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MONEY BOX

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LEWIS: Hello. In today's programme, we're promised £2,000 off a new car if we trade in an old one. Just how easy will it be? All the details of scrappage later. More bank products will soon be regulated by the City watchdog, but not all of them. Consumer benefit or consumer confusion? Pension tax relief will be cut for *some*; ISA limits will be raised for *some*; extra tax on *some* second homes you let out; and more money for *some* low income pensioners. Those details later. And Bob Howard's here.

HOWARD: Looking at the difficulties of deciding whether a vulnerable person is or is not capable of making financial decisions.

O'BRIEN: I was told that my father was mentally active. Well he didn't recognise me on a number of occasions. It is financial abuse of the elderly.

LEWIS: More from Bob later. But, first, the City watchdog is to step in to regulate savings and current accounts in banks and building societies. At the moment they operate under a voluntary code, what's called the Banking Code, but from November 1st this part of the code will be scrapped and regulation transferred to the Financial Services Authority. That means customers will have to be treated fairly or the bank or building society could be fined. I asked the FSA's Retail Managing Director, John Pain, why he'd decided to impose new rules on the banks.

PAIN: Principally for the benefit of consumers, really to put the consumers in the driving seat of really understanding better information about their bank accounts and what they can expect from their provider.

LEWIS: So is this the FSA saying that the existing Banking Code hasn't worked?

PAIN: Well I think the scope of the existing code was fine, but I think this brings a couple of benefits to consumers. First of all is absolute clarity that we look after their interests in this part of the marketplace. The second thing is that obviously we have the advantage that you know our supervisory process is then enforceable in respect of then making sure these improvements are delivered in the marketplace, and I think that's a big change for the consumers. Probably, finally, that as it's moved from being a voluntary code, we've also tried to make sure of the fact that we've widened some of the scope of what we expected to cover.

LEWIS: So when someone goes into a high street bank or building society, can they be sure that you now will regulate everything they might buy there?

PAIN: Not entirely because of course there's still some aspects in terms of obviously the consumer credit market that we don't regulate. That's the OFT's responsibility. And of course this was the last piece really from a consumer's point of view. We'd already taken over the regulation of mortgages and general insurance and so it's removed that lack of clarity for consumers as well.

LEWIS: You won't be regulating, for example, personal loans or credit cards?

PAIN: No. As I say, the consumer credit issues are within the scope of the OFT.

LEWIS: And what about overdrafts?

PAIN: That's the same aspect in terms of any consumer credit. All that's covered by the Consumer Credit Act.

LEWIS: Won't that really be confusing, far from clarity? You will regulate the current account when they're in credit, but the moment they go overdrawn you *won't* regulate it.

PAIN: I think this does provide a lot more clarity about the provision of information to consumers, makes switching a bank account easier, and also - quite important, as I said already - brings the scope of this under the FSA remit, which is you know enforceable from our perspective as opposed to a voluntary code. So I think it is a good step forward for consumers.

LEWIS: I can see those things and I can see it's a step forward, but I can't see how any consumer will possibly understand a current account in credit is your responsibility ...

PAIN: Yeah, yeah.

LEWIS: ... a current account that's overdrawn is not. It's daft.

PAIN: The remit and the scope for what the FSA is given by way of responsibility is a matter for HMT and ...

LEWIS: Of the Treasury?

PAIN: Indeed.

LEWIS: John Pain from the FSA. So is this change a vote of no confidence in the way the banks currently regulate themselves? Eric Leenders is Director of Retail Services at the British Bankers' Association.

LEENDERS: We don't see it in that way at all. We've been considering whether the FSA should take a more formal role in the regulation of deposit taking activities with the FSA for a number of months now. And if the time is right to move away from a self-regulatory environment to a more formal environment, then let's just make sure that as we move across, we don't lose any of those protections that are contained within the Banking Code.

LEWIS: One of the difficulties that I identified when I was talking to John Pain is that although the FSA will be regulating current accounts while they're in credit, the moment they go overdrawn they won't because that will be a loan, if you like, and that will be regulated by the OFT. Is that going to cause difficulties and confusion?

LEENDERS: We feel that you know there might be a place for bringing all this regulation into the Financial Services Authority.

LEWIS: So you'd like them to regulate loans and credit cards as well?

LEENDERS: Well right now I think where we're at is that we need to consider in the immediate sense Lord Turner's consideration of whether second charge lending should move across to the FSA. So I guess there is a sequence of taking these things on board.

LEWIS: That's a specific point about people who've got secured loans on their property. But we're talking here about ordinary old everyday overdrafts, which have hardly been uncontroversial. They still won't be regulated by the FSA.

LEENDERS: But they have always been regulated of course by the Office of Fair Trading, so it's not as if consumers don't have protections. What we want to make sure philosophically is that anything that's in the Banking Code just now isn't lost. We don't see this in any sense as opportunity of trying to get away from the level of protections that customers have just now.

LEWIS: Eric Leenders of the British Bankers' Association. Well live now to talk to Adam Philips who's Acting Chairman of the Financial Services Consumer Panel, which advises the FSA. And, Adam Philips, you've been calling for regulation of banking services. Will this change have the benefits that both John Pain and Eric Leenders seem to think?

PHILIPS: I think it will have a large impact on the way that savings are handled. And we as a panel certainly welcome the fact that the FSA has finally decided to use the powers which it has to regulate retail banking and to bring in a regime which introduces the concept of

fairness, which both the FSA and the Ombudsman apply, rather than a concept which was written by the banks into their code.

LEWIS: Yes, you mention savings and of course one of the problems at the moment is savings rates have been tumbling with the bank rate and the banks haven't told their customers because they haven't had to. Do you think that should change; that all changes in savings and mortgage rates should be told to consumers immediately?

PHILIPS: We absolutely do think that and in fact I think all the consumer organisations who responded to the consultation asked for that to happen. What the FSA has said is that this is a difficult issue and they will be putting out a consultation in July to discuss whether this can be done. We certainly hope that they will do it and we're rather disappointed it didn't come out in this document.

LEWIS: And what other advantages do you think there'll be for consumers?

PHILIPS: I think the explicit requirement to treat customers fairly is a really big step forward because it introduces a principle rather than a set of rules which people can always find a way around.

LEWIS: But the banks can always argue, can't they, about what's fair and what's not, and I can imagine endless discussions when they do something and the FSA says it's not fair and they say oh yes it was fair.

PHILIPS: I agree with you there, Paul. What the FSA has committed to do is to move from a form of regulation and supervision which involves observing what the banks are doing to actually checking the outcomes that consumers are getting. And we as a panel have told the FSA that we're going to watch that very closely to make sure that this actually works.

LEWIS: And what about this key confusion that arose in my interview earlier that a current account will be regulated by the FSA when in credit but by the Office of Fair Trading the moment you go overdrawn? That regulation could change two or three times a month,

couldn't it?

PHILIPS: It's absolute nonsense. But, unfortunately, I have to have some sympathy with the FSA in that there are three relevant laws, acts which regulate this area - the Consumer Credit Act, the Financial Services and Market Act, and the Payment Services Directive - and, unfortunately, they overlap with each other and are administered by different departments.

LEWIS: So something the Government perhaps should sort out. Do you think the FSA though should be there to regulate all banking activity? I mean not just that silly point about overdrafts, but credit cards, loans, that sort of thing.

PHILIPS: I think it would be a very good idea that it was done by one body that is supervising the relationship between the consumer and the bank.

LEWIS: And briefly, Adam, will all this really happen by 1st November? There seems an awful lot of consulting.

PHILIPS: I think there's an enormous amount to do and there is a real risk that there will be gaps in consumer protection. What we are encouraged by is that the BBA and the FSA and the OFT are talking to each other, but there is still a great deal to do before November.

LEWIS: Lots of acronyms talking to each other. Thanks very much Adam Philips of the Financial Services Consumer Panel.

Now you can hardly have missed the Budget this week and the prospects of the Government borrowing well maybe a trillion pounds on some estimates over the next few years, money we'll all have to pay back. But today Money Box is not going to look at the macro issues of borrowing money, but at a few of the fiddly bits you might have missed - things that'll affect you and your money. And we start with scrappage, a £2,000 subsidy if we trade in an old banger 10 years old or more to buy a new car. Half of that comes from the taxpayer and it's limited in cash terms to £300 million, so it can only help 300,000 scrappage deals between mid-May and when the scheme ends next February. Now that's about 3% of the old cars on

the road on my calculations. We're still getting emails about this and calls about this. Here's Money Box listener Sarah Kuipers.

KUIPERS: I've got a Citroen ZX, which is about 12 years old. I've had it for 9 years and I just wanted to check whether I would qualify for this scheme. I also wanted to know whether The cars that have been used as showroom models are normally reduced. Would they also be eligible for this scrappage scheme in terms of the £2,000?

LEWIS: Well just two of many, many questions we've been getting. Live now to talk to John Whiting of the Chartered Institute of Taxation. John, I know you've been looking at this in some detail. Will Sarah qualify?

WHITING: The answer is yes and no, given what she's spelt out. She's got a car over 10 years old - a nice French car, so maybe we should call it a scrappage (*French pron.*) scheme.

LEWIS: But it's registered in the UK. That's the important point.

WHITING: That is the important thing; and has been here and she's obviously held it for the last 12 clear calendar months before potentially she trades it in, which is another thing. What she's got to buy is a new car - so I'm afraid the idea of getting one that the dealer has perhaps used for 6 months, that doesn't work. It's got to be new.

LEWIS: Now Sarah owns the car, Sarah's going to buy the new car, which is straightforward. But we've had emails from people say well if a parent has bought an old car for their teenage son or daughter and wants to use that car to get a discount off a new car for themselves, can they do that?

WHITING: Well I mean in principle if it's over 10 years, it's been with the same owner for 12 months, etcetera, etcetera. But of course it's got to be bought by the same person. So if it really is the kid's car, it may be the kid that has to have the new car and that may raise other issues, dare I say it.

LEWIS: Yes, indeed. And we've had emails about this. In fact one's come in this morning regarding car scrappage. This is from Kirsty: 'I'd like to know if the car needs to be MOT'd, taxed or both or neither'.

WHITING: It needs to have a valid MOT or the statutory off road notification. So in one sense, you know it needs to be a legitimate car. As somebody put it to me, "What about that heap of rust that I'm rebuilding?" Well the answer is quite possibly no, that qualifies. The one thing I've had a lot of questions about is do motorcycles qualify? They don't, but of course some light vans do.

LEWIS: Some light vans do. And I should just add the new car doesn't have to be green. It can be any car as long as the dealer is in the scheme.

WHITING: Indeed.

LEWIS: Stay with us, John, but we want to move onto other things. There was so much in the Budget. Moving onto ISA's now. New limits for these tax free investments and savings. It's going up from £7,200 to £10,200. Half of that, £5,100, can be in a cash ISA. But the change doesn't start right away and doesn't start for everyone. With me is Adrian Lowcock who's Senior Investment Adviser of the independent financial advisers Bestinvest. Adrian, how will this work?

LOWCOCK: Well the implementation of it is from 6th October. If you're over 50, you'll be able to take out the additional amount, so up to £5,100 in a cash ISA.

LEWIS: So the new limit's for over-50s only from 6th October?

LOWCOCK: From 6th October. You can only do it if you turn 50 from 6th October to 5th April 2010 from the date you turn 50.

LEWIS: Right. So if you're 50 next January, you've got to wait till then?

LOWCOCK: Till that date, yeah.

LEWIS: And then from next April, it's open to everybody?

LOWCOCK: Next April it's open to everyone and it goes back to the system we have at the moment.

LEWIS: What about the administrative problems? I mean one of the reasons it's been delayed to October is because this is going to cause administrative chaos in the banks and building societies, isn't it?

LOWCOCK: Yes, it's going to cost a fortune. It's going to cost millions to implement just for 6 months' rules changes and then the system will revert on 6th April.

LEWIS: And of course it won't mean that much, will it? I mean interest on an extra £1500 tax free if it's a cash ISA isn't going to be worth much more than £9 for a basic rate taxpayer.

LOWCOCK: It's not going to make much difference in the short-term for the taxpayer, but you build them up over years and then that can make a big difference.

LEWIS: That's the important thing - you've got this £5,100 now, or £10,200 in an investment ISA - and that can carry on forever tax free. Well also with us is Anna Pearson. She's Policy Manager for Age Concern and Help the Aged. Anna, given the way that savings income is falling for older people - this is going to be welcomed, is it?

PEARSON: Well we do have a lot of calls from older people who are concerned about the interest rates on the limited savings that they *do* have, so this will be good news for people who want to up those in the short-term and make sure they're getting decent returns on their money, which is very important to people.

LEWIS: There's also help for savings for people on pension credit. Now that of course is lower income people who probably won't be paying tax anyway. What's that going to be?

PEARSON: Well this measure is certainly good news for around 540,000 people actually. At the moment the Government when it calculates your pension credit will ignore the first £6,000 of your savings. What they're going to do is now ignore the first £10,000. So quite a lot of people stand to benefit from that and I think the maximum benefit will be around £8 a week. There'll also be some people who weren't entitled to pension credit before who might be now. And we always suggest people check and recheck year on year because the limits do go up; and a lot of people if they've tried before should always make sure they try again.

LEWIS: Yes because some people think if I've got any savings, I can't get pension credit. That's not true. I mean you can have many tens of thousands and still get pension credit on some income levels, can't you?

PEARSON: Absolutely true. It all depends on your state pension income plus your savings.

LEWIS: And very briefly, Anna, there was another move (which I think probably will be welcomed by you) to encourage people who don't pay tax to claim the tax back if it's been taken off their interest already?

PEARSON: Well, yes. The Government will write to people about this, giving them the opportunity to really be paying the right amount of tax and we all like to do that. We'd like to see them write to people around council tax benefit as well because often people are paying the wrong amount of council tax and not getting their rebates back on it.

LEWIS: John Whiting is still with us. How rare is it for the Revenue to write to people and say we want to give you what they say is an average of 200 quid?

WHITING: Well they've done it in the past. This tax back campaign, Low Incomes Tax Reform Group has been arguing that this is very much needed, particularly in the light of the new 10% savings rate which automatically generates the need for a reclaim if you're eligible for it. So they have done it, but not on such a consistent basis. I hope they've got the resources to carry it through.

LEWIS: Now another major change in the Budget was a move to taxing wealthy people more: higher tax for those earning more than £100,000 and higher still for those on £150,000 or more, both starting next year. John Whiting, briefly, £100,000 - what will they do; and £150,000 - what will they do?

WHITING: Over £100,000, you start to lose your personal allowance just like the elderly who lose their higher allowance from over 65 once their income goes up. Once your income's above £100,000, you phase out the personal allowance. It'll be gone by £113,000. Higher up the scale, £150,000, then you start to go into this new 50% tax rate. And just one other point. Many people have said what about the national insurance? That's going up from 2011, not 2010.

LEWIS: Okay. And as well as the new tax rate of 50%, people who are paying into pensions are not going to be able to get that, will they?

WHITING: This is rather complex. They're obviously wanting to make sure the 50% bites, and you can see the point there. But the obvious thing that people will say, "I'll up my pension contributions". What we're getting into is an extremely complex looking system of restricting relief once your income's above that level and potentially you only get 20% relief, although there's phasing. But it does mean if say your income's £200,000, you put £20,000 in, you're looking at 20% relief.

LEWIS: And Adrian Lowcock, we know this will also apply to people with a company pension in a rather complex way who have a final salary scheme. Do you think it's going to encourage people - or *discourage* people I should say, on higher incomes - to save into pensions? And will that damage pensions generally?

LOWCOCK: I think so. I mean basically if you earn over £150,000, it all but wipes out the benefit from saving into a pension. And if you've got a sort of wider issue with regard to pensions, it just creates this image to not actually encourage savers for long-term retirement.

LEWIS: And I suppose if the boss can't benefit, he or she is less likely to have pensions for

anyone else?

LOWCOCK: *(laughs)* Absolutely. I mean it just creates more confusion and less incentive to save.

LEWIS: And Anna Pierson, you've been involved in fairly high level pension discussions with the Government in the past. Were you surprised that tax relief is being cut?

PEARSON: Well we were because this issue had always been considered off the table. It was almost as if there was a fixed amount of money that could be spent on pensions - so when we suggested improvements to the state system, those were often turned down on affordability grounds. And for a long time there have been a small number of people on high incomes receiving a very disproportionate amount of government funding and tax relief. I mean obviously there are concerns about company pensions, but in a sense this is doing something which is relatively fair but we'd like to see the money reinvested in tackling pensioner poverty and also addressing some of the inadequacies of the actual state pension.

LEWIS: I think the 3.1 billion's been well spent many times over, Anna. I'm not sure that that's going to happen. John Whiting, very briefly before we come onto the final point with you, is this going to be the thin end of the wedge? Could we see more tax relief disappearing?

WHITING: It has to be conceivable. This is from 2011 with various anti-forestalling. Who knows? It has to be on the agenda somewhere that it's in the possible ranks.

LEWIS: And, John, your challenge is to explain the change to furnished holiday lettings tax in 25 seconds.

WHITING: Well furnished holiday lettings gets you some privileges - better loss relief, possible lower capital gains tax with entrepreneurs relief when you sell it. These privileges are going to go from next April, a complete change. The furnished holiday lettings rules go. It could mean people are less willing to do the furnished holiday letting system.

LEWIS: My thanks to John Whiting and also Anna Pearson and Adrian Lowcock.

Mental health campaigners say some people with mental health problems are being mis-sold financial products, but firms are under a legal duty not to discriminate against customers who have a mental health problem. So should financial organisations dealing with vulnerable customers do more to encourage them to seek advice from friends or family before they enter binding commitments? Bob Howard's been investigating.

HOWARD: Paul, this is an incredibly sensitive area because disagreements over people's fitness to make financial decisions can lead to protracted disputes. Money Box was contacted by Martin O'Brien from Gloucestershire. He believes his elderly father was not capable of understanding products sold via an adviser working for Zurich Financial Services. When he contacted the company after his death, he didn't recognise the profile of his father that the firm had built up.

O'BRIEN: I was told that my father was mentally active, very intelligent, knew exactly what he wanted to achieve and that he'd planned his financial arrangements in detail. Well he was suffering at the time with cardiovascular dementia. He didn't recognise me on a number of occasions when I came visiting, nor my wife, nor his grandchildren. He was *not* mentally active.

HOWARD: Zurich says medical evidence did not substantiate Martin O'Brien's belief that his father suffered from poor mental health and it thinks Mr O'Brien should have registered an Enduring Power of Attorney he had prepared for his father if he was concerned. Mr O'Brien says he would have done, but he had no idea his father had been seeking investment advice. But when he contacted the Financial Ombudsman Service, it found in favour of Zurich. Caroline Mitchell is the lead Ombudsman for investment complaints. She says cases can be more difficult to adjudicate when a potentially vulnerable individual has signed without consulting friends or family.

MITCHELL: In my experience most companies would expect there to be a relative or friend with somebody over the age of 75, but it really is down to the consumer. They can't be forced

to do it. If they think they're competent and can deal with their own affairs, nobody can make them have somebody with them. But I really do think that firms perhaps should be very careful in situations like that.

HOWARD: The possibility of confusion over the capability of customers to make financial decisions goes well beyond conditions affecting the elderly. Case workers at the mental health charity Mind are worried about advice given to individuals suffering from a range of mental health problems and learning difficulties. Emma Mamo, Senior Campaigns Officer at Mind, says in some instances advisers do seem to have intentionally misled customers.

MAMO: I think it is a hard judgement to make. However, we have done research on this where banks have mis-sold products to people, sometimes for not really understanding the customer but in other instances where they have actually targeted someone because they are vulnerable to aggressive selling techniques, which can happen a lot with people with mental health problems.

HOWARD: No firm could defend wilful mis-selling to a vulnerable customer, but deciding which customers may need help in making a financial decision is not always easy. Paul Ross is a Director of Retail Banking at the British Bankers' Association.

ROSS: Bank staff are not medical experts and legislation prohibits a bank from discriminating against a customer because of a mental health condition. So I think the assumption that banks have to make is that a customer does have capacity to make decisions and should have equal access to financial products and services.

HOWARD: And indeed charities have fought long and hard to make sure people with learning disabilities and mental health problems don't face discrimination. The recent Mental Capacity Act means bank staff in England and Wales must assume individuals are capable of making their own decisions unless they have clear reasons to believe otherwise. But Mervyn Kohler, Special Adviser for Age Concern and Help the Aged, says financial institutions should also make customers more aware of where they can seek free professional advice.

KOHLER: I do think that the companies in this industry do have to wake up to the fact that we have an ageing society and there are new factors in that market. I think a company should offer the opportunity for the customer to go and ask third party advice, and they should be able to give people contact details for the various agencies which *are* out there and which *can* help to give somebody a more secure feeling that they are doing the right kind of thing.

LEWIS: That was Mervyn Kohler ending Bob Howard's report. And you can have your say on this difficult dilemma on our website: bbc.co.uk/moneybox. Well that's it for today. You can find out more from the BBC Action Line - 0800 044 044 - and, as I mentioned, our website: bbc.co.uk/moneybox. All sorts of exciting things there - you can watch videos, sign up to my weekly newsletter, listen again, download a podcast - and later today there will be a question and answer on scrappage, which seems to be dominating the emails coming into our inbox. I'm back on Wednesday with Money Box Live, this week taking your questions on credit scoring. Back next weekend with Money Box. Today the reporter was Bob Howard, producer Penny Haslam, and I'm Paul Lewis.