

# Consumers' Association response to HM Treasury consultation on Financial Services and Markets Act two year review: Changes to secondary legislation

## Volume I: Proposals for change

### Introduction

Thank you very much for the opportunity to respond to this important consultation. While we were very surprised and disappointed at the overall content of the two year review<sup>1</sup> we do support the objective of the proposals outlined in this consultation. We are of the view that some of the proposals could extend access to objective advice and pensions for consumers, if handled properly.

We sound a note of caution at this stage. We do face a serious underfunding crisis in pensions. Much of this is due to the fact that consumer confidence in the retail pensions industry has been severely affected by misselling scandals and stockmarket volatility. CA research in 2003 found that fewer than half of those surveyed were contributing to a pension. Of those who weren't contributing, only 1 in 12 of had definitely plans to do so in the near future<sup>2</sup>.

When we asked why consumers weren't contributing the main reasons given were affordability, fears about stockmarkets and lack of confidence and trust in the industry. The temptation to close the pension gap at any costs by reducing regulatory protection to create the conditions for the insurance industry to sell more pensions though the workplace should be resisted. In this climate, we think it is self-evident that regulation should not only protect consumers but **be seen** to protect consumers if confidence is to be restored. Sacrificing consumer protection in an effort to close the pensions gap may provide an illusory short term fix but will ultimately rebound on the Government.

### Increased risk of misselling through the workplace

The workplace can be a hugely beneficial environment for providing access to decent pensions and quality, objective financial advice – if the risks are managed properly. The

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<sup>1</sup> The two year review was the ideal opportunity to review the overhaul effectiveness, nature and purpose of retail regulation in a climate where consumer confidence in long-term pensions and investment has been seriously undermined by a litany of misselling scandals and other market failures. However, HMT chose not to look at ways of restoring confidence but instead decided to consult on whether firms should have a right to appeal against Financial Ombudsman Decisions (FOS) and new proposals for dealing with FOS decisions which have wider implications. FOS is the one part of the regulatory mix which in our view is working well in difficult circumstances. Anything which would undermine the effectiveness of FOS (which would happen if an appeals process was allowed, or if the FSA were given control on wider implications cases) is likely to undermine consumer confidence even further.

<sup>2</sup> Financial Protection Research, Consumers' Association, 2003

retail pensions model is unable to deliver pensions to the mass market of ordinary consumers on terms which i) keep costs low enough to provide an incentive for consumers to invest for the long-term and ii) meet shareholder expectations on returns on capital.

However, collective schemes such as industry wide schemes or stakeholder schemes properly accessed through the workplace provide the economies of scale to minimise access costs.

Conversely, the workplace is a conducive environment for misselling if regulatory protection is not robust enough. Therefore, the overall challenge is to ensure an appropriate balance between allowing employers to genuinely help consumers make appropriate pension choices and minimising the risk of misselling.

There is no question that advice via the workplace has been a major source of misselling in the past. The contracting out of SERPS misselling scandal has left a huge legacy problem (see Contracting out of SERPS: was it worth it?, Which?, July 2003). If current trends and forecasts continue we estimate that on average consumers who were wrongly advised to contract out of SERPS into an insurance company personal pensions will be £20 a week worse off compared to staying in SERPS.

One of the contributing factors we think was the level of trust that consumers placed in their employers (albeit inadvertently as the misselling was the responsibility of the insurance companies involved). This meant that consumers 'guards were down' and this may have made it easier for insurance firms to missell personal pensions. As HMT recognises in para 4.5 of the consultation paper, evidence suggests that information given in the workplace environment is more likely to be acted on than information received elsewhere. Clearly, the workplace environment provides fertile ground for deliberate misselling or reckless selling if the regulation does not offer sufficient protection.

We are convinced that the risk of misselling will be increased if the FSA implements its proposals on 'guided self help'<sup>3</sup>. The FSA is in the process of deciding whether to adopt this new regime for selling stakeholder products. This new regime represents a major reduction in consumer protection. It is essentially a self-certification system where consumers are expected to self certify whether a recommendation is appropriate and suitable; it involves a lower duty of care for sales staff, unqualified sales staff selling products, and as the FSA accepts it would result in restricted access to FOS if consumers end up with inappropriate choices. CA supports the idea of streamlined advice to minimise access costs but guided self help is a false economy as the risks, and therefore the costs, of misselling are just transferred from firms to consumers.

It is self-evident that guided self-help provides an incentive for firms to missell (or less of a deterrent against reckless selling) safe in the knowledge that their liability and consumers access to redress is restricted. This increases the risk of misselling in the retail market but we fear that this risk could be exacerbated in the workplace given the trust employees will inadvertently place in employers.

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<sup>3</sup> See FSA DP19

It is clear that while it may be superficially attractive to relax rules relating to selling in the workplace, alternative measures are needed to counter the increased risk which will result if guided self help is introduced.

## **The need for a National Financial Advice Network**

The other criticism we have is that we think that the Government's approach to the advice deficit is not ambitious enough to meet consumers needs. Relying on the private sector solutions will not close the advice gap. The retail industry is unable to provide the type and quality of objective advice the wider consumer population needs and wants. Even if the quality of advice could be improved, the industry has no incentive to provide that advice to consumers on lower-medium incomes. The commercial terms would not meet shareholder expectations re: return on capital.

An alternative and widely available source of objective advice is needed to complement private sector capacity for a number of reasons:

- a) consumers are at much greater risk from poor quality advice from private sector profit making organisations given the dynamics in the market;
- b) these firms have no real interest in providing decent advice to consumers who offer little prospect of a sale which means the aggregate efficiency of the advice market (private and not for profit sources combined) is reduced. Consumers who do offer a prospect of a sale end up cross-subsidising lower income consumers;
- c) confidence in private sector providers has been seriously undermined and we believe it is self-evident that alternative sources of advice on hugely important long-term issues such as pension planning are needed if consumers are to be persuaded to commit money for the long-term;
- d) access to unbiased advice would appear to be crucial to resolving critical public policy crises such as the pensions gap (and debt advice). Consumers are seriously underproviding for the future and our research has found that one of the key barriers to consumers making long-term plans such as investing for pensions is not knowing where to access objective financial advice<sup>4</sup>.

In this respect, HMT's approach outlined in this consultation to our view seems quite limited in its aspirations. We do not believe that relying on advice centres (as defined by this consultation) will be sufficient.

We urge the Government to use this opportunity to tackle the advice gap in a comprehensive manner. For consumers advice needs to be met properly and effectively, a much wider network of advice access points is needed. Therefore, CA's response is very much framed in such a way as to facilitate wider access to unbiased, quality financial advice rather than having to rely on existing advice centres such as CABx (even though they have a hugely important role to play).

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<sup>4</sup> 35% of those surveyed thought they were saving enough for a comfortable future, 52% said they weren't, while 13% didn't know. When asked for the reasons why they weren't saving enough, 74% mentioned affordability, 59% that products were too confusing, 47% said that it was too expensive to pay for advice and 42% said they didn't know where to find unbiased advice about products on offer. Over 50% said that unbiased advice about saving would be an incentive to save more. Source: Advice for Life Campaign Briefing, Consumers' Association 2002

As HMT will probably be aware, CA published a policy report in 2002 recommending that a National Financial Advice Network be set up building on the existing infrastructure provided by access points such as CABx, advice centres, trades unions, charities, DWP offices, local government offices, other not for profit/ government agencies, and the workplace (primarily larger employers). The model for our NFAN is the Community Legal Service (CLS). We envisage the NFAN being staffed by what we term 'general financial planners' who would have at least a minimum standard of competence and qualifications in a range of financial subjects.

The research undertaken by CA in 2002 in preparation for our Advice for Life campaign found that 85% surveyed thought that NFAN was a good idea. 61% of adults surveyed said they would use the service. Participants in recent focus group research carried out by CA<sup>5</sup> thought that the idea of a NFAN was a 'fantastic proposition' and was 'something that the government should be doing'. A NFAN is justifiable in its own right for advice on debt and other financial needs. However, there is a wider public policy need in relation to the pensions crisis the UK faces.

But coordination across Government departments is needed to make this work. There are many individual initiatives underway across government which may deliver progress in those particular consumer areas<sup>6</sup>. But consumers need holistic advice and these individual initiatives would provide many more benefits if coordinated and harnessed effectively which is why we are arguing for a single consumer champion to be established in Government to coordinate access to advice work, and to replicate the CLS model.

We would be pleased to discuss further with HMT any points raised here. This consultation response was prepared by Mick Mc Ateer, Principal Policy Adviser. Comments and queries should be directed to the attention of Emma Bandey, Senior Public Affairs Officer, Consumers' Association, 2 Marylebone Road, London NW1 4DF (or e-mail: [emma.bandey@which.co.uk](mailto:emma.bandey@which.co.uk)).

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<sup>5</sup> Attitudes to pensions, Consumers' Association/ Counterpoint research, April 2004f

<sup>6</sup> DWP – pensions information, DTI – debt advice, HMT/ FSA – generic advice, and so on

## RESPONSE TO SPECIFIC QUESTIONS

### THE IMPACT OF FSMA ON ADVICE CENTRES

#### Financial Promotion and Regulated activities

***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?***

By all accounts, the current regime provides a degree of uncertainty for advice centres and other potential access points. Therefore, any reform which delivers more clarity and widens scope for objective financial advice without reducing consumer protection is to be welcomed.

***Q2: Do you think that there should be a specific financial promotion exemption for advice centres?***

***Q3: Is there a case for further legislation in relation to the business test?***

***Q4: Do you think that there should be additional legislation to confirm that advice centres are not carrying on regulated activities?***

This consultation document addresses two linked issues which may have implications for ensuring consumers needs for objective advice are met efficiently and effectively:

- whether advice centres are 'in the business' of giving investment advice; and
- whether advice centres make financial promotions

We are of the view that a specific exemption in relation to advice centres *only* could have potentially significant drawbacks for extending access to objective advice.

The further clarification suggested would involve a specific exemption for advice centres providing they met certain conditions for exemptions (see para 3.16) - one of these conditions would include providing debt advice as their principal financial services activity.

The drawback of this specific exemption is that this could call into question the traditional interpretation of the business test that advice centres and similar organisations do not engage in the business of giving advice. CA's concern is that this could undermine the status of advice centres (or other not for profit organisations) which provided free general advice on financial matters but did not necessarily provide debt advice as the principal activity.

As we outline above there is a huge unmet need for objective advice on a wide range of financial matters. This unmet need is unlikely to be met by those advice centres which specialise in debt matters and who would be exempted. The impact of this exemption could be to severely restrict access to objective general financial advice and would mean that consumers would have to rely on private sector sources which would be an unfortunate outcome.

We agree that clarification would be helpful to give comfort to advice centres and other not for profit centres. To that end, we are of the view that it would be preferable to amend the Business Order to make it clear that advice which is provided free to the consumer and supplied on a not-for-profit basis<sup>7</sup> is not to be regarded as carried on by way of business.

Similarly, with regards to financial promotions we would be concerned that a specific exemption could be drawn too narrowly. FSMA provides HMT with the power to define the circumstances in which a person is or is not acting in the course of business in the context of financial promotions. We take the view that it would be preferable to use this power and make it clear that that not-for-profit organisations are not acting in the course of business for the purposes of the financial promotions regime. This approach rather than a specific exemption would in our view allow the greatest flexibility for developing a National Financial Advice Network.

Indeed, given the threat to other centres outside of the ones mentioned in HMT's consultation, we would prefer to see no change to the existing RAO or Finprom rather than proceed with the narrow proposals suggested by HMT.

## **An exemption for advice centres**

### ***Q5: Do you agree with the proposed conditions for exemptions relating to advice centres?***

No – see above. We take the view that the condition relating to debt advice as the principal activity would be too restrictive and deny access to independent and objective not-for-profit advice for significant numbers of consumers. Debt advice is clearly one of the most important consumer issues of the moment, but it is wrong to think of debt in isolation. There is a real unmet need for 'holistic' advice on general financial matters which the market cannot provide.

It may well be that this could be overcome by removing the condition relating to debt as principal activity. However, our suggestions above would achieve the same effect but probably with more flexibility for the future.

### ***Q6: Do you think that there should be other conditions (e.g. minimum competence criteria and specific PII thresholds)?***

See above – we do not believe there should be a specific exemption for those advice centres mentioned in the consultation.

However, the question raises a very important point relating to training and competence. We are of the view that advisers operating in the NFAN should have a minimum level of

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<sup>7</sup> it may be appropriate to define the exemption so that appropriate not for profit centres and organisations are allowed to carry on general advice business of the type in mind under contract from government or other not for profit agencies.

qualifications and training and competence (see above). We envisage a 2 tier adviser system with general financial planners and specialists<sup>8</sup>.

As an alternative, rather than require individuals to meet minimum competence criteria, organisations or specific network branches (or access points) could be accredited to provide this type of advice. This is the approach followed by the Legal Services Commission which operates a quality mark for participants in the Community Legal Service.

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

As above, given that we do not agree with a specific exemption and would prefer a general approach to the business orders and financial promotions regime, the need for exemptions relating to specific products would not arise.

However, even in relation to the conditions for a specific exemption outlined in the consultation, we are unclear as to the purpose of exempting these particular products. We would be concerned that this would not be flexible enough and would run into difficulties later down the line as products evolve (home reversionary schemes etc).

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

No. This would lead to significant capacity constraints. Radical solutions such as the NFAN are required to meet the unmet need for general advice which cannot be provided by the market. A limited number of 'established' networks would provide insufficient capacity.

***Q9: Do you think that exemptions for advice centres could have regulatory consequences for other bodies besides advice centres?***

Yes – see above. A specific exemption for advice centres could have unfortunate consequences for other organisations which have a major role to play in extending access to unbiased advice.

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<sup>8</sup> In fact we see this two tier system applying to private firms also. The aim is to move towards a system similar to that in the legal world or health sector with generalists and specialists.

## THE IMPACT OF FSMA ON EMPLOYERS OFFERING PENSION PRODUCTS

### Financial promotion order

**Q10: Do you agree that there should be an exemption for both real time and nonreal time promotions made by employers (option 1(c))? If not, which of options 1(a) and (b) do you prefer?**

Other than outright ban on sales through the workplace (which is clearly not desirable given the many positive opportunities for pensions access provided by industry wide or not for profit schemes), it is very difficult to suggest measures for minimising risk of misselling through the workplace given that the main risks arise from factors outside employers control.

Indeed, it is not clear whether retaining the existing rules would actually prevent misselling anyway (as a result of the FSA's reforms and the propensity of firms to missell or recklessly sell).

So, given that the existing rules may prevent access to pensions via better models such as industry wide schemes and prevent well intentioned employers giving general advice, we do support the intention behind the proposed changes to the current position relating to employers.

Therefore, we agree there should be an exemption for real time and non-real time promotions made by employers. However, we have made a number of suggestions below aimed at minimising the risks of misselling and other detriments).

**Q11: Do you agree that any exemption should be subject to conditions and not be unrestricted?**

**Q12: Do you agree with the conditions outlined in paragraph 4.31?**

**Q13: Do you think that there should be other conditions?**

The main challenge is one of minimising the risk of detriment. A number of measures could be adopted. However, the effectiveness of these depends on events outside the remit of this particular consultation:

In CA's view, by far the best way to close the pensions gap and minimise the risk of detriment would be for the Government to promote the development of not-for-profit collective schemes such as industry wide schemes to complement employers schemes and allow only these schemes to be accessed through the workplace.

The essence of misselling and most consumer detriment in financial services generally is that the commercial imperative of insurance firms overrides the consumer interest (particularly given the remuneration models deployed by insurance firms). As mentioned above, the FSA's proposals on guided self help represents even less of a restraint than the current system so we can expect that imbalance between consumer and commercial interests to become even more pronounced in future and the risk of misselling to increase.

Collective schemes with their not-for-profit status and better standards of corporate governance are much closer to the nature of employers' schemes which are excluded from the conduct of business rules which relate to GPPs and other retail insurance based schemes. However, given that the government has no initiatives underway to promote collective schemes and seems to prefer to rely on the retail pensions model for closing the pensions gap, this option is not on the horizon for now.

Another way to minimise risk of detriment would be to ensure that consumer have access to unbiased and qualified advice. CA's proposals for NFAN would extend access to advice particularly given that CA envisages that specially qualified employees could become general financial planners as part of the NFAN. Again, there are no current government initiatives under way which would lead to a comprehensive, coordinated advice network.

This means that we are left with identifying measures to minimise risk from i) misselling by insurance firms in the workplace and ii) substandard advice from employers.

A number of suggestion spring to mind:

- we agree that employers should be able to make financial promotions only in relation to group personal pensions and stakeholder pension schemes;
- furthermore, employers should not be allowed to obtain any commercial benefit from a provider for allowing a scheme to be promoted via its workforce or making financial promotions generally (the proposal in 4.31 seems to imply that employers would be allowed to receive a direct commercial benefit but be covered by the promotions regime – this is too great an incentive for misselling by insurance firms – the promotions regime would not create a restraint if insurers knew that they could influence employers by offering attractive terms;
- employers should be required to distribute FSA approved information fact sheet including a list of 'key questions to be asked' before the insurance firm is allowed to approach employees either individually or in group presentations. This should provide a list of questions employees should ask the insurance salesperson or IFA, detail the regulatory protection which accompanies the sale and rights to redress;
- importantly, if the employer is making a promotion relating to a scheme to which the employer doesn't make a contribution, or makes a contribution to a choice of providers schemes, s/he should be required to i) provide employees with comparative information tables on pensions costs ii) remind employees that they have a right to seek independent advice elsewhere and iii) emphasise that better value products may be available;
- in addition, where employer doesn't make a contribution to the scheme there is an increased risk that employees will make contributions to a pension scheme when the best advice may be to repay debts. In this case, employers should be required to distribute approved FSA material which outlines a basic financial healthcheck consumers should conduct before considering taking out a pension, and rights to redress (particularly crucial if guided self help gets the go-ahead). This will not offset the risks from guided self help given the pressurised sales environment but it may at least help some consumers arm themselves with questions prior to a sales interview to counter the pressure to purchase a product.

## Advice by employers

**Q14: Do you think that the exemption should contain an additional condition restricting the ability of employers to provide individual advice to employees?**

**Q15: If so do you think that limiting the ability of employers to make promotions by a requirement that they do not provide pensions advice in relation to an employee's**

**individual circumstances is an appropriate condition?**

**Q16: 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?**

**Q17: 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 above?**

We take the view that where an employer has enabled a firm to promote pensions to employees, an employer should not be allowed to provide specific advice to employees - the responsibility should rest with the provider. However, this should be accompanied by requirements for the employer to provide certain information in relation to comparative information tables etc (see above).

However, we see merits in allowing employers staff to provide generic advice as part of the NFAN proposals if this is not leading to a specific interaction with a provider.

**Q18: Do you agree that there should be no restriction on which employer's representatives can promote the employer's pension schemes?**

Yes we agree there should be no restriction on employers representatives in relation to promotion of employers scheme. However, see comments above about advice.

## THE FINANCIAL PROMOTION ORDER

**Q19: Do you agree with the proposed changes to the Financial Promotion Order?**

**Q20: Are there any further changes to the Financial Promotion Order which you think should be considered?**

**Q21: Do you agree that the current article 69 of the Financial Promotion Order is too complex and should if possible be simplified?**

**Q22: Do you agree with narrowing the scope of the exemption but widening the circumstances in which it can be used and with applying fewer conditions to its use?**

**Q23: Do you agree with the proposed specific conditions for the exemption to apply?**

We have no comments on questions 19-23

## SALE OF A BODY CORPORATE

**Q24: Do you agree that the exclusion in the Regulated Activities Order should be narrowed so that the "may reasonably be regarded" test will apply only in relation to a party who is acquiring or disposing of the day to day control of that body corporate and hence not to advice given to a party whose object is not acquisition or disposal of day to day control?**

**Q25: Do you agree that the exclusion in the Regulated Activities Order should be narrowed so that the "may reasonably be regarded" test will apply only in relation to takeovers of small companies?**

**Q26: Which option do you prefer as the definition of "small" company in respect of which the "may reasonably be regarded" test should apply? Do you have any other suggestions?**

**Q27: Do you agree that the exemption for promotions in respect of takeovers should be subject to the same conditions as those which apply under the revised RAO?**

We have no comments on questions 24-27

## Telephone campaigns

**Q28: Do you agree that it is desirable to have some form of regulation or conditions on unauthorised persons who are carrying out telephone campaigns?**

**Q29: Do you agree that broadly speaking we should regulate to the same extent as under previous legislation?**

**Q30: Which of the three options above do you prefer and why?**

We have no comments on questions 28-30

## Other proposals

**Q31: Do you agree that under the proposed regulatory framework the provisions in the Financial Promotion Order providing exemptions for takeovers of relevant**

***unlisted companies (i.e. Articles 63-66) are no longer necessary?***

No comment

## INVESTMENT BY OCCUPATIONAL PENSION SCHEME TRUSTEES

***Q32: 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?***

No comment

***Q33: 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?***

***Q34: 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?***

***Q35: Do you agree that the condition under which unauthorised trustees can invest in certain products should be relaxed so that advice can also be given by professional firms operating under Part XX of FSMA?***

We have no comments on questions 33-35.

***Q36: Do you agree with the rationale for our proposals for deregulating trustees’ investment activities?***

***Q37: 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?***

No comment on questions 36-37.

## CHANGES TO THE REGULATED ACTIVITIES ORDER

**Q38: What are your views on the three changes proposed to the Regulated Activities Order in chapter 8? We seek, in particular, views on the question of theatrical debentures.**

No comment.

## OTHER SECONDARY LEGISLATION

**Q39: We welcome views on this proposed change to the Service of Notice Regulations**

No comment

**Q40: Do you agree that there should be provisions in FSMA applying to trustees similar to those of the Financial Services Act?**

No comment

**Q41: We welcome views on the appropriate means of legislating for trustees in bankruptcy.**

No comment

**Q42: We welcome views on this proposed change to the Disclosure Regulations. Do you think that independent actuaries should be able to disclose information to others in either of the situations outlined in (a) or (b) above, or both, or not at all?**

We take the view that independent actuaries should be required, not just permitted, to disclose information to the FSA which in his/ her expert view puts policyholder interests at risk or would help the FSA perform its functions or meet its statutory objectives. This may require a further change in the independent actuaries functions and/ or guidance from the actuarial profession.

**Q43: In relation to the proposals above should the existing exemptions be removed or limited? If so to what degree? Please provide reasons for your responses.**

No comment

**Q44: Do you agree that there has been no evidence of investor detriment from unregulated advice being given to investors (a) in the electricity forward markets or (b) in the course of either the Balancing and Settlement Arrangements or the provision of balancing services to NGC?**

**Q45: Do you agree that only those investors who have knowledge of the electricity markets i.e. professionals are likely to consider investing in the electricity forward markets?**

**Q46: Do you feel that there is a need for the Electricity Industry advice exemption?**

**Q47: Are there any BSC Parties who currently take advantage or might take advantage of this exemption?**

**Q48: Could a BSC Party take advantage of the exemption to provide investment advice (e.g. advice about financial engineering in the electricity markets) that should properly be regulated by the FSA?**

**Q49: Do you agree that the Electricity Industry advice exemption should be retained?**

**Please explain your views.**

No comments on questions 44-49

**Q50: Do you agree that such a change to Regulation 22(5) should be made?**

No comment

## **OEICS**

**Q51: Do you agree that the costs of requiring OEICs to have an AGM outweigh the benefits?**

**Q52: Do you agree that OEICs should be able to elect to dispense with the holding of AGMs?**

**Q53: Do you agree that there will be adequate safeguards to protect shareholders if the requirement for OEICs to have an AGM is changed to an elective requirement?**

**Q54: Is the requirement that all shareholders agree to an elective resolution too onerous a requirement for OEICs to meet? Should the threshold be lower e.g. 95 per cent of shareholders?**

**Q55: Should an ordinary resolution be sufficient to revoke the elective resolution?**

**Q56: Regarding the proposed amendments to regulation 34 outlined in paragraph 10.18, do you agree that appointments should not have effect for longer than twelve months starting on the date of the appointment?**

**Q57: Do you have any comments on our proposed amendment for regulation 36 outlined in paragraph 10.19?**

We have no comment to make on this section at the moment as we are currently developing our code of practice on corporate governance and business ethics. This will look at governance and accountability standards across a wide range of financial firms and products. We will begin consultation on this code in July of this year with a view to launching it at the end of this year or beginning of next. Details of the components of the code can be made available to HMT if required.

## **Public notice by the FSA of receipt and issue of certain documents**

**Q58: If it is possible to do so, should any amendments be made to the requirement in regulation 78 regarding the information that is made public?**

**Q59: If it is possible to do so, should any amendments be made to the requirement in regulation 78 regarding the manner in which information is made**

***public? Is publication in the London or Edinburgh Gazettes appropriate or would publication elsewhere be more useful?***

No comments on questions 58-59