



## CLAIMS MANAGEMENT REGULATION: CONSULTATION ON SECONDARY REGULATIONS

Issued 1 June 2018

ICAEW welcomes the opportunity to respond to the *Claims Management Regulation: Consultation on Secondary Regulations* published by HM Treasury on 23 April 2018, a copy of which is available from this [link](#).

The proposed secondary legislation is not proportionate to the needs of the sector and its consumers and further exemptions are required to address this. The approach adds unnecessary costs and administrative burdens to those, such as chartered accountants, who are well qualified to help. It may also deter some from providing relevant services, so restricting completion and narrowing access to those in need.

This ICAEW response reflects consultation with its Business Law Committee which includes representatives from public practice and the business community. The Committee is responsible for ICAEW policy on business law issues and related submissions to legislators, regulators and other external bodies.

ICAEW is a world-leading professional body established under a Royal Charter to serve the public interest. In pursuit of its vision of a world of strong economies, ICAEW works with governments, regulators and businesses and it leads, connects, supports and regulates more than 150,000 chartered accountant members in over 160 countries. ICAEW members work in all types of private and public organisations, including public practice firms, and are trained to provide clarity and rigour and apply the highest professional, technical and ethical standards.

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For more information, please contact: [representations@icaew.com](mailto:representations@icaew.com)

## Response to Consultation Question 9

1. The proposed secondary legislation is not proportionate to the needs of the sector and its consumers and further exemptions are required to address this. The approach adds unnecessary costs and administrative burdens to those who are well qualified to help, such as chartered accountants. It may also deter some from providing relevant services, so restricting completion and narrowing access to those in need. While this has been the case since claims management regulation was introduced, we urge government to take this opportunity to improve the position.
2. We explain more fully below why ICAEW's members in particular should be added to the list of exempt persons, but similar principles may apply to other appropriately skilled and regulated persons, including members of other chartered accountants' bodies.
3. This response covers only Question 9 (Should the government consider any further exemptions) as we believe that this should be addressed as a matter of priority.
4. ICAEW members are subject to professional standards, including a code of ethics. This includes mandatory requirements covering integrity, objectivity, competence and confidentiality and which applies in relation to all our members' professional and business activities. Our members have to pass exams covering a variety of financial and legal issues and have training and ongoing continuing professional development requirements. They are subject to ICAEW's complaints and disciplinary procedures and must ensure that they have appropriate skills and experience to provide any particular services.
5. ICAEW is a recognised supervisory body for audit and a recognised professional body for insolvency practitioners. It has been approved as an approved regulator and licensing authority for the reserved legal activity of probate services since 2014 and the Legal Services Board supported ICAEW's application to be an approved regulator for all reserved legal activities. It is also a 'Designated Professional Body' under Part XX of the Financial Services and Markets Act 2000. Not only does this indicate a high level of Governmental confidence in the strength of our regulatory procedures, but also means that the Financial Conduct Authority is already familiar with them, in their oversight role.
6. We do not object to the exemptions currently proposed, which include legal executives, registered foreign lawyers and trade unions. However, looked at collectively, the reasons why these persons should be exempt mean that ICAEW's members should also be exempt.
7. Our members will frequently be the most appropriate and best qualified professionals to advise or represent a client on financially complex matters, in particular in relation to financial claims where the extent and value of claims needs to be assessed. Indeed, research published by the Legal Services Board shows that most small businesses turn to their accountant for advice on non-reserved legal issues before a legal practitioner.
8. Not all our members will wish to conduct claims management activity of any kind. Some may wish to conduct only certain of the activities falling within the definition. The same, however, is true of some 'legal practitioners' and other exempt persons where rules of professional conduct or other protections are deemed to suffice to protect the public interest. The same reasoning should apply to conduct of these activities by ICAEW's members.

9. Were an exemption for ICAEW chartered accountants to be introduced, equivalent to that currently in place for 'legal practitioners', the relevant activity would fall into our definition of accountancy services, and thus come within the regulatory regime for our members engaged in public practice. In addition to the professional standards noted above, practice requirements on our members include requirements for professional indemnity insurance, client money regulations and practice assurance.
10. If Government fails to introduce an exemption for ICAEW chartered accountants, and similarly well trained and regulated professional accountants, it may lay itself open to a charge that its long-standing aspiration to reduce unnecessary regulatory burdens on business (in this case including the very large number of small businesses who are the clients of professional accountants) are empty of intent.
11. We would be happy to meet with you to discuss this response.