



**TISA Response to: CP 18/19
– Introducing the Directory**

October 2018

About TISA

TISA is a unique, consumer-focused membership organisation. Our aim is to improve the financial wellbeing of UK consumers by aligning the interests of people, the financial services industry and the UK economy. We achieve this by delivering innovative, evidence-based proposals to government, policy makers and regulators.

TISA's growing membership comprises over 180 firms involved in the supply and distribution of savings and investment products and services. These members represent all sectors of the financial services industry, including asset managers, insurance companies, fund managers, distributors, building societies, investment managers, third party administrators, FinTech, consultants and advisers, software providers, financial advisers, pension providers, banks and stockbrokers.

Current themes of TISA policy work include:

- Brexit: developing proposals for government that will enable the savings and investments sector to prosper on a global scale
- Digitalisation: a digital identity for consumers of financial services, innovation, standards and data responsibilities
- ISA's: LISA, simplification of the regime
- Retirement saving: the Auto Enrolment review, self-employed and pension tax relief
- Housing: the use of property to supplement retirement income
- Guidance: developing a framework and services to make guidance more widely available
- Education: supporting the education of young people to make them aware of the impact of finance on their life.

TISA also provides support on a range of operational and technical issues targeted at improving infrastructure and processes, standards of good practice and the interpretation and implementation of new rules and regulations. TISA has a successful track record in working cooperatively with government, regulators, HMT, DWP and HMRC to improve industry effectiveness by reducing cost and risk and to enhance customer outcomes. This work currently includes: MiFID II, CASS, the UK Fund Settlement initiative and Payments Strategy Forum. TISA Exchange (TeX) is providing a model for transfers and re-registrations.

Introduction

We support the overall aims of the Directory to maintain and improve visibility of relevant persons for financial services firms and consumers following implementation of the extension of the Senior Managers and Certification Regime (SM&CR) to the non-bank financial services market and the resulting removal of formerly Approved Persons from the Financial Services Register.

Response to CP 18/19 questions

Q1: Do you agree with the proposed scope of the Directory? If not, which individuals should be additionally included or taken out?

The proposed scope appears to cover all relevant individuals across all firms.

In our response to CP 17/25, we noted that certification roles should be included in the Directory to reduce any administration burden on firms by creating sub-categories of certification. There is simplicity in the proposals to include all certified individuals in the Directory, however, on reflection, this approach would result in the unnecessary visibility and potentially costly maintenance of details for a large number of non-customer facing roles which adds unnecessary administrative burden to firms where the details are of no benefit to consumers. Originally, the FCA had stated that the reason for the Directory was so that consumers who took comfort previously in checking that their financial adviser was approved, could take comfort from the Directory. Our members would prefer that the list shown on the Directory are only those carrying out functions that consumers need to obtain comfort on, namely mortgage advisers, investment advisers, portfolio managers, retail traders, etc.

We question the relevance of the following certification roles appearing in the Directory:

- Significant management function
- Algorithmic traders
- Material Risk Takers (MRTs)
- Anyone who supervises or manages anyone performing one of the functions above (and other certification functions)
- Any other individuals requiring qualifications to perform an administrative role

In addition, our members do feel that further clarity and definition of the 'client dealing function' is required to ensure that only relevant staff are captured by this (e.g. to exclude an administrator passing along a dealing instruction to the actual client dealing function). This is particularly acute where individuals will be listed on a directory and members of the public could draw unsuitable conclusions from comparisons which may simply arise from different firms having interpreted the scope of this function differently.

Q2: Do you agree that the proposed information should be published on the Directory?

Our members have noted there may be issues in respect of data protection caused by including details of location, roles, appointment dates and sanctions.

There may also be employment law issues arising from individuals being removed from the directory.

For example, disclosing the fact that a directory person is a Material Risk Taker means that assumptions will be made regarding level of salary. This is usually very sensitive information including within firms themselves.

Another example is that of a certified member of staff who is on gardening leave or suspended. They cannot be removed from the Directory as that may prejudice their employment law rights, but at the same time, users of the Directory may mistakenly assume that person is currently fit and proper to perform their roles.

Q3: Do you agree that the Directory user interface should display information stored on the FS Register and the new Connect database? If not, how should these datasets interact?

We agree the Directory user interface should provide all relevant information to ensure there is no duplication of effort or missed information in interrogating multiple sources.

Q4: Do you agree that the search parameters should return a broader range of results than the current FS Register?

Yes, as this information may be useful to both firms and consumers, however the proposals to include past roles for a firm and an individual do not appear to have any date limitations. Could you confirm the intention is for all historical information to be accessible with no cut-off date?

Q5: Do you agree with the proposed number of business days for reporting when an individual begins undertaking a relevant role, when their circumstances change or when they cease to perform a relevant role? If not, what timeframe do you think would be more suitable?

This timescale is unduly short and our members feel is unlikely to be practicable for both large and small firms. The administration burden would be lessened by aligning the reporting requirements to those currently for FCA approved persons, namely a weekly, rather than daily, update for large firms faced with high volumes of staff changes and small firms with limited HR or compliance resource. Additionally our members have commented that a bulk upload facility for changes would be beneficial to larger firms.

For exceptional cases we suggest extension of the 3-day timescale to 2 weeks as this takes into account standard periods of absence (e.g. holidays). This may also give more time for investigations to be completed thereby avoiding the need for changes to be made and then reversed.

Q6: Do you agree with the proposed timing of commencement and transitional arrangements? If not, which timeframes would be more appropriate?

The proposed commencement timings are reasonable and match expectations of implementation of the SM&CR for insurers and solo regulated firms.

Our members feel that during transition there should be a period of dual running for the Financial Services Register and a 'beta' Directory to allow firms to upload and validate information to ensure accuracy of data, to implement relevant procedures and to ensure relevant history is maintained. This 'beta' Directory, and the live Directory should include a bulk upload facility to allow firms to populate and update all relevant data en masse.

To ensure a full dataset is provided there should be consideration for the record keeping requirements during transitional arrangements as we are concerned about gaps in the data as a result of the fact that certified persons will not have to be uploaded until after commencement. This includes the two-year period to date for deposit takers, where only Senior Managers have been displayed on the Financial Services Register, from 10 December 2018 to 10 December 19 for insurers and from 9 December 2019 to 9 December 2020 for solo regulated firms.

Q7: Do you agree that our proposed measures for ensuring data accuracy are appropriate? If not, please provide details of any additional measures you believe should be taken.

We believe the proposed measures are reasonable and no adverse comments were received from our members in relation to this.

Our members did comment that a data extraction tool would be useful to check the accuracy of data on a regular basis.

Q8: Do you have any feedback on this CBA?

As stated, in the CBA, the additional reporting requirements on firms would increase costs however we have not obtained any data to quantify an amount.

Q9: Do you agree that these proposals would not result in any direct discrimination against any of the protected groups? Please provide any additional feedback you believe is relevant.

We believe the proposals would not result in any direct discrimination against any of the protected groups.