Individual responsibilities

Professor Jim Gower's words "the investor is entitled to some protection from ignorant fools, as well as from convicted crooks", from his report on investor protection in the early 1980s, are as true today as they were then.

The recent Financial Services Authority consultation document on the regulation of individuals ("approved persons" in the jargon), continues to recognise the essential role played by individuals in the provision of financial services and is strongly welcomed.

"Appropriate standards of individual behaviour are particularly important in the financial services industry where the actions of an individual can have a significant impact on the firm, its consumers and the market," according to the FSA. This is absolutely right, and is a principle that underpins regulation in the US, a market which is far larger than that in the UK, and is the standard which has been practiced here under the financial services legislation dating back to the Act of 1986.

The Securities Institute strongly supports its continuation under the proposed new regime. We emphasise again our belief that practitioners should also continue to update their knowledge of the industry and its products. As an Institute, we have a strong commitment to training and education in order to ensure that those who advise their clients are knowledgeable and up-to-date. In our examinations, too, we try to ensure that only those who display a well-rounded knowledge of their subject are awarded pass marks.

We hope and expect that a programme of demonstrated continuing expertise will be required by the FSA when its long-awaited proposals on training and competence are produced soon. We recognise the value of experience in the industry, but it must be updated on a formal basis. If the medical profession insists on doctors updating their knowledge continually, why should financial services customers not have the same reassurance?

The FSA also needs to recognise, however, the importance of the word "significant" in the quote above. Although it is always difficult to define "significant" (at least outside the realm of statistics), regulation must operate in a way which those subject to it, recognise as fair. There have been concerns that every job change within a firm of an approved person has to be subject to FSA agreement. Others have expressed fears that every dividend clerk in a bank will have to be individually approved. Either of these is going to overburden the industry for little or no customer benefit. The FSA, they say, is not in being to run regulated businesses.

"The investor is entitled to some protection from ignorant fools as well as from convicted crooks."

In going back to first principles on this issue and still concluding that individual registration is the right course, we believe that the FSA has reached the right decision, and one which vindicates much of what has developed in financial services regulation over the past decade. The system has served customers well, but we urge the FSA to ensure that the enhanced approval of individuals regime, is not imposed so rigidly as to be buried under its own complexity.

TAXATION

Twist in the tale

CHANCELLOR OF the Exchequer Gordon Brown provoked hostile reactions from several European finance ministers when he outlined the UK's objections to the proposed Withholding Tax at the ECOFIN meeting in September. However, he is not the only finance minister lining up against the tax, *writes Christine Moir*.


■ Brown: could be backed by Luxembourg

At the time of going to press, fund management professionals and politicians across Europe were nervously awaiting a paper by Luxembourg finance minister Jean Claude Juncker on the damage the current proposals would do to collective investment funds, the primary source of the Grand Duchy's international income.

Mr Brown had aimed to prevent the international bond market – overwhelmingly used by institutional investors – from being driven out of Europe by the kind of ham-fisted withholding tax that drove bond market activity out of the US in the 1960s and created the eurobond market. Last month, he proposed that international bonds should either be exempted from the new tax or that it should apply only to holdings under €40 000.

This provoked German finance minister Hans Eichel to declare that it was "socially unjust" to want the tax to apply only to small investors, which prompted Luxembourg authorities to see if they would damage the country's core business of packaging small investors' bond holdings.

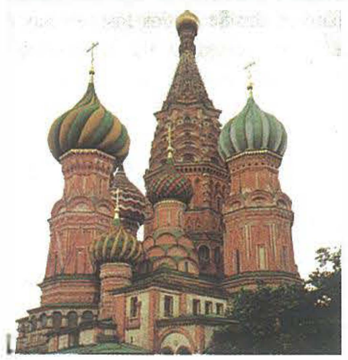
Mr Juncker asked for time to talk to his colleagues before publishing a paper that could have Europe-wide significance. The British Association of Unit Trusts and Investment Funds has indicated that it shares Luxembourg's fears that the tax could scupper pan-European investment funds that are only just establishing themselves after the arrival of the euro.

The issue is growing more urgent. The Germans failed to have the tax done and dusted by the end of its presidency of the European Union in June. The Finns, who take over until the end of the year, may not be so anxious to see a withholding tax, but would also want to resolve it before December's Helsinki summit.

RUSSIA

Crooked deals cold-shouldered

GREATER CO-OPERATION in tackling abuse of financial rules and regulations in cross-border dealings involving UK and Russian investors and investments will be ensured by an agreement between UK regulatory authorities and the Russian Federal Commission for the Securities Market, the new Economic Secretary to the Treasury, Melanie Johnson, has announced.



"The increasing globalisation of financial markets requires regulatory authorities to work together to tackle abuses of rules, regulations, and laws that harm investors. This is the seventh bilateral agreement on financial regulation that we have reached with a non-EU country, and will reinforce the strength of the City of London as a major international financial centre," she said.

The signatories are the Treasury, the UK Financial Services Authority, the London Stock Exchange, and the Russian commission.

E-COMMERCE

Laying down the cyber-law

HOWARD DAVIES, chairman of the Financial Services Authority, has responded to concerns about the regulation of Internet-based financial services operators by outlining the FSA's proposed strategy.

Speaking at a fringe meeting at the Labour Party conference organised by Swiss Life UK and thinktank Demos, Mr Davies said: "We are in the middle of an explosion of Internet activity. We have to find a way of adapting our regulatory environment to new technology, not adapting the new technology to the old regulatory rules."

The proposed strategy, which Mr Davies said would be debated with the industry, has five components:

■ Surveillance: obtaining information on Internet-based services from FSA's own surveillance staff or from other sources such as the industry.

■ Education: alerting investors to the advantages of Internet investing and the ability it gives them to compare products and services, while emphasising the need to carry out basic checks on firms. Such checks will become cheap and easy in the future using the FSA's website, which will be redeveloped to make it more accessible to the public.

■ Co-operation: strengthening mechanisms of co-operation between regulators. The Forum of European Securities Commissions and its enforcement arm, FESCOPOL, have been established to improve co-operation between European regulators, while the Financial Stability Forum was established by the G7 countries to facilitate cross-border co-operation.

■ Security: ensuring that saving and investing through the web is as secure as other routes, including the protections in place in the rest of the regulatory regime such as the ombudsman and compensation schemes.

■ Enforcement: taking action, where appropriate, against those responsible for the content of a website.