

HMT Call for Evidence – The Appointed Representative Regime

About Barclays

Barclays is a British universal bank. We are diversified by business, by different types of customer and client, and geography. Our businesses include consumer banking and payments operations around the world, as well as a top-tier, full service, global corporate and investment bank, all of which are supported by our service company, which provides technology, operations and functional services across the Group. For further information about Barclays, please visit our website <https://www.barclays.co.uk>

Executive Summary

Barclays Views on the AR Regime

Barclays uses the Appointed Representative (AR) regime to support our business model and Group structure. We have standardised the provision of most back office services into a global shared service model that exists to provide technology, operations and functional services to business divisions and their legal entities across the Group. As part of this arrangement, we use the AR regime to enable our shared service entities to support our business entities. Barclays Execution Services Limited (BESL) and Barclays Global Service Centre Private Limited (BGSC) operate as ARs within Barclays' group service division, known as "BX", and provide services directly to Barclays Bank UK plc, Clydesdale Financial Services Limited and Barclays Bank plc as principals. These AR arrangements are classified as material outsourcings and managed in line with that classification.

The AR regime, and specifically our intragroup use of the regime, delivers a number of benefits: it enables us to provide high quality, efficient and cost effective services to our customers leveraging operational efficiencies and economies of scale; it supports our group operational resilience by enabling a 24 hour 'follow the sun' support model; it supports our recovery and resolution planning; and it provides supervisory efficiencies for the regulator. **Ultimately, we consider that the AR regime provides a critical framework enabling Barclays to operate efficiently and flexibly, while ensuring the necessary controls exist to manage any potential risks.**

Critically, the intragroup nature of our ARs, and the fact that they operate within a regulated group, enables an operating model with robust controls and oversight of the ARs to minimize risks. With our principals and ARs existing within the same Group, we are able to effectively ensure an appropriate control framework exists for our principal entities to have adequate oversight of our AR entities, including through the application of group-wide policies which apply directly to all entities, including the ARs. Additionally, the activities of our ARs are closely aligned with the business activities of our principal entities, ensuring they have the requisite expertise to oversee the activities of the group's ARs. **Finally, our intragroup model is also subject to comprehensive regulatory requirements in relation to internal outsourcing and Operational Continuity in Resolution (OCIR), ensuring we have robust service management and an AR controls framework in place to meet those requirements. As a result, we consider intragroup use of the AR regime to be significantly lower risk than other uses of the AR regime, and that any risks posed are already effectively managed through the existing regulatory framework. We therefore believe the AR regime works effectively in an intragroup model, and does not require material amendment, beyond the proposed measures supported below.**

Strengthening the AR Regime

We recognise and appreciate that certain challenges may exist that pose a risk to effective use of the AR regime, even if these risks vary across different use cases. We therefore support Government's broad intention to strengthen the framework where necessary to manage the risks posed while preserving the benefits it delivers for firms and consumers. We have provided a separate response to the FCA's proposed reforms.

It is Barclays strong view that effective oversight by the principal is the key to ensuring the AR regime works effectively and mitigates any potential risks. We would therefore strongly encourage government to focus any changes intended to strengthen the regime on: ensuring firms are fit and proper to act as a principal; enabling principals to provide effective oversight; and ensuring regulators hold principals accountable for undertaking that oversight.

- Against this context, we support the consultation's proposal to introduce an FCA 'principal permission' gateway, intended to provide the FCA with greater powers and opportunity to scrutinise a principal's ability to provide effective oversight before the principal appoints an AR.
- We also support HMT's proposal to enhance the FCA's ability to intervene more directly regarding issues with ARs by giving it information gathering and investigation powers. We agree this could improve the FCA's ability to take supervisory action more swiftly where necessary.
- Regarding the proposal to prohibit ARs from undertaking certain activities, we consider that the current broad range of activities that can be carried on by an AR underpins the value and benefit that can be delivered through diverse use of the regime as long as principal oversight is robust.
- Regarding the proposal to extend the ability of the FOS to investigate complaints relating to ARs, we support the proposal to enable the FOS to investigate complaints relating to the regulated activity of an AR and provide redress against a principal, provided the investigations and redress relate to activities the AR is purporting to carry out on that principal's behalf. The FOS should not be able to hold a principal accountable for any AR activities unrelated to it.

However, we have concerns that some of the proposals explored in the consultation may be inappropriate as they may not address the underlying consumer harm risk in the most effective manner and/or may create undesirable outcomes:

- Regarding the proposal to limit the size of an AR - we view size as a tangential factor in relation to whether a principal will be able to effectively oversee an AR, and therefore do not support size limitations. We consider a size limit to be a relatively blunt solution that does not appropriately take into account the ability of the principal to oversee the AR. The risk posed by an AR is not a direct result of its size – an arrangement with a large and potentially complex AR can operate very effectively providing the principal is able to provide effective oversight. Rather, the risk posed is related to the ability of the principal to provide that effective oversight by having the right level of expertise and resources to do so. Policymakers should therefore instead focus any reform on ensuring that principals are appropriately positioned and enabled to oversee ARs.
- Regarding the proposal to subject ARs to direct regulation – we would note that directly subjecting ARs to regulatory requirements, in particularly the SMCR, should not be necessary where the principal is exercising the correct oversight and is held to account. We

note that this proposal may risk undermining the underlying benefits of the AR regime, reducing the appeal to prospective ARs, and potential reducing the benefit that the regime ultimately delivers. If direct regulation is still envisaged, we view this as less necessary for certain uses of the AR regime, for example intragroup use of the regime or outsourcing arrangements, as significant and appropriate regulations and controls already exist as discussed further in this response.

Ultimately, if government decides to proceed with any of these proposed reforms to strengthen the AR regime, it should consider how the risks and challenges may differ for different uses of the regime, and ensure that any changes are necessary, proportionate, reflect the risks involved in the use of the regime, and avoid a 'one size fits all' approach. In particular, we would urge government to reflect the lower risks posed by intragroup use of the regime, and the greater levels of control and oversight provided by other elements of the regulatory framework, for example in relation to outsourcing and OCIR.

Consultation Questions

The Current Appointed Representatives (AR) Regime

- 1. For users of the AR regime, whether principals or ARs: do you find the regime effective and beneficial to your business operations? Explaining your answers in the context of your business model would be helpful.**

Barclays Use of the AR Regime

Barclays uses the Appointed Representative (AR) regime to support our business model and Group structure. We have standardised the provision of most back office services into a global shared service model that exists to provide technology, operations and functional services to business divisions and their legal entities across the Group. As part of this arrangement, we use the AR regime to enable our shared service entities to support our business entities. Barclays Execution Services Limited (BESL) and Barclays Global Service Centre Private Limited (BGSC) operate as ARs within Barclays' group service division, known as "BX", and provide services directly to Barclays Bank UK plc, Clydesdale Financial Services Limited and Barclays Bank plc as principals. Barclays does not currently use the AR regime for any other purpose. Of the use cases explored in the consultation, we consider the best fit for our use is 'sharing of regulatory permissions within a corporate group'.

Barclays ARs are not profit (P&L) generating entities but instead they provide a range of back office activities to support the principals on a cost-plus basis. There are no incentivised commissions, fees or additional payments provided from our principals to our ARs that could foster inappropriate behaviour that may cause customer detriment. While our ARs may be relatively large entities, the regulated activities they undertake only form a small proportion of the overall services they provide to other members of the Barclays Group. For example, only 22 of the 126 services undertaken by BX are regulated activities performed under the AR regime. However, there are synergies between the regulated activities and other services which BX provides and combining them enables BX to work with the regulated firms to offer a more integrated service for our customers.

Whilst we do not currently use any external ARs, we would note that we have used them effectively in the past to perform some of the services which our intragroup ARs currently perform. These historic arrangements were also classified as material outsourcing arrangements and subject to the controls that came with that, including a rigorous oversight and governance process involving detailed due diligence, detailed contractual arrangements with clear service descriptions, SLAs, adequate remedies for poor performance, and a robust service management regime. These external arrangements offered increased flexibility in terms of our customer service offering and are an important option to retain for the future. We have touched on the use of external ARs where appropriate in our response.

Benefits from the AR Regime

The AR regime, and specifically our intragroup use of the regime, offers a number of benefits.

- Firstly, the AR regime enables Barclays to provide high quality, efficient and cost effective services to our customers. Leveraging the AR regime, we have created Centres of Excellence within our shared service entity, BX, in order to centralise specialist knowledge, achieve operational efficiencies and economies of scale, and ultimately provide a better service to our customers. While only a small proportion of BX's activity leverages the AR regime, the ability to integrate these activities into BX's broader services to customers via our Centres of

Excellence provides a significant benefit in terms of a more integrated customer service experience.

- Secondly, the AR regime supports Barclays Group operational resilience. Our ARs are located in the UK and India, enabling us to operate a ‘follow the sun’ model with 24/7 support to drive greater operational continuity and stability, thereby strengthening the overall resilience of the Barclays Group. This model further drives operational efficiencies and improves resilience by reducing concentration risk, ultimately improving customer experience.
- The AR regime supports Barclays recovery and resolution planning. BX is the vehicle for the group under the Barclays structure to meet Operational Continuity in Resolution (OCIR) requirements, ensuring continued provision of critical services and facilitating the execution of recovery and resolution actions, including restructuring, if required in the event of financial stress.
- We also agree with the point made in the consultation that the AR regime provides supervisory efficiencies for the regulator through only needing to supervise regulated firms in a corporate group, rather than regulated firms and their ARs.

Lower Risk from Barclays Intragroup use of the AR Regime

The intra-group nature of our ARs, and the fact that they are operated within a regulated group, ensures that any potential risks are appropriately managed, including through an increased ability for principals to oversee and exert influence over the ARs. With our principals and ARs existing within the same Group, they have closely aligned underlying interests, and we are able to effectively ensure an appropriate control framework exists for principals to have enhanced oversight of the ARs, including through the application of group-wide policies which apply directly to all entities, including the ARs. Additionally, as the arrangements with each AR are classified as material outsourcing for each principal, as well as being in-scope for OCIR in the case of Barclays Bank plc and Barclays UK, relevant controls set out in Barclays’ Internal Outsourcing Standard and OCIR Standard apply on top of the AR controls framework. This ensures that we have comprehensive, robust service management processes and control frameworks in place to oversee the ARs. Finally, the activities of our ARs are closely aligned with the business activities of our principal entities, ensuring that the principals have the requisite expertise to oversee the activities of the group’s ARs. As a result, we consider intragroup use of the AR regime to be significantly lower risk than other uses of the AR regime.

Ultimately, we consider that the AR regime provides a critical framework enabling Barclays principals and ARs to operate efficiently and flexibly within a common group structure in which robust controls and governance measures are utilised to manage any potential risks. If government decides to proceed with any proposed reforms to strengthen the AR regime, it should consider how the risks and challenges may differ for different uses of the regime, and ensure that any changes are necessary, proportionate, reflect the risks involved in the use of the regime, and avoid a ‘one size fits all’ approach. In particular, we would urge government to reflect the lower risks posed by intragroup use of the regime, and the greater levels of control and oversight provided by other elements of the regulatory framework, for example in relation to outsourcing and OCIR.

2. Are there any other types of use of the AR regime we have not described above? In this case, please describe the business model and the types of firms (or groups, where relevant) that use the AR regime.

We note that use of the AR regime has evolved significantly since it was first established. We are not aware of any other use case of the AR regime beyond those identified in the consultation document.

As described in our response to Question 1, Barclays currently only use the AR regime in the context of ‘sharing regulatory permissions within a corporate group’ to support our intragroup service company operating structure.

3. For multinational firms that use the regime to access UK financial services markets – how do you access these markets in other countries?

Barclays does not use the AR regime specifically for the purpose of accessing UK markets from abroad. While one of Barclays’ intragroup ARs (BGSC) is located in India, its purpose is not to provide Barclays principal entities with access to the UK market – indeed, Barclays principal entities have their own presence and direct access to UK markets.

BGSC’s purpose is to provide operational, servicing, technology and functional support in a centre of excellence capacity to its principals, including to their UK businesses.

4. Do you think the diverse use of ARs across different sub-sectors and business models has been a beneficial evolution of the regime? Do you have any concerns with any of the ways in which the AR regime is currently used?

As the consultation document notes, the AR regime has evolved significantly since inception and is now being used in a variety of business models.

As we only use the AR regime for intragroup purposes within the Barclays group, we are not in a position to comment or raise any concerns with how the regime is used in other models.

However, ultimately, we consider that for all use cases of the regime, it is critical to ensure that the regime delivers and enables effective oversight of the AR by the principal, with appropriate controls and accountability. This is the most important element to ensure the regime works effectively and delivers the potential benefits available without creating additional risks.

[Regulation of the AR regime](#)

5. Do you think the above discussion provides an accurate explanation of the current AR regulatory regime? Are there any other elements to the regulatory regime which are important to consider?

Barclays considers the consultation’s articulation of the current AR regulatory regime to be accurate.

We also note that other regulatory regimes can apply in tandem to an AR appointment – for example, outsourcing and OCIR regulations in the case of Barclays current use of internal ARs and our past use of external ARs. Further detail is provided in our response to Question 1.

Proposals to strengthen the AR regime should consider the enhanced governance and control obligations in effect for AR arrangements that are also subject to outsourcing and OCIR regulations to ensure that any changes to the regime are necessary, proportionate, reflect the risks involved, and avoid a 'one size fits all' approach.

6. Do you think these policy aims are the right ones for the AR regime?

Barclays considers that that policy aims put forward in the consultation document are appropriate.

7. How appropriate and effective do you think the current regulatory approach is at ensuring the safe operation of Introducer ARs?

Barclays does not currently operate any Introducer AR arrangements, so we have not commented on the effectiveness of the regulatory approach for IARs.

8. How appropriate and effective do you think the current regulatory approach is at ensuring the safe operation of smaller ARs?

Barclays does not currently operate any smaller AR arrangements, so we have not commented on the effectiveness of the regulatory approach for smaller ARs.

9. How appropriate and effective do you think the current regulatory approach is at ensuring the safe operation of larger, more complex ARs?

As noted in our response to Question 1, Barclays currently uses the AR regime internally only as part of our Group corporate structure, with a single Group-wide service division (BX) having two AR entities which provide services to other business entities within the Group operating as principals.

Whilst each AR in our BX service division may be relatively large in size overall (albeit with regulated activities accounting for only a small proportion of the services provided by the AR entity), we would note that our intragroup use of the AR regime is different to the typical 'larger, more complex AR' model explored in the consultation document. The consultation document outlines a large company operating as an AR of a financial services firm in order to offer new products alongside its own, where the company does not form part of the principal's group and operates a fundamentally different business to the principal. The complexity arises in these cases because of the fundamentally different business operated by the AR relative to the principal and potential challenges which that may bring in terms of the principal being able to properly oversee the AR's activities.

In contrast to this model, Barclays intragroup ARs exist as part of a group service division which is designed to support activities of the principals. The Barclays ARs operate solely to support the business of the principal firms. As a result, the activities of our ARs are closely aligned with the business activities of our principal entities, ensuring that complexity challenges associated with a different business model for the AR do not apply to our arrangement and that the principals have the requisite expertise to oversee the activities of the group's ARs.

The intragroup nature of our ARs, and the fact that they operate within a regulated group, provides additional safeguards which ensure that any potential risks are appropriately managed. For example:

- With our principals and ARs existing within the same Group, we are able to effectively ensure an appropriate control framework exists for principals to have adequate oversight of the ARs.
- Our ARs and principal entities ultimately ladder up to a single Group Executive Committee and Board, ensuring the ARs comply with Group standards and controls, their objectives are aligned with those of the principals and that conflicts of interest, if any do arise, are managed holistically under a common policy. This also ensures that an appropriate escalation pathway exists, meaning any issues can be raised to a single Executive Committee if necessary.

Our intragroup arrangements are also subject to regulations on outsourcing and OCIR, ensuring that we have robust service management and oversight measures (in addition to our AR controls framework) in place to oversee the ARs. As a result, we consider the current regulatory approach as being sufficient to effectively manage any risks posed by intragroup use of the regime within a regulated corporate group, even if the ARs in question are deemed to be large.

10. How appropriate and effective do you think the current regulatory approach is at ensuring the safe operation of the regulatory host model?

Barclays does not currently operate the regulatory host model of the AR regime, so we have not commented on the effectiveness of the regulatory approach for this model.

11. Do you think the above discussion is an accurate reflection of the challenges to effective operation of the current AR regime? Are there other challenges to fair and effective operation of the regime which have not been identified here? Do you think these challenges are manageable under the current approach? Do you think the range of regulated activities an AR may carry on is appropriate?

We appreciate the potential risks and challenges to the effective operation of the AR regime put forward in the consultation. We therefore support the broad intention to strengthen the framework, to bolster oversight in a proportionate manner which addresses the underlying risks, whilst preserving the benefits of the AR regime for firms and customers.

It is our firm view that effective oversight by the principal is the key to ensuring the AR regime works effectively and mitigates any potential risks, whilst preserving the regime's underlying benefits. Any changes from Government to strengthen the regime should therefore focus on: ensuring that firms are fit and proper to act as a principal; enabling principals to provide effective oversight; and ensuring regulators hold principals accountable for undertaking that oversight.

Additionally, we would however note that the challenges identified may pose less of a risk under certain types of AR arrangement, e.g.:

- (a) Intragroup use of the AR regime. The justification for this is set out in full in our response to Questions 1 and 9 and revolves around common control frameworks, aligned interests from being part of the same group and specific corporate structure aspects, and the application of OCIR regulations.

- (b) ARs (internal or external) which are appointed under an outsourcing arrangement, and are therefore subject to a range of outsourcing rules requiring strong principal oversight of the AR as an outsourced provider. In addition, for any outsourcing deal which has been classified as “material”, regulator pre-notification is required, providing regulators with an important review opportunity before the deal can proceed further, as well as enhanced oversight obligations on the principal.

We would therefore urge government to consider how the risks and challenges may differ for different uses of the AR regime, and ensure that any changes to the regime are necessary, proportionate, reflect the risks involved, and avoid a ‘one size fits all’ approach.

Potential Reforms

12. Do you think changes to the scope of the section 39 exemption for ARs should be considered? If so, what changes do you think should be made? How might changes to scope affect ARs, principals and their consumers?

Regarding the potential to prohibit ARs from carrying on certain activities - whilst Barclays only use ARs for a subset of the activities that an AR can undertake, we believe the current broad range of activities that can be carried on by an AR underpins the value and benefit that can be delivered through diverse use of the regime. We believe that reform of the AR regime should focus on ensuring that principals have effective oversight of an AR with robust controls and governance in place and that this should be sufficient to manage any potential risks.

Regarding the proposal that Section 39 could be amended to specify new conditions to be met in order for the exemption to apply, with a potential new condition being a size limit for ARs - we view size as a tangential factor in relation to whether a principal will be able to effectively oversee an AR, and therefore do not support size limitations. We consider a size limit to be a relatively blunt solution, that does not appropriately take into account the ability of the principal to oversee the AR. The risk posed by an AR is not a direct result of its size – an arrangement with a large and potentially complex AR can operate very effectively providing the principal is able to provide effective oversight. Rather, the risk posed is related to the ability of the principal to provide that effective oversight by having the right level of expertise and resources to do so. Policymakers should therefore instead focus any reform on ensuring that principals are appropriately positioned and enabled to oversee ARs.

Notwithstanding the above, we believe that it would be difficult in practice to determine the size of the AR – for example, whether size would be based on all of its business activity or just its regulated activity, number of staff, revenues or other factors. We would note that it would be inappropriate to take into account any unregulated activity of an AR when determining its size. Further, we would note that a size limit risks firms finding relatively simple solutions to circumvent the new rules – for example, a limit on the size of an AR could be circumvented by an AR entity simply splitting to operate as two separate smaller entities acting as ARs for the same principal.

Ultimately, if government considers a size limit on ARs, it should consider how the risks and challenges may differ for different uses of the AR regime, and ensure that any changes to the regime are necessary, proportionate, reflect the risks involved in the use of the regime, and avoid a ‘one size fits all’ approach. In particular, we would urge government to reflect the lower risks posed, and the greater levels of control and oversight provided by intragroup uses of the regime, where increased

size can lead to greater efficiency and improved services for customers within an appropriately scaled control environment. For the reasons set out in our response to Questions 1 and 2, we do not view additional measures as being required for intragroup arrangements of the type described there.

13. What are your views on the FCA having greater ability to prevent poor oversight of ARs through the introduction of a ‘principal permission’? Do you have views on other ways of enhancing the FCA’s role in the regulation of principals and their ARs? What do you think would be the benefits and risks of enhancing the FCA’s powers to regulate principals or ARs?

Noting the challenges set out in the consultation document related to the fitness of firms to act as a principal in certain AR arrangements, i.e. due to inability to provide adequate oversight, or due to lack of appropriate expertise, we support the proposal for an FCA ‘principal permission’ gateway. We agree that this would provide the FCA with greater powers and opportunity to scrutinise a principal’s ability to provide effective oversight before the principal is permitted to appoint ARs, and we reiterate that effective oversight by the principal is key to ensuring that the AR regime functions effectively.

Our general view remains that any direct regulation of ARs by the FCA would run counter to the core benefits that the AR regime delivers – in particular in relation to competition, innovation and cost. However, we can distinguish the proposal for direct information gathering and investigation powers on the basis that for any AR appointments which constitute a material outsourcing, the regulator should already have direct access to the AR for information gathering purposes via contractual provisions in the outsourcing agreement, so the additional burden of direct regulator access via statute does not materially increase regulatory burdens on the AR.

We would also suggest that for all AR appointments the principal should be required to ensure that the regulator has direct access to the AR in terms of information gathering as a contractual matter, as is the case for outsourcing appointments. This would ensure equivalent access to overseas ARs who may be beyond the FCA’s jurisdiction in terms of information gathering and investigation powers. We have outlined the important role that overseas ARs play in our separate submission to the FCA consultation paper - any changes in relation to regulatory access and investigation should not limit the use of overseas ARs given that role.

14. What do you think would be the benefits and risks of applying more regulatory requirements directly to ARs? Are there particular requirements that you think should be applied directly to ARs?

If, in particular, the SM&CR was to be applied to ARs in some form:

- a) What changes, if any, should be made? It would be helpful to refer to the different elements of the SM&CR (which are set out in SYS23 of the FCA Handbook) in your answer.
- b) Should there be a differential approach, with some ARs subject to more or fewer requirements than others? If so, which business models should be subject to more or fewer requirements? Who should oversee these requirements: the principal or the FCA?
- c) What should the relationship between the principal and AR be when assessing the conduct standards of employees at an AR? For example, should the principal be ultimately

responsible for deciding the fitness and propriety of an AR, or only for reviewing policies and procedures for determining fitness and propriety?

We reiterate our view that effective oversight of ARs by principals and holding principals accountable for their oversight is the key to ensuring the AR regime works effectively and mitigates any potential risks, whilst preserving the benefits of the regime. There are parallels that can be drawn from outsourcing regulations which require a high degree of oversight by the regulated entity of the outsourced provider and hold the former accountable. In the AR context, where there is appropriate oversight of an AR by a principal, we cannot see any material additional benefit to the AR being regulated directly as well.

We also note that direct regulation of ARs could result in increased burden and costs for ARs, potentially leading to a reduced number of ARs across the industry. For those ARs that remain, direct regulation will likely lead to increased costs to deliver the underlying financial services that they provide. Both of these in turn could then limit the benefit the AR regime ultimately delivers to the sector and the broader economy.

In relation to the differential approach question, if government does consider directly subjecting ARs to regulatory requirements, in particular the Senior Managers and Certification Regime (SMCR), this may be less necessary for certain uses of the AR regime, in particular for:

- a) Intragroup use of the regime. In this use case, the SMCR already applies directly to individuals in the principal, with regulators having appropriate oversight and control over the principal and influence over their intragroup ARs through that arrangement. Intragroup ARs are also likely to be subject to similar group-wide policies, procedures and controls, creating a consistent approach to governance and conduct. Depending on the intragroup structure, the intragroup service provider's employees that provide the AR services are also likely to be considered as employees of the principal for COCON purposes, providing an additional layer of oversight responsibility on the principal.
- b) ARs (internal or external) which are appointed under an outsourcing arrangement, and are therefore subject to a range of outsourcing rules requiring strong principal oversight of the AR as an outsourced provider. In addition, for any outsourcing deal which has been classified as "material", regulator pre-notification is required, providing regulators with an important review opportunity before the deal can proceed further, as well as enhanced oversight obligations on the principal.

Additionally, regulators also have the ability to oversee and manage AR risk directly via the OCIR framework which will apply to principals for internal and external AR arrangements that are classified as in-scope as critical services for OCIR.

In summary, when considering whether to directly subject ARs to regulatory requirements, government should consider how the risks and challenges may differ for different uses of the AR regime – in particular intragroup use of the regime - and ensure that any changes are necessary, proportionate, reflect the risks involved in the use of the regime, and avoid a 'one size fits all' approach.

15. Do you think there is a case for extending the ability of the Financial Ombudsman Service to investigate complaints involving the activity of ARs? What do you think the benefits and risks of this approach might be? Would this change affect how ARs are used by their principals?

We recognise that it may be very difficult for a customer to determine whether an AR purporting to act for a principal is undertaking regulated activity within the scope of its agreement with that principal, or whether the activity is appropriately and accurately captured in the AR agreement between those parties. We also appreciate that this would create an unfair customer outcome if the customer is ultimately unable to revert to the FOS in these scenarios.

We therefore support the proposal to amend the section 39 exemption so that the FOS can investigate complaints relating to the regulated activity of an AR for a principal and provide redress against the principal, providing the investigations and redress relate to activities that the AR is purporting to carry out on that principal's behalf. As the principal will be able to manage that risk through its contractual arrangement with the AR and its oversight of them, there is sufficient nexus to the AR's conduct and so we view this as a fair allocation of risk.

However, where a complaint relates to the AR's conduct in relation to activities that it is purporting to undertake for *another* principal, the first principal will not have the necessary nexus to the AR's conduct in that instance and so it would result in an unfair allocation of risk to hold them liable in that instance. In summary, the FOS should only be able to hold each principal accountable for any AR activities purported to be carried out by the AR on their specific behalf.