

## MINISTRY OF JUSTICE

### CALL FOR EVIDENCE ON THE REVIEW OF THE BALANCE OF COMPETENCES BETWEEN THE UNITED KINGDOM AND THE EUROPEAN UNION ON INFORMATION RIGHTS

#### A RESPONSE FROM THE WEALTH MANAGEMENT ASSOCIATION<sup>1</sup>

The Wealth Management Association (WMA) welcomes the opportunity to respond to the Ministry of Justice (MoJ) call for evidence on the review of the balance of competences between the UK and EU in relation to Information Rights. European Union (EU) legislation and regulation have a significant impact on our member firms in a broad range of sectors, including those relating to the gathering, keeping and use of information, especially where clients are concerned. It is therefore important that we are able to make an input for our community with regard to EU business and the possible imposition of EU law to help ensure that their business models and client relationships are understood and taken into account in the legislative and regulatory processes.

As part of our work we cooperate closely with like-minded associations on responses to consultations as appropriate, and are members of groupings facilitating this kind of approach. One such is called the International Regulatory Strategy Group (IRSG). On this occasion we have participated under their auspices in the joint submission of a detailed response to the MoJ which the IRSG undertook with the British Bankers' Association (BBA) and the Association of Financial Markets in Europe (AFME). We clearly stand by the views expressed in that return.

Additionally however we would like to note specific concerns we have with the EU's proposed new EU General Data Protection Regulation (GDPR). These revolve around

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<sup>1</sup>The Wealth Management Association (formerly the Association of Private Client Investment Managers and Stockbrokers - APCIMS) is a trade association representing 187 Wealth Management firms and Associate Members. With formal contracted client relationships our firms deal in stocks and shares and other financial instruments for individuals, trusts and charities and offer a range of services across a spectrum spanning execution only through to full discretionary services.

Our member firms act for over 4 million private investors and carry out around 20 million transactions a year in the marketplace. Our members also manage in excess of £650 billion of wealth in the UK, Ireland, Channel Islands and Isle of Man, operate across more than 580 sites and employ approximately 32 000 staff.

Our aim is to ensure that any changes including operational, regulatory, tax and other business matters across Europe and the rest of the world are appropriate and proportionate for our wealth management community and, most importantly, their clients.

continuing difficulties, especially to do with record keeping and data exchange, that concepts and language in the Regulation may cause for firms in the regulated financial sector which have to comply with existing legal and regulatory obligations regarding the prevention of financial crime.

We have recently written to HM Treasury about this, and to encourage a well-coordinated approach between HMT and MoJ in dealing with aspects of the GDPR dossier that affect the regulated financial sector. Our focus has in particular been on the need to allow firms to fulfil Anti-Money Laundering (AML) and related data retention and exchange requirements that help protect UK consumers and businesses from fraud and financial crime. In our view it is in the interests of all that the GDPR proposals do not contradict legislation designed to support progress in this area.

As an Association whose membership has as its client base over 4 million retail financial consumers, mostly in the UK, we strongly support the rights of individuals to have as much control over their personal data as possible. This is especially in view of the major and rapid advances in technology that have made people more connected than ever before and empowered them with previously unknown information access. However these advances have also brought increasing risks of data misuse, abuse, and theft, so care must be exercised to strike the right balances between privacy and the need to share, and to place the right degree of control over who may have access to data, for what purposes, and for how long.

The worry the WMA has with the GDPR proposals with regard to record keeping and data sharing is that they represent a significant tightening of the existing régime, requiring more actions by organisations and tougher penalties for serious data protection breaches. As made clear in the preceding paragraph, we are in favour of appropriate and effective controls for data protection purposes, but better balances need to be sought not only between privacy and sharing, but also between the costs and constraints imposed by tight new regulations on the one hand, and the benefits that access to information yields for individuals and the wider economy on the other.

The protection of data is not in itself directly linked to the EU's single market objectives, but open information flow is an important element in allowing markets to flourish and bring with them the economic growth and employment so vital to popular well-being. UK financial services broadly speaking are among the commercial beneficiaries of the creation of the EU single market, and through their businesses have provided over the years substantial employment for individuals and tax contributions to the Exchequer. It is important that data protection in the future does not hamper continuing success in this area.

Please do not hesitate to get in touch if you would like to discuss any of the above points.

**Wealth Management Association**

1 July 2014