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Financial Stability and Regulatory Policy Team
Room 4/23
H M Treasury
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Dear Ms Engledow

Introduction to SPC

SPC is the representative body for providers of advice and services needed to establish and operate occupational and personal pension schemes. SPC's Members include accounting firms, solicitors, life offices, investment houses, investment performance measurers, consultants and actuaries, independent trustees and pension administrators. Slightly more than half the Members are consultants and actuaries. SPC is the only body to focus on the whole range of pension related functions across the whole range of non-State provision, through such a wide spread of providers of advice and services.

The overwhelming majority of the 500 largest UK pension funds use the services of one or more of SPC's Members, as do many thousands of smaller ones. SPC's growing membership collectively employs some 14,000 people providing pension-related advice and services.

This response has been prepared by our Financial Services Regulation Sub-Committee, which has representation from product provider, legal, pension consultancy and compliance consultancy backgrounds.

Comments on the Consultation Document

We have commented on the two chapters of the Consultation Document relevant to us, i.e. Chapters 4 and 7.

Chapter 4 : The Impact of FSMA on Employers offering pension products

Question 10 : Do you agree that there should be an exemption for both real time and non real time promotions made by employers?

Yes.

Question 11 : Do you agree that an exemption should be subject to conditions and not be unrestricted?

We agree that any exemption should be subject to conditions.

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Question 12 : Do you agree with the possible conditions for exemptions?

We agree with the proposal to enable employers to make financial promotions only in relation to certain categories of investment, e.g. Group Personal Pension Schemes and Stakeholder Pension Schemes.

The second possible condition, enabling employers to make financial promotions only in relation to pension schemes, to which the employer itself makes a financial contribution, does not recognise that in respect of stakeholder schemes, a type of scheme which clearly carries strong government endorsement, there will often be no employer contribution.

We agree with the proposal to require employers to inform employees of their right to seek independent advice from an authorised person when making non real time promotions.

We do not agree with the fourth possible condition, i.e only removing from regulation the promotion of schemes in respect of which the employer receives no direct commercial benefit to its business. Defining what constitutes a direct commercial benefit would pose difficulties. If premiums to an associated group life arrangement were reduced, because the pension scheme had sixty, rather than, say, thirty members, would that constitute a direct commercial benefit? Fear of promoting the scheme, and then being deemed to have received a direct commercial benefit, could be a significant dis-incentive.

Question 13 : Do you think that there should be other conditions?

It is probably implicit already in the proposals, but for the avoidance of doubt, it is important that an employer's promotional activity relates only to a scheme which it has already decided to install. Employers should not be able to become "whole of market" advisers.

Question 14 : Do you think that the exemption should contain an additional condition restricting the ability of employers to provide individual advice to employees?

Yes.

Taking the detail of paragraphs 4.32 to 4.37, we were not clear what conclusions should be drawn from the fact that the earlier paragraphs refer to pensions generally, but paragraph 4.34 refers specifically to the employer's group personal pension scheme. We were not clear whether the consultation document was seeking to highlight particular risks arising from the difficulty of identifying what would, or would not, amount to an employee's individual circumstances in the context of group personal pensions. On the face of it, we do not see any reason to direct particular caution towards group personal pension schemes.

Question 15 : If so, do you think that limiting the ability of employers to make promotions by the requirement that they do not provide pensions advice in relation to an employee's individual circumstances is an appropriate condition?

Yes.

Question 16 : Do you think that limiting the ability of employers to make promotions, by reference to the definition of the activity of advising in Article 53 RAO, is an appropriate condition above?

Question 17 : Do you think that limiting the ability of employers to make promotions by prohibiting reference to unfavourable comparisons with other pensions is a viable alternative condition to that above?

We have no comments on the specifics of these questions, but we believe that the general emphasis should be on facilitating the provision of information by employers, not advice.

Question 18 : Do you agree that there should be no restriction on which employer's representatives can promote the employer's pension schemes?

Yes.

We suggest that the employer itself should be able to simply provide the application for membership of the scheme, leaving it to, say, the provider of the scheme to supply further material.

Paragraph 4.43

We support the draft legislation in Chapter 14, relating to the proposed financial promotion exemption. We would support an exemption on the lines of the rules applying to financial inducements.

Chapter 7: Investment by Occupational Pension Scheme Trustees

Question 32 : Do you agree that the expression "routine or day to day decisions" should be replaced with "day to day decisions" so as to increase the scope of decisions which unauthorised trustees are permitted to take?

Yes.

Question 33 : Do you agree that the scope of products in which unauthorised trustees are permitted to invest should include pooled investment vehicles and contracts of insurance?

Yes.

Question 34 : Do you agree that the condition under which unauthorised trustees can invest in certain products should be relaxed, so that they only have to obtain and consider independent advice rather than act in accordance with it?

Yes.

Question 35 : Do you agree that the condition under which unauthorised trustees can invest in certain products should be relaxed, so the advice can also be given by professional firms operating under part XX of FSMA?

Yes.

Question 36 : Do you agree with the rationale for our proposals for deregulating trustees' investment activities?

Yes.

Question 37 : Do you agree that the scope of exempt products should be limited to pooled investment vehicles or contracts of insurance and not include individual quoted securities or derivatives?

The proposed limitation on the scope of exempt products runs counter to the proposed liberalisation of permitted investment by pension schemes in the government's pension taxation simplification measures.

Yours sincerely

John Mortimer
Secretary