Helping retail consumers achieve a fair deal

A key priority for us is to make retail markets for financial products and services work more effectively and thereby help retail consumers get a fair deal. To achieve this, we focus our activities on four main elements:

- capable and confident consumers;
- clear, simple and understandable information, from the industry and the FSA, available to, and used by, consumers;
- soundly-managed and adequately-capitalised firms who treat their customers fairly; and
- risk-based regulation, through firm-specific and thematic supervision and policy.

Capable and confident consumers

More confident and capable financial consumers will be better equipped to exercise a stronger influence in these markets; to take greater responsibility for their own actions; and to protect themselves through less mis-buying and being less susceptible to mis-selling. The very low level of financial capability in the UK requires major improvements if we are to achieve this.

National strategy for financial capability

We have taken the lead in coordinating the work of a wide range of partners on a national strategy for financial capability. In *Building Financial Capability in the UK*, published in May 2004, we set out the initial priorities for the strategy and announced our intention to undertake a comprehensive baseline survey of financial capability. The survey instrument has been developed and fieldwork will begin in Q3 2005.

We established seven Working Groups for priority areas: Schools, Young Adults, the Workplace, Families, Planning for Retirement, Borrowing and Generic Advice. In September 2004, we hosted a seminar at 11 Downing Street for 85 participants, at which many of the Working Groups unveiled their initial proposals. Pilot work is now under way in a number of areas.

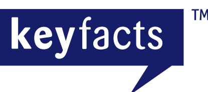
Most Working Groups are led by our partners, but we lead the work on Generic Advice. We have worked in partnership with BBC Online on the development of a web-based financial healthcheck, which will be launched in June 2005. We are cooperating with the Financial Services Skills Council on the development of a quality assurance scheme for the provision of generic financial advice.

We have also contributed to, and in some cases supported financially, the work of other groups. For example, we have supported a programme of pilots being led by the Workplace group, to assess the potential scope for building financial capability through different types and sizes of workplace. We have also supported the Young Adults group in the development of a good practice guide which provides case studies in how to deliver financial capability messages to this diverse audience. We have worked in partnership with Fairbridge West, Roehampton University and Citizens Advice on a pilot programme which covers students in higher education, as well as financially excluded and vulnerable young people. In addition, we have announced the creation, with a partner organisation, of material to assist students in higher education with their financial planning.

Clear, simple and understandable information

Key Facts and the 'Menu'

As part of the new regime introduced last year, we require firms undertaking mortgage and general insurance business to provide consumers with 'Key Facts' documents. These simplify and focus the information about a product, including risk warnings, and enable consumers to access the key information easily. We have worked hard to promote the Key Facts brand



to ensure that consumers are aware of and look for Key Facts when considering buying these products. We have advertised in the national press and online, and have promoted our Key Facts leaflets through GP surgeries, libraries and Citizens Advice Bureaux. We also worked with firms to get the leaflets direct to consumers at the point of sale.

Following the abolition of polarisation, from the beginning of June 2005 we require financial advisers to give their customers a 'Menu', explaining the cost of investment advice. The Menu tells customers about the different payment options on offer (commission or fee), gives an indication of what the costs will be, and provides information on how the cost of commission for each product compares to the market average.

Projections and product disclosure

We have also been working on our proposals for revising the current 'Key Features' regime for investment product disclosure, launched in our consultation paper *Informing Consumers: product disclosure at the point of sale*. In the light of feedback on this consultation we have developed a 'quick guide' summary sheet for investment products. The purpose is to highlight the important issues which consumers should consider before purchase, in a straightforward and focused manner.

On projections, our rules currently require firms to give consumers an illustration of the potential future returns from packaged products such as investment bonds and personal pensions. In 2004 we began a fundamental review of this system, as proposed in our discussion paper *Projections review – The case for change*. We are developing a cost-effective system designed to deliver more accessible consumer information and to improve consumer decision-making. Closely linked to this work is an examination of the possibility of a 'risk rating' of investment products, or other disclosures designed to increase consumer understanding of the risks associated with investment products.

FSA consumer information

Our newly designed consumer website, launched in August 2004, offers more than 2,000 pages of information and provides tools and calculators to help consumers make decisions. It had 760,000 visits in 2004/05 and monthly visits increased from 73,000 in March 2004 to 107,000 in March 2005.

Our comparative tables, available on our website, offer impartial product information and allow consumers to compare mortgages, pensions, annuities, ISAs, savings accounts and investment bonds. Average monthly visits to the comparative table pages in 2004/05 were 37,000, an increase of 20% on 2003/04.

We also have, at any given time, over 30 publications on a wide range of topics, including pensions, mortgages and financial advice. Over the past year, over 16 million copies of our publications were distributed by firms, 192,000 by advice agencies and other not-for-profit organisations and over 200,000 were requested directly by consumers. The topic which prompted the greatest demand for our publications was mortgage endowments. To coincide with our assumption of responsibility for mortgage regulation, in October 2004 we produced a pack covering the step-by-step process of getting a mortgage. We also produced fact sheets to explain how Key Facts documents can help when buying mortgages and general insurance. Feedback indicates that consumers find our publications useful.

Where there is public comment on firms we regulate or on particular industry trends or products, we consider what information we can properly make available to consumers to keep them informed. For example, we issued consumer updates on Eurolife's restructuring proposals, on KF Concept and on with-profits policies, setting out ten questions to help policyholders decide what they should do with their investments. We published information on how to complain, and, for policyholders of Equitable Life, details of the Penrose Enquiry.

Every employee earning above the lower earnings limit (£79 per week in 2004/05) is automatically included in the State Second Pension unless he or she decides to leave it by contracting-out, in favour of a private pension arrangement. We published a consumer alert in February 2005, which reminded consumers that they should consider this decision carefully every year. It referred them to the consumer fact sheet produced by industry trade bodies, which has already been sent to over five million people.

Responsible firms who treat their customers fairly and are soundly managed and adequately capitalised

Treating Customers Fairly

In July 2004, we published *Treating Customers Fairly – progress and next steps*. This emphasised the responsibility of firms' senior management in this area and our view that fairness is an issue throughout the life-cycle of a product or service, not only at the point of sale.

We have pursued our work in this area in the following ways:

- In the course of our visits to over 80 firms we looked at Treating Customers Fairly (TCF) issues in six areas: product design, complaints-handling, the relationship between providers and distributors, remuneration, management information and strategic change.
- In March 2005 we published on our website the results of a significant part of this work. This offers firms material that helps them consider the implications of TCF in specific circumstances and provides examples of good and bad practice.
- We set up a group of industry and consumer representatives to enable them to contribute to our developing TCF work. This has allowed us to gauge consumer and industry opinion as we proceed.

We have been encouraged by increasing evidence of senior management engagement with this issue and the improvements in treatment of customers that we are seeing across major firms in the retail sector. However, there is still a long way to go. We welcome the assistance which some trade associations are providing to their members to help them deliver TCF. Medium and smaller firms are now starting to focus on TCF issues.

Some firms are beginning to accept that TCF has a role in the development of new products. However, firms do not typically take TCF factors into account in structuring the remuneration of those undertaking sales functions and they are struggling to consider TCF in measuring their performance. Furthermore, many medium and smaller-sized firms equate their frequent, close contact with their customers as a guarantee of fair treatment, but evidence shows this belief to be unfounded. A recent set of visits to 25 small firms in one area of the country revealed that almost all the firms had issues, for example, in relation to record-keeping, provision of suitability letters and the charging of fees or commission. In four of these firms, we judged that the failings in relation to the operation of their business put customers at serious risk.

Financial promotions

An important element in the fair treatment of customers is the marketing and other material which firms provide. We have increased our resources, focus and emphasis on regulating such material. We have regularly reviewed material appearing in the press, on television and on the internet; investigated complaints made to us by members of the public and firms about material that they feel is not satisfactory; assessed firms' systems and controls through visits; and taken appropriate supervisory and enforcement action where firms do not comply with our rules, on the content of such promotions, and on systems and controls.

Following concerns we raised with a subsidiary of a large financial services group about its sales process, the firm undertook a comprehensive review of its sales practices and implemented a sales quality action plan. In October 2004 we required it to appoint a Skilled Person to review the work it had undertaken. The Skilled Person reported in February that the work to re-design the firm's sales process and sales standards, restructuring of the product range and developing and embedding a sales quality culture had been generally effective.

In May 2004 we fined Carr Sheppards Crosthwaite £500,000 for systems and controls failings in its compliance function. The failings led to, among other things, inadequate documentation of personal and financial information about clients, with the firm unable in some cases to demonstrate that customer portfolios remained suitable.

In July 2004 we set up the Financial Promotions Hotline, to provide another route for consumers and firms to report material that they believe to be misleading. In February 2005, we published *Financial Promotions: Taking Stock and Moving Forward* and launched pages on our website to help firms understand what we expect of them in relation to financial promotions.

We believe that many firms now place a greater emphasis on responsible financial promotions – as evidenced through greater discussion of these issues at conferences and seminars, and in the industry press. Where we have specifically raised issues with individual firms, we have seen an improvement in their practice.

However, some marketing and advertising still falls short of our requirements in that it does not describe the product and the risks adequately. We are focusing our resources on areas of high potential risk to consumers (for example, direct offer promotions of high risk investments), high potential impact (such as structured deposits) and new regulatory areas, such as mortgages and general insurance (for example, mortgages aimed at those on low incomes or with credit problems).

Between December 2004 and March 2005 we fined four firms for failures in this area. In all four cases, the systems and controls had failed to ensure that the material issued was clear, fair and not misleading. In two of the cases the firms had included inaccurate or false information, as well as inadequate indications of the risks involved.

In December, we fined Cantor Index Limited £70,000 for running a misleading campaign promoting spread betting. The company's senior management had failed to put in place adequate systems and controls to ensure that its financial promotions were systematically monitored or that the promotions it issued were clear, fair and not misleading.

In March, we fined Highbury Financial Services Limited £35,000 for failing to put into place appropriate systems and controls to ensure compliance with our rules on financial promotions, and for failing to identify that three of its promotions, which appeared in two national newspapers, did not comply with the FSA's requirements.

Insurance reform

The programme, begun in November 2001, to reform regulation of the insurance sector is now largely complete. We summarised the resulting changes in *Delivering the Tiner Insurance Reforms*, published in April 2005. These reforms are designed to help ensure a fair deal for consumers, promote soundly managed insurance firms with adequate financial resources (described in Section one) and develop smarter regulation of insurance firms.

Since the end of April 2004 we have required all life insurers carrying on with-profits business to publish a document called the Principles and Practices of Financial Management (PPFM) for each of their funds. Designed for use by the intermediary community and market commentators, this document sets out how a firm's senior management runs its with-profits business, and includes key information on how payouts at maturity are calculated, the firm's bonus policy, investment strategy and the application of any charges on early surrender. Complex and lengthy documents, PPFMs are not easily accessible for the typical policyholder, so we are requiring firms to select the most important information from their PPFM and include it in a consumer-friendly version, to be available from December this year.

Over the past year there has been increased activity in the sale of closed life funds. Our supervisory action has therefore increasingly focused on the level of service and the information provided to policyholders in such funds. Our concern is to determine whether the new owners will be fit and proper to manage the interests of policyholders, taking into account factors such as financial strength, governance arrangements and the investment strategy for the fund. Where appropriate, we have also attached specific conditions to the 'change of control' to protect policyholders' interests further. In approving one recent change of control application, we imposed additional conditions to protect the rights and interests of policyholders, namely a commitment that the life companies involved will continue to be adequately capitalised after the change of control and an agreement to adhere to an agreed schedule for the release of shareholder capital. In September 2004, we published an Insurance Sector Briefing, setting out how we regulate closed with-profits funds and to address some common misunderstandings that had emerged about this sector.

We have also made far-reaching changes to the role of actuaries in life offices. These improvements were endorsed by Sir Derek Morris in his review of the actuarial profession, published in March 2005. Our new rules took effect at the end of 2004. They replace the role of the Appointed Actuary with two new advisory actuarial roles, requiring FSA pre-approval. All firms carrying on long-term insurance business are required to appoint an actuarial function-holder. Firms carrying on with-profits business are also required to appoint a with-profits actuary. Policyholder protection has also been strengthened through our requirement for auditors to seek actuarial advice on the valuation of liabilities from a reviewing actuary who is independent of the firm.

Dealing with mis-selling

In recent years we have seen too many cases of market failure that have damaged public confidence in the financial services industry and have resulted in losses for individual consumers. Where this has happened we have worked to secure redress for consumers and, through working with firms and other parties, to ensure that the necessary remedial action is taken promptly to reduce the likelihood of recurrence. In the past year we have focused in particular on the mis-selling of mortgage endowment policies and precipice bonds.

We continued to work with the Financial Ombudsman Service (the Ombudsman), which is operationally independent although we set its jurisdiction and approve its budget and procedural rules. In March 2005 we and the Ombudsman published updated procedures for the handling of 'wider implications cases' – complaints that may have wider regulatory implications for firms and consumers and involve issues that could give rise to significant consumer detriment. The new arrangements clarify the roles and responsibilities of the FSA and the Ombudsman, enhance cooperation on cases between us and improve the overall transparency of the process. Following consultation, we and the Ombudsman decided that it is not appropriate to seek an external appeals mechanism against the Ombudsman's decisions.

We also worked closely with the Financial Services Compensation Scheme (FSCS), which is operationally independent but subject to our rules. Consumers are referred to the FSCS when a regulated firm is unable to meet its liabilities, and we have shared information with the FSCS to assist it with its functions. During the past year, most of the firms concerned have been independent financial advisers, affected by claims arising from past mis-selling.

We extended the scope of the Ombudsman and the FSCS to cover mortgages and general insurance intermediaries. In April 2005, following consultation, we changed the FSCS rules to allow certain pension fund trustees to make claims on behalf of beneficiaries in the event of the failure of an insurer underwriting the scheme.

Mortgage endowments

We continue to monitor firms' progress in handling mortgage endowment complaints, using intelligence from a variety of sources, including from our supervisory visits and from the Ombudsman. In a letter to Chief Executives of leading banks, product providers and independent financial advisers in January 2005, we gave our view on progress to date in this area. We noted good practice by some firms but pointed out that others were failing to meet the required standards for complaint handling. We reminded firms of the importance of treating customers fairly in handling complaints and pointed out that, where we find material shortcomings, we will consider enforcement action.

At the end of 2004 we carried out consumer research to assess mortgage endowment policyholders' awareness of their position and of the options open to them. The results demonstrate that the majority of households understand that they can complain and have already taken action. The combination of letters from product providers enclosing FSA fact sheets, media campaigns and FSA activity has been successful in raising awareness and prompting appropriate action. However, the research indicates that some consumers intend to take action, but have not, while others cannot afford to act.

In June 2004, we introduced new rules on time-barring, requiring firms explicitly to warn their mortgage endowment policyholders who have a high risk of shortfall about the deadline for making a complaint about the sale of their policy. These rules took effect immediately. Our aim is to ensure that consumers who believe they were mis-sold are clear about when their right to complain runs out. We worked with trade associations to secure a voluntary agreement for a further window of opportunity for consumers who have received two 'red' reprojection letters and are theoretically time-barred to make a complaint. We have strongly encouraged firms to consider such cases sympathetically and to review the circumstances of each case. As a result, some firms have decided not to invoke their right to reject complaints as 'out of time' and are therefore not imposing time bars at all, while others have considered whether to make special arrangements, for example by extending the notice period, for those customers who were already out of time.

Structured capital-at-risk products (precipice bonds)

We recently completed a review of over 150 manufacturers and distributors of these products to identify, among other things, the potential compensation costs faced by the industry and pockets of mis-selling. Our early findings suggest that the total compensation costs relating to the mis-selling of structured capital-at-risk products could exceed £150 million. As at 31 March 2005, firms had paid in excess of £125 million to customers as compensation in response to action by us and the Ombudsman. To date the FSCS has paid out £9 million and expects payments to reach £38 million in 2005/06.

Our review programme also found evidence of unsuitable sales and concerns relating to firms' complaint handling. In addition, many structured capital-at-risk products were sold by direct offer and we therefore decided to review over 100 financial promotions. We issued a private warning to one firm in relation to a misleading promotion. Remedial action is continuing with a number of firms, and some enforcement cases are being taken forward. Since April 2004, we have levied fines of £950,000 against two firms for serious precipice bonds compliance failings.

Unfair contract terms

We are now focusing increasing attention on our responsibilities as a qualifying body under the Unfair Terms in the Consumer Contracts Regulations 1999. These Regulations apply to standard consumer contracts that have not been individually negotiated, to protect consumers against the risk that these contracts might not properly take into account their interests. We have the power to require firms to give us an undertaking to change contract terms and, if that is not successful, we can apply for an injunction. We published details of eight undertakings obtained from firms for the benefit of consumers, and so that all firms can see the kind of issues they may need to address.

Following consultation with the industry, consumer bodies, the OFT and the Ombudsman, we published a Statement of Good Practice on the fairness of terms in consumer contracts. This applies generally to financial services contracts, but it focuses in particular on reviewable premium clauses in certain health-related long-term insurance contracts, and on the use of variable interest rates in savings, deposit and regulated mortgage accounts. This Statement helps firms to understand the breadth of their responsibilities under the Regulations and the operational and reputational risks they may be running should their contract terms be found to be unfair.

In December, we fined Bradford & Bingley plc £650,000 for the widespread mis-selling of precipice and with-profit bonds. The firm had not made suitable recommendations to customers, had not maintained adequate records of sales, and did not have in place adequate systems and controls to prevent and ultimately address these failures.

We have also published a new consumer fact sheet explaining how the Regulations protect consumers and telling consumers what to do if they identify a term that they think may be unfair.

Risk-based regulation

Thematic work

We identify risks in retail markets from a number of sources, including:

- market data;
- current trends and developments in the markets;
- financial promotions;
- issues identified through our discussions with firms; and
- intelligence gathered by our sector teams and contact centres, and by other stakeholders.

We have taken steps to be more open about our consideration of risks that cut across a number of different firms and have started putting information on our website about our response to these kinds of risks. For example we published information about aspects of venture capital trusts (see box on right), payment protection insurance, firms' preparedness for Child Trust Funds, income withdrawal and distribution bonds.

This year we saw greater activity in the Venture Capital Trust (VCT) market, with a substantial rise in the number of VCTs applying for listing, an increase in the number of advertisements and greater media coverage. We identified a potential risk to consumers of VCTs being sold on the back of tax advantages alone, without due consideration of the risks involved. We were concerned that some promotional material did not set out the risks adequately and strike a balance between the positive aspects and the risks. We also saw some indications that these products were no longer being aimed solely at high net worth individuals.

We reminded firms, though an industry alert in March 2005, of the need to think carefully about how they explain the risks of VCTs to consumers in their marketing material and during the sales process. We are reviewing information from firms about their promotion and distribution of these products.

We have seen an increase in the number of so called 'phoenix firms'. These are firms where the directors of one limited company move with the assets to a new company, leaving the liabilities behind and avoiding claims from customers. This can lead to more claims falling on the Financial Services Compensation Scheme, and hence on the rest of the industry.

In one example, a firm had ceased trading and had applied to resign, as it had considerable exposure to a collapsed fund in which it had advised clients to invest. During our investigation we discovered that the directors of the controlling firm had been buying small firms and then stripping out the assets and transferring the advisers, leaving dormant firms with liabilities that they were unable to meet. We are currently investigating the controlling firm, which we also regulate.

In these circumstances, our standard practice now is to ask directors to sign undertakings to honour the liabilities arising from customer claims on their previous business; to encourage firms to 'ring fence' funds to be held by the departing firm to meet any further potential liabilities; to refuse the application for authorisation of the new business where the directors of the departing firm will not make reasonable arrangements for claims arising from their previous business; and, as a last resort, to consider enforcement action where the individuals' actions have actively disadvantaged customers. We have thwarted twelve attempts at phoenixing in the last year.

We have undertaken work over the past year to maintain standards among smaller financial firms, which has resulted in a number of firms making changes to the way in which they operate, in order to address serious failings, and has led to several firms losing their authorisation to do business. Over the past year we have required 121 small firms to take remedial action, and our work has resulted in 30 other small firms losing their authorisation to do business. Common problems in the firms concerned included inadequacy of financial resources and non-cooperation with us and the Ombudsman, as well as failure to pay our fees.

Mortgage and general insurance regulation

Following a Treasury decision to extend our remit, we began regulating mortgages and long-term care insurance on 31 October 2004. We now regulate mortgage advisers and arrangers, as well as lenders and administrators such as banks and building societies. In January 2005 the scope of our regulation was extended further to include general insurance business, in order to comply with the UK's obligations under the EU Directive on Insurance Mediation. That brought within our remit brokers and other intermediaries (retail and wholesale), and the insurance mediation activities of product providers, as well as the many firms who, for example, advise on and arrange general insurance business as a secondary activity incidental to their main business.

This has been a major challenge. No UK financial regulator had ever been required to authorise so many firms in such a short period. By the regimes' launch dates we processed all complete applications received before our published cut-off dates (in each case, six months before launch), and most of those received after these dates.

In the course of this project we:

- authorised over 14,000 firms that had previously fallen outside the scope of our regulation;
- took steps to make these firms aware of their obligations under the new regulatory regime;
- sought to ensure that those firms that did not meet the threshold conditions were not granted authorisation under the new regime;
- varied the permission of over 4,500 firms that were already regulated by us to enable them to carry on these newly regulated activities; and
- took steps to help those firms that might otherwise fall within the scope of the new regime, but which did not wish to be regulated, to identify the changes and new arrangements they needed to make to take themselves outside the scope of our regulation.

We undertook a major communications exercise to reach potential applicants and other firms that might be affected by these changes. This included extensive press advertising, workshops, conferences, and working with existing regulators and trade associations. We published a series of fact sheets, a simplified Guide to the FSA Handbook and developed tailored handbooks for small mortgage and general insurance intermediaries. This material was made available on a dedicated part of the FSA website, which has had over 891,000 visits since its launch in August 2003.

We made electronic application packs available to all firms, in addition to the paper version; firms were free to choose which they used. We applied a discount to the application fee for those firms opting to apply electronically. For example, a small firm applying for authorisation for the first time saved £50. Over three-quarters of firms applied electronically. We continued to receive applications up to and beyond the dates on which regulation began.

Table 2.1 shows the numbers of firms granted mortgage and general insurance permissions at the new regimes' respective launch dates, broken down by whether the firms were already undertaking regulated activity or were newly authorised.

Table 2.1

	Total	Newly authorised firms	Firms already authorised
Mortgage Permissions	7,119	4,226	2,893
General Insurance Permissions	18,130	13,808	4,322

There was considerable overlap between firms requesting permissions to undertake mortgage and general insurance intermediation, as many firms conduct both.

At 31 March, a total of 153 firms remained interim-authorised – 144 for general insurance business and nine for mortgage business. These are firms that had applied to become authorised, but whose applications had not been finally decided before the start of regulation. The number of interim authorised firms stood at 941 and 25 respectively when the new regimes were launched. These figures are continuing to fall steadily. We expect that a core of more difficult cases will be referred to the Financial Services and Markets Tribunal. A regularly updated list of interim authorised firms is published on our website: www.fsa.gov.uk/register.

We found that three-quarters of the new applications raised regulatory issues requiring further enquiries, and half required substantial investigation. Where appropriate, we required firms to undertake remedial action before authorising their application. In addition, over 600 new applications were investigated on a thematic basis, and we required remedial action where we found evidence that firms would not be compliant with our requirements. Almost 500 firms withdrew from the authorisation or variation of permission process. As at 31 March 2005 we had refused applications from 35 firms and 19 individuals. Reasons for refusing firms and individuals included failure to disclose significant issues in the application, prior criminal convictions (some involving dishonesty), prior regulatory problems and bankruptcy.

Supervisory priorities

In general, we recognise that most mortgage firms have made significant progress in adapting to statutory regulation although their understanding of the new regulations is patchy. We reviewed the key disclosure documents that mortgage lenders and intermediaries issue to customers. This showed that firms had made considerable effort to comply with the new requirements, but that there are some problems with the length of Key Facts Illustrations, and firms departing from prescribed format and text. In addition, the description of features and charges was sometimes inaccurate, and total cost information sometimes incorrect. We reported our findings to the firms involved and have issued more general feedback through a Dear CEO letter to the lenders and a fact sheet on our web site for the intermediaries.

We also undertook some work focusing on issues which arose in the course of the authorisation process. For example, at the time of applying, many firms were still finalising aspects of their systems and controls. We also followed up with individual firms concerns we had during the authorisation process. The most common findings from this work related to weaknesses in record keeping, 'know your client' information and adequacy of disclosure documentation.

We also found that some firms had falsified the income of applicants or provided bogus employment details. In some instances firms had concealed certain information from us on their application form, which became evident when we received additional intelligence or visited the firms concerned. A number of firms have been referred to enforcement, particularly those cases that appear to involve fraud or deception. We take such conduct very seriously. We have also commissioned further work on certain areas, including on self-certification or fast-track lending.

We have completed the first in a series of visit programmes to general insurance intermediaries, concentrating on documentation disclosure and complaints-handling. We have supplemented these visits by issuing a questionnaire to a sample of 500 general insurance intermediaries. The data collected has provided a good indication of the type and volume of work that these firms are undertaking, and the documentation disclosure findings are feeding into our wider work in this area, which will be published in early Q3 2005.

We have been active in tracking down firms which continue to conduct regulated activities without authorisation and therefore illegally. This work is vital to protecting consumers – if they deal with unauthorised firms, they do not have access to statutory redress and compensation.

We initially focused on the mortgage sector, making contact with over 600 firms across the UK, including 450 visits. We have obtained undertakings from four firms that they will no longer carry out mortgage business illegally. We have concluded from this work that the mortgage sector is well informed of the 'regulatory perimeter'. Many firms that did not opt for authorisation or Appointed Representative status have restructured their business appropriately in order to continue trading legally. Our focus of the perimeter work has now shifted to the general insurance sector.

Depolarisation of the advice market

We have completed the reform of polarisation and have developed greater transparency on the cost of advice. Our new rules and guidance were published in December 2004 and come into force on 1 June 2005.

We have sought to achieve a number of objectives through depolarisation, including:

- removing the regulatory barriers that may impede competition and innovation;
- improving consumer access to a wider range of good value products;
- improving awareness that advice comes at a cost, paid for by the consumer;
- facilitating shopping around for advice by consumers;
- exerting a pro-competitive force on commission levels, and through them, on charges; and
- reducing the potential for commission bias.

The new Key Facts documents, described earlier, should enhance consumers' understanding of the advice process, the kind of advice they are getting, the key aspects of that advice and the cost of the service. We introduced particular requirements for firms wanting to market themselves as 'independent', including a requirement to offer customers the option of paying by fee for their advice.

Basic advice regime

The Sandler Report on the long-term savings market recommended a suite of 'stakeholder' (simple, low-cost, risk-controlled) savings products. While the Treasury set the framework for the products themselves, we developed a simplified advice regime through which they can be sold. In June last year we concluded that a simplified advice process based on filter questions could deliver an appropriate degree of consumer protection, and we set out our proposals in a consultation paper, *A Basic Advice Regime for the Sale of Stakeholder Products*.

During the consultation period, we conducted further consumer testing. Our research found that the amendments we had made to the design of the questions significantly improved the quality of advice which consumers received. However, we remained concerned that consumers buying a smoothed investment product through basic advice would not understand the costs and benefits of smoothing or the associated risks. This concern led us to exclude this product from the range, for the time being. We published our regulatory framework for the new basic advice regime in November 2004. Firms have been able to sell stakeholder products under the new regime since April 2005.

Pensions

We have contributed to the wider policy debate on pensions during the year. In particular, we responded to the first report of the Pensions Commission and published our response on our website.

In April 2005, the new Pensions Regulator replaced the Occupational Pensions Regulatory Authority (OPRA). We have agreed and published a Memorandum of Understanding with The Pensions Regulator, so that the pensions industry and policyholders can be confident that the two regulators will work together to ensure comprehensive and complementary approaches to areas of mutual interest.

We welcomed the Treasury's proposed amendments to the Financial Promotion Order that gave employers greater freedom to promote their group personal pension schemes and stakeholder pension schemes to their employees. We are revising our guidance for employers, setting out what they can do to promote their schemes without infringing the Financial Services and Markets Act (FSMA).

European regulation

Aside from our intensive work, in the Lamfalussy committees and otherwise, on the MiFID (see page 25) and preparatory work for Solvency 2 (see page 26) we have been closely involved alongside government departments in discussions on a range of other Directives relevant to the retail sector.

As originally proposed, the scope of the Credit for Consumers Directive (CCD) would have included around half the mortgages that we regulate. It also would have set maximum standards requiring significant changes to our rules. However, we have been influential, through the DTI, in achieving the removal of all secured lending, and a lighter touch regime for credit unions' lending, in the proposed revised Directive.

The Unfair Commercial Practices Directive will introduce an EU-wide duty 'not to trade unfairly' when supplying any good or service, including financial services, to a consumer. We have worked to help secure and maintain the key UK priority of minimum harmonisation in the implementation of this measure as it applies to financial services. The Directive is likely to be adopted in June 2005.

We completed our implementation of the Distance Marketing of Consumer Financial Services Directive (DMD) by making and implementing our rules for investment business and deposit-taking. The changes we made to our Handbook in April and September 2004 brought it into line with the DMD's requirements in good time before the Directive's implementation deadline, without imposing unnecessary cost. We also agreed arrangements under which the Banking Code Standards Board would be able to monitor DMD standards, so avoiding the costs to firms of additional direct monitoring by us.