

Ms Eve Engledow
FSMA Secondary Legislation consultation responses
Financial Stability and regulatory Policy Team
Room4/23
H M Treasury
1Horse Guards Road
London
SW1A 2HQ

28th May 2004

Dear Ms Engledow,

Two year review of the Financial Services and Markets Act

Citizens Advice is pleased to comment on HM Treasury's consultation paper on changes to secondary legislation under FSMA.

Citizens Advice is the national coordinating body for Citizens Advice Bureaux in England, Wales and Northern Ireland. In 2002/3 Bureaux dealt with nearly 6 million problems raised by the people who contacted them each year from over 2,000 outlets. Of these enquiries, 1,455,735 concerned consumer and debt problems.

Our comments concentrate on the questions raised in chapter 3 of the consultation paper – The Impact of FSMA on Advice Centres.

We welcome the Treasury's concern about the impact of FSMA on advice centres. Recent changes in the UK personal finance centre means a blurring of the boundary between debt advice and financial advice. Citizens Advice is actively addressing this issue through our developing money advice strategy and we believe that all advice agencies will need to do the same if they are to provide a high quality debt and money advice service to their clients.

We are concerned that some policy makers see the not for profit advice sector as the solution to the problem of providing low and middle income consumers with generic financial advice. Citizens Advice is currently testing out a model of providing elements of financial advice to CAB clients through the support of Independent Financial Advisers. However, we have been consistent in stating that we have not determined a role for the CAB service, or other advice

agencies, in providing such advice. The key question for us is how best to serve the client interest.

Q1: Do you think that the current scope of the financial promotion restriction creates uncertainty or is unduly restrictive of the work of advice centres?

The work of advice centres work in advising on financial issues concentrates on debt advice. Recent changes in the UK personal finance sector such as the growth of debt consolidation, impaired credit lenders, and increased home ownership and home equity means that high quality debt advice will often require advice on non-debt financial products such as mortgages, and insurances. For example, high quality debt advice should include advice on the advantage, disadvantages, and effect of debt consolidation through a remortgage where such an option is available to the client. High quality debt advice should include advice on the appropriateness of insurance products following past and current industry emphasis on the cross selling of insurance products to accompany loans and credit cards. The current scope of the financial promotion restriction does therefore create uncertainty where advice agencies provide advice in this area.

Q2: Do you think that there should be a specific financial promotion exemption for advice centres? Q3: Is there a case for further legislation? Q4: Do you think that there should be additional legislation to confirm that advice centres are not carrying on regulated activities?

There is a need for consumers to receive independent, impartial, free, and confidential advice on financial issues. This is particularly important to low and middle income groups who generally do not have access to independent financial advice and/or family and friends able to offer advice or guidance from their own previous experience.

Low and middle income groups form the large majority of the clients of advice agencies. An exemption through legislation for advice centres should allow policy makers to facilitate the provision of ring-fenced financial advice to consumers whose needs are otherwise generally unmet. We therefore agree that there should be a specific financial promotion exemption for advice centres.

An exemption would also clarify the boundaries for advice centres in the provision of financial advice. It would help remove the danger of advice agencies advising in areas which are better handled outside the not for profit advice sector. Not having an exemption which specified boundaries runs the risks that some within the advice agency sector will attempt to extend their work into areas which are potentially client detrimental.

Q5: Do you agree with the proposed conditions for exemptions relating to advice centres? Q6: Do you think that there should be other conditions (e.g. minimum competence criteria and specific PII thresholds)?

We agree that exemptions should apply as described in paragraph 3.16 (advice should be independent and free, provided by an agency that has debt advice as its principal financial services activity, and which holds adequate professional indemnity insurance cover)

We are also concerned that any exemption for advice centres should:

- provide proper protection for consumers;
- not encourage or allow advice centres to provide advice where they have insufficient resources or competence so to do;
- prevent new or existing commercial advice providers from claiming advice centre exemption.

We therefore recommend that other conditions provide that any exemption for advice agencies should require advice agencies to:

- demonstrate minimum standards of advice through robust audit procedures; and
- hold charitable status

Q7: Do you agree with limiting the exemptions to mortgages, endowments, pension products and shares?

We do not agree with the assertion in paragraph 3.18 that advice agencies 'traditionally advise [on] mortgages, endowments, and pension products'. We think it correct that advice agencies are increasingly asked to advise on mortgages and endowment shortfalls but our evidence from the CAB Service and the recent FSA research into financial advice provision through Citizens Advice Bureaux indicates little demand for pension advice. Furthermore, we do not see any present role for advice agencies in advising on shares and gilts (although the introduction of the Child Trust Fund may change this in the future as low income groups have to decide how to invest for the long term.)

The demand on advice agencies is for debt advice. We think the exemption should apply to advice which is needed to advise on how best to deal with a debt situation. This will be advice on mortgages, and life, endowment, and protection insurances. It is possible that any future encouragement or requirement on consumers to save through pensions or shares would result in a demand for advice in these areas but we are not convinced that the not for profit sector could generally take on this work at the current time or that this would be in the consumer interest.

Q8: Do you think that an exemption limited only to members of certain established networks of advice centres provides a better alternative?

We think it imperative that any exemption only applies to advice agencies that can demonstrate compliance with laid down audit procedures. This is best achieved through membership of an established network of advice centres that requires and enforces such audit compliance.

I hope that these comments are helpful,

Yours sincerely,

Nick Lord
Head of Money Advice Strategy