

# Financial Services Consumer Panel

AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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London E14 5HS

Our ref: Responses

24 October 2006

Dear Ms Donaldson

## **Consultation Paper CP 06/15\*\*\* Reforming the Approved Persons Regime**

This is the Financial Services Consumer Panel's response to CP 06/15\*\*\* Reforming the Approved Persons Regime.

### **Overview**

The Panel welcomes the review of the Handbook and has no objection in principle to the proposed revision of the approved persons regime. Our primary concern is not the structure of the regime, but its effectiveness and the enforceability of its requirements. If there are regulatory savings we would expect them to be passed on to consumers.

There are some issues arising from the Paper that do cause us concern however. First, there seems to have been some confusion within the industry about whether the FSA undertakes criminal record checks on applicants for approval, the implication being that many firms thought that the FSA would be doing this and have not taken any steps to do so themselves. This lack of clarity has led to an important operational requirement being overlooked. We are pleased to see the FSA making the position clear, albeit rather late in the day.

Second, the Paper states that responses to the earlier consultation (CP05/10\*\*\*\*) had demonstrated widespread agreement that the senior management of a firm should take greater responsibility for ensuring the fitness and propriety of its approved persons under a simplified regime. However, there were differing views about how this should be achieved. The FSA's response is that the proposal to lighten the administrative burden on firms by merging all customer functions will need to be matched by firms making sure they take on the responsibility for ensuring the competence of their approved persons holding customer functions. While we would expect different firms to have different approaches, we are concerned that the simplification process will be completed before firms have decided what action they need to take and before putting the necessary changes into effect. Clarity and understanding within the industry should be prerequisites of regulatory simplification.

We strongly encourage the FSA to undertake post implementation research once the simplified regime has been operating for, say, twelve months. The move to a more principles-based regime should not prevent the FSA from introducing more prescriptive and detailed requirements if industry has not been able to rise to the challenges of the new simplified regime.

## **Consultation for merging the customer functions**

*Q1: Do you agree with our proposal to merge the existing customer functions?*

*Q2: Do you support our decision not to create a distinction in the customer functions between those that deal with retail and wholesale customers?*

The Panel has no objection to the existing customer functions being merged into a single generic customer function, provided that current requirements for approved person status are not diluted in any way.

*Q3: Do you agree that you will have sufficient time to put the necessary changes in place for our planned implementation date of 1 November 2007?*

This question is targeted at industry and the Panel has no comments.

*Q4: Do you have any comments on our proposed changes to the Handbook (Appendix 1) to implement our proposal?*

The Panel has no comments on the proposed changes.

## **Markets in Financial Instruments Directive (MiFID) – impact and consultation**

*Q5: Do you agree that SUP10 should be amended for CF10, CF14 & CF15 to incorporate the additional responsibilities under MiFID?*

We have no comments on this proposal.

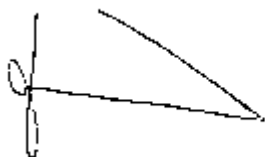
*Q6: Do you agree that we should continue to assess individuals only in relation to probity and financial soundness for controlled functions in incoming EEA MiFID firms?*

We agree that the FSA should continue to assess individuals in relation to probity and financial soundness for controlled functions in incoming EEA MiFID firms.

*Q7: Do you have any comments on our proposed changes to the Handbook (Appendix 1) to implement MiFID?*

The Panel has no comments on the proposed changes.

Yours sincerely

A handwritten signature in black ink, appearing to be 'John Howard', written over a horizontal line.

John Howard  
Chairman  
Financial Services Consumer Panel