

February 2009

09 / 6

newsletter ★★



This newsletter provides a summary of CP09/6. Please see the section 'Who should read this paper?' to see if CP09/6 is relevant to you.

Financial Services Authority

Regulating sale and rent back: an interim regime

Why are we issuing the Consultation Paper?

In this Consultation Paper (CP) we are seeking views on a proposed interim regime for regulating sale and rent back (SRB) providers.

Who should read the paper?

This CP will be of interest to firms active in the SRB market, relevant trade bodies and consumer representatives.

These proposals will be of interest to consumers who are considering undertaking an SRB transaction, and consumer bodies representing the interests of these consumers. In particular, consumers should note the proposal to provide access to an out-of-court complaint and redress system through the Financial Ombudsman Service, and the application of rules relating to firms' complaint-handling procedures.

What is the background to this?

SRB schemes involve individuals (usually those facing financial difficulties) selling their home at a discount in return for the right to remain in the property as a tenant. Typically, the rental agreement is an assured shorthold tenancy of up to 12 months, so the individual has very limited security of tenure.

On 15 October 2008, the OFT published its market study on SRB which found that:

- some consumers are entering into an SRB transaction when it is not necessarily the best option for them;
- the lack of long-term security of tenure means that there is substantial risk involved in the transaction; and
- SRB deals are complex to evaluate, particularly for consumers already in stressful and difficult financial and emotional situations.

The OFT recommended, among other things, that SRB transactions be subject to statutory regulation, and that this be carried out by the FSA.

Alongside this CP, the Treasury has published its consultation document and proposed amendments to the secondary legislation under the Financial Services and Market Act 2000 to bring SRB within the regulatory scope of the FSA. On the assumption that we are asked to regulate the SRB market, this paper invites views on how we might do this for an interim period, while a full regulatory regime is being developed and implemented.

How is the paper set out?

This paper is structured as follows.

- Chapter 2 provides a brief analysis of the SRB market;
- Chapter 3 outlines the regulatory options that we have considered;
- Chapter 4 outlines our proposed interim regulatory framework;
- Chapter 5 discusses our proposals for interim permission, status disclosure, supervision and reporting;
- Chapter 6 discusses the proposed high-level principles and rules;
- Chapter 7 considers complaints and redress;
- Chapter 8 outlines regulatory fees;
- Annexes 1 and 2 contain a cost benefit analysis of our proposals and an analysis of their compatibility with our statutory objectives and the principles of good regulation;
- Annex 3 lists the consultation questions; and
- Appendix 1 includes the draft direction and proposed rules.

What happens next?

Our consultation will close on 1 May 2009. We will then finalise our draft proposal in light of the responses received to this CP and the outcome of the Treasury consultation. We will publish a Policy Statement as soon as possible after that.

The date at which the new regime will come into force will be set out by the Government in the secondary legislation.

This newsletter summarises Consultation Paper 09/6. The Financial Services Authority invites comments on this CP. Comments should reach us by 1 May 2009.

Comments may be sent by electronic submission using the form on the FSA's website at (www.fsa.gov.uk/pages/library/policy/cp/2009/cp09_06_response.shtml).

Alternatively, please send comments in writing to:

Ian Price
Retail Policy and Conduct Risk Division
The Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Telephone: 020 7066 0378 Fax: 020 7066 0379 E-mail: cp09_06@fsa.gov.uk

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.

A confidential response may be requested from us under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Tribunal.

How can I get the full paper?

You can download the full Consultation Paper from:

www.fsa.gov.uk/pages/Library/Policy/CP/2009/09_06.shtml

Or you can order hard copies of the paper:

Phone our helpline on **0845 608 2372**, quoting reference **CP09/6**

Copies are available at **£10** each. Please allow five working days for delivery.

We also have a targeted email alert service for all FSA newsletters.

To subscribe please visit: www.fsa.gov.uk/pages/Doing/Contact/Register/index.shtml

For more information on our publications, please go to:

www.fsa.gov.uk/Pages/library/index.shtml

To get the latest information online, please visit our home page:

www.fsa.gov.uk

The Financial Services Authority 25 The North Colonnade Canary Wharf London E14 5HS
Main switchboard: 020 7066 1000 Fax: 020 7066 1099