

## AFM RESPONSE TO IAIS ON MCCOs

### Consultation on Application Paper on the Regulation and Supervision of Mutuals, Cooperatives and Community-Based Organisations in Increasing Access to Insurance Markets

12 July 2016

#### General remarks

The Association of Financial Mutuals (AFM) represents insurance and healthcare providers that are owned by their customers, or which are established to serve a defined community (on a not for profit basis). Between them, mutual insurers manage the savings, pensions, protection and healthcare needs of over 30 million people in the UK and Ireland, collect annual premium income of £16.4 billion, and employ nearly 30,000 staff.

The nature of their ownership and the consequently lower prices, higher returns or better service that typically results, make mutuals accessible and attractive to consumers, and have been recognised by Parliament as worthy of continued support and promotion. In particular, FCA and PRA are required to take account of corporate diversity in discharging their regulatory principles, and to analyse whether new rules impose any significantly different consequences for mutual businesses.

We welcome this consultation, and applaud the work by IAIS to encourage supervisors to take a better informed view on the mutual sector when setting and maintaining their approach. Whilst the mutual sector is well-established in the UK, this isn't the case in other parts of the world, and indeed even in the UK wrong-minded legislation and regulation, which placed obstacles in the way of the mutual sector directly lead to large-scale demutualisation of our sector, which between 1996 and 2006 saw market share shrink from more than 50% to just over 5%.

Whilst we recognise attempts by the UK government to address the misbalance, we would hope supervisors more generally learn the lessons of the failure in the UK insurance market, that is to maintain an effective mutual sector in order to deliver a more competitive marketplace. We include in those lessons the contribution mutuals make to tackling financial inclusion, the greater levels of trust mutuals enjoy, and the lower pricing and fair treatment that mutuality enables.

p.6: In the UK MCCOs may take many different forms in financial services: including mutual lenders and credit unions, as well as mutual insurers.

p.7/8: not all the features of MCCOs are relevant to all jurisdictions. For example, the members of a UK mutual would not expect to support a supplementary call if the mutual had insufficient capital.

p.25: We recognise this position. In particular some UK friendly societies may offer ‘social membership’ to non-policyholders.

p. 27: Some UK friendly societies operate governance via a ‘delegate’ system: local branches nominate an individual to take forward their views to the mutual’s General Meetings. The delegate is expected to represent the interests of all the members in the branch; however, where the AGM might run for several days, the delegate is expected to come to a decision on the basis of the information and evidence presented, rather than for this to be mandated from the branch.

p.33: The information relating to Benenden Healthcare has a number of errors. The society is not a hybrid discretionary mutual.

Benenden Healthcare Society Limited is an incorporated friendly society, registered under the Friendly Societies Act 1992. The core element of its standard product is a discretionary healthcare product. The product includes tuberculosis cover, which is provided on a contractual basis, and which amounts to around 1% of premium income. With regard to regulation, the discretionary and contractual elements of the product are treated differently:

- The Society's contractual business (the provision of tuberculosis benefit) is authorised by the Prudential Regulation Authority, and regulated by the Financial Conduct Authority and the Prudential Regulation Authority.
- The remainder of the Society's business is undertaken on a discretionary basis, and the Society is subject to Prudential Regulation Authority requirements for prudential management.

p.81: This chapter provides some very useful examples of the approaches taken by mutuals in different parts of the world. Whilst we share the conclusion that mutuals can be a force for good in an insurance market, it does not always follow that the regulatory framework in a country automatically creates an environment where MCCOs will be able to serve the poor: for example, in the UK, high minimum capital requirements and compliance costs make the development of new mutuals very difficult, and their capacity to operate in low value markets may be challenged, if they cannot demonstrate a sustainable business model and/ or wider access to capital.

p.106: In our experience, there is widespread skepticism about the governance of mutual organisations, from journalists to regulators to policymakers. Often this is because the different business model is not understood, or because there is little appreciation of the way mutuality addresses potential conflicts of interest effectively. As a result, rules are often described as delivering effective market discipline, even where this doesn’t apply to mutuals, and the sector may be criticised for not offering the same external rigour- even though it was the failures in such governance mechanisms within PLCs that significantly contributed to the financial crisis in 2008.

In the UK, in response to concerns about standards of corporate governance in some mutuals in the 1990s, the mutual insurance sector developed a self-regulated code of governance, [UK Corporate Governance Code, Annotated for Mutual Insurers](#). This is based on the internationally recognised UK corporate governance code, with annotations only where necessary to explain how principles apply to the mutual business model. The Code has now been in place for nine years, and each year members of the Association of Financial Mutuals undertake a detailed compliance exercise, the results of which are published by the trade body.

The Code has raised standards, so that even small mutuals deliver the same approach to large PLCs, and reduced concerns about governance in the sector.

p.143: In the UK, the government passed the Mutuals Deferred Shares Act in 2015, designed to enable mutual insurers to create new forms of share capital, either from institutional or retail investors. Once the legislative detail is finalised, this offers exciting opportunities for mutuals to remove current growth constraints by interesting new share capital whilst avoiding the need to demutualise (as was the case in the past).

p.150: In the UK, members can approve a demutualisation, and in the last 20 years widespread demutualisation has led the mutual insurance sector to shrink from over 50% of the UK market in 1996, to around 8% today. Government considered that as part of a deregulated, share-owning democracy, it should avoid protecting the mutual market, though more recently there are stronger tests that a change in status will not undermine consumer protection.