



**INVESCO response to HM Treasury review of FSMA 2000**  
May 2004

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## **1. INVESCO: Experience in providing retirement investment solutions**

- 1.1 This submission is based on INVESCO's experience as one of the largest independent global investment managers. INVESCO offers a wide range of investment services within the UK under the INVESCO PERPETUAL brand in the retail market and INVESCO in the institutional market
- 1.2 INVESCO's fund range includes ICVC sub-funds, investment trusts, as well as institutional and Defined Contribution fund management.

## **2. Overview**

- 2.1 INVESCO recognises that Government assistance need not involve expensive spending commitments or detailed legislative proposals. The regulatory environment is itself hugely critical to the delivery, and take-up, of pensions. Deregulation can deliver benefits without necessarily undermining consumer protection. This review of the Financial Services and Markets Act (2000) offers a unique opportunity to ensure that financial regulation can better contribute to employer and employee confidence in both offering and taking up workplace pension provision.
- 2.2 HM Treasury's 'enabling' approach as outlined in section 4.3 of the consultation paper, which emphasizes the removal of regulatory obstacles to employers when providing good faith advice to their employees about pensions, is therefore broadly welcomed by INVESCO as a positive step towards promoting wider pensions saving.
- 2.3 We would recommend a cautious approach. Employers should be given greater clarity, on this point the consultation paper is useful in clarifying a number of issues, but any changes to the regulatory framework should ensure the need for an ongoing partnership approach with pensions providers, employers and other workplace partners, in developing a greater awareness of financial planning, which helps to position workplace pensions squarely within the broad consensus currently being developed as part of the FSA steering group on financial capability.

## **3. INVESCO approach: Responding to new challenges**

- 3.1 INVESCO's approach to providing workplace pensions is about promoting the value of retirement planning through better advice and information. We recognise that the provision of such advice and information can have a major impact on changing savings behaviour through encouraging people to take up the savings habit.
- 3.2 Workplace pensions can help to provide a more sustainable, long-term approach to financial planning. As individuals our saving habits change frequently during our lives. There are a whole range of life events, which can impact on people's ability and propensity to make provision for their retirement<sup>i</sup>. This is demonstrated in the increasing lapse rates for long-term savings products.<sup>ii</sup> Around a quarter of all lapses on pensions are related to changes in consumers' financial circumstances which could not be foreseen when contributions started.<sup>iii</sup>
- 3.3 Employers play a central role in overcoming these issues. Not least because companies take a longer term view than do individuals, and because individuals still tend to regard their employers as one of the most trusted sources of impartial information on pensions. Regulation should do more to support employers in this role.
- 3.4 Despite talk of a pensions 'crisis' in which employers are often portrayed as attempting to offload expensive occupational pensions liabilities at the expense of the scheme

members, INVESCO takes the view that a large number of employers remain firmly committed to providing high quality pensions schemes. However, whilst many employers have retained a commitment to provide workplace pensions, the landscape of occupational pensions has undoubtedly changed in recent years. The majority of final salary schemes having now closed to new members. Other options are becoming more popular.

- 3.5 Consequently, one of the major challenges for employers and pensions providers alike is the need to demonstrate that good quality pensions come in many forms - defined benefit, defined contribution or hybrid schemes all have characteristics to suit different individuals according to their particular needs. INVESCO supports the Government's positive contribution to that discussion. Explaining the changing nature of pensions provision, the risks and the benefits, is particularly crucial at this time.

## 4. Promoting workplace pensions

### The Financial Promotions Order

- 4.1 The Treasury's stance on reforming the financial promotion framework whilst welcome does run the risk of falling short of two competing objectives. First, the need to maintain consumer protection and guard against further mis-selling; and secondly, doing more to promote the take up of long-term savings, not just through the workplace but through other 'impartial' advisory services, such as the Citizen Advice Bureaux.
- 4.2 Initial reactions in the media suggest that the Treasury proposals may have the "potential of resulting in increased levels of pensions mis-selling" with the Treasury's position being one in which mis-selling is seen as a "risk worth taking".<sup>iv</sup> At the other end of the scale the FSA business plan for 2004-05 talks of a "significant step up in our work on financial promotion and identifying and countering mis-selling".<sup>v</sup>
- 4.3 The FSA rightly place this within the context of the fundamental changes currently occurring within the pensions market at this time. Callum McCarthy, Chairman of the FSA, outlined that the regulator expects "to see a continuing transfer of responsibility to individuals. The movement from DB to DC pension schemes will have a very significant effect."<sup>vi</sup> Changes in Government policy have also reduced the extent to which consumers can rely on the state to finance retirement. These trends will place "greater importance on the FSA's duty to provide an appropriate level of consumer protection."
- 4.4 The Treasury in its consultation paper claims that the FPO appears to be "the most awkward obstacle to employers wishing to impart better information about pensions to their employees". INVESCO would agree that many employers do clearly struggle to promote awareness of company schemes within the current regime.
- 4.5 The FPO currently places a duty on all employers to act with care when assisting employees with decisions about their retirement options. At present employers are allowed to outline the general features of the scheme and invite employees to take independent advice.
- 4.6 However, there is still confusion amongst employers as to what level of information regarding their own company scheme would constitute advice, whether the endorsement would be considered a regulated activity and what potential liabilities could arise for employers if the wrong 'advice' is given.
- 4.7 Consequently, employers often have reservations about actively endorsing their scheme at all, which may be misinterpreted by employees creating uncertainty about the value of the scheme. Deterred, some employees might make the wrong choices for their long-term welfare.

4.8 This situation does need to be addressed. However, current legislation does not prevent employers from promoting their scheme so long as the promotion is undertaken through an authorised person. Through working with IFAs, pensions providers and benefits consultants, many employers already deliver good quality pensions advice and information in the workplace. INVESCO has developed a range of innovative communication tools to promote awareness of company schemes; this includes providing access to web-based financial planning, workplace presentations and written materials - the full range of both real time and non-real time communications.

### **Improving access to financial advice**

4.9 Any proposed changes to the working of the FPO should be considered within the wider context of the need to improve access to cost effective and impartial financial advice. Adopting an approach which risks mis-selling through giving too much freedom to employers, rather than addressing the core issue of how to make workplace advice more accessible could be seen as the wrong approach.

4.10 Government reforms aimed at addressing the need to reduce costs and widen access to advice and information could actually result in restricting workplace advice. The 1% charging cap applied to Stakeholder pension schemes does limit the degree to which pensions providers are able to deliver economically, the kind of holistic financial planning tools, which will be required in a changing market place where, as both the FSA and Government recognise, the degree of personal responsibility is set to increase.

4.11 In particular INVESCO sees '*caveat emptor*' as an important principle within current UK financial services legislation. Much more must be done to give consumers basic, clear and concise information, as well as simplified means of access to more detailed information and advice if they wish. Consumers need to understand that by choosing to forego advice they accept the principle of '*caveat emptor*'. Within the workplace the opportunity to choose whatever level of advice or information an individual wants must be made to be available. INVESCO believes the failure to deliver this opportunity will undermine 'informed choice'.

### **5. A 'blanket' exemption for employers?**

5.1 INVESCO fully accepts that employers should not have a free hand to promote whatever financial products they like or whenever they like. This would have issues for competition with retail markets being unfairly disadvantaged. This in turn could deny consumers wider choice and some cases the wrong choice may be the result.

5.2 The consultation outlines a number of options for prescribing the application of an exemption to the FPO. These are listed for ease of reference. The exemption could, for example:

- 5.2.1 Only cover certain categories of investment, such as pensions;
- 5.2.2 Only cover those schemes where the employer makes a contribution;
- 5.2.3 Only cover those schemes where the employer receives no direct commercial benefits; or
- 5.2.4 Retain the requirement on employers to inform employees to seek independent financial advice from an authorised person when making non-real time promotions.

- 5.3 The consultation paper states that such a prescribed approach would aim to “ensure that employees are able to make choices about pensions products designed with their interests uppermost in mind”. This needs to ensure the continued involvement of those who are familiar with financial products and financial services regulation.
- 5.4 Of all the options outlined 5.2.4 comes closest to meeting this objective. As non-real time promotions are most likely to be compiled by the pension provider (and therefore subject to FSA rules on ensuring communications are ‘fair, clear and not misleading’), this would continue to offer the employee greatest protection.
- 5.5 The alternative options would result in different regulatory treatment for different employers, which would do little to provide greater clarity or simplicity. Restricting the FPO exemption only to pension schemes might create distortions in long-term savings behaviour that do not actually reflect the needs of savers. INVESCO would have some concerns over any approach, which focussed on the provision of pensions *in isolation*. It is not clear that individuals would in fact be able to make informed choices on retirement in the absence of the wider context within which all financial planning should be framed.
- 5.6 This concern extends to other areas of the Government’s reform agenda with the Department for Work and Pensions adopting a similarly singular focus on developing an employer ‘pensions’ information pack as part of the Informed Choice. Following in-depth discussions with DWP our understanding is that the pack, when published later in 2004, will not reflect the need for wider financial planning. This is a missed opportunity. INVESCO would like to see retirement planning explained within the wider context.
- 5.7 Ruth Kelly, the Financial Secretary to the Treasury, has spoken previously of the need to develop savings ‘hierarchies’ outlining all the key elements of financial planning.<sup>vii</sup> This concept is expected to form the focus of the FSA consumer strategy. INVESCO agrees with this view. Promoting the company pension scheme should be made easier, but this should be done within the context of improved access to holistic financial planning.
- 5.8 INVESCO supports the Treasury’s decision to proceed with caution. Whilst significant changes to the FPO framework are not proposed we think it is right that the Treasury examines the case for shifting FSA financial promotion rules from a sectoral-based regime of product information and advertising rules to one which looks at consumer risk. Such a move would match other FSA risk-based development work concerning the Product Risk Framework, announced by the FSA in its 2004/05 business plan, which the FSA hopes will help them to assess the risks to consumers of different products being launched or marketed by firms.
- 5.9 Whilst the FSMA review and the Pensions Bill offer a long overdue opportunity to better inform individuals about retirement planning, this needs to be better co-ordinated with wider activities to raise financial capability. The FSA Steering Group on financial literacy will focus on building greater awareness around basic financial concepts. Its effectiveness will be undermined if other Government initiatives fail to take a holistic approach. There is an opportunity to develop such an approach. We hope to see the Government maximise that opportunity.

References:

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- i DWP research paper 'Saving and Life Events' - 2003
- ii FSA Occasional Paper 'Stopping Short' - 2004
- iii British Household Panel Survey
- iv Pensions Age, March 2004
- v FSA, Press Notice 6, 2004
- vi FSA Business Plan 2004-05, January 2004
- vii Evidence to the Treasury Select Committee on Child Trust Funds, December 2003