



THE INSTITUTE
OF CHARTERED
ACCOUNTANTS
IN ENGLAND AND WALES

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Our ref: ICAEW Rep 66/09

Your ref:

Don Cranswick
Retail Policy & Conduct Risk
Financial Services Authority
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By email dp08_05@fsa.gov.uk

Dear Don

DISCUSSION PAPER 08/5: CONSUMER RESPONSIBILITY

The Institute of Chartered Accountants in England and Wales is pleased to respond to your request for comments on DP 08/5: *Consumer responsibility*.

Please contact me should you wish to discuss any of the points raised in the attached response.

Yours sincerely

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ICAEW Representation

ICAEW REP 66/09

DISCUSSION PAPER 08/5: CONSUMER RESPONSIBILITY

Memorandum of comment submitted in June 2009 by The Institute of Chartered Accountants in England and Wales, in response to Financial Services Authority Discussion paper 08/05: Consumer Responsibility published in December 2008.

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INTRODUCTION

1. The Institute of Chartered Accountants in England and Wales the ICAEW welcomes the opportunity to comment on the consultation paper Discussion paper 08/05: Consumer Responsibility, published by the Financial Services Authority.

WHO WE ARE

2. The Institute operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, the Institute provides leadership and practical support to over 132,000 members in more than 165 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. The Institute is a founding member of the Global Accounting Alliance with over 775,000 members worldwide.
3. Our members provide financial knowledge and guidance based on the highest technical and ethical standards. They are trained to challenge people and organisations to think and act differently, to provide clarity and rigour, and so help create and sustain prosperity. The Institute ensures these skills are constantly developed, recognised and valued.
4. The ICAEW Financial Services Faculty was established in 2007 to become a world class centre for thought leadership on issues and challenges facing the financial services industry, acting in the public interest. It draws together professionals from across the financial services sector. This includes those working for regulated firms, in professional service firms, intermediaries and regulators.

GENERAL COMMENTS

5. The ICAEW believes that stable and efficient markets require providers, financial advisers and consumers to behave responsibly within a regulatory framework that is able to deliver outcomes that are in the long-term interests of all stakeholders.
6. Responsible behaviour reduces the need for regulation and corrective action where problems arise, which in turn lowers costs to all market participants, improves market efficiency and delivers better societal outcomes more generally. We therefore support initiatives that are designed to encourage more responsible behaviour of all stakeholders.
7. In general terms, the ICAEW believe that the discussion paper provides a useful summary of the basic legal position and key issues.
8. The underlying challenge is to substantially improve levels of consumer capability and to nurture a culture where individuals are ready, willing and able to make informed financial decisions and to behave in a prudent and financially responsible manner over the longer term. To this end, a consistent long-term strategy is required. All stakeholders need to work collaboratively to restore confidence by raising levels of professionalism, to progressively improve the financial capability of the general population, and to create a framework where responsible providers and responsible consumers interact for the mutual long-

term benefit of all stakeholders within a supportive regulatory and macro-economic environment.

RESPONSES TO SPECIFIC QUESTIONS/POINTS

Q1 Do respondents have any comments on this summary of the basic legal position?

9. The ICAEW do not have any substantial comments and believe that the discussion paper provides an appropriate summary of the basic legal position.
10. We would however stress that a consistent approach and commonly agreed understanding of what is expected from respective stakeholders in a given set of circumstances is essential, particularly given the disparate levels of financial capability and the interplay of the common law and statutory regulatory principles and rules. The FSA a role to play here by setting-out a clear and easily understood framework that is readily accessible to consumers.

Q2 Do respondents believe that the current balance of responsibilities, as defined by the common law and the FSA regulation, is appropriate?

11. In general terms, the ICAEW believe that the underlying set of assumptions and balance of responsibilities are appropriate.
12. However, at a more practical level, bearing in mind the considerable disparity of financial capability that exists within the broad population and given that individual circumstances, levels of financial capability and mental capacity change over time, greater clarity and consistency of the balance of expectations and obligations needs to be established and clearly communicated. We think that this is particularly the case in respect of post-sale obligations and responsibilities and in circumstances involving the legal representatives of individuals who are unable to engage personally.

Q3 Is there more the FSA can do to make clear how we differentiate our expectations on firms dealing with consumers?

13. With reference to our comments as above, the ICAEW believe that the FSA needs to work with the industry, consumers and other stakeholders to establish clearer guidance as to what is expected from consumers and providers over time and in particular circumstances. For example, guidance could be developed to establish a model of a financially prudent typical consumer so that all parties have some sort of common benchmark to work from.

Q4 Do respondents have any comments on the suggestions above, or further suggestions for actions that the FSA, firms and others might take to help consumers to better understand their role?

14. On the basis as outlined above, guidelines on good practice need to be developed, to include a clear explanation to consumers of the risks and obligations expected of them in the immediate, medium and long term and in particular circumstances. These guidelines need to be consistent in approach and developed on a collaborative basis, constructed in the simplest way possible so that they are fully understood by consumers and acted upon by providers.

15. In general terms, the ICAEW believe that the 'better world model' outlined in the discussion paper presents a very sensible proposition moving forward. The challenge remains one of interacting with consumers in ways that are sufficiently engaging and consistent with the disparate needs and capabilities of the various segments of the population. We believe that the needs of consumers are varied and different. A profitable, professional independent advisory sector that offers flexibility and choice has an important role to play in engaging with retail consumers and in raising the understanding of the need and value of good quality personal financial planning, thus assisting to raise levels of consumer responsibility and desired outcomes in consequence.
16. The ICAEW believes that greater emphasis should be placed on promoting financial capability and consumer responsibility in the workplace, and so offering a primary environment for nurturing responsible financial planning. Employers, trade unions, the FSA and the industry and the professions need to work collaboratively to find practical ways to deliver financial capability programmes into the everyday workplace and to the self-employed. The introduction of Personal Accounts in 2012 would also appear to offer a timely opportunity in this respect.

Q5 Do respondents have any comments or suggestions on the list of sensible actions for consumers in Annex 1?

17. The ICAEW believes the lists of actions outlined in Annex 1 are appropriate. However, in general terms the FSA need to ensure that communications are constructed in ways that engage retail consumers, which we think will help nurture more responsible patterns of behaviour over the longer term.
18. We also believe that there is further scope to develop readily accessible, basic financial planning tools, which consumers could use for monthly budgeting, planning to repay mortgage and other debts, regular saving for retirement and the like. Simple, easily accessible tools would help retail consumers understand the basic principles of sound personal financial planning, which of itself should encourage consumers to act more responsibly.

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