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**Department for
Constitutional Affairs**
Justice, rights and democracy

Claims Management Services Regulation

**Authorisation to enable existing business
to be concluded**

**Guidance Note
2006**

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Introduction

1. This Guidance Note is for the benefit of businesses that will, from 6 April 2007 (the date when providing regulated claims management services without authorisation is expecting to become an offence), be providing services to clients only with whom a contractual relationship existed prior to 1 January 2007. That is, they are not taking on new business and need authorisation solely to enable existing business to be concluded.
2. The businesses most likely to be in this position are small scale businesses that have represented clients, particularly in respect of endowment misselling claims, where they may be a significant time lag between starting a case and the case being concluded.

Does a business need authorisation?

3. The precise definition of claims management services for which authorisation is required is set out below –
 - (a) advertising for, or otherwise seeking out (for example, by canvassing or direct marketing), persons who may have a cause of action;
 - (b) advising a claimant or potential claimant in relation to his claim or cause of action;
 - (c) [subject to paragraph (4),] referring details of a claim or claimant, or a cause of action or potential claimant, to another person, including a person having the right to conduct litigation;
 - (d) investigating, or commissioning the investigation of, the circumstances, merits or foundation of a claim, with a view to the use of the results in pursuing the claim;
 - (e) representation of a claimant (whether in writing or orally, and regardless of the tribunal, body or person to or before which or whom the representation is made).
4. Companies that have been dealing with endowment misselling cases that are not taking on new business are likely to be providing services under (b) and so will require authorisation for this purpose.

When should authorisation to enable existing business to be concluded be sought?

5. A business may seek authorisation to enable existing business to be concluded if, and only if, it does not take on new business after 1 January 2007 and is seeking authorisation solely to enable it to continue handling business outstanding on that date.

What conditions will be imposed?

6. If the Regulator is satisfied that these conditions will be met then he may grant authorisation subject to –
 - (a) No new business being undertaken.
 - (b) Existing business being concluded as soon as practicable.
 - (c) The business notifying the Regulator that it wishes to have its authorisation cancelled as soon as existing business is concluded.

Handling client money

7. If the business handles client money and does not currently have client accounts it will either have to make arrangements to open client accounts in accordance with the Client Account Rules 2006 or make arrangements for any compensation to be paid directly to the client with any fees due to the business paid separately. This will ensure no client money is paid through the business and therefore negate the need to apply the Client Account Rules 2006.

What are the benefits of authorisation to enable existing business to be concluded?

8. Where the Regulator grants authorisation to enable existing business to be concluded then he may reduce the annual fee (although not the application fee). The extent of any reduction will depend on the number of outstanding cases in relation to the volume of business in the year to 30 September 2006. Account will also be taken of any complaints made to the Regulator about the authorised business. The reduction will be calculated, and a refund made, when the business informs the Regulator that it wishes to cancel authorisation as the business has concluded.

What if a business subsequently wants to resume new business?

9. A business authorised to enable existing business to be concluded may ask for the conditions to be lifted. It will need to provide any information that the Regulator may request (including completing a new application form) and will have to pay a fee equal to any reduction permitted originally.

How does a business apply for authorisation subject to conditions?

10. A business seeking authorisation subject to conditions must use the normal application form. The form is appropriate in such cases even if a business does not intend to take on new clients. The application form should be accompanied by a letter which –
 - Formally requests authorisation subject to the conditions set out in Paragraph 6.
 - Indicates the number and value (to the business) of outstanding cases at the time of seeking authorisation and the likely timescale in which they will be concluded.

- Confirms that the business will notify the Regulator that it wishes to have its authorisation cancelled when existing business is concluded.