

FCA Official

DP24/1 - Regulation of commercial and bespoke insurance business

About AFM and its members

1. 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). The mutual insurance sector manages the savings, pensions, protection and healthcare needs of over 26 million people in the UK and Ireland, collect annual premium income of over £23 billion, and employ nearly 23,000 staff¹.
2. 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 analyse whether new rules impose any significantly different consequences for mutual businesses² and to take account of corporate diversity³.

¹ ICMIF and AFM, 2023: <https://financialmutuals.org/wp-content/uploads/2023/10/UK-Market-Insights-2023.pdf>

² Financial Services Act 2012, section 138 K: <http://www.legislation.gov.uk/ukpga/2012/21/section/24/enacted>

³ <http://www.legislation.gov.uk/ukpga/2016/14/section/20/enacted>

FCA Official**Personal Details** (Select relevant boxes that apply, print names in **BLOCK CAPITALS**)

*Salutation	Mr. <input checked="" type="checkbox"/> Miss. <input type="checkbox"/>	Mrs. <input type="checkbox"/> Dr <input type="checkbox"/>	Mrs. <input type="checkbox"/>
	Other <input type="checkbox"/>		
If you have selected Other, please specify here: <input type="text"/>			
First Name	Martin		
Last Name	Shaw		
Contact Email	martin@financialmutuals.org		

PART A: Respondent Type

Are you responding on behalf of a company or organisation?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> (If 'Yes' is ticked, proceed to Part B)
Are you responding as a private individual in a personal capacity?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (If yes, Proceed to Part D)

PART B: Firm Type

Please select the firm type of your organisation or company.	<u>Trade Body</u>
If you have selected Other, please specify here: <input type="text"/>	
Please proceed to Part C	

PART C: Firm Information

Please provide the Firm Reference Number (FRN) of your firm here:	
Firm Reference Number	<input type="text"/>
If you are responding as a private individual in a personal capacity, please proceed to part D	
Name of organisation/company:	
<input type="text" value="ASSOCIATION OF FINANCIAL MUTUALS"/>	
Your position in the organisation/company:	
<input type="text" value="HEAD OF POLICY"/>	

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PART D: Chapter 2 - Determining which rules apply to commercial insurance

***If responding as an individual, do not answer question 2, 7, 8, 10, and 11 within Part D. For all other respondents, all questions are mandatory.**

<p>1. Do you agree with the concerns/issues we have identified in chapter 2?</p>	<p>Strongly Agree <input type="checkbox"/></p> <p>Agree <input type="checkbox"/></p> <p>Neutral <input type="checkbox"/></p> <p>Disagree <input checked="" type="checkbox"/></p> <p>Strongly Disagree <input type="checkbox"/></p>
<p>2. Please provide us with any information that may help us to quantify the costs associated with these challenges</p>	<p>Please drag and drop file(s) here</p>

Alternatively, please provide information in the box below:

Please see our response to Q3.

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3. Please tell us if there are other issues/concerns associated with the scope of application of requirements to commercial customers.

Whilst we consider the approach to FCA's review to be valid, we consider the scope of the review is much too narrow. Ensuring there is an orderly and fair market for commercial insurance needs a much broader consideration of how the market is working, and whether businesses are paying too much for commercial insurance and/or can't access the features that matter most. Facilitating competitiveness should consider whether markets can be opened up to a wider group of suppliers, rather than to simplify current processes.

Across our members are a range of firms that offer commercial insurance products to the self-employed and to the employees of small businesses. Many operate on a B2B basis, and a number were established in the recent past by a community of businesses on a mutual basis, to address problems in the provision of insurance to their sector. The main factors that have led them to this decision have been: a) price: new entrants have been able to enter the market and reduce prices considerably (typically by around 20%, or more); b) claims: businesses cite the difficulty in receiving fair outcomes for claims until they created a mutual solution; c) fair value: mutuals are able to offer superior service, enhanced features, profit sharing and control of the business.

That offers a very positive alternative to current insured solutions in many business sectors, and yet the number of new entrants is tiny and their impact muted in most industries. This is because of barriers to entry, including access to capital and regulatory standards, as well as potentially anti-competitive actions from incumbent insurers and brokers.

We would like to see the scope of this review widened, and we consider that addressing the issues above would make a significant difference to many industries, with a scale of opportunity much greater than the tinkering that the current review will permit.

We have raised this issue with FCA many times in the past, and so were disappointed not to have been involved in pre-consultation discussions.

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4. Of the 3 main options we have presented, please select the option you prefer (please select one option only):

Option 1 **Option 2** **Option 3**

5. Of the 2 supplementary options we have presented, please select which, if any, of the options you support (please select all that apply):

Supplementary option 1 **Supplementary option 2**

6. Please explain your reasons for your answer in Q4 and Q5 including your reasoning for your preferred option(s) and why you did not choose the other options, in the box below.

Our members have not highlighted shortcomings with the current definitions, though we can see the potential value of the options we have selected, in achieving greater consistency.

7. Please provide us with estimates on what the expected financial impact (either to increase or decrease in costs) would be to your firm if we take forward the changes under option 1, 2, and 3. Please include a breakdown of total one-off costs, total ongoing annual costs, and what these costs are for (e.g., IT, staff training, compliance training and monitoring, legal costs, complaint handling and costs of cases being referred to the Financial Ombudsman Service etc.).

Please drag and drop file(s) here

We are not aware of any significant financial impact from changing the boundaries as proposed.

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<p>8. Please provide us with information/ data on insurance outcomes for commercial customers of different sizes, including customers marginally either side of the current Contracts of Large Risks threshold- namely, premiums, claims success rates and complaint rates (including uphold rates) by insurance line, customer balance sheet size, turnover and number of employees. Please also indicate if you would be willing to share with us anonymised transactional- level data on these outcomes to assist our Cost benefit analysis., for customers that are marginally on either side of the current threshold.</p>	<p>As a trade association we do not consider it appropriate to explore pricing issues across our members.</p>
<p>9. Please tell us of any advantages, disadvantages or unintended consequences to firms and/or customers you've identified against any of the main or supplementary options under chapter 2.</p> <div data-bbox="304 770 1386 1373" style="border: 1px solid black; padding: 10px; min-height: 200px;"> <p>No comments</p> </div>	
<p>10. On supplementary option 2, please provide any information that can help us to understand the types of contracts that involve unnamed parties, how prevalent these types of contracts are, the challenges firms face when assessing whether these contracts fall under the large risks definition, and any other information that may help us assess whether further guidance is required for this issue.</p>	<p>Please drag and drop file(s) here: n/a</p>
<p>Alternatively, please provide information in the box below.</p>	

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<p>11. Please provide any other information which may help us to assess the number of customers affected by any of the main or supplementary options.</p>	<p>Please drag and drop file(s) here:</p>	
<p>Alternatively, please provide information in the box below.</p> <table border="1" style="width: 100%;"><tr><td style="height: 150px; vertical-align: top;"><p>n/a</p></td></tr></table>		<p>n/a</p>
<p>n/a</p>		

PART E: Chapter 3 – Co-Manufacturers of Insurance Product(s)

***If responding as an individual, do not answer question 1, 3, 7, 9, 10, 12, 13, 16, and 17 within Part E. For all other respondents, all questions are mandatory.**

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1. Do the typical co-manufacturing situations we have identified above reflect current market practice? Are there any other co-manufacturing arrangements (which raise issues) that we have not identified?

Yes.

2. Do you agree with the concerns as reflected in Chapter 3, about the way our product governance rules currently apply to co-manufacturers?

- Strongly Agree**
Agree
Neutral
Disagree
Strongly Disagree

3. Please tell us how of your much business (including number of products and volume of business) is currently co-manufactured.

n/a

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4. Please tell us if there are other issues/concerns related to how our product governance rules apply to co-manufacturing arrangements that we should know about.

5. Of the 3 options we have presented, please select the option you prefer.

Option 1 **Option 2** **Option 3**

6. Please explain your reasons for your answer in Q5 (Part E) including your reasoning for your preferred option and why you did not choose the other options.

Simplicity and consistency of approach in Option 1. Lead responsibility is included elsewhere in the rulebook and ensures that the lead firms recognises the breadth of responsibility it is taking on.

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7. Please tell us how 'lead' manufacturer should be defined, and in particular, if there are common market definitions we can use, please provide us with these.

We consider lead responsibility needs to be developed on a product-by-product basis, and that as is the case in claims handling, it is agreed by all parties in advance who is taking lead responsibility. We do not see any specific differences between whether the lead responsibility is held by an insurance provider or an intermediary: in some cases, where the latter takes the lead, the outcome will be a better all-round product and a greater focus on value and fairness to the consumer.

8. Do you think the changes suggested under option 1 and 2, should allow an intermediary co-manufacturer to be the 'lead' manufacturer, or should the lead always be an insurer?

Yes **No**

Please explain your reasons for your answer in the box below

It isn't possible to answer the two parts of the question in a consistent way against a yes or no response, so for the avoidance of doubt, we think an intermediary can be the lead and the lead should not always be an insurer.

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9. If you have identified other co-manufacturing arrangements under above, please tell us if the options would or would not work effectively for these distribution arrangements:

Option 1

n/a

Option 2

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Option 3

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10. Please tell us what the financial impact (either an increase or decrease in costs) would be to your firm if we take forward the changes under options 1, 2 and 3. Please include a breakdown of total one-off costs, total ongoing annual costs, and what these costs are for (eg IT, staff training, compliance training and monitoring, legal costs to change and co-manufacturer agreements etc).

Please drag and drop file(s) here:

n/a

11. Please tell us of any advantages, disadvantages, or unintended consequences to firms and/or customers you've identified for option 1, 2 and 3 as applicable to the options we are considering in relation to co-manufacturers, in the box below.

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12. We have only considered possible rule changes in relation to the commercial market. Are there any retail products to which these changes should apply?

Yes **No**

If yes, please explain how much (and the type) of your firm's retail business would be affected, any additional financial impact to your firm and any advantages and disadvantages if we extended the scope of any rule changes to certain retail business.

We have not seen evidence of a problem.

13. As noted in Chapter 1, we have only considered rule changes to non-investment insurance products. Please tell us if you consider these changes should be extended to any pure protection insurance business for commercial customers too. Also, explain how much of your firm's business would be impacted by this, any additional financial impact to your firm, and advantages and disadvantages from such a rule change.

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14. Do you agree with the issues we've identified about the way our ICOBS disclosure requirements apply to distribution arrangements with multiple insurers?

Yes **No**

Please explain your reasons for your answer in the box below

15. Do you agree with the potential changes we are considering to the ICOBS disclosure requirements?

Yes **No**

Please explain your reasons for your answer in the box below

16. Please tell us how the 'lead' should be defined in this context and provide us with any common market definitions currently used which we can use.

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<p>17. Please tell us what the financial impact (either an increase or decrease in costs) would be to your firm if we take forward the changes to the ICOBS disclosure requirements. Please include a breakdown of total one-off costs, total ongoing annual costs, and what these costs are for (e.g., IT, staff training, compliance training and monitoring, legal costs to change and co-manufacturer agreements etc).</p>	<p>Please drag and drop file(s) here</p>
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Alternatively, please provide information in the box below:

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18. Please tell us of any advantages, disadvantages and/or unintended consequences to firms and/or customers from the changes we are considering in relation to the ICOBS disclosure requirements?

PART F: Chapter 4 – Bespoke Insurance Products

***If responding as an individual, do not answer question 1, 2, and 7 within Part F. For all other respondents, all questions are mandatory.**

1. Please tell us how often you use the tailor-made contract exclusion?

2. Please provide us with examples of products you currently exclude under this exemption.

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3. Please provide your views on whether we should broaden the scope of the current bespoke contract exclusion as discussed above, so that it applies to insurers as well as intermediary co-manufacturers?

4. Do you agree that it would be useful for us to introduce rules or guidance to further clarify indicators of a bespoke contract?

Yes **No**

Please give us your views on our proposed list of indicators of a bespoke contract, including whether we should include others, remove, or amend any currently on the list, and whether we should include additional rules or guidance to further clarify our policy intent. And, if so, what this should capture.

5. Do you agree that it would be useful for us to provide rules or guidance on products that should not be considered bespoke contracts?

Yes **No**

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6. Please provide your views on the type of products that should not be captured by the bespoke contract exclusions, including whether we should include others or remove/amend any currently on the list.

7. Please tell us what the financial impact (either an increase or decrease in costs) would be to your firm if we take forward the changes, we are considering for the bespoke contracts exclusion. Please include a breakdown of total one-off costs, total ongoing annual costs, and what these costs are for (e.g. IT, staff training, compliance training and monitoring, legal costs to change and co-manufacturer agreements etc).

Please drag and drop file(s) here

Alternatively, please provide information in the box below:

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8. Please tell us of any advantages, disadvantages and/or unintended consequences to firms and/or customers resulting from the changes we are considering in relation to bespoke contracts.

End of discussion questions

Confidentiality

* Do you consent to your response to this consultation paper being made public?

Yes

No

Please select No if there are areas of your response that should be treated as confidential.

Market sensitivity

* Are there areas of your response that are considered to be market sensitive?

Yes

No

Market Sensitive - information that if made public may impact on market prices.

Please tell us about your experience responding to this discussion

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Overall, how would you rate your experience responding to this consultation via our Word template?

<p><u>1</u> <u>(Wouldn't want to use it again)</u></p> <p style="text-align: center;"><input type="checkbox"/></p>	<p><u>2</u></p> <p style="text-align: center;"><input type="checkbox"/></p>	<p><u>3</u> <u>(Neutral)</u></p> <p style="text-align: center;"><input checked="" type="checkbox"/></p>	<p><u>4</u></p> <p style="text-align: center;"><input type="checkbox"/></p>	<p><u>5</u> <u>(Would happily use it again)</u></p> <p style="text-align: center;"><input type="checkbox"/></p>
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Please provide any comments on your experience of using this template, including any recommendations for improvement.

The wording of Q E.8 is problematic, and the layout of the template is inconsistent.