

Financial Services and Markets Act Two Year Review: Changes to Secondary Legislation

Response by Prudential plc

This response incorporates the views of M&G and Prudential Assurance.

Key points

General

1. There is a difficult balance to be struck between consumer protection against being sold an inappropriate product, and overly tight regulation which discourages saving and leaves consumers saving too little.

Advice centres

2. The need to ensure adequate protection for consumers in respect of the services provided by advice centres is key. In particular we think that the object of affording greater certainty to advice centres over the role they play in the provision of financial advice should be balanced by the need to ensure that any advice provided is high quality and subject to safeguards in the event of bad advice.

Employers offering pension products

3. We advocate that employers contributing to their schemes should be able to promote them, though with some important caveats.
4. In addition we believe that employers should be able to provide access to and promote the features of accessible savings which may be more appropriate for employees saving from their disposable income.

Open-ended investment companies

5. We believe that the costs of requiring OEICs to have an AGM outweigh the benefits and that the business of an AGM is of minimal significance to investors.

Cost benefit analysis

6. We believe there is a need for further work to be completed post implementation to examine the accuracy of the original CBA. This will help to ensure that the any gap between forecast and realised benefits is understood and informs future regulation.

Response to Questions

Chapter 3: The Impact of FSMA on Advice Centres

General comments

7. Prudential are broadly supportive of the concept of using advice centres to provide high quality advice to those who cannot afford to pay for it. Our firm view is that the

priority issue is protecting consumers from any risk of poor advice provided by advice centres and any subsequent damage caused.

8. We believe that there may be a need for greater clarity around the term “advice”.
9. Education and information is the first stage in the advice process and would be suitable for any exemption. Advice centres are well placed within the community to deliver this service and many already do so.
10. Recommendations and actions is the second stage of an advice process and we would not consider it appropriate for this to be exempt. Therefore we feel that advice provided by advice centres should be subject to the same regulation as existing providers of financial advice.
11. As an exception we believe that advice centres should be able to actively encourage participation in employer sponsored pension schemes where there are unconditional employer or matched employer/employee contributions into the scheme. This is consistent with the proposals we make in our response to Chapter 4 on the role of employers, which includes consideration of means tested benefits and affordability.
12. We are concerned that the staff who work at advice centres, some of whom may be voluntary, may not want to take on more responsibility. We are also of the view that staff would need to have some form of training and knowledge of financial products and services, perhaps to include Financial Planning Certificate. We believe that this would allow staff to talk more confidently about financial products and services.

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?

13. Any conclusions on the creation of uncertainty would need to be evidenced by advice centres themselves. Where this can be shown then there may be a need for greater clarity.

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

14. Staff from advice centres should be qualified for the service they are providing, including the provision of financial advice.
15. We agree with the views expressed in paragraph 3.10, which considers the negative impact that might arise from a wide financial promotion exemption for advice centres. Specifically any proposed exemption should be mindful of the need for care when considering advice on long term products with non-cash elements.
16. We would however suggest that a possible exemption might be more appropriate when special consumer needs exist, provided it was tightly scoped and excluded any advice on wealth accumulation or investment strategies. This could include:
 - crisis management of cash flow,
 - participation in an employer sponsored pension scheme as set out in paragraph 11 above.
17. The view expressed in 3.11 that in certain situations, ‘some advice (even if slightly flawed) may be better than no advice at all’ should be balanced with the need to

ensure consumer protection. This is of particular concern when dealing with consumers who may already be in financial difficulties.

18. In the absence of regulation we feel that it would be sensible for advice centres to follow the spirit of the FSA rules. There should be a mechanism in place to monitor their service and ensure best advice is provided.

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

19. Where it could be evidenced that further legislation is desirable (at present we are not aware of the case for further legislation), we would support any changes that would support and improve the service of advice centres in the advice they provide to consumers.

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

20. We would support any proposals that would improve the advice offered to consumers but at present we are not aware of any strong arguments for further legislation. Any proposal would need to clearly define the term "advice centre".

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

21. Our view is that we would agree to conditions should it be determined that further legislation is required. In particular, we believe that conditions should be linked to the scope of any advice given and that the basis for these should be that the advice be limited to debt advice. The scope should be transparent and understandable to both employees of advice centres and consumers.

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

22. We agree that strict conditions should apply but until the scope of any exemption is more clearly defined it is difficult to suggest further conditions. The conditions should be linked to the perceived risk.
23. Again, we would stress the need for consumer protection through some form of PII, but feel that the dangers of poor advice must also be addressed.

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

24. No. We disagree with the view that limiting advice to these areas would in any way mitigate the potential for poor advice.
25. We believe that further consideration should be given to ensuring the consumer receives adequate protection. The areas of financial planning listed above include some of the most important areas of financial advice for consumers. As a result there is considerable scope for poor advice having a significant impact on consumers and for potential litigation against advice centres. In terms of redress for customers we feel that they should be able to refer any complaint to the Financial Ombudsman Service.

26. It is important that any exemptions are consistent with the proposals in FSA CP04/03 in respect of the advice process.

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

27. In the absence of detailed knowledge of the respective merits of different advice centres it is difficult to comment on this issue. However, in concept this approach may have the effect of excluding other independent advice centres, which may provide a valuable service. On balance we think that specific conditions may be more appropriate.

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

28. We believe that the key issue is understanding how advice centres will be regulated to ensure that they offer good advice and do not mislead the customer.

29. It is recommended that there is clear delineation in the eyes of the client between the relative benefits, roles and purpose of advice centres compared with services provided by IFAs and other financial services firms. This delineation should be made clear to the consumer at the point of engagement.

30. We agree with the view expressed in 3.37 that enhancing the ability of advice centres to provide advice may result in fewer consumers seeking advice from other sources.

Chapter 4: The Impact of FSMA on Employers Offering Pension Products

General comments

31. We advocate that the overall level of detail in FSMA is inappropriate when applied to the issue of unconditional employer or matched employer/employee (“employer/matched”) contributions, and should be reduced. A complex and extensive set of requirements on this issue will deter employers from engaging in pensions.

32. It is in the interests of all parties that employees should be encouraged to take advantage of employer/matched contributions, and for the vast majority of employees this will be the most sensible course of action.

33. We believe that the complexity of regulation is an issue as employers are concerned that they might be deemed to be giving advice. We therefore believe that the issue of employer/matched contributions is a significant exception to our comments on Chapter 3 regarding the level of regulatory safeguards that should apply to advice centres.

34. We advocate that the tone of the material relating to employer/matched contributions should be positive and encouraging to employers who are simply trying to help their employees. The FPO should make clear what key messages employers should employ if they wish to promote their scheme.

35. We believe that employers should be able to promote not just the pension provision they offer, but also wider staff benefits including risk protection and death benefit

provision, and other forms of saving for retirement such as ISAs. Such promotion by an employer would be generic, including factual information about specific work place offerings, rather than promoting the product as suitable to an individual set of circumstances. This is increasingly important at a time when the need for improved savings is recognised but options for saving other than through a pension may be better. Employers are likely to be reluctant to refer to savings other than pensions, so a positive statement of encouragement and guidance would be very helpful.

36. We believe that in almost all situations the same position should apply whether the money purchase scheme concerned is a personal pension, a stakeholder or an occupational scheme. The only area where different treatment might be legitimate is in investment choice where trustees have a clear role to play in occupational schemes.

37. We advocate that changes to the FPO should be made as soon as possible so that employers are clear what they can do sooner rather than later. The FPO should not necessarily move at the slowest speed of all change coming from the overall FSMA review.

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

38. We agree that both should be exempted.

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

39. We believe simplicity is essential and would advocate very few conditions. The only key one would be that there is no direct commercial benefit to the employer. We acknowledge the difficulty of defining direct commercial benefit and feel that this should be as simply put as possible. A key principle should be that any employer benefit should not be to the detriment of employees, and consideration might be given to requiring disclosure of any commercial benefit, direct or indirect.

40. We believe the exemption should vary depending on the type of contribution being made. There are three types of contribution:

- an unconditional employer contribution,
- a contribution from the employer providing it is matched by an employee contribution, and
- a voluntary contribution by the employee with no matching from the employer.

A scheme might contain all of these types, for example a 3% unconditional employer contribution, a further 3% from the employer if it is matched by a 3% employee contribution, and scope for the employee to contribute above this 9% overall level.

41. Our proposals would go further than many employers would now in highlighting to employees the considerations of affordability, comparisons with accessible savings and the implications of means tested benefits. In the context of an informed choice by employees, we believe that additional information is important.

42. The different characteristics of the 3 types of contribution are set out below, and are applicable to all types of scheme (i.e. defined benefit and defined contribution), though some of the concepts resonate better with defined contribution:

- a) If the contribution is an employer contribution which is not contingent on any employee contribution, the key message must be that the employee should join.

There is a risk of a greater than 100% effective tax rate on the contributions because of the application of means tested benefits when the pension starts to be paid. At that time, the benefit of the pension may be more than negated by the loss of means tested benefits (including housing and council tax benefit). The FPO needs to make clear what obligation the employer has to point this out to each employee and thereby be exempt from subsequent claims of mis-selling. If there is any obligation, the appropriate department or regulator (Treasury, FSA or Pensions Regulator, depending on the finalised scope of the regulators) should provide wording which may be used to ensure the employer satisfies any requirement even where, for example, auto enrolment is used.

- b) If an employer contribution is only available if matched by an employee contribution, the key message must be that, if the employee can afford it, the employee should join and contribute as much as they can afford up to the level of the matching. Anything above this level would fall into category (c).

Affordability is an important issue and the FPO needs to make clear what the employer should say about affordability in encouraging his employees to join. As for (a), the appropriate department or regulator should produce wording which would protect the employer by highlighting to employees that they should consider affordability. The means testing wording would also clearly be applicable in this situation. Use of the wording would not be mandatory but the employer's risk may be higher if not used.

- c) In terms of the message which an employer might want to give to his employees wishing to contribute their own money, without any matching contribution from the employer, the position is more complex.

Employees should clearly consider whether the pension scheme, together with any other retirement savings, will deliver the income they want in retirement. If not, they should consider further voluntary contributions. Saving for retirement within affordable limits makes sense but the further complication is that savings may be better placed in accessible products such as ISAs rather than into a pension scheme where the money is locked up to at least age 50, or 55 (and possibly until 65) depending on the current age of the employee. Employers may offer scope to invest in ISAs through the workplace. This is a good thing, just as having scope for death and medical insurance at competitive rates is a good thing. On the other hand, care must be taken to start moving funds into a pension at some stage if the tax relief is not to be lost. The FPO should encourage the employer to make reference to all these issues, perhaps with wording provided which would cover the key aspects.

43. A key issue is how far employers should go in promoting scope for additional contributions as described in paragraph (c) above.

44. We believe it is appropriate that employers should point out the generic issues between different options, and draw attention to any specific factual information

about their own scheme which they feel is appropriate. But they should not compare different products and seek to offer advice on which to use.

45. Employees' options will include additional contributions to the employer's pension scheme (money purchase or added years if the scheme is defined benefit and offers the choice), contributions to a personal pension or stakeholder (generally available from April 2006), or saving outside the pensions regime. The employer's AVC scheme may offer reduced charges because the employer pays the administration costs, or enhanced conversion to income at retirement – employers should be able to make this information available.
46. The same points should be capable of being made by employers at different times during employment, not just on joining and not just when first entering the pension scheme.

Q12: Do you agree with the conditions outlined above?

and

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

47. The employer should not be able to advise on the merits of transfers from other pension schemes to his scheme, or vice versa. He should be able to provide factual information and to facilitate advice for his employees. This would of course not be mandatory.
48. The employer should not advise on contracting out where the scheme provides this as an option.
49. The employer should not advise on pension scheme aspects following divorce. Employers may, however, provide factual information including their interpretation of the law.
50. Provisions in the Pensions Bill will allow employers to provide a transfer value after 3 months and the FPO should specifically allow employers to use this facility.

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

51. Yes, other than as described in the answer to Q11.
52. The issue of which investment choice to make is complex and varies legitimately between different types of money purchase scheme.
53. We believe that schemes should be able to select a default investment fund which may be used by employees who do not wish to make a choice. That would remove a key barrier which consumer research suggests inhibits employees from joining their scheme – they do not want to make investment choices. A default fund is a requirement of stakeholder.
54. We believe there should be no impediment to personal pension scheme providers selecting a default fund and with no greater risk than if the scheme was a stakeholder scheme. Equally, trustees of occupational schemes should be able to make such a choice following a suitable process. In such circumstances, we would argue it was then legitimate for the employer to promote participating in those default investment funds which have in all cases been selected by regulated entities.

55. The use of a default investment choice is a key differentiator between the employer's pension scheme and any other form of investment such as an ISA which the employer chooses to facilitate. It therefore does not seem feasible to us that the employer would promote a particular non-pension investment choice. In that case, the employee would have to rely either on a direct offer pack from the provider (which would advise where further information could be obtained on investment choice) or other information if not a regulated product.

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?

56. Yes. We do not believe employers should provide individual advice.

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?

57. No, both in principle and on the practical point that such complex references would be better replaced in all cases by clear statements of what the employer should and should not do.

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?

58. Employers must be able to defend and promote the strength of their scheme against alternatives. The reluctance of employers to compare their DB scheme with for example personal pensions may have contributed to personal pension mis-selling and inappropriate transfers. However, the comparison should be limited to generic considerations and factual information, especially if the employer's scheme is the only one he will contribute to.

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

59. Yes

Chapter 5: The Financial Promotion Order

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

60. We have no issues with the proposed changes.

Q20 and Q21

61. No comments.

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?

62. This proposal appears appropriate.

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

63. Yes.

Chapter 6: 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?

64. It is not obvious why there is a need to increase regulation. Therefore this issue seems to be rather theoretical, as there appears to be no evidence to support the view that these transactions require regulated advice.

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?

65. As with the answer to Q24 it is not clear that there is any need to narrow the exclusion.

Q26 to Q31

66. No comment.

Chapter 7: Investment by Occupational Pension Scheme Trustees

General comments

67. From Prudential's business perspective, Chapter 7 is relevant in relation to the trustee role that Prudential provides for 3 insured occupational plans through Prudential Nominees Limited. Our responses are therefore those of a provider of trustee services.

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?

68. If this change makes it clear that Prudential Nominees Limited would not need to be authorised then we would be in favour. Our view is that greater clarity around terminology would be required – for example, what is meant by the term "decision"? Does this only cover investment decisions, or are trustee decisions also included? Would administrative decisions be included?

69. It would also be beneficial if there were some guidance around what functions could be considered as "day to day".

70. Is it the intention that the word "all" should also be removed?

71. We think that the dropping of the word “routine” is intended to make it easier for decisions to be in or out of scope. Provided it is clear what these decisions are, we believe this change will be helpful.

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?

72. Yes. This would clear up the uncertainty we currently have about whether Prudential Nominees Limited needed to be authorised under the rules covered by FSA CP179.

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?

73. Yes, although this would not have much of an impact on Prudential because the funds available to members under the insurance policy are fixed, so Prudential Nominees Limited are not actively deciding on investments. Our view is that consideration should be given to exempting contracts of insurance from the proposed requirement to obtain and consider independent advice.

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?

74. Yes.

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

75. Yes – we are in total agreement with the points raised in 7.10 and 7.11.

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?

76. The investment role that trustees play in relation to pension schemes varies between the types of scheme involved - the knowledge and expertise will differ between a trustee of a large self-administered scheme providing defined benefits and a small 2 member insured scheme.

77. We note the review has picked up on the Pensions Bill provision but we will not have full clarification until the new Pensions Regulator has issued its code of practice.

78. Purely from the fact that the Prudential trustee role in relation to the 3 insured occupational plans will only deal with insurance policies we are content with the "scope of exempt products". This is on the basis that we would not be making investment decisions involving individual exchange-listed securities or contractually based investments such as derivatives.

79. However, SSAS trustees could make investments into these types of assets, so we would wish to ensure that our pensioner trustee role in this type of scheme would not require authorisation. Although we are a party to the investment, we do not actually participate in the day to day investment decisions.

80. We think we have to accept the concerns in this area because there are potential risks where trustees are investing other people's retirement savings - as stated it is a sensitive issue (especially where it goes wrong and money is lost). From the SSAS example we could argue that as all the members are trustees they will take a collective responsibility and they should not require authorisation and neither should the pensioner trustee.

Chapter 8: Changes to the Regulated Activities Order

Q38

81. No comments.

Chapter 9: Other Secondary Legislation

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

82. Our concern is that appropriate people may not pick up the notice if served electronically/by fax. We believe there should be some system for ensuring an appropriate person has notice. A suggestion could be to make service subject to specific names/fax numbers/email addresses being given and subject to an acknowledgement by an "approved person".

Q40

83. No comment.

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

84. We are not convinced that there is any need to regulate trustees in bankruptcy in this way. If new rules are brought in we think that it would be better to limit to specific requirements rather than the general regime (e.g. specifically client money requirements).

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?

85. The answer to the question should be "not at all". There are already whistle-blowing regulations for appointed actuaries (FSMA (Communications by Actuaries) Regulations 2003), and we would not be in favour of producing any additional whistle-blowing rules for actuaries.

86. If however this change is aimed at giving the actuary protection under the existing rules then we would fully support it

Q43 to Q49

87. No comment.

Chapter 10: Open Ended Investment Companies

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

88. Yes, particularly since this establishes alignment with the procedure for unit trusts.

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

89. Yes. At M&G our OEIC AGMs have never been attended by more than a dozen investors (often much less than this number), representing a tiny fraction of the 660,000 plus shareholders across our range of funds. The aggregate annual cost of organising and holding AGMs for each of our five OEIC umbrellas is in excess of £300,000. Since we are fortunate enough to have in-house facilities this figure does not include venue costs, however, it takes no account of staff costs - both in terms of administrative time and the attendance of senior executives at the meetings.

90. Exemplified both by their absence at meetings and the derisory response to voting papers on OEIC AGM resolutions, our experience is that the business of the meeting is of minimal significance to investors.

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

91. Yes, but not in the way proposed.

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?

92. The proposal to require an elective resolution is unrealistic and no account appears to have been taken of the nature of the corporate vehicle which is specifically designed for mass-market consumption. M&G's largest OEIC, in terms of shareholder numbers, comprises 13 sub-funds and nearly 250,000 investors. To require unanimous approval for dispensation from a shareholder base of this magnitude, and for reinstatement of the AGM in any given year to be possible on receipt of notice from a single shareholder, means that the dispensation measures will have no practical effect.

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?

93. See answer to Q53 above. We agree with the IMA's view regarding the conflict between the way in which the FSA's new collective investment schemes rules (COLL) determine the relative importance of an event for which investor approval is required, and the Treasury's proposals. Since dispensation of the AGM would not, under FSA rules, constitute a "fundamental" event – i.e. a material change to the scheme itself – investor approval would not be required. In such circumstances, we would endorse the FSA's position that an appropriate period of notice should be sufficient to initiate the dispensation.

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

94. Yes.

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?

95. We would tend to agree with the IMA's view that provided investors have been given 60 days notice of dispensation from holding an AGM, the appointment of a director to fill any vacancy until such time as the next AGM takes place, should continue in perpetuity.

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

96. We disagree with the proposal that documents normally available for inspection at an AGM should be sent to investors. The agreement between M&G Securities Limited and each of the OEICs for which it acts as authorised corporate director (ACD) extends to some 50 pages and is not, we would argue, something that is likely to be of any interest to an investor. As far as the accounts are concerned, the FSA has recently introduced rules that require firms to send all investors a short form report in place of the detailed financial information contained in the long form accounts. The proposal for the full report to be sent to all investors in cases where an AGM is not held is, therefore, contrary to the FSA's aim of imposing a more focused and concise regime for the provision of investor information.

97. A more pragmatic solution would be for these documents to be made available on request.

**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?
and**

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?

98. We think it unlikely that the publication of scheme amendments in the Edinburgh and London Gazettes is of particular interest to anyone.

99. As far as prospective investors are concerned, there are few, if any routes, whereby shares can be purchased without the customer first being provided with, and encouraged to read, up-to-date information on the details of the scheme. We cannot see, therefore, that notices of this nature provide any public benefit.

Chapter 11: Future Work

100. We agree with the view that the regulation of promotions should be less sector based and that exemptions and the intensity of regulation should be based on the risk to the consumer.

Chapter 13: Regulatory Impact assessment

101. We believe that greater emphasis should be placed upon the role of cost benefit analysis (CBA) both at the start and at the end of any proposals for regulatory change. In particular we feel that CBA should directly inform changes to legislation

and become the basis for effecting change rather than an exercise done once the key decisions have been taken.

102. Additionally, we support the view that more work should be undertaken after changes have been implemented to determine the accuracy of the original CBA. We believe that a “lessons learnt” type exercise will allow the industry to better understand the consequences (both anticipated and unanticipated) and lead to improvements in CBA work.
103. The basis for these views is recent FSA consultations (e.g. CP170) that have suggested to us that the cost of change has been understated, particularly where a range of new regulations comes in together. As a result we believe that a more robust system is desirable.
104. We have fed comments into an ABI paper, which covers CBAs in detail.

Prudential plc
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