

Institute and Faculty of Actuaries, **Regulatory Board**

Subject	DPB Handbook Review: Consultation on Authorisation, Supervision and Complaints
Meeting date	14 February 2024
Previous Steer/Approval	N/A
Related horizon scan code	N/A
International issues considered?	N/A
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Purpose	Approval

A: Executive summary

1. The Designated Professional Body (DPB) Board is currently conducting a review of the DPB Handbook – the IFoA’s rulebook for the regulation of DPB firms, controlled and operated by actuaries. It has identified three key areas for updating and amending the rules and has developed a series of policy proposals.
2. The DPB Board proposes to publish a public consultation (likely to be in March 2024), and to undertake some related stakeholder engagement, in order to gather views and other evidence on its proposals across three priority areas, before commissioning new rules:
 - Authorisation
 - Supervision
 - Complaints
3. Brief summaries of the key policy proposals in these areas are set out in **sections C – E** below.
4. First, the DPB Board proposes to make the authorisation process for DPB firms quicker, easier and cost effective for applicant firms, as well as better integrating it with the ongoing supervision of firms.
5. Second, the supervision of DPB firms will include a revised approach to the DPB Annual Return, so that it only collects data that is used in practice and avoids duplication with information the IFoA already holds. Firm monitoring visits will also be reviewed in light of the DPB Board’s evolving approach to risk and regulatory priorities.
6. Third, the DPB Board proposes to revise complaints handling, both by DPB firms and by the IFoA, so that all parties know what to do when something goes wrong, and so that they can expect faster and more effective resolution.
7. As well as making improvements to the overall structure and useability of the DPB Handbook, the DPB Board intends to better integrate its approach across these priority areas, so that it reflects key regulatory risks, while being clear and easy for DPB firms and clients to understand.

The Board has also taken account of significant regulatory developments and themes which have emerged since the Handbook was originally developed in 2008/2009.

8. **The Regulatory Board is invited to comment on the main policy proposals summarised in sections C – E below and to approve the DPB Board’s approach prior to consultation.**

B: Introduction

DPB firms

9. All IFoA DPB firms are required to be managed and controlled by actuaries and their licence allows them to provide regulated investment advice and other services. As an alternative to the DPB licence, some firms hold an Authorised Professional Firm (APF) licence, which allows dual regulation, with ‘Non-Mainstream Regulated Activities (NMRAs) carried out under the IFoA’s DPB Handbook and mainstream regulated activities carried out under the Financial Conduct Authority (FCA) Handbook.
10. IFoA regulation can be a more attractive alternative to FCA regulation for some actuarial firms as it is cheaper and easier to comply with, and is tailored specifically to the needs of the industry. The IFoA’s DPB scheme is relatively small and currently 14 firms hold a licence. The list of firms can be found online [here](#).
11. A guide to the DPB regime is available on the IFoA website [here](#).

The DPB Handbook

12. The DPB Handbook was originally published in June 2009 and has since been reviewed and updated only partially, most recently in 2020. It is apparent from ongoing engagement with DPB firms that the Handbook is lengthy and often not well understood. It is also no longer in step with the IFoA’s current approach to regulation, or the broader regulatory environment.
13. The DPB Handbook must continue to satisfy the FCA that it meets the statutory requirements of s.326 Financial Services and Markets Act 2000, namely that there are rules governing ‘exempt regulated activities’. It should provide a credible and attractive alternative to FCA rules and regulation – this underpins the business case for the DPB regime. The IFoA maintains regular liaison with the FCA, which will be asked to approve any new rules.
14. The latest version of the DPB Handbook can be viewed online [here](#).

C: Key policy proposals: authorisation

15. The DPB Board proposes to improve the authorisation process and make it more attractive and cost effective to prospective DPB firms, as well as better integrated with the ongoing supervision and monitoring of DPB firms.
16. The Board has also considered how to update its authorisations policy in light of developments since the DPB scheme was originally set up, including the FCA’s introduction of its Senior Managers & Certification Regime (SM&CR) and the Consumer Duty.

17. The current authorisation rules are contained in Part 4: Rules governing Licensed Authorised Professional Firms, and; Part 6: Licence Terms and Conditions. These will be shortened and revised to form a single part of the Handbook, with additional guidance for firms.

Approach

18. The DPB Board proposes to better integrate its approach to authorisation with the ongoing supervision of firms, through a revised risk framework and data collection (including the submission of supplementary evidence during the application process).
19. The Board will also be developing its own guidance on assessing applications and how to identify which elements should involve a qualitative assessment or evaluation, and which elements should be on the basis of 'self-certification'. Additional information on applying will be available on the DPB pages of the IFoA website.

Business model and financial position

20. The Board considers that a qualitative assessment of both the financial position and business model of the applicant firm should remain a central part of the authorisation process and that this should be strengthened as necessary with the use of a financial subcommittee, consideration of PII/protection arrangements (as below), and interviews with applicants.
21. The nature of the business model and financial position of a DPB firm is central to the regulatory risks it might pose during operation. In practice, the nature and proportion of regulated activities which a DPB firm undertakes (as a percentage of its overall business) is scrutinised as part of the supervision processes, on submission of the DPB Annual Return and in firm visit reports. The DPB Board proposes to:
 - retain the requirement to provide a business plan and recent accounts; and
 - strengthen the DPB Board's scrutiny and qualitative assessment, including by establishing a financial subcommittee.

Individual suitability

22. The DPB Board has considered the extent to which the IFoA should examine the suitability of key individuals within an applicant firm, especially in light of the strengthened FCA requirements for firms it regulates resulting from its Senior Managers & Certification Regime (SM&CR).
23. Members of the IFoA (and other equivalent international professional bodies) are already subject to high standards of professional conduct, and the IFoA also keeps some records in relation to criminal matters or misconduct by its members (in accordance with GDPR). Therefore:
 - The DPB Board will no longer require additional suitability checks, including references/testimonials for applicants, but will make use of the IFoA's improved data management where necessary.
24. Given the small size of the regime and likely low number of applications, the DPB Board/IFoA has the resources and opportunity to take a more individualised approach than might a larger regulator. In some cases it may be useful to discuss both individual suitability, and other aspects

of an application such as the business model or financial soundness, with key individuals as part of the application process (likely to be actuaries who control the firm).

- The IFoA will introduce a power to interview individuals as part of the application process, where there are reasonable grounds to do so.

Follow up review meetings

25. The DPB Board proposes to introduce a more seamless approach to the authorisation and supervision of DPB firms, which will help to identify any possible issues as they emerge and to ensure these are kept under review.

- The IFoA will introduce a power to organise a follow up review meeting with newly authorised DPB firms after a period of 6-12 months, with regard to the particular circumstances and risks associated with the firm.

Standard engagement letters

26. Standard engagement letters are a common part of the conduct rules across financial services regulatory regimes and accordingly the current DPB Handbook includes standard engagement terms [at Annex 3.1]. However, the DPB Board believes that DPB firms will be better served with guidance in this area, rather than the risks associated with a 'one size fits' all approach. The Board proposes to consider a firm's own draft engagement letters as part of any application.

- The DPB Handbook will no longer include template standard engagement letters, but may consider firms' draft letters as part of the application process.

Complaints policy review

27. As part of its wider review, the DPB Board proposes that the complaints policy for firms should be better integrated with the rules for the IFoA's own handling of complaints against firms. The complaints rules in Part 3: Conduct of Business Code will be removed and incorporated in new complaints rules (see separate discussion below).

- Introduce qualitative check during the authorisation process of a firm's complaints handling policy and that this meets the DPB Board's key principles and complaints requirements (ICAEW will be consulted as needed).

Professional Indemnity Insurance (PII) and prudential requirements

28. The DPB Board has considered PII and other prudential requirements for DPB Firms in light of recent hardening of the PII market and subsequent difficulties for some firms in obtaining insurance policies which meet the minimum requirements. It proposes to:

- strengthen the assessment of PII cover as part of an overall assessment of a firm's financial soundness and check how firms expect to meet any potential liabilities (i.e. from complaints or legal claims);
- revise and update the current requirements (amounts) for minimum PII cover;
- introduce greater flexibility with prudential rules where a firm has capital reserves to cover potential liabilities; and

- where appropriate, allow DPB firms an additional period to obtain a PII contract after it has been authorised.

Timeframes and licence fees

29. One of the main ways in which the DPB Scheme can be more attractive than the alternative of FCA regulation is an easier application process, which is both quicker and cheaper.
30. The DPB Board proposes introducing clearer and shorter timeframes to consider applications, with a commitment to process an application within two months (allowing flexibility where necessary).
31. The DPB Board also proposes to review the authorisation/licence costs to ensure that they remain competitive with FCA authorisation costs and attractive to firms, as well as fairly reflecting the cost of IFoA regulation.

Data collection and intelligence

32. The DPB Board has also reviewed the data and intelligence it collects from DPB firms – both as part of ongoing supervision, including the DPB Annual Return (see below) – and also through the supplementary documents and evidence which form part of an application for authorisation.
33. The DPB Board intends to keep this under review in light of any emerging risks or regulatory priorities. Data collected during the authorisation process will be better integrated with ongoing supervision, including the DPB Annual Return.
34. The current static list of supplementary evidence will be removed from the rules and transferred to guidance for applicants, which can be varied according to the Board's evolving regulatory priorities and risk framework.

D: Key policy proposals: supervision and data collection

35. Due to the small size of the DPB scheme, the IFoA is able to take a more personalised approach to supervising DPB Firms, than would a larger regulator. This means in practice that the DPB Board and IFoA staff liaise fairly regularly with senior personnel and compliance staff within DPB firms.
36. The DPB Board expects to continue this approach, but also to revise the two more formal elements to its supervision of DPB firms: the DPB Annual Return which collects data from firms; and firm visits (which are undertaken on IFoA's behalf by the Quality Assurance Department of the Institute of Chartered Accountants in England and Wales (ICAEW)).

The DPB Annual Return

37. The DPB Annual Return is collected from all DPB Firms at the end of each calendar year and it constitutes one of the main sources of supervisory intelligence for the DPB Board, which reviews the results each spring and addresses any issues or concerns.
38. The DPB Board has been reviewing the data it collects in light of key regulatory risks, and also as a matter of good practice not to collect data unnecessarily, where it is not made use of or held elsewhere in the organisation. The Board will be undertaking further work during the course of

the year on its risk framework and its intention is to integrate this more closely with the data it collects (including as part of the IFoA's ongoing review of its data management systems).

39. Additionally, the DPB Board has reviewed the webform version of the Annual Return and has made a number of suggested improvements which it hopes the development team will be able to incorporate in the new DPB web application, once work restarts on this later in the year, as part of the IFoA's Operational Process System Review (OPSR).

- The DPB Board will review its data collection in light of its revised risk framework and evolving regulatory priorities.

40. The Board intends to ask consultation respondents to comment on the DPB Annual Return and the data it collects more broadly.

Firm visits

41. The DPB Board reviews reports it receives from ICAEW on the firm visits, which are conducted on a cycle of 2-3 years for each firm. The Board proposes to continue this form of direct supervision but to review its approach and priorities in light of its approach to risk (as above). Additionally, the Board has recently been considering the grading system; the key risks reported by DPB firms; and the risk model which is used by ICAEW.

- The DPB Board will increase integration between authorisation and supervision stages so that key risks are identified and kept under review.

42. The Board intends to invite consultation responses on how well the monitoring visits work in practice and suggestions for any improvements.

E: Key policy proposals: complaints

Principles and approach

43. The DPB Board has considered its approach to complaints handling and proposes to align this as far as possible with the principles which underpin the IFoA's recently revised Disciplinary Rules (with some amendment reflecting complaints about firms rather than individuals).

- The underlying principles on which the DPB complaints policy are based will be aligned with the principles underlying the IFoA's revised Disciplinary Rules.

44. The complaints rules will be revised to be more outcomes focused, with:

- headline rules covering our expectations for DPB firms and the IFoA;
- a description of the nature of the complaints which DPB firms and the IFoA can consider (and who can complain);
- a clear illustration (and timeline) of the complaints process and the parties involved (including investigators and decision-makers, expert witnesses etc.); and
- the sanctions, remedies or other action which the IFoA might take.

Simplifying the definition of complaint and signposting

45. The definition of what constitutes a complaint will be simplified in the rules and also made clearer on the IFoA website and DPB Firms websites and literature. While DPB Firms have professional clients, the services they provide are ultimately on behalf of ‘consumers’, such as pension scheme members – who are also entitled to make a complaint. It is therefore important to ensure that it is easy to understand how to make a complaint.
- The definition of complaint will be revised and simplified, with clear explanations how to complain on the IFoA website (and DPB firm literature).

Complaints rules for firms

46. The complaints rules for DPB Firms currently sit in the Conduct of Business Code (Part 3). The DPB Board proposes to remove these and integrate them with the rules for IFoA complaint handling, so they are more seamless. This will also allow the IFoA to be involved at an earlier stage, encouraging mediation or other forms of Alternative Dispute Resolution (ADR) if appropriate.
- The IFoA will introduce powers to be involved in complaints at an earlier stage (and to encourage mediation if appropriate).
 - Complaints rules for DPB firms should reflect the key principles underlying the IFoA’s complaints rules and the DPB Board will assess this as part of the authorisation process.

Simplifying complaints referrals

47. Given the small size of the DPB Scheme and the relatively few complaints the IFoA receives, there is no practical need to have a ‘two stage’ process of complaints handling, such as the FCA uses. Complainants and Respondent Firms should be encouraged to involve the IFoA where this may be helpful and appropriate, which could help to promote good outcomes and potentially reduce the time taken to resolve a complaint. The DPB Board proposes to:
- remove the Respondent Firm’s requirement to send a ‘resolution letter’ including referral rights (to the IFoA, within 6 months), in order to facilitate engagement and assistance from the IFoA at an earlier stage; and
 - introduce a requirement that Respondent Firms inform Complainants of the right to complain to the IFoA on receipt of a complaint.

Simplifying the appeal process

48. The DPB Board believes current appeal processes are overly complex and lengthy and proposes to simply these. The current rules allow for appeals both to an independent ‘Complaints Reviewer’ and (for the Respondent Firm) to a DPB Tribunal, which is composed separately from the DPB Board (the primary decision-making body). The DPB Board proposes to introduce:
- the right to appeal to the independent Complaints Reviewer for both complainant and respondent and to remove the right to appeal to a DPB Tribunal.

Time limits

49. The DPB Board proposes to introduce additional time limits to help to ensure that complaints are dealt with in good time. However, these time limits should be indicative and the Board will have the power to vary them depending on the nature of the complaint.
50. Additionally, the DPB Board has considered the nature of possible complaints, including complaints about long-term investment advice, and believes that a time limit of five years to complain (from the event, or knowledge) giving rise to the complaint should be introduced. The Board proposes to introduce:
- new revised time limits for complaints handling, appeals and reviews; and
 - an additional five-year time limit for making a complaint, from knowledge of the event which gives rise to that complaint.

Investigatory powers and expert advice

51. The DPB Board proposes to retain broad powers to investigate a complaint, including through the collection of written and oral evidence. However, given the potential complexity of the issues it may be asked to consider in relation to a complaint – including legal issues around sanctions, losses, and costs – the Board also proposes to strengthen its powers to commission expert evidence including legal advice, where needed.
52. Additionally, the Board proposes to clarify in the rules that it is the primary responsibility of the Complainant to establish any possible loss.
- There will be stronger powers to commission external expert evidence, including legal advice.
 - The primary responsibility for establishing any possible loss will now rest with the Complainant.

Sanctions

53. The DPB Board has also reviewed its available sanctions for Respondent Firms (DPB Handbook, paragraph 5.21), which are relatively broad and include powers to fine, as well as to award compensation. The Board proposes to keep these under review and also to revise and update the limits for fines and compensations. It also proposes a new power to follow up and review the impact of any sanctions (e.g. whether the Board's guidance or advice has been followed) through its supervisory powers and the DPB Annual Return.
- The DPB Board will have additional powers to follow up or review the impact of any sanctions it imposes on DPB firms, through the exercise of its supervisory powers including the DPB Annual Return.

F: Conclusion and next steps

54. The DPB Board believes that the suite of policy proposals described above will help strengthen its approach to regulating DPB firms by: helping to make the authorisation process quicker, easier and cost effective for firms, while better integrating it with supervision; improving the

supervision of DPB firms, including data collection and management, and; revising complaints handling so that the process is clearer, faster and more effective.

55. After gathering further views and evidence through a process of public consultation, the DPB Board expects to commission revised rules which reflect its proposed policy and approach. Because the regulated community is relatively small, the Board is expecting only a small number of consultation responses and expects to discuss its proposals with DPB firms at a compulsory stakeholder event in March 2024, as well as through follow up telephone calls where needed.
56. The DPB Board expects to publish a consultation paper on its proposals in March 2024, which will run for a period of six weeks.

Conduct rules and the regulatory perimeter

57. The remaining parts of the DPB Handbook consist primarily of the Conduct of Business Code (Part 3) and the rules which set out regulated activities ('the regulatory perimeter'), contained in primarily in Parts 2 and 6.
58. The DPB Board will be developing further proposals in relation to these areas during the spring 2024 and intends to consult on those proposals in a second, smaller consultation paper, following the first consultation discussed above.
59. In relation to the rules which establish the regulatory perimeter, the DPB Board has scope to clarify and simplify these, but will only have limited powers to vary them because they are determined by the FCA Handbook (and the Financial Services and Markets Act 2000).

G: Recommendation

60. **The Regulatory Board is invited to comment on the main policy proposals summarised in sections C – E and to approve the DPB Board's approach prior to consultation.**