

30 September 2009

Reforming Financial Markets Consultation Responses
Financial Regulation Strategy
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

By email: banking.reform@hm-treasury.gov.uk

Dear Sirs,

IMA Final Response to Consultation Paper Reforming Financial Markets

Thank you for providing us with an opportunity to respond to your consultation paper Reforming Financial Markets.

The IMA represents the asset management industry operating in the UK. Our Members include independent fund managers, the investment arms of retail banks, life insurers and investment banks, and the managers of occupational pension schemes.

They are responsible for the management of around £3 trillion of assets, which are invested on behalf of clients globally. These include authorised investment funds, institutional funds (e.g. pensions and life funds), private client accounts and a wide range of pooled investment vehicles.

We trust our comments are of use to you; our members have not expressed strong views but we have sought to identify some issues and dependencies you may wish to consider.

We thank you for organising the workshops as well. We remain willing to participate in any further discussions.

Yours faithfully



Guy Sears
Director, Wholesale

REPLY TO HMT's Reforming Financial Markets Paper

30 September 2009

SECTION A – PRIMARY LEGISLATION PROPOSALS

(1a) – Formalising and strengthening the arrangements for institutional co-operation

Q1 – What are the benefits in creating a more formal and transparent body to co-ordinate the authorities' more systemic approach to financial regulation? Do you have any views on the role and remit of the Council for Financial Stability (CFS)?

Q2 - To what extent would an annual report on key developments increase knowledge and awareness of significant regulatory actions taken under the Banking Act and FSMA? From your point of view, what areas would it be useful for this report to cover?

Q3 – In addition to the input of non-executives from the governing bodies of the FSA and the Bank, what other ways could external advice and commentary be incorporated in this process?

Q4 – What mechanisms might be used for enhancing democratic accountability? Is this important? Are there any risks that need to be considered – for example, around market sensitivity, or threats to consumer confidence?

We have participated in and broadly support the CBI's response in relation to this section (questions 1 - 4).

(1b) – Strengthening the governance arrangements and statutory framework of the FSA

Q5 – What are the benefits of giving the FSA an explicit objective for financial stability?

The immediate benefit is as summarised in chapter 4 of your paper. In the absence of a change to objectives, it is hard otherwise to see what would underpin some of the regulatory decisions that may need to be made. There remains an issue as to where financial stability begins and ends; and linked to that issue is the question of how the FSA's role would relate to that of the Bank of England's own remit for financial stability. There is a possibility that the FSA could respond to the objective by becoming risk-averse in some areas of consumer protection or market regulation, for fear of not meeting a financial stability objective. We wonder whether any new objective for the FSA in this area should be qualified by requiring the FSA to have

regard to the opinion of the Bank of England so as to secure a clear hierarchy of responsibility.

We consider this is an objective distinct from market confidence; the latter implies a higher level of subjectivity and also those impacted are more likely to be deliberate participants of one sort or another – financial stability impacts non-participants disproportionately to their level of control and choice.

Q6 – What are the advantages and disadvantages of amending the Financial Services and Markets Act (FSMA) to make clear that the FSA must take into account any possible wider economic and fiscal costs in its decision-making?

In essence this question asks whether the FSA should have regard to the wider interests of the UK tax payer. This could be both difficult to carry out but also it risks bringing in a level of political responsibility and so accountability that is not the usual fare of a financial services regulator. To take an example, could it be said that the unilateral and uncoordinated actions taken by Member States of the EU in relation to deposit-protection were taken having regard to wider economic and fiscal costs within each country? Probably yes, but such action also could be criticised for endangering financial stability in terms of the cross-border fund flows precipitated by such announcements. And given the UK's global significance as a financial centre, the risk of politicising FSA action, in the sense of overlaying a domestic taxpayer concern, may also operate against competitiveness objectives.

It is not clear whether this proposal extends to decision-making in the narrow sense (of exercising powers in relation to a particular firm) or rule-making more widely. Treaty and EU obligations may constrain or qualify the extent to which the FSA might legitimately act or decide differently having regard to the interests of the UK taxpayer than it would otherwise.

Q7 – What are the advantages and disadvantages of amending FSMA to place a duty on the FSA to promote sound international regulation and supervision?

As the CBI states, the advantage is that this clarifies what many would already have expected the FSA to be delivering. But it is important to be clear as to what the term “promote” may encompass. The FSA, and indeed the UK, has for many years promoted (outwards to other markets) light-touch or principle-based regulation, or at least it has been portrayed as doing this. A duty to promote sound international regulation and supervision ought rather to operate to constrain some of the activities of the FSA that ignores or, more commonly, seeks to front-run EU regulation - initiatives on liquidity, short-selling and remuneration are recent examples – so leaving the UK either disadvantaged or facing the risk of double implementation. The Davidson principles remain relevant.

We would hope this proposed duty would lead to a more constructive approach to the EU and the international regulatory landscape, recognising that in many areas, regulation is governed by the EU and that commitment to Level 3 harmonisation will require, for example, submission to CESR's determinations. There is a real distinction between international when meaning US-UK dialogue or having regard to the opinions of the IMF or BIS, and when meaning activities within the EU given the

commitment to the Single Market, or at least the aims of the Financial Services Action Plan. It follows that we would hope any formulation would require the FAS to act in compliance with sound international regulation and supervision.

Q8 – To what extent would these proposals improve the FSA’s ability to have a more systemic or macro-prudential approach to prudential regulation?

The proposals will be effective only to the extent the wider framework of reviews and new approaches also permit improvements. We have identified benefits and risks above. It still remains to be seen how the micro and macro-prudential supervisory approaches will marry up. Whatever steps are taken, firms will fail. A lot of the focus appears to be on ensuring UK regulated firms do not start the next crisis; but crises will also start outside the UK and the connectedness of the financial system will mean that unless there are equivalent approaches in the other major nations, the potential worth of any proposal may mean little in practice. Government commitment to the G20 and other international initiatives remains key.

(1c) – Enhancing the FSA’s powers

Q9 – Do you agree that the FSA’s rule-making power and powers of intervention should be explicitly deployable in pursuit of any of its regulatory objectives and not just that of consumer protection?

Yes. We have pointed out before our attraction to the thoughts behind section 14 FSMA 2000. This power, for HMT to arrange independent inquiries, is exercisable where it appears to HMT that events have occurred in relation to a person who is, or was at the time of the events, carrying on a regulated activity (whether or not as an authorised person), which posed or could have posed a grave risk to the financial system or caused or risked causing significant damage to the interests of consumers. We think it equally could operate as a back-stop rule-making or intervention power. There will no doubt be concerns as to whether the FSA will use such proposed powers proportionately. That concern can be addressed in specific cases by the Tribunal or the administrative courts and more generally through the FSA’s accountability lines.

Q10 – To what extent will the FSA’s enforcement capability be enhanced by a power to suspend individuals or firms for misconduct?

This would be a departure from the approach to similar powers under FSMA which proceeded from an assumption that they were characterised as civil in nature under the ECHR. Concessions during the passage of FSMA to provide protections equivalent to the position as if the FSA’s powers were criminal in ECHR terms, meant that some of the concerns were no longer relevant and the powers could have been wider. So long as the rights of individuals and firms are protected as if these were criminal sanctions, then the issue becomes one of the FSA making clear in its enforcement statements how it will deploy such new powers. Again, current accountability lines ought to provide protections in terms of transparency, legitimate expectation and confidence.

Q11 – To what extent will the FSA’s enforcement capability be enhanced by a power to penalise persons who perform a controlled function without the necessary FSA approval?

It would seem at one level to be a simple closure of a lacuna in the FSA’s powers, and is understandable for that reason. This is, however, a constitutional step – providing more powers to a regulator over non-consenting citizens. No doubt this will be the focus of debate in Parliament.

Q12 – Are the Government’s proposed amendments to FSMA the best way of ensuring that the FSA can continue to take effective action to tackle abusive short-selling practices?

We are not sure; there are several issues that lie within your question and a more specific proposal needs to be seen. IMA is in favour of actions which address market abuse; that does not mean we support a domestically unique, wide-ranging power that can be exercised without notice.

As you are aware, in April 2008 HMT conducted a review of the super-equivalent clauses in the Market Abuse regime which were due to expire in June 2008. As we understood, Ministers and many parts of the sell-side had a predilection to allow those clauses to expire. The IMA strongly opposed this and the clauses were extended until the end of 2009. Had the clauses been allowed to expire in June 2008, the FSA would have had no legal basis for introducing the short-selling ban and consequently the disclosure obligations. HMT and the FSA are no doubt uneasy that the powers even today rest upon the Code of Market Conduct. That is understandable. However if part of the rationale of introducing legislation is that it will then lead to HMT to allow the super-equivalent market abuse clauses to expire then we shall strongly oppose that. We have not seen any consultation by HMT regarding the end December deadline.

Secondly, the question again implies a domestically focussed approach to this issue. CESR and the Commission are looking at this; any amendment to FSMA should reflect agreed and harmonised approaches throughout the EU, if not globally. The FSA’s admission that public disclosure is preferred because it puts “grit in the wheel” is not a basis for interfering with legitimate strategies.

What is abusive anyway that requires the FSA to impose market-wide bans? It has long been a tenet of markets and society that abusers should be punished, not those who do not abuse. It has not been demonstrated that short selling has been a material market problem or failure, and various studies (in the aftermath of the temporary measures introduced) have suggested that price volatility, market declines and spreads were not improved in the financial sector compared with other sectors not subject to the temporary measures.

HMT has characterised this power as for emergency use; that is also very worrying. There seems to be a trend for Government to take emergency powers to intervene in all sorts of ways. Each of course has justifications but in total there are now several powers which may cause the rules to be changed for investors without notice. The Government should explain in more detail what emergency there may be that existing powers of market operators and regulators cannot address? Whilst we are of the view that an approach should be harmonised in the EU, we are also of the view

that we should decide now whether some practices are to be banned or made subject to disclosure and not have the sort of ad hoc and evolving responses we saw last year (the FSA's approach through the FAQs changed greatly for asset managers and their clients).

Finally, and noting that another proposal is that the FSA will have a financial stability objective, would these powers be exercisable to support a bank under that objective? Who then would challenge the orthodoxy that a particular bank is healthy, especially given the vested interests several parties might have in a share price not falling?

The FSA has a raft of data in transaction reports and could assist in ensuring the market had consolidated tapes pre and post trade, which would allow all participants better to see what is occurring in the market. Disclosure to the regulator of short positions is understandable in the new environment and any lacuna in FSA powers relating to disclosure in this regard (in part due to manner of implementation of the Transparency Directive) could be rectified. Then the FSA can target those who are abusive using the existing market abuse regime in the UK.

Q13 – Can you identify areas where the FSA does not currently have sufficient power to request information that it requires in order to carry out more system-wide analysis of the financial sector?

The FSA is generally considered to have access to a great deal of routine information; indeed it may be timely for the NAO to consider the cost-effectiveness of the current data gathering. As we understand this question, the proposal is that the FSA might have power to ask entities not within the regulatory system for information. This power is available to an extent for cause already within the investigatory powers of the FSA. Ad hoc or routine requirements for information from the unregulated sector - that is many global clients of asset managers, including sovereign wealth funds, for example - should be dealt with under existing powers; any extension needs to be carefully crafted so as to be proportionate given the impact such a power may have on seeing the UK as a jurisdiction of choice by investors; even then it would seem right for Parliament to scrutinise such a constitutional extension at length.

(1d) – Expanding the role of the Financial Services Compensation Scheme (FSCS)

Q14 – What are your views on this proposal to expand the role of the FSCS?

The IMA remains of the view that some pre-funding of the deposit guarantee scheme of the Financial Services Compensation Scheme should be introduced.

We support the FSCS taking on a wider role, as suggested, to act as a single point of contact in the UK for deposit guarantee schemes in other States. The model should be adopted across all EU States so that all consumers benefit from this support.

We have also stated in our response to the Turner review, that we consider the FSCS's position needs re-consideration in light of the significant sums owed to it from defaulted firms. In that regard, the FSCS may need to be re-configured as an entity reporting to HMT and not via the FSA. Additionally the FSCS could make the rules

for the scheme. This would include the power either to make a rule or to recommend a rule to the FSA in relation to the requirements on existing firms to co-operate with the FSCS by action and organisational changes so as to facilitate early payout. A rule relating to the single customer view should in future be within the FSCS's powers; alternatively the FSCS Board should have the power formally to request such a rule be introduced and the FSA would be required then publicly state why it had not acceded, if that were the case.

(2a) – Financial capability and Money Guidance

Q15 – What are the advantages and disadvantages of the relevant consumer credit firms contributing to the costs of Money Guidance?

The IMA supports the decision to ask consumer credit firms to contribute to the cost of the National Strategy for Financial Capability and Money Guidance. As firms which are in close consumer contact, particularly with the target group for the Money Guidance service, they should participate. The obvious advantage is the increase in funds, however big that might be. The disadvantage may be the cost of collection, given that consumer credit is offered by so many firms, some very small and some whose principal business is often not in the financial services sector.

Q16 – The Government believes that some organisations, such as free and impartial debt advice providers, should be exempt from the levy on consumer credit licence holders – do you agree? Are there other cases where an exemption is appropriate?

Any charity providing debt advice should be exempt from the levy. Indeed they are likely to be working in partnership with FSA already on money guidance.

Q17 – What factors should be considered in designing an appropriate levy scheme for consumer credit firms?

Every consumer credit firm should pay a minimum fixed amount, but the levy should then be increased in proportion to the size of the firm's business, measured accordingly (in terms of turnover/loan book size to individuals?) and its level of contact, in sales and marketing terms, with consumers.

(2b) – Strengthening the FSA's consumer capability

Q18 – What issues need to be resolved to establish a successful consumer education authority set up by the FSA?

The issues to be resolved are:

- the need for clear objectives, progress towards which can be evaluated over given periods of time. Otherwise, there is a sense that funds are being poured into a vacuum.
- the question of whether adequate funding to meet those objectives can be generated year on year and that it is based on a partnership approach involving the relevant experts in the public and private and voluntary sectors;

- safeguards to ensure that the organisation is in proportion to the agreed tasks; i.e. it does not become too large and ultimately does not exist for too long;
- clarity on who is in charge and accountable – a governance structure which takes account of the funding partners' and consumer interests.

An issue, which may be impossible to overcome, given the timing of the legislation, is the uncertainty, that inevitably prevails ahead of a general election, and the effect this may have on planning and recruitment.

Q19 – What are your views on the scope of the new authority? Should it also, for example, champion consumer interests and act as a consumer voice in financial services?

The new authority should have the same scope that the FSA's Financial Capability team currently has. The FSA's public awareness objective to promote understanding of the financial system and to help retail consumers of financial services achieve a fair deal makes good sense. The separation of this activity into a separate body should give it a higher profile and enable contributions to be made over and above those from FSA regulated firms.

It should not lead to a change of scope or significant increase in costs per se. There are already well-established consumer champions, such as the Consumers' Association, and there is the proposed Consumer Advocate. Clearly, the strategy will be centred on consumers' needs for education and information, but its implementation must be practicable in the context of a healthy financial services sector and a realistic appreciation of the available resources. It must also be determined to build on existing and forthcoming initiatives from the industry and voluntary sector – to be a facilitator of good practice as far as possible, rather than a primary provider of materials.

Q20 – What are your views on the governance and funding proposals for the authority?

The governance and funding proposals are fine in principle, but there is insufficient detail for IMA to give its full support.

The Board should represent consumers, providers, voluntary sector expert partners and major funders. The governance should be based on the FOS/FSCS model. (see answer to Q21.)

The funding required is likely to be considerably higher than the FSA's current £22 million annual budget for financial capability taking into account the cost of Money Guidance roll-out and the operational costs entailed by the new authority – a figure of £70-80 million has been mentioned. Yet, it is not at all clear how the split between FSA regulated firms, consumer credit firms, dormant accounts and taxpayers will pan out.

IMA members will not wish to increase their contribution to financial capability at this time. They need to be reassured that their existing contribution is delivering results.

There are numerous, examples in the market of clear, educational information for consumers provided by IMA firms. In this sector's case, there is also the fact that 85%* of retail fund sales are made through financial advisers. IMA firms are conscious of the need for consumer information and there are numerous, high quality examples of education information from individual firms. They also support the production of the generic materials that IMA distributes and shares with consumer helpline services and websites, such as Money Made Clear. Overall, IMA members are pleased to support the FSA's public awareness objective, but they prefer to do so knowing they have some control over the quality of the input and with a reasonable understanding of the benefits. However, amongst some firms, there is a view that improving individuals' financial capability should be funded from Government funds, such is its importance from a social and economic perspective. FSA's recent research on the impact on well-being reinforces this point.

*Source: IMA stats

Q 21 – To what extent should the authority be independent of the FSA?

The new authority's independence should be based on the FOS/FCSC model, such that the FSA's other statutory objectives still come into play in the new authority's decision-making. Its Directors will be appointed by FSA and it will receive funding from the FSA, but otherwise, in operational terms, it will be independent.

(2c) – Swift and effective redress

Q22 – How can better routes to collective redress be achieved, which deal with claims more efficiently, reduce the time that claimants may have to wait, and reduce the volume of individual cases dealt with by the courts or FOS?

It is axiomatic that consumers who have suffered loss in respect of which authorised persons are liable should be compensated. We acknowledge the concerns of other bodies that the process demands (to an extent) claimants to take individual action on their own initiative and that the current processes may not have been sufficiently responsive to the number of issues where large groups of claimants are involved.

We strongly agree that the emphasis should remain on ensuring that firms compensate the consumer voluntarily and deal with complaints in a timely manner; these are matters that supervisors could focus upon.

Care should be taken to ensure any new approach compliments, rather than hinders, existing systems of redress. Clarity for consumers as to the mechanisms for redress is also important if confidence is to be engendered in the industry. It appears that concerns do relate to widespread or regular failures rather than seeking to alter the basic approach of complaints handling and FOS access. In that regard we therefore address section 404 below.

Q23 – What are the pros and cons of updating FSMA section 404 through expanded new powers for the FSA to which different procedures will apply as proposed?

We assume FSA have chosen not ask HMT to use section 404 in the cases your paper mentions for some good reason. We are unsure from the brief statements in your paper what would change by FSA having the power to make a scheme, unless the issue in the past was a failure by HMT to agree with FSA. It appears to us that the advantage to the FSA of having the power to make a scheme under section 404 is that it does not then have to identify every firm affected nor itself discover the evidence as would be required for a restitution action under section 382. We have sympathy for this. However we consider that it must be recognised that not every claimant does have a justifiable claim and it is important to provide certain protections if this is no longer an HMT power:

1. The making of a scheme could not extend to determinations of liability; that must remain a matter for law and the courts. To be clear, the scheme may as now require a firm to look into the matter and pay compensation in accordance with law where there is a loss. Article 6 protections cannot be overridden.
2. The FSA should be required to prepare a report as now and that should be published with the scheme.
3. Persons affected should have a right to apply to the Tribunal if they consider the scheme requires them to make redress where no legal liability for redress could arise – our language is carefully chosen; it could not be argued that FSA had not proven a case against any particular firm for that would undermine the purpose of the scheme. The narrow issue is where a scheme made a firm liable for an event or loss that the domestic courts would not recognise; there must be a mechanism for independent review. If your implication is that judicial review or consultation deals with this, we think the Tribunal is a more suitable venue than the Administrative court and consultation cannot override article 6.
4. Linked with 4, is the perennial fear that today's standards are retrospectively imposed on historic events when firms are judged. The scheme must not look at the past as the FSA wished it might have been if as a regulator the FSA itself never suggested certain practices were unacceptable (for example on supervision visits that looked at the very issue).
5. The FSA's position on limitation (time bars on claims) must be made clear in the statute. If they are not to be bound by limitation this needs to be determined by Parliament and not left to choice on individual schemes.

Consideration must be given where investment firms are concerned to unlevel playing fields across the EU, especially as it may not be possible for the UK to impose any such system upon incoming passported firms competing for the same business; and in any event the UK may need to notify schemes under Article 4 of the MiFID Implementing Regulation as it relates to complaints handling.

Q24 – What are the pros and cons of introducing a new representative action process where there is evidence of a breach of FSMA or FSA rules, and should this extend to breaches of other requirements in the area of FSA supervision?

See the answer to Question 23 above. If the breaches of those requirements give rise to actionable claims at law then it could be so extended. But this process cannot be used to found a claim that otherwise does not exist.

Q25 – How should such a representative action process be structured?

We have no firm views, though our responses to Questions 22 to 24 show our approach. We consider the “opt-out” model has some real dangers to it in terms of wrongly balancing the incentives to settle claims promptly if they are legitimate.

Q26 – The Government invites views on the potential costs and benefits of its collective redress proposals.

See the answers to Questions 22 to 25 above.

SECTION B – AREAS FOR DISCUSSION

(1) – Managing systemically significant firms

Q1 – Do you agree that the systemic significance of a financial institution should be explicitly linked to regulatory capital requirements?

Q2 – How should systemically significant institutions be categorised? For example should there be a fixed list or a sliding scale of importance, how often should such a list be updated, and should any list of systemic significance be made public?

Q3 – Can you identify any other important challenges to implementing stricter regulation on systemically significant institutions?

The IMA set out its views on this area in detail in the first section of its response to the Turner review; it is attached.

Q4 – Do you agree that banks should be required to establish more detailed contingency plans in times of failure?

The IMA supported HMT addressing this subject in its Effective Resolution of Investment Bank Insolvency work. Our response to that paper in relation to living wills is repeated below:

“In relation to the above questions 12 – 16 [relating to contingency planning etc] we support the principle that systemically important firms should have contingency plans and business information packs. This ought to assist not only insolvency practitioners but also supervisors. However it is important that the costs of these and a proportional approach is considered; no doubt any future work will consider the real

detail and benefits and costs of the proposals long before they are required of firms. We note that a Lehman administrator called for this and that the Obama administration has picked up on this “living will” concept in its recently published plan.”

(2a) – Barriers to entry and encouraging new entrants to the retail banking market

We have not responded to this section (Qs 5 – 11).

(2b) – Access to simple, transparent products

Q12 – Would simplified labelling help consumer understanding of financial products? What lessons can be learned from the traffic light system of food labelling and how can these be applied to financial products? Should such labelling be compulsory?

IMA supports clarity and transparency in terms of product information. What it does not support is over-simplifying the information to the extent that important features of a product are overlooked by consumers. Simplification could indeed lead to a misunderstanding and unreasonable expectations by investors. In the case of investment funds, a traffic light system focus is likely to focus on volatility as a measure of risk. Such risk should indeed be minimal for some savers, but for others who can afford to invest and should invest for long term returns, some volatility is a necessary and inevitable component of the investment package.

Such simplified labelling should not be compulsory in the case of investment funds. Clear disclosure already is and a indication of volatility risk is one important measure that can be taken into account by investors. Our focus should be on helping consumers appreciate the tools, information and advice available to help them choose products which met their personal financial needs.

Q13 – Which products would, and would not, be suitable for simplified labelling? Is it possible to establish a single system of disclosure for a diverse range of products?

Protection and savings products which deliver a certain outcome would be potentially more suitable for labelling. A single system for a diverse range of products is likely to become complex, if it is to encompass the important features of each product in the range – risk, ease of access, sensitivity to inflation, lock-in times - and that is assuming you do not include forms of payout and charges.

Q14 – Should price be benchmarked? Should there be disclosure to help people identify products which are relatively expensive?

Price can be benchmarked, but it is not the only cost measure in many products. In the investment fund industry, upfront and annual charges are clearly stated and comparative tables also give the Total Expense Ratio as a measure of the overall costs on most funds. Also, at risk of stating the obvious, the lowest price, does not necessarily indicate the best value for money.

Q15 – Why do some existing simple products not sell well?

A definition of what is meant by “simple” would help in answering this question. Some products, such as those with an income guarantee or capital guarantee (structured products), distributed as “simple”, low risk ways to access stock market returns, have sold very well. While a savings plan for £20 or £50 per month into a simple diversified investment fund, one that would have qualified for a CAT mark, has not been at all popular. The difference is that the first gives the provider a reasonable margin, the second does not. The first is a complex product, but easy to market. It attracts lump-sums and typically retains them for a fixed period. The second is a simple product, but hard to market. It is clearly a good way in principle to encourage more savings from income, but in practice the revenue for the firm is too small in relation to the unit costs associated with sales and administration.

Q16 – Should the Government extend the concept underlying RU64 to other products – i.e. require firms to demonstrate why a complex or expensive product is better than a simpler or cheaper alternative?

The FSA Treating Customers Fairly principles and its disclosure regulations require investment firms to market their funds in a way which is clear and not misleading and to check that the information they provide meets those objectives. IMA does not therefore see any reason to extend the concept underlying RU64. There is also a danger that it would over complicate the information provided for certain groups of savers and investors. Complex products are not necessarily better than simple alternatives, so any explanation could be contentious. In many cases the comparison is likely to be one of apples with oranges. Furthermore, in the investment market, the question of whether an expensive product is better or worse than a cheaper alternative is often unclear at the outset and can only be answered when the investor cashes in.

Q17 – Who should set benchmark standards for products?

IMA does see a need for benchmark standards in its sector. FSA's regulation of authorised investment funds means there are in effect already “standards” in terms of security and transparency. Their distribution is also regulated. Comparisons on price and overall costs are readily available. Given this framework, market forces should be allowed to play their part in determining which products are successful. The risk is that standardisation will constrain competition and innovation to the detriment of consumers in the future.

(2c) – Mortgage insurance

We have not responded to this section (Qs 18-19).

(2d) – Financial Services Compensation Scheme governance and accountability

Q20 – Do you have any views on how the governance and accountability of the FSCS can be strengthened to help it successfully deal with these new challenges?

Please see our answer to Q.14 of Section A

(2e) – Strengthening crisis management and depositor protection across the EU: single point of contact

Q21 – Do you agree that a single point of contact would be a suitable way of handling cross-border compensation issues in the EU? If not, why not and what alternative would you suggest?

Yes, all EU States should have this approach. Mechanisms for recharging associated costs to other countries should be agreed.

Q22 – How should a single point of contact operate?

We have no particular view.

Q23 – Should there be more or less harmonisation of EU deposit-guarantee schemes?

The EU has already set out proposals for harmonisation of EU deposit guarantee schemes, particularly on the two key variables: minimum coverage and timescales for payout. Conceptually, harmonisation beyond that point may be illusory due to widely different legal regimes.

Q24 – What are your views on the possible introduction of a pan-EU deposit guarantee scheme?

We have no particular view, but greater harmonisation might preclude unilateral action as seen last year that itself risked destabilising some economies.

Reducing the probability of failure through more intensive risk based supervision and appropriate capital and liquidity requirements must be the priority.

(3a) – Improving building society governance

We have not responded to this section.

(3b) – Financial compensation and Industrial and Provident Societies

We have not responded to this section.