

Financial Services Consumer  
Panel response to:  
FSA Discussion paper:  
*Informing Consumers: a  
review of product information  
at the point of sale*

Financial Services Consumer Panel response to FSA Discussion paper *Informing Consumers: a review of product information at the point of sale*.

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## Summary

- I. The Panel welcomes this review. Product disclosure at the point of sale is potentially a very powerful regulatory tool as it can be used to provide important information to consumers when they purchase a financial product.
- II. The research which underlies this review sends a very strong message that product information given to consumers at the point of sale needs to be kept as clear and simple as possible. It suggests that there are big gains to be made in consumer welfare by relatively small advances in understanding.
- III. Because there is scope for significant gains for consumers from this review, the Panel urges the FSA to use this opportunity to make radical changes to disclosure documents if this is necessary to realise these benefits.
- IV. Once the FSA has considered the responses to the discussion paper, it should set clear and measurable targets for the new regime, and should review the performance of the new regime against those targets regularly. We suggest a review of the effectiveness of the new disclosure regime after two years.
- V. The Panel have made comments on a number of detailed suggestions made in the Discussion Paper. When considering the detailed suggestions, the over-riding aim for the FSA should be to test the new disclosure documents and ensure that they will be used by and useful for consumers.

# **Panel response to FSA Discussion paper *Informing Consumers: a review of product information at the point of sale.***

## **Introduction**

1. This paper is the response of the Financial Services Consumer Panel ('the Panel') to the Financial Services Authority (FSA) discussion paper "Informing Consumers: a review of product information at the point of sale", issued in November 2000. The Panel has also reviewed the FSA Consumer Research paper 5 "Informed decisions? How consumers use Key Features" which summarises research drawn on in the discussion paper. The FSA established the Panel to advise the FSA Board on the interests and concerns of consumers and to report on the FSA's effectiveness in meeting its consumer protection and public awareness statutory objectives. Further information about the Panel is available on page 15.
2. References to question numbers in the text below are the numbering used in the discussion paper. Sub headings are also the same as those used in the discussion paper.

## **General Comments**

3. The Panel welcomes this review. Product disclosure at the point of sale is potentially a very powerful regulatory tool as it can be used to provide important information to consumers when they purchase a financial product. The Panel welcomes the fact that the FSA is reviewing the aims and objectives of disclosure in the light of its new powers and tools, and is learning lessons from the existing regime in terms of how customers understand and use information that is given to them.
4. The companion research paper provides revealing, and occasionally depressing, information on how consumers interact with disclosure

documents produced under the present rules and this provides a useful background to the review. The research sends a very strong message that product information given to consumers at the point of sale needs to be kept as clear and simple as possible. It suggests that there are big gains to be made in consumer welfare by relatively small advances in understanding.

5. Because there is scope for significant gains for consumers from this review, the Panel urges the FSA to use this opportunity to make radical changes to disclosure documents to make them better read and better understood. The Panel is concerned that whilst the discussion paper invites comments on the aims and objectives of the disclosure regime (which implies the potential for radical change), a significant part of the document is concerned with changes to the detail of existing documents. The Panel would be disappointed if the outcome of this review was only to make small adjustments to existing rules at the expense of an opportunity for more radical change to the style and content of the disclosure document.
6. The Panel notes that one of the purposes of a discussion paper is to invite comment on the aims and objectives of a regulatory regime. Once the FSA has considered the responses to the discussion paper, it should set clear and measurable targets for the new regime, and should review the performance of the new regime against those targets regularly. The Panel suggests a review after two years would be appropriate. The Panel would expect to see a more effective regime have an impact on the measures of "regrets, complaints and lapses" that we collect as part of our annual survey of consumers.
7. The Panel agrees with the sentiments expressed in paragraph 42 of the discussion paper. One of the operational goals of this review must be to improve consumers' understanding of why the information disclosed is important, and to be realistic about what disclosure can achieve in practice.

8. The discussion paper requested comments on aspects of the broader disclosure regime that were not specifically addressed in the paper (Question 1). There are two points the Panel suggests:
- The need for Key Features documents (KFDs) arises in part from the incomprehensibility of most contracts for financial services. In addition to improving disclosure of information, the Panel suggests that FSA needs to use its unfair contract terms powers to improve comprehensibility of contracts, and should clarify how these two tools will interact in the new regime.
  - The present disclosure regime has had some beneficial impact, for example many companies adjusted pay-out policies following the disclosure of early surrender charges. But the regime has also lead to some 'massaging' of figures so that a company is presented in a favourable light in disclosure documents. The discussion paper does not address this point directly, and the Panel would expect the FSA to take this 'massaging' of figures into account when developing the new regime.

## Objectives

9. This section contains the Panel's responses to issues raised in the discussion paper relating to how the objectives of the disclosure regime should be changed in the light of the (new) statutory powers of the FSA and new regulatory tools available (DP questions 5 to 8).
- 10.(Q5) The Panel agrees that the disclosure regime should aim to inform consumers at the point of sale, and should be kept as simple as possible. The FSA should give sufficient publicity to the purpose and availability of both the disclosure document and the comparative information tables. The style and content of the disclosure regime should be consistent with other communications to consumers from the FSA.

11. (Q7) The Panel believes that the disclosure regime should be extended to cover execution-only business. There are particular risks of buying without advice (which may be different to risks from advised sales) which consumers could usefully be protected against. Our research<sup>1</sup> has shown that although some people buying direct were confident and sophisticated investors, other less sophisticated consumers use direct channels because of lack of trust or lack of confidence in dealing with financial advisers ('the flight from advice'). There may be an issue as to the extent to which personalised information can be provided for an execution only deal - this will depend on the content of the new disclosure document. The Panel notes, however, that personalisation without advice is increasingly possible using interactive phone systems or internet sites or the use of 'typical' KFDs. The FSA should give explicit reasons if execution only sales remain excluded from the regime.
12. (Q8) The 'map' of the buying process (Table 2 of the DP) suggests that the buying process is complex. This is at odds with the findings of research that suggest the FSA should be trying to make things simpler. The Panel urges the FSA not to use Table 2 to be drawn into an overly complex solution.
13. The Panel accepts that consumers will not follow the steps in Table 2 in order. Some may well come straight in at (for example) step 4 and will not have any generic information. Disclosure documents therefore need to include key generic information (eg *'this is single premium life insurance policy. This means that...'*). The Panel also suggests that the disclosure document needs to tie in the brand name to the basic product. This is because lots of problem products are based on simple products with a twist (eg with-profits bonds) and even if consumer education means that people understand the basic products, they often won't know what the basic product they are buying is.

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<sup>1</sup> "Purchasing financial products through direct channels" research report by NOP undertaken for the Panel, June 2000. Available on our website.

14. The Panel also found Table 3 (meeting consumers information needs in the buying process) underwhelming. It suggests that the FSA believes that there must be an FSA action at each stage but does not differentiate between the relative importance of each stage. (e.g. what percentage of purchasers ever see the FSA website or an FSA factsheet?)
15. Both tables in the discussion paper appear to ignore the role of the adviser. Advisers can either enhance the information or subvert it. The FSA needs to look at disclosure documents in context of advised sales.

### **Designing an effective regime**

16. Whilst we make comments on detailed suggestions in the sections below, the Panel would repeat the message made in our general comments - do not miss this chance for a radical change to disclosure documents. Some of these issues raised are addressing shortcomings of the existing regime. This is valid, but there is a danger that the FSA could miss an opportunity for something new. The radical changes can be made to the style and content of the documents. We suggest the FSA uses communications professionals to rewrite and redesign the format and style of disclosure documents. Finally, most comments in this section are qualified by the need to prove that proposals are effective through thorough consumer testing.

### **Getting the information read**

17. When considering how to get consumers to read information, the Panel notes that reducing information to a core appears to encourage greater readership. But a split between core and supplementary information makes it more difficult to find the supplementary information, which makes us slightly uneasy. It could be argued that all the general information given to consumers by providers is "supplementary". This suggests that information should all be in one place as far as possible. The Panel has some practical doubts about the feasibility of a separate checklist -

experience with cancellation letters suggest that they would simply get lost. The Panel is also concerned that if there is to be a split between core and supplementary information that this should not open up loopholes or diminish the real importance for consumers of understanding the document.

18. Finding that current KFDs are poorly laid out and badly written begs the question of the adequacy of supervision. Any new FSA rules must specifically require disclosure documents to meet reasonable standards and FSA must use a stick and carrot approach to ensure that the culture of information provision changes. This issue is touched on in paragraph 67 of the discussion paper, but the Panel is not currently convinced that the requirement for promotions to be fair clear and not misleading is adequate.

19. The Panel's view is that personalisation where possible is a good idea and therefore well worth testing. The Panel has a slight concern that putting a set premium in might suggest that this is what you have to pay and lead to over-selling but we do not know whether this has caused problems in practice.

20. The Panel agrees strongly that mandatory oral statements from advisers would be beneficial to consumers. We are aware from our research that consumers place a great deal of weight on what is said to them (compared to what they read). We urge the FSA to find a mechanism to make this workable.

21. The Panel believes that regulatory badging would add to the authority and perceived importance of the document. Clarity may also be improved by prescribed wording and type size as far as possible. These issues should be tested with consumers to see what works best in practice.

### **Getting the information understood**

22. The Panel strongly supports the proposals to publish examples of good and bad practice, and for the FSA to give guidance on wording and

language, but accept that this should not lead to firms having to change their documentation too often. There is a case for accreditation on this point. Accreditation is becoming increasingly workable and there is a range of accreditation bodies. The Panel would like the FSA to encourage firms to gain accreditation for the understandability of their documentation, but has no strong views on any particular accreditation body. The FSA should give companies reasonable freedom to choose which accreditation they wish to gain.

## Content

23. The Panel has carefully considered the role and presentation of projections in disclosure documents. Arguments can (and have) be made for and against using one, two, or three projection rates and indeed whether one of the rates should be negative. There may be different answers depending on the product or how long the consumer plans to hold the investment. A suitable projection for a 'packaged product' may not be suitable for a unit trust. At issue is the balance between giving customers reasonable guidance on "what they might get back", illustrating the effect of charges, and directing customers away from past performance, all whilst trying to avoid setting a regulatory benchmark or guarantee where consumer place more faith in the projection than is due. The answer as to the number of rates shown must be derived through testing with consumers. The Panel is in strong agreement, however, that stronger warnings associated with projections should be tested, as should testing whether projections are better understood by consumers if they are presented graphically, or in sequence, rather than in a table as at present.

24. There is a particular problem with projections for unit trusts (and OEICs) as there is no pre-set term for holding them. The FSA should consider whether it is appropriate for projections to be used at all for these products or whether there is some other way to express charges for unit trusts and OEICs.

25. The Panel strongly agrees the disclosure document should provide a bolster for suitability (set out in paragraph 71 of the discussion paper).
26. In general, the panel would support the FSA if it found an effective way to get across the real rate of return, but recognises that in some circumstances the customer will be more concerned with a nominal projection (eg for repayment of a mortgage).
27. There is comment in the Research Paper on what consumers want from disclosure - which is past performance, commitment and the implications for the product of death, but not risk or tax. The FSA should do more research work to find out how to get consumers to read information they need rather than information they want.
28. The Panel is not entirely convinced, however, that the difference between what consumers say they want and what they need is so different as is suggested in the discussion paper. There may be scope for the FSA to try shifting consumer perceptions slightly to make consumers more willing to read the information. For example, do people really want information on past performance or do they just want to know what they will get back? Similarly, consumers probably don't want risk information but in some respects risk could be presented as part of commitment. In respect of tax, most consumers want to know how tax affects the amount they will get back, rather than information about tax itself.

### **Explaining charges**

29. The Panel's view on the price measure (and indeed the whole disclosure document) is that it must work in practice. Even if the FSA could come up with a perfect price measure it will do no good if the rest of the document is badly written, poorly laid out, and full of incomprehensible terms. This suggests the need for a thorough testing programme.
30. Cross-referring information from comparative information tables to indicate relative prices would heighten consumers perception of charges and may

lead to downward pressure on them. The Panel would therefore support this, but the FSA would need to be wary that this does not encourage product providers to massage figures to their (undue) advantage. There are some complex charging structures that crop up in the personal pension market, and FSA needs to test whether the methods it uses to explain charges is robust when faced with a range of charging structures.

31. The Panel has considered the discussion of the price expressions. If consumer bodies are to comment on the price options, FSA needs to publish the technical pros & cons (for all the options) as well as the consumer reactions. We presume that this will be done in the consultation document, but FSA might also look at other price measures eg APR and see if there are consumer education advantages in using concepts familiar to consumers from other areas. Option A in paragraph 91 (total amount in pounds) is rather similar to 'the total charge for credit'. A bias towards the short-term might not be a problem but here a comparator from the comparative info tables might be valuable.

32. It may be worth exploring the portfolio turnover idea - at the very least, in the comparative information tables, but we would need more detail in order to comment meaningfully.

## Differentiation

33. The Panel's view is that the issue is not one of dumbing down at the expense of clarity and precision, rather it is one of communicating effectively. Where a document does not meet the needs of a class of consumer, the FSA should consider whether the document should direct those consumers to get further help (and not just back to the salesman they are dealing with).

34. The Panel thinks there may be merit in testing whether a 'generic' disclosure document given to consumers at an early stage during the buying process would benefit consumers, compared to the current KFD

and personal illustration which is produced at a comparatively late stage in the process.

35. Where the FSA is considering allowing disclosure to be made by electronic media, we note that the screen capability and therefore the amount of information that can be shown per screen is often limited. This has two implications:

- All information needs to be in bite-sized chunks (which is probably a good idea for all information, including non screen based disclosure anyway)
- The need to ensure that all the vital information is read. Navigation (contents lists etc) will be important. Also the document on screen should be formatted to print out in full.

## Conclusions

36. The Panel welcomes this opportunity to comment on this review of what is an extremely important part of the FSA's regulatory toolkit. The point of sale of a financial product is the last chance for the regulator to try to give consumers information or messages before the consumer starts paying for that particular product. As such it is vital that this tool works well.

37. Because this is such an important area, the Panel's view is that the FSA must make every effort to ensure that documentation produced under the new regime is used by and useful to consumers. The Panel's overriding view is that the FSA should subject new proposals to rigorous consumer testing and be sure that the documents will meet their goals. Our view is also that this review is an opportunity for radical change to the content and format of disclosure documents, and the FSA should not shy away from radical change if it is shown to be successful in consumer testing.

38. Finally, our view is that the FSA should consider how it might measure the success of the new disclosure regime. We would like the FSA to set targets for increases in consumer use of or understanding of disclosure documents, and to review the success of the new regime after a reasonable period.

## Who is on the Panel?

### Colin Brown (Chairman)

Colin is an independent consultant specialising in consumer affairs. Previously Deputy Director of Research at Consumers' Association and Senior Fellow at the Policy Studies Institute, he has over 20 years' experience of social and consumer research.

### Ann Foster (Vice Chairman)

Ann is a former Director of the Scottish Consumer Council and has over twenty years' experience in the consumer movement. She is also a member of the Consumer Council for Postal Services. She was formerly Director of Government Affairs with Monsanto.

### Jean Gaffin

Jean chaired OFTEL's Advisory Committee on Telecommunications for Disabled and Elderly People until 31<sup>st</sup> December 1999 and is currently a Non-Executive Director of Harrow & Hillingdon Healthcare NHS Trust. She has extensive experience of working on behalf of vulnerable consumers. Previous posts include: the Executive Director of the National Council for Hospice and Palliative Care Services and Chief Executive of Arthritis Care

### Yvonne Gallacher

Yvonne is Chief Executive of Money Advice Scotland, set up in 1989 by Scottish Consumer Council. She has over thirteen years experience of consumer credit/money advice issues and of working with vulnerable consumers in a variety of roles, including debt counsellor, trainer and manager. She has also lectured and co-authored a Guide to Money Advice in Scotland. Yvonne is presently a member of the FSA Consumer Education Forum and Credit Union Consultation Panel. Yvonne is a member of the Scottish Consumer Council.

### Harriet Hall

Harriet is a solicitor with considerable experience of consumer policy and retail financial services. She was a legal officer with the National Consumer Council where she worked on the needs of low income consumers, banking, credit, mortgages, regulation of equity release and long-term care insurance, the Financial Services and Markets Bill and the proposed EU directive on distance selling of financial services.

### **Dianne Hayter**

Dianne is the Chief Executive of a new cancer charity, the Pelican Centre. She is the former Director of Corporate Affairs for the Wellcome Trust and was previously the Chief Executive of the European Parliamentary Labour Party and, prior to that, Director of Alcohol Concern. She has substantial voluntary sector and trade union experience.

### **John Howard**

John is a solicitor with extensive experience as a former presenter/editor of the daily consumer programme on Radio 4 'You and Yours'. John is currently a freelance broadcaster and his work includes presenting personal finance TV programmes. He is a member of the Mortgage Code Compliance Board.

### **Vinod Kumar**

Vinod is a social scientist with market research skills and extensive voluntary and public sector experience of policy analysis and research. Now retired, Vinod has previously worked for the Commission for Racial Equality and was Head of Policy and Research at the Royal National Institute for Deaf People. He is currently Non-Executive Director of Barnet Health Authority, Board member of the South Barnet Primary Care Group and member of the Consumer Liaison Group of the Medical Research Council.

### **Nick Pearson**

Nick is the National Money Advice Co-ordinator for the Federation of Information and Advice Centres. A career spent in advice organisations including the National Association of Citizens' Advice Bureaux where he was manager of the Money Advice Support Unit, he has particular experience of credit, debt and personal finance issues and of working with vulnerable consumers.

### **Paul Salvidge**

Paul is a former Senior Civil Servant with extensive experience of regulatory work, employment law, competition, consumer protection, telecommunications, financial services and company law. He was previously Competition Policy and Consumer Affairs Director at the Department of Trade and Industry.

## **Richard Smethurst**

Richard is Provost of Worcester College, Oxford University; he chairs the Training Standards Panel of IMRO, of which he is a non-executive Director. He has served as an economic adviser in Whitehall, and on the Monopolies and Mergers Commission, where he was Deputy Chairman. Richard lectures widely on financial and economic topics to businessmen and adult education groups. He is President of the National Institute of Adult Continuing Education.

## **Jane Vass**

Jane is an independent consumer researcher specialising in financial services. She was previously Head of the Financial and Economic Research Group at Consumers' Association and is still author and editor of a number of Consumers' Association publications in addition to other research, including work for the National Consumer Council. Her current committee memberships include: Council of the Ombudsman for Estate Agents, the Inland Revenue Tax Law Rewrite Project Consultative Committee, the PIA Training Advisory Group and the FSA Training Advisory Panel.

## **Dave Watts**

Dave is a partner in a media business which is involved in publishing, editing and journalism - personal finance plays a large part in this. He is a former editor of "Which?" and "Money Which?" and former Assistant Director of Consumers' Association. He was also a policyholder representative on the Insurance Brokers Registration Council for nine years.

## **How to contact the Panel**

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