

Guidance note

No. 9 (2010)

Date of coming into effect: 23 April 2010

Financial regulation for social housing providers

Application

- 1.1 This guidance note is relevant to social housing providers.

Introduction

- 2.1 This guidance note aims to help social housing providers understand what activities they may carry on without being subject to FSA regulation or breaching restrictions on financial promotion.
- 2.2 It is intended to have a continuing effect.
- 2.3 It explains the circumstances in which some social housing providers may not need to be authorised in the area of insurance mediation, and what activities involving deposits are subject to FSA regulation. It also explains how financial products can be promoted by social housing providers without breaching restrictions on financial promotions.
- 2.4 This guidance note gives guidance on the legislation. It does not give guidance on the provisions of the FSA's Handbook, but does draw heavily on guidance already contained in Chapters 2, 5 and 8 of the FSA's Perimeter Guidance manual (PERG).
- 2.5 We know that social housing providers – Housing Associations and Local Authorities (LAs) and their Arm's Length Management Organisations (ALMOs) – are eager to promote financial inclusion among their residents.
- 2.6 We also know that some providers have concerns about making financial products available to their residents because of concerns about the boundaries of regulation.
- 2.7 Because of these concerns, we have produced this simple guide to clarify the regulatory position on the most popular types of financial products and services that housing providers may consider making available to their residents, which are contents insurance and banking facilities.

Guidance

General

What is it that social housing providers must do to avoid breaching the regulatory provisions of the Financial Services and Markets Act 2000 (FSMA)?

3.1 Housing providers will need to ensure that they do not:

- carry on a regulated activity for which they would need FSA authorisation; or
- communicate a financial promotion unless it is exempt from the restriction in section 21 of FSMA¹, or has been approved by an authorised person. (Broadly speaking, a financial promotion means an invitation or inducement to buy or sell most financial products – including insurance contracts – or to receive investment advice or other services.)

Insurance

What is the regulatory position for social housing providers wishing to arrange contents insurance for their residents?

3.2 Registered Social Housing Providers (RSHPs) or LAs do not need to be authorised by the FSA to arrange or advise on contracts of general insurance, as they have a specific exemption.² This means they can arrange contents insurance for their residents and even recommend a particular product. It also means that a housing association offering an insurance-with-rent scheme can accept an additional sum on top of rent to pass on to an insurer as premium without needing to be authorised.

3.3 This exemption from regulation does not apply to ALMOs. However, ALMOs will not need to be regulated if they are not rewarded for arranging the insurance. This is likely to arise where the ALMO is not paid by the resident for arranging the insurance, passes on any commission received to the LA, and does not receive any non-monetary rewards as a result of administering the resident's contents insurance scheme.

Savings and bank accounts

Do social housing providers need to be regulated if they wish to enter into partnerships with credit unions, building societies or banks (deposit-takers) to set up banking accounts or savings schemes for their residents?

3.4 The activities of arranging and advising on savings schemes involving deposits are not subject to FSA regulation. Deposits include current accounts, term accounts (often called 'bonds'), savings accounts and building society share accounts.

3.5 Therefore, a social housing provider can establish a partnership with a deposit-taker to set up a savings-with-rent scheme or a bank account for a resident without needing to

¹ This is the legislation that underpins the FSA's work. You can find it online at: http://www.uk-legislation.hmso.gov.uk/acts/acts2000/ukpga_20000008_en_1

² <http://www.opsi.gov.uk/si/si2003/20031675.htm#note2> This order was amended recently to add a non-profit registered provider of social housing as a "relevant housing body" in paragraph 48(2)

be authorised. This assumes that the scheme involves the residents opening savings accounts directly with the deposit-taker and not with the housing association itself, which acts simply as an intermediary.

- 3.6 This approach to savings-with-rent also applies to social housing providers seeking to establish partnerships to make Saving Gateway accounts available to their residents from July 2010 onwards.
- 3.7 If social housing providers arrange for their residents to access a savings scheme based on a financial product other than a deposit account (such as life insurance or unit trusts) they may require authorisation.

Advice

In what areas can social housing providers give advice on financial products and services to their residents?

- 3.8 Social housing providers can offer advice on deposits and RSHPs, or LAs can offer advice on general insurance products. ALMOs can offer advice on general insurance products provided they are not rewarded in any way for doing so. If social housing providers give advice on any other financial product they may require authorisation.
- 3.9 This does not stop social housing providers:
- introducing residents to FSA-regulated firms that give independent investment advice;
 - offering financial capability training; or
 - taking part in our money guidance work.
- 3.10 Social housing providers may also provide advice to residents about loans available at local credit unions or Community Development Finance Institutions.

Restrictions on financial promotion

- 3.11 Encouraging residents to consider taking out a *specific* contents insurance product, current account or savings account is likely to result in communicating financial promotions.
- 3.12 The restriction on financial promotion applies even where activities are not regulated, such as arranging and advising on contracts of general insurance for RSHPs or LAs.³ There are no specific exemptions for RSHPs and LAs regarding their financial promotions.
- 3.13 However, there are a few simple steps that can be taken to ensure that a social housing provider can promote contents insurance, current accounts or savings accounts without falling foul of the restriction. These are that any promotions should be:
- ‘real time promotions’ (promotions made during the course of a face-to-face or telephone conversation);

³ See Paragraph 3.3

- posters, leaflets or brochures that are issued by an FSA-authorised person (typically the relevant insurer/broker or deposit-taker);
- written promotions issued by the social housing provider, but whose contents have been approved by an authorised person; or
- written promotions that contain basic information about the insurer,⁴ bank,⁵ building society⁵ or credit union.⁵

3.14 The last two bullet points in 3.13 could include a poster or a leaflet in which the social housing provider uses its own brand.

3.15 This guidance is not exhaustive and, in the case of more complex queries, we advise social housing providers to consult our Perimeter Guidance manual (PERG), which is available on our [website](#). You may also wish to consult our perimeter guidance team on 020 7066 0082 or perimeterguidance@fsa.gov.uk.

Commencement, duration and status

- 4.1 (1) This guidance note:
- (a) was made on 19 April 2010; and
 - (b) comes into force on 23 April 2010.
- (2) It has the same status, and you may rely on it to the same extent, as other general guidance given by the FSA. This is explained in Chapter 6 of the Reader's Guide to the FSA's Handbook of Rules and Guidance.
- (3) It will remain in force until further notice.
- 4.2 This guidance is given under section 157 of FSMA.
- 4.3 Queries on this guidance note should be addressed to colin.kinloch@fsa.gov.uk.

⁴ Including full name, country of incorporation, identity of regulator, and details of a complaints and/or compensation scheme if they have one.

⁵ Including full name, country of incorporation, identity of regulator, and details of a complaints and/or compensation scheme if they have one. Also, if the deposit-taker is a body corporate, it must also include either the amount of its paid-up capital and reserves (and use that wording when describing it) or a statement that the amount of its paid-up capital and reserves exceeds a particular amount (and stating what that amount is).