



HM TREASURY

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This FSMA Bulletin provides an update on:

- (i) legislation adopted after the previous Bulletin;
- (ii) progress on consultations which have closed;
- (iii) new consultations and those still open;
- (iv) consultations planned in the next three months.

Do you have any ideas or thoughts on any aspects of FSMA or FSA regulation which would benefit from simplification or deregulation, or which might merit further examination or review? If so please e-mail fsma.bulletin@hm-treasury.x.gsi.gov.uk

Section One: Legislation adopted after FSMA Bulletin No.44 (5 December 2005)

SI 2006/264

The Community Benefit Societies (Restriction on Use of Assets) Regulations 2006

These regulations, which do not apply to Northern Ireland, were made on 6th February 2006 and come into force on 6th April 2006. They place Community Benefit Societies in the same position as Community Interest Companies and provide them with an option to establish further protection for the assets of a society.

SI 2006/265

The Friendly and Industrial and Provident Societies Act 1968 (Audit Exemption)(Amendment) Order 2006

This Order was made on 7th February 2006 and comes into force on 6th April 2006. It reduces audit requirements for industrial and provident societies, and raises the turnover level below which non-charitable societies (and to a limited extent charitable societies) do not need to have accounts fully audited.

Section Two: Progress on consultations which have already been launched

Myners principles

This consultation, which related to revising current voluntary codes relating to institutional investment decision-making, closed in April 2005. The code makes use of comply-or-explain principles to improve the efficiency of investment decisions. A consultation feedback statement incorporating further aspects of institutional investment decision making is expected to be issued shortly.

UK implementation of EC Transparency Directive (2004/109/EC)

This consultation on how the UK proposes to implement this EC Directive closed in June 2005. The Directive relates to financial reporting by listed companies to markets and also increases the transparency of ownership of listed companies. A consultation feedback statement is expected to be issued shortly, and the FSA will be publishing a consultation paper on the implementation. The primary legislative vehicle for implementation will be the Company Law Reform Bill.

Raising the cap on credit union interest rates

A consultation document was published in March 2005, proposing to alter a current restriction in the Credit Union Act 1979 which places a cap of 1 per cent a month on credit union interest rates. At the Pre-Budget Report in December 2005 it was announced that, to give

flexibility to better serve low-income groups, and following consultation, it is intended that the maximum rate of interest that credit unions can charge on loans will be increased from 1 per cent to 2 per cent per month. This change will be implemented as soon as possible.

Community Investment Tax Relief (CITR)

A consultation was launched in June 2005 on extending CITR to the personal lending activities of Community Development Finance Institutions. Consultation respondents were supportive of an extension and highlighted a range of practical issues that need addressing. As announced in the 2005 Pre-Budget Report, the Government is continuing to consider the case for, and practicalities of, this extension.

Proposed changes to the eligibility rules for establishing a pension scheme

This consultation closed on 23rd December 2005. A formal response was published on 23rd March 2006. Following overwhelming support in the consultation, a new FSA regulated activity related to the operation of personal pension schemes will be introduced in April 2007. The Government will be amending the Financial Services and Markets Act (FSMA) Regulated Activities Order (2001) to include the new activity of 'establishing, operating or winding up' a personal pension scheme. This will then become the basis on which persons are eligible under tax law to establish non-occupational registered pension schemes. The FSA will now carry out their own consultation on the detailed implementation of the new regulated activity and changes to their rulebook.

Regulatory Reform Order: Changes to FSMA

This consultation was launched on 5th December 2005 and closed on 5th March 2006. It proposed making a range of amendments to FSMA via a Regulatory Reform Order in order to reduce compliance burdens, especially in relation to consultation burdens and the FSA's

ability to waive and modify rules. Consultation responses are currently being considered.

(iii) New consultations and those still open

UK implementation of EC Markets in Financial Instruments Directive, MiFID (2004/39/EC)

A consultation on Treasury aspects of how MiFID will be implemented in the UK was issued on 15th December 2005 and responses are due by 31st March 2006.

UK transposition of EC Capital Requirements Directive (not yet published in EC Official Journal)

This consultation was launched on 28th February 2006 and will close on 23rd May 2006. It deals with how the Capital Requirements Directive will be transposed into UK law. In parallel the FSA has issued a consultation on how it intends to implement the vast bulk of this Directive in the UK.

Financial promotions in the workplace

This consultation was launched on 22nd March and will close on 16th June. The proposals would enable company pensions administrators to provide written material and make oral promotions about company pensions to employees without needing to be regulated by the FSA. Employers would also be able to communicate to employees about work-related insurance cover without needing to be regulated by the FSA.

FSMA Controllers Regime

A consultation on reform of the 'controllers regime' in Part XII of the FSMA was launched on 22nd March and will close on 14th June. The proposals would reduce the requirements which apply to everyone to report to the FSA when they hold a controlling relationship over a body regulated by the FSA. A tighter definition of 'controlling relationship', which is closer to the minimum requirements of EU law is proposed. The result should be a more proportionate regime.

Solvency II: a new framework for prudential regulation of insurance in the EU.

A joint discussion paper with the FSA was published on 28th February and seeks responses by 28th April. Solvency II is the new Directive governing the prudential regulation of life, non-life and reinsurance and the European Commission is in the process of devising its proposals, with a draft Directive due for publication in mid 2007. This discussion paper aims to raise the profile of the issues at the heart of Solvency II and generate a debate at an early stage.

Section Three: Consultations planned in the next three months

UK implementation of the EC Collateral Directive (2002/47/EC)

A consultation which proposes to alter the way this EC Directive is implemented in the UK should be issued in the next two months. Relatively minor proposed changes relate to the priority given to financial collateral compared to other classes of creditor in cases of insolvency.

FSA information gateways to the Gambling Commission and the Financial Reporting Council

A consultation which proposes to establish new information exchange gateways between the FSA and the Gambling Commission and between the FSA and the FRC and certain of its operating bodies, should be issued in the next two months.

Information gateway between the FSA and the Pensions Regulator

A consultation which proposes to establish a new information exchange gateway between the FSA and the Pensions Regulator should be issued in the next two months.

Home reversions and Ijara products

The Regulation of Financial Services (Land Transactions) Act received Royal Assent on 19th December 2005. A consultation was launched on 31 March on changes to the Financial Services and Markets Act 2000 (Regulated Activities) Order which are necessary to provide for the FSA regulation of home reversion schemes and Ijara products. The consultation closes on 23 June.