FSA.

Impact Assessment

2.6 The introduction of an Information Gateway between The Financial Services Authority and Claims Management Regulator is unlikely to impose any costs or savings on the public, private, charities or voluntary sector and therefore no Impact Assessment has been produced.

Confidentiality disclosures

2.7 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily) the Freedom of Information Act 2000 (FOIA), the Data Protection Act (DPA) and the Environmental Information Regulations 2004). If you want the information that you provide to

be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality will be maintained in all circumstances.

2.8 An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department. The Department will process your personal data in accordance with the DPA, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Freedom of Information Contact

2.9 Any Freedom of Information Act queries should be directed to:

Correspondence and Enquiry Unit
Freedom of Information Section
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Telephone: +44 (0)20 7270 4558

Fax: +44 (0) 207 270 4681

Email: public.enquiries@hm-treasury.x.gsi.gov.uk

Cabinet Office Code of Practice on written consultations

2.10 The Cabinet Office has published a Code of Practice for Written Consultations to guide Department's activities in this area which sets down the following criteria:

- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy
- Be clear about what the proposals are, who may be affected, what questions are being asked, and the timescale for responses
- Ensure the consultation is clear, concise and widely accessible
- Give feedback regarding the responses received and how the consultation process influenced the policy
- Monitor the department's effectiveness at consultation, including through the use of a designated consultation coordinator
- Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

2.11 If you feel that this consultation does not fulfil these criteria, please contact:

Luke McInerney

Enterprise Team

HM Treasury

1 Horse Guards Road

London. SW1A 2HQ

Telephone: 020 7270 4517

3

Information Gateway between the FSA and the Claims Management Regulator

Background

3.1 The Claims Management Regulator (currently within the Ministry of Justice) is responsible for regulating the activities of claims management companies when making claims for compensation in certain sectors. The legislative framework is provided by the Compensation Act 2006, which received Royal Assent in July 2006 and regulation commenced in April 2007.

3.2 The Compensation Act defines claims management services as “advice or other services in relation to the making of a claim”. Secondary legislation defines the scope of regulation including the regulated sectors and the regulated activities subject to the authorisation regime. Trading without authorisation or exemption is a criminal offence.

3.3 The claims sectors currently subject to Compensation Act regulation are: Personal injury (and Industrial Injuries Disablement Benefit); Financial products/services; Employment; Criminal injuries compensation; Housing disrepair; Industrial Injuries; and Disablement Benefit.

3.4 Any business wanting to provide regulated claims management services in England and Wales is, unless exempt, required to be authorised irrespective of their registered place/country of business. Exemptions under the Compensation Act include those already regulated like solicitors and insurers - independent trade unions are also exempt and the voluntary sector.

3.5 It is desirable at times for the Financial Services Authority and Claims Management Regulator to share information in cases of joint interest. The nature of the Claims Management Regulator’s functions is such that there are inevitably areas of common interest with the FSA. There may also be occasions where the FSA holds information not directly relevant to its functions but which it thinks may be relevant to the Claims Management Regulator’s functions. In either case, information held by FSA and which is relevant to the Claims Management Regulator’s functions should be capable of being shared to maximise the efficient use of resources and consistency of approach.

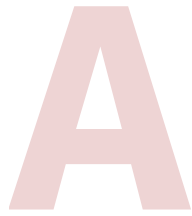
THE PROPOSAL

3.6 The draft statutory instrument covers changes to the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 to introduce an Information Gateway between the Financial Services Authority and the Claims Management Regulator.

3.7 The purpose of the legislation is to enable the Financial Services Authority to share certain information about the companies and individuals whom it regulates with the Claims Management Regulator .

3.8 The draft regulations make the necessary amendment to allow information to be passed from the Financial Services Authority (FSA) to the Claims Management Regulator . The amendments take in to account the fact that some information held by the FSA may not be disclosed or is subject to conditions on onward disclosure because of restrictions imposed under European Directives.

Question: do you have any comments on the proposal to introduce an information gateway between the Claims Management Regulator and the Financial Services Authority?



Draft Statutory Instrument

STATUTORY INSTRUMENTS

2009 No.

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) (Amendment) Regulations 2009

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Treasury, in exercise of the powers conferred by sections 349(1)(b), (2) and (3) and 417(1) of the Financial Services and Markets Act 2000 ⁽¹⁾, make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) (Amendment) Regulations 2009 and shall come into force on [date to be inserted] 2009.

Amendment of the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

2.—(1) The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001⁽²⁾ are amended as follows.

(2) At the end of the table in Schedule 2⁽³⁾ (disclosure of confidential information not subject to directive restrictions) add—

“The Claims Management Regulator	Its functions as such”.
----------------------------------	-------------------------

? ? 2009

Two of the Lords Commissioners of Her Majesty’s Treasury

xxxx xxxxxxxxxx
yyyyyyyyyyyyyy

⁽¹⁾ 2000 c.8
⁽²⁾ S.I. 2001/2188.
⁽³⁾ Relevant amending instruments are S.I. 2001/3624, S.I. 2003/2174 and S.I. 2006/3413.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (S.I. 2001/2188) (“the principal Regulations”) to allow for the disclosure of certain information by (a) primary recipients as defined in section 348(5) of the Financial Services and Markets Act 2000 (c. 8) (“the 2000 Act”) and (b) persons obtaining such information directly or indirectly from primary recipients (together referred to as “recipients”).

The principal Regulations define the circumstances in which recipients are permitted to disclose “confidential information” as defined in section 348(2) of the 2000 Act. The table in Schedule 2 to the principal Regulations provides a list of persons to which confidential information not subject to single market directive restrictions (as defined in those Regulations) may be disclosed and the functions of that person for the purposes of regulation 12 of those Regulations. These Regulations amend that table to add the Claims Management Regulator (designated in accordance with section 5 of the Compensation Act 2006 c. 29) and its functions as such.

An Impact Assessment has not been prepared as no impact on the cost of business is foreseen.

ISBN 978-1-84532-565-7



9 781845 325657