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Ms Eve Engledow  
FSMA secondary legislation consultation responses  
Financial Stability and Regulatory Policy Team  
Room 4/23  
HM Treasury  
1 Horse Guards Road  
London SW1A 2HQ

1 June 2004

Dear Ms Engledow

**Financial Services and Markets Act two year review: Changes to secondary legislation**

We are grateful for the opportunity to consider and comment on this Consultation Document and our response is noted below.

**The impact of FSMA on Advice Centres**

We support the provision of advice centres and agree that they offer a valuable benefit. However, we have concerns about the proposed changes to the regulation of the advice they provide. The potential for customer detriment from inappropriate advice is as great from an adviser in an advice centre as it would be from an unregulated financial adviser. We consider that the required levels of knowledge and expertise should be similar to those required in the financial services industry. Relaxing the exemption could lead to a limited range of advice which may be inappropriate to the individuals circumstances.

**The impact of FSMA on employers offering pension products**

We recognise the need to encourage a greater take-up of employment based pensions and other related benefits. We believe that an effective route for this would be to have some form of exemption. However, we feel that there should be further consideration given to avoid the opportunity for similar products using this exemption inappropriately. From the options proposed we consider option 1 (c) to be the most appropriate and are in favour of imposing restrictions (option 2 (b)) rather than permitting a blanket exemption.

**The Financial Promotion Order**

We are in agreement with the proposed changes.

**Sale of a Body Corporate**

We have no comments to make concerning the proposed changes.

**Investment by Occupational Pension Scheme Trustees**

We are in agreement with the proposals and the scope of the products involved.

**Changes to the Regulated Activities Order**

We have no specific comments to make.

**Other Secondary Legislation**

We are in agreement with the changes to Service of Notices.

We have no comments to make about the proposals concerning trustees in bankruptcy.

We agree with the amendments to the requirement to disclose information by permitted persons.

We do not wish to provide any comments on the proposals for Swiss insurers or the NETA Advice Exemption.

**Open-Ended Investment Companies**

We have no comments to make concerning the proposed changes.

**Future work**

We note the proposed work on the Financial Promotion framework and have the following comments. Firstly, we are concerned about the implications of adopting a less sectorally-based approach to the regulation of promotions. We could foresee some practical difficulties in moving away from product based regulation to a risk based approach. For example, many investment products offer a range of funds in which to invest and the option to switch between funds. Many of these funds have different risk profiles and, potentially, a customer could start investing in a low risk fund and switch into a high risk fund within the same product. It is difficult to see how this could be satisfactorily covered outside of the product based framework.

Secondly, concerning the proposals on the interaction between the financial promotion framework and the misleading statements framework we require more information before we can give a considered response. In particular we would require details of the likely scenarios.

We hope that our response will be helpful. Please do not hesitate to contact us if you require any further information.

Yours sincerely

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