UKSIF
UK Sustainable Investment and Finance Association

21 November 2012

Jason Pope
Conduct Policy Division
Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

E-mail: cp12_19@fsa.gov.uk

Dear Mr Pope,

Thank you for the opportunity to comment on the Financial Services Authority's (FSA) consultation CP12/19 *"Restrictions on the retail distribution of unregulated collective investment schemes and close substitutes"*.

About UK Sustainable Investment and Finance Association

UK Sustainable Investment and Finance Association (UKSIF) is the UK's membership network for sustainable and responsible financial services. We promote and support responsible investment and other forms of finance that advance sustainable economic development, enhance quality of life and safeguard the environment. We also seek to ensure that individual and institutional investors can reflect their values in their investments.

UKSIF was created in 1991 to bring together the different strands of sustainable and responsible finance nationally and to act as a focus and a voice for the industry. UKSIF's 250+ members and affiliates include financial advisers, institutional and retail fund managers, pension funds, banks, research providers, consultants and NGOs. For more information about UKSIF, please visit www.uksif.org.

Introduction

UKSIF appreciates the FSA's very legitimate concerns about the exposure of ordinary retail investors to unsuitable investment products. However, we were disappointed to see that this paper makes no mention of client investment objectives that go beyond financial aims, including social investment. Given the recent Cabinet Office consultation paper *"Red Tape Challenge: Civil Society – Social Investment"* which considered regulation to increase social investment, the FSA's stance seems particularly odd.

Our response draws both upon member feedback and upon a previous UKSIF submission to the aforementioned Cabinet Office's *"Red Tape Challenge: Civil Society – Social Investment"* in September 2012[1] as well as our recent response to the European Commission's consultation on "*UCITS: Product Rules, Liquidity Management, Depository, Money Market Funds, Long-term Investments"*[2].

Question 1: Do you agree that we should look to impose restrictions on the promotion of non-mainstream pooled investments to ordinary retail investors?

UKSIF appreciates the FSA's concerns about the distribution of unregulated collective investment schemes to retail investors for whom such products may not be suitable. However, we feel that the proposed restrictions set out in the consultation paper fail to recognise that many retail investors have objectives that go beyond financial aims, such as investing in accordance with their values e.g. investing according to social, environmental and local concerns.

The FSA's regulatory approach in the past has often focused on the concept of 'suitability'; while we appreciate the intention to move from regulating advisors to regulating products, we feel that imposing such strict restrictions on the promotion of non-mainstream pooled investments to ordinary retail investors actually runs counter to the concept of suitability, instead seeming to make it a consideration only after excluding a section of the investment market.

Yet there is clear evidence that 'ethical' or 'green' considerations are increasingly taken into account by retail clients and the public more generally when considering how to invest their money. This is based both on feedback from our financial adviser members and UKSIF/YouGov research for National Ethical Investment Week 2012, the UK's 'Sustainable Investment Week' which indicates strong retail investor interest[3]:

- **45%** of UK adults with savings or investments want **at least some of those to take green and ethical considerations into account**, with **15%** wanting **all their investments to do this**.
- **46%** of UK adults want to **put at least some of their investments into 'impact investments'** such as social enterprises, which produce both a financial and a social or environmental benefit.
- **55%** are interested in **knowing more about 'impact investments'**.

We feel that a simple ban on the promotion of UCIS and similar products to retail investors would "throw the baby out with the bathwater"; as currently proposed, this would be counter-productive and restrict the availability of what may be suitable products for some ordinary retail investors with extra-financial motives as well as financial ones. This could end up deterring good quality investments including, for instance, social investment; in this particular case, as the Cabinet Office's recent *"Red Tape Challenge: Social Impact Investing"* paper[4] consulted on ideas to boost investment

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[1] http://uksif.org/wp-content/uploads/2012/10/sep-UKSIF-submission-to-Red-Tape-Challenge-Social-Investment-13Sept12.pdf Accessed 16th November 2012.

[2] http://uksif.org/wp-content/uploads/2012/10/Oct-Final-UKSIF-response_UCITS_181012.pdf Accessed 16th November 2012.

[3] UKSIF/YouGov figures, National Ethical Investment Week 2012.

[4] http://www.redtapechallenge.cabinetoffice.gov.uk/civil-society-social-investment/ Accessed 16th November 2012.

in social enterprises and other social investment projects, the FSA's proposals seem out of step with current Government thinking.

Some of our financial adviser members also tell us that the current proposals on high net worth investors are too restrictive to enable advisers to offer the most suitable advice; those who would be considered 'high net-worth' individuals, but who would not necessarily fall under the 'sophisticated' investor category are often willing to make the kind of investments that offer both financial and non-financial returns but may also be considered a greater risk such as, for instance, investing in non-mainstream pooled investment products.

In terms of our recommendations, UKSIF sees transparency, labelling, consumer education, trustworthy distribution channels and the removal of barriers to good quality advice as the most appropriate responses to the FSA's legitimate concerns about non-mainstream pooled investments.

Another option, although less desirable, would be to instead place a 'cap' on the investments ordinary retail investors and non-sophisticated high net-worth investors can place into UCIS e.g. 10% or 25% of their assets or up to a monetary limit, where they can self-certify that they have alternative reasons as to why they may choose to invest in a non-mainstream pooled investment product. These could include such reasons as: supporting a local initiative, investing in an area the investor feels they understand well even though they do not meet the 'sophisticated' or 'high net worth' investor definitions, or having a set of values which motivate them to invest in specific projects such as renewables or social impact investing. This option would also be in line with the proposals raised in the UK *"Red Tape Challenge"* on social investment that ordinary retail investors could be subject to a cap on such assets that they can hold through any one fund.

Question 4: Do you agree that we should remove the general ability of firms to promote UCIS under COBS 4.12.1R(4) category 1?

As outlined in our response to Question 1, we do not believe that the general ability of firms to promote UCIS under COBS 4.12.1R(4) category 1 should be removed; some ordinary retail investors may wish to invest in non-mainstream pooled investment products due to environmental, social or local concerns and these products may be suitable for them.

Question 6: Do you agree that we should remove the ability of firms to promote UCIS under COBS 4.12.1R(4) category 2?

We disagree with the removal of the ability of firms to promote UCIS under COBS 4.12.1R(4) category 2 for the reasons outlined in Question 1 above.

Question 7: Do you agree that we should remove the exemption in COBS 4.12.1R(4) category 8?

We disagree with the removal of the ability of firms to promote UCIS under COBS 4.12.1R(4) category 8 for the reasons outlined in Question 1 above.

Question 8: Do you agree that we should limit the ability of firms to promote QIS, securities issued by SPVs and TLPIs in the retail market?

No. As outlined in our answer to Question 1, we feel that the restrictions placed upon firms' ability to promote the most 'suitable' products to their clients would be overly curtailed by the proposed restrictions.

Question 10: Do you have any comments on the Handbook guidance we proposed to add regarding the use of exemptions in the FPO and PCIS Order?

For UKSIF's comments regarding the principles underlying the additional Handbook guidance, please see our answer to Question 1.

We trust that our comments will prove to be self explanatory, but if you would like any further clarification, I hope that you will not hesitate to contact us.

Yours sincerely,

Penny Shepherd MBE
Chief Executive
UK Sustainable Investment and Finance Association (UKSIF)