

Consultation response

Ref: 2509(S)

Summary: Financial Services Authority CP 09/06 Regulating sale and rent back: an interim regime

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The Office of Fair Trading's (OFT) report into the sale and rent back market in October 2008 showed that the potential for serious consumer detriment is unlikely to be addressed through the existing framework of consumer protection. The Government accepted the OFT's recommendation that Financial Services Authority (FSA) regulation should be extended to cover sale and rent back agreements. The FSA is now consulting on how it intends to implement this proposal. It proposes a two-stage approach: an interim regime to be brought in as soon as the necessary legislation comes into force this summer (likely to 1 July 2009), to be followed by a full regime which is likely to be implemented in the second quarter of 2010.

Key points and recommendations

1. Age Concern and Help the Aged strongly welcomes the Government's proposal to extend FSA regulation to sale and rent back schemes, and FSA's proposals to introduce an interim regime as soon as possible.
2. We urge FSA and the OFT to monitor those 'lifetime lease' schemes that would not fall within the proposed definition of 'sale and rent back', in case undesirable practices emerge in that market.
3. We recommend that FSA devotes extra resource to policing the regulatory boundary in order to pick up firms who continue operating illegally once the regime is in force, as well as to ongoing supervision of firms with interim authorisation.
4. In order to ensure that charges are not excessive and customers are treated fairly, we recommend that firms should be required to report (or at least maintain records of) property valuations and purchase prices of properties.
5. The disclosure rules should ensure that consumers are made aware of their ability to choose their own valuer, the availability of independent benefits advice, and the existence of any ancillary costs and charges.
6. We are concerned that interim-authorised firms will not be covered by the Financial Services Compensation Scheme. We recommend that FSA looks at other short-term options in addition to status disclosure, such as the possibility of requiring firms to post a bond or put some insurance in place.