

October 2006

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*newsletter*

This newsletter provides a summary of CP06/19. Please see the section 'Who should read this paper?' to see if CP06/19 is relevant to you.

Financial Services Authority

# Reforming Conduct of Business Regulation

(including proposals for implementing relevant provisions of the Markets in Financial Instruments Directive, and related changes to SYSC, DISP, TC, SUP and other Handbook modules)

## Why are we issuing this Consultation Paper (CP)?

This CP seeks views on our proposals for reforming the Conduct of Business (COB) regime. It has two main purposes. First, it sets out our approach to reforming the COB Sourcebook, following through on the commitments we have been making in our Business Plans since 2005/06, and our Better Regulation Action Plan in 2005. Second, and against that background, it consults on our proposed implementation of the conduct of business requirements of the Markets in Financial Instruments Directive (MiFID) and its implementing legislation, which need to be transposed by 31 January 2007.

It also has two subsidiary purposes:

- to discuss the implementation of the Unfair Commercial Practices Directive (UCPD) for financial services; and

- to consult on a number of MiFID-related changes to other parts of the Handbook, much of which also needs to be transposed by 31 January 2007 – notably complaints handling, record-keeping, outsourcing of retail portfolio management, training and competence, and transaction reporting for non-MiFID firms.

## Who should read this paper?

We plan to replace the existing COB sourcebook with NEWCOB by 1 November 2007. The scope of NEWCOB will be broadly the same as COB. Its structure and content will therefore be relevant to all firms that are currently subject to COB; and most of the proposed content of NEWCOB is set out for consultation in this CP (and the parallel CP ‘Financial promotion and other communications’).

However, since the scope of MiFID is narrower than the scope of existing COB, we have had to consider carefully whether the MiFID COB requirements should apply more broadly to non-MiFID firms and business. But it has not been possible within the timescale for MiFID implementation to consider this issue, including the cost benefit implications, for all types of non-MiFID firm and business. In this paper, we address this principally for the retail product and advice markets. We plan a separate review of the COB standards for remaining non-MiFID firms and business, which will include, for example, the position of managers and depositaries or trustees of collective investment schemes, and to consult on the results of that in the second quarter of 2007. The proposed scope of this review is explained in Annex 5 to the CP.

The proposals for NEWCOB in this paper will not be relevant to general insurance and mortgage firms, unless they also provide investment services or conduct other investment business that falls within the current Conduct of Business Sourcebook. However, the proposed changes to complaints handling are designed to apply to all firms when dealing with complaints from retail clients, and to all participants in the Financial Ombudsman Service Voluntary Jurisdiction and the new Consumer Credit Jurisdiction. Mortgage firms will also wish to note the proposed removal of time limits on passing exams contained in the training and competence proposals.

## How is this paper set out?

This paper is in three parts. Part I gives an introduction to NEWCOB – talking about our general approach to reforming Conduct of Business regulation and the structure and contents of NEWCOB. Part II contains the detailed proposals for NEWCOB; and Part III discusses the implementation of European directive requirements in other parts of the Handbook.

## What happens next?

We invite views on the issues set out in this paper by 23 February 2007. Specific questions are distributed throughout the body of the paper.

However, we do not have as much time to consult on those elements of our proposals which transpose MiFID requirements. We invite comments on these by 28 November 2006.

The Financial Services Authority invites comments on this Consultation Paper. See Annex 5 for details of the consultation timetable and process.

Comments on the MiFID transposition elements of this consultation should reach us by 28 November 2006.

Comments may be sent by electronic submission using the form on the FSA's website at [www.fsa.gov.uk/Pages/Library/Policy/CP/2006/cp06\\_19\\_response2.shtml](http://www.fsa.gov.uk/Pages/Library/Policy/CP/2006/cp06_19_response2.shtml)

Comments on other elements of this consultation should reach us by 23 February 2007.

Comments may be sent by electronic submission using the form on the FSA's website at [www.fsa.gov.uk/Pages/Library/Policy/CP/2006/cp06\\_19\\_response.shtml](http://www.fsa.gov.uk/Pages/Library/Policy/CP/2006/cp06_19_response.shtml)

Alternatively, please send comments in writing to:

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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\\_19.shtml](http://www.fsa.gov.uk/pages/Library/Policy/CP/2006/06_19.shtml)

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