

April 2006

06/5 *newsletter* ★★



This newsletter provides a summary of CP06/5. Please see 'Who should read this paper?' below to see if CP06/5 is relevant to you.

Financial Services Authority

The regulation of personal pension schemes including SIPPs

Why are we issuing this paper?

In this Consultation Paper, we set out our proposals for regulating all personal pensions, including self-invested schemes (SIPPs). These will be regulated under the Financial Services and Markets Act (FSMA) for the first time in their own right from 6 April 2007.

Who should read this paper?

This CP covers a range of pension and regulatory topics and so will be of interest to a number of people, including:

- all firms in the pensions market – providers, investment managers, advisers, administrators;
- all operators of personal pension and stakeholder pension schemes, including SIPPs;
- pensions industry trade associations;
- consumers; and
- consumer groups.

What is the background to this?

In September 2005, the Treasury published a consultation document¹ setting out its proposals for expanding the range of firms that can set up and operate personal pension schemes and for amending the Regulated Activities Order (RAO) under FSMA. The Treasury has recently announced that it intends to proceed with option 3 of those proposals.

This means that the operation of all personal pensions will become regulated from 6 April 2007. Most schemes are already regulated under FSMA – for example those run by life insurers and those established as authorised unit trusts. These schemes should see little change to their obligations under our proposed rules.

How will the RAO affect firms?

The major effect of the change to the RAO is that SIPPs will become regulated under FSMA for the first time in their own right. The operation of the SIPP scheme ‘wrapper’ will be regulated, whereas the previous treatment was to see through the wrapper to any FSMA-regulated investments held within a SIPP and to apply our rules to those investments. Amongst other things, this means that existing operators of SIPPs will need to apply for authorisation by us, if they are not already authorised for other reasons. We understand that there are currently around 100 such schemes.

In the future, there will be no provisions within the pensions tax legislation² restricting the types of firms that can operate a personal pension scheme. Instead, any firm wishing to establish, operate or wind up such a scheme must have obtained permission to do so from us.

Another effect of the change to the RAO is that the small number of deposit-based personal pension schemes will now be regulated under FSMA.

The changes to the RAO will also mean that rights under any personal pension scheme will be a regulated investment (as rights under stakeholder pension schemes are now). So, for example, advice on a specific personal pension scheme, including a SIPP, will be regulated advice.

What topics do we cover in this paper?

The operation of all personal pensions will become regulated from 6 April 2007. This consultation paper (CP) sets out our proposals for an appropriate regulatory regime, based on an analysis of the market failures and cost benefit analysis. Topics covered include the scope of regulation, authorisation requirements and processes, conduct of business rules and the application of the complaints and compensation schemes operated by, respectively, the Financial Ombudsman Service (FOS) and the Financial Services Compensation Scheme (FSCS). We include draft rules and guidance within this CP.

We have noted the announcement within the Chancellor’s Pre-Budget Report on the range of SIPP assets and the revised tax implications. In our view this significantly reduces the risks to

1 “Proposed changes to the eligibility rules for establishing a pension scheme” – September 2005

2 as set out in Section 154 of the Finance Act 2004

consumers that might otherwise have arisen during the period between A-day³ in April 2006 and the regulation of all personal pensions in April 2007. But there is still some potential for consumer detriment – for example, some customers might be persuaded to join a SIPP when a standard personal pension or stakeholder pension might better meet their needs. We will seek to mitigate risks to consumers before regulation in April 2007 by:

- monitoring SIPP's promotional material;
- liaising with trade bodies to encourage member firms to behave appropriately; and
- encouraging all firms to adopt regulatory standards now before formal regulation begins.

What happens next?

The main part of this CP closes for comments on 2 July 2006. We intend to publish a Policy Statement and final rules in September or October 2006, leading to implementation on 6 April 2007.

The Financial Services Authority invites comments on this Consultation Paper. Comments should reach us by 2 July 2006 on the main body of the paper and proposals. Comments on the proposals for fees in Chapter 5 should reach us by 30 May 2006.

Where possible we would appreciate responses by e-mail using the address:
cp06_05@fsa.gov.uk

Or you can submit your comments electronically using the form on our website (at www.fsa.gov.uk/pubs/cp/cp06_05_response.html).

Alternatively, please send comments in writing to:

Keith Matthews
Retail Investments Policy
Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS Telephone: 020 7066 5432 Fax: 020 7066 5433

Comments on the section within Chapter 5 on fees can be sent by letter to:

Faridah Pullara
Contact, Revenue and Information Management Division
Financial Services Authority
25 The North Colonnade
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It is the FSA's policy to make all responses to formal consultation available for public inspection unless the respondent requests otherwise. A standard confidentiality statement in an e-mail message will not be regarded as a request for non-disclosure.

How can I get the full paper?

You can download the full Consultation Paper from:

www.fsa.gov.uk/pages/Library/Policy/CP/2006/06_05.shtml

Or you can order hard copies of the paper:

Phone our helpline on 0845 608 2372, quoting reference CP06/5

Order online at: www.tso.co.uk/bookshop/bookstore.asp?FO=1159966&DI=510776

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