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## *The Consumer Panel's second year - enshrining consumer principles at the heart of the FSA*

During the past two years, the Financial Services Consumer Panel has become embedded in the decision-making processes of the Financial Services Authority (FSA) and is progressing toward its objective of enshrining consumer principles at the heart of this important regulator. The FSA Board gave a commitment in 1998 to establish the Panel as an independent voice to advise it on policy, report on the regulator's effectiveness and influence market developments. Significant resources have been made available to enable the Panel to carry out its work, undertake market research to inform its views, publish reports and disseminate its opinions. This second Annual Report is testimony to the extensive work done by Panel members and its small secretariat during the past year.

### *Continuing transition*

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Delay in the adoption and implementation of the Financial Services and Markets Act 2000 has resulted in continuing uncertainty for the FSA, regulated firms and the public about when the new regime to protect consumers and improve the efficiency and effectiveness of regulation will come into effect. Meanwhile, the FSA and the Panel have sought to establish sound working methods and procedures which can stand the test of time. Following comment from the Panel in 1999, the FSA reviewed its consultation processes and has significantly improved the extent to which it consults the Panel before producing public consultation documents. It has also improved the feedback to the Panel on its rationale for pursuing particular policy options. Given the number and complexity of issues on which the Panel's views have been sought, however, we have also had to review our approach, carrying out more of our work in small groups to cover policy development and operational issues more intensively. The expansion of the membership toward the end of the year will also help cover the ever-increasing scope of the work.

As the date when the FSA will assume its full responsibilities grows nearer, however, the extent to which the FSA's new policies can and do deliver actual improvements in consumer protection and understanding will come under close scrutiny by the Panel. The Panel has established a dialogue with some of the FSA's front-line staff to enable it to monitor more closely market developments, compliance by different types of firm, and the lessons which can be learnt from past malpractice and regulatory weaknesses. While there is continual progress on the pensions review, and the review of free standing additional voluntary contributions, the Panel awaits further evidence that the approach taken to the mis-selling of endowment mortgages can deliver redress to all who warrant it. During 2000, the front-line responsibility for most of the past reviews and the policy underpinning them remained with the

previous regulators. In 2001 their role will finally cease and the FSA will assume full accountability for its actions.

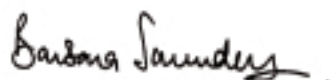
Toward the end of 2000, we have witnessed a number of new challenges for the FSA which raise fundamental issues about its current and future role: for example, in relation to advice to customers regarding the use of a regulated firm's inherited estate; and FSA policy on prudential supervision and the protection of with profits funds. These will be major public and regulatory issues for 2001 on which the Panel will also have its say. Indeed during the latter part of 2000 we signalled to the FSA that the Panel wished to be more directly informed and involved in the development of prudential policy and practice.

During this transitional stage, a considerable amount of the Panel's time has been spent considering the legislative developments and seeking to influence the Treasury's policy. We were delighted that the Government accepted the arguments for the existence of the Panel to be given statutory force. The additional requirement that the FSA must consider representations from the Panel and if it disagrees must give reasons in writing is a further strengthening of the Panel's role, and the FSA's accountability. We also campaigned strongly for mortgage regulation which will now come within the FSA's scope. Although the lack of regulation of the advice process gives us ongoing cause for concern, we shall continue to ensure that any problems arising from poor advice are monitored and further action taken if necessary. At the boundaries of the FSA's scope there are a number of voluntary codes governing banking, insurance and mortgages which set standards for dealings with consumers. In the absence of legislation, we shall want to ensure that they reinforce and do not undermine the FSA's powers.

### ***Building on firm foundation***

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This Annual Report marks the end of my two years as Chairman of the FSA Consumer Panel. It has been a privilege to be associated with the Panel's work in its formative stage. Together we have created an effective team, developed relationships which are enabling the Panel to be a credible and authoritative source of consumer opinion within financial services regulation and a model for Consumer Panels in other markets. I am especially grateful to my founder Panel members and the staff who have encouraged and supported me. All have worked well beyond the call of duty to fulfil our terms of reference. Particular thanks are due to Gerry Lanchin, Joan Harbison and Noel Hunter who have also completed their terms of office at the end of the year. I wish Colin Brown every success in taking over the Chair at this decisive point and am confident that he and the new team will go from strength to strength.



**Barbara Saunders**

Financial Services Consumer Panel Chairman

# Chapter 1: About the Panel

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## *The Consumer Panel is an independent voice for consumers of financial services*

**SEE GLOSSARY (APPENDIX 7) FOR A DEFINITION OF TERMS HIGHLIGHTED IN COLOUR.**

- 1.1 The Consumer Panel was set up by the FSA in December 1998. Its existence will be placed on a statutory footing when the [Financial Services and Markets Act 2000](#) ('the Act') comes into force.
- 1.2 The Act requires the FSA to maintain effective arrangements for consulting consumers, including the setting up of a panel of people whose job is to represent the consumer interest. We do this by:
  - advising the FSA on its existing and evolving policy;
  - monitoring the effectiveness of the FSA's policies and practices in pursuing its statutory objectives;
  - keeping under review developments in financial services in so far as they have an impact on consumers; and
  - being accountable by reporting our findings and recommendations publicly.
- 1.3 Our full terms of reference are set out in Appendix 1.
- 1.4 The Personal Investment Authority's ([PIA](#)) Board decided that the Financial Services Consumer Panel should succeed the PIA's Consumer Panel in advising it. We are giving advice to and assessing the effectiveness of the FSA Board and still, where appropriate, the PIA Board. We shall continue in this dual role until the PIA is replaced by the FSA.

### *Panel membership*

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- 1.5 Members are appointed to the Consumer Panel using an open recruitment process based on [Nolan Principles](#). There was one resignation during the year owing to increased work commitments and three new members were appointed to the Panel from 1 October, bringing the current membership to thirteen. Appendix 2 gives details of who is on the Panel and changes from 1 January 2001.
- 1.6 The membership brings together a wide range of relevant experience. This includes financial services regulation, working with vulnerable consumers, local authority enforcement, consumer protection, consumer education, front-line money advice, legal expertise, competition policy, public policy analysis, market research and media.

### *Our budget*

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- 1.7 The FSA's Board agrees a Budget for Consumer Panel members' fees, expenses and any work we commission. The FSA also gives us staff to support our work. Our budget (including FSA staff costs) for

the year ending 31 December 2000 was £577,000. Actual expenditure (including FSA staff costs) for this period was £517,000 (see Table 1.1).

	2000 Budget (£000)	2000 Actual (£000)	1999 Actual (£000)
<b>Panel members' fees and expenses</b>	188	146	128
<b>FSA staff<sup>1</sup></b>	136	136	101
<b>Professional fees<sup>2</sup></b>	230	247	100
<b>Other</b>	23	10	5
<b>Total</b>	577	539	334

1 Three full-time equivalent staff in 1999 and four in 2000.  
2 Includes work commissioned by the Panel, such as research, website development and public relations support. The large recorded increase between 1999 and 2000 is partly the result of some payments (about £50,000) for 1999 research projects falling within the 2000 accounting period.

**Table 1.1: The Consumer Panel's budget and expenditure for 2000**

## *This report*

- 1.8 This report covers our second year of operation from 1 January to 31 December 2000. It summarises the work we have carried out during the year to achieve our terms of reference:
- **chapter 2** sets out the experience of financial services consumers, and the context within which we work;
  - **chapter 3** summarises the advice we have provided;
  - **chapter 4** sets out our assessment of the effectiveness of the FSA and, where relevant, the [PIA](#); and
  - **chapter 5** takes a forward look at policy issues facing the FSA.

## Chapter 2: The context for our work

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***Consumers in general are not proactive in their approach to their finances. As a result, they rely heavily on advisers and tend to discover problems only after they have bought.***

2.1 To promote the consumer interest, we must understand how consumers perceive financial products and services and the degree to which they experience problems. In this chapter, we briefly summarise the results of research we commissioned to shed light on these areas. Continuing and developing the survey begun by the PIA Consumer Panel in 1996 gives us the valuable opportunity to carry out some trend analysis which is reflected in the text.

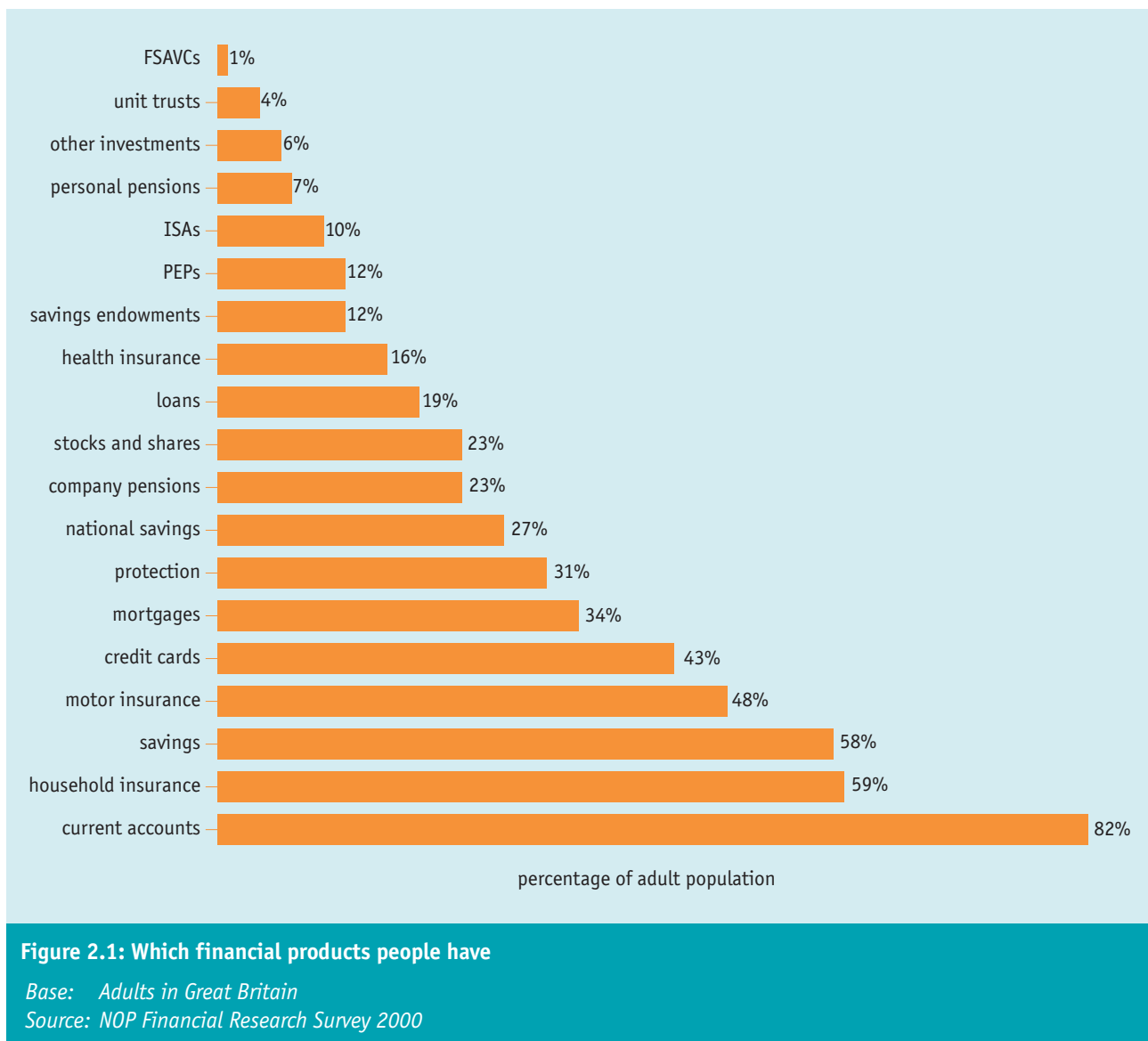
**SEE GLOSSARY (APPENDIX 7) FOR A DEFINITION OF TERMS HIGHLIGHTED IN THIS COLOUR.**

### ***Consumers' attitudes and understanding***

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2.2 Figure 2.1 shows the proportion of adults in Great Britain who have various financial products. Overall, there has been very little change since last year but the following points are worth noting:

- Take-up of current accounts has increased from 78 per cent in 1999 to 82 per cent in 2000;
- take-up of household insurance has increased from 55 per cent in 1999 to 59 per cent in 2000;
- only current accounts, household insurance and savings accounts are held by the majority of the population;
- the proportion of adults holding pensions (company and personal) is still only 30 per cent; and
- despite an increase in share transactions by private individuals in the early part of 2000, the proportion holding stocks and shares is unchanged at 23 per cent.



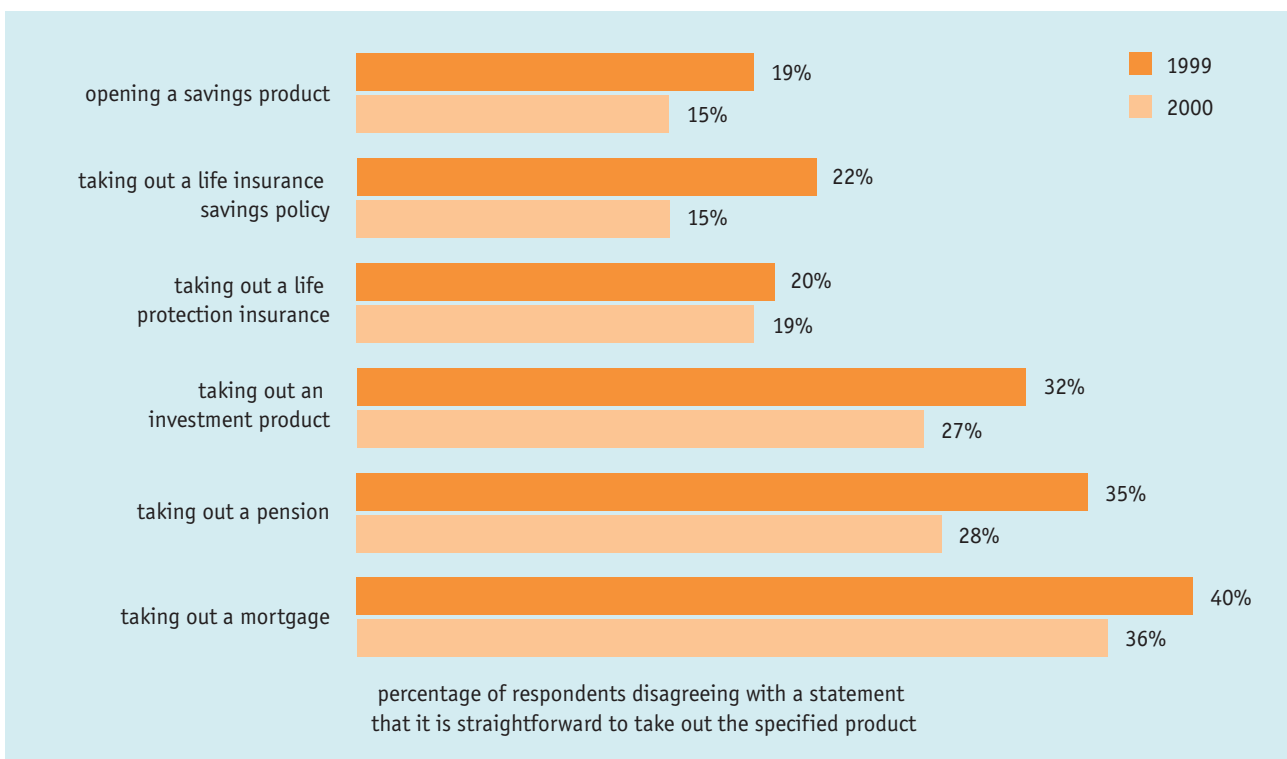
2.3 As Figure 2.1 shows, a high proportion of the population holds current and savings accounts. However, an estimated 2½ to 3½ million people<sup>1</sup> do not have any form of bank or building society account. This excludes them from facilities, such as bill payment by direct debit, making payments by debit card, and receiving income by direct transfer. They can use cheques only by relying on costly cheque cashing services or friends and family who do have an account. In addition, without a bank account, it is often difficult to get mainstream credit and other financial products, such as insurance and regular saving schemes. The government has identified a number of ways of tackling financial exclusion, including expansion and development of the **credit union** movement.

2.4 **Credit unions** have so far failed to gain widespread popularity in the UK but are well established in many other countries. For example, nearly half the population in the Republic of Ireland belong to one, nearly a third in the USA, one in five people in Australia and one in six in Canada.<sup>2</sup>

1 'Access to current accounts' by E Kempson and C Whyley, British Bankers Association, 1998.

2 'Credit unions of the future', HM Treasury, November 1999.

- 2.5 For the first time this year, the Panel’s survey sought information about **credit union** membership in the UK. Only 2 per cent of respondents currently belong to a credit union. This represents just 27 people, which forms too small a sample for reliable further analysis. However, there appears to be little variation by income, gender, or social group. These findings are consistent with the nature of credit unions in Britain, which tend to be of two types. These are small unions catering for people living in a particular geographical area, often where incomes are relatively low; and large, work-based unions whose members are employees with a wide range of incomes.
- 2.6 As noted last year, people are being encouraged to take responsibility for their own financial well-being, whether through saving for retirement, insuring for ill health, or paying for their children’s higher education. As well as having basic financial arrangements, such as a bank account, increasingly everyone is being expected to understand and manage a range of insurance, savings and investment products. Substantial detriment, in the form of choosing unsuitable products or paying too much, can arise if consumers lack the necessary information or skills. Figure 2.2 shows that a substantial minority of people still finds taking out a financial product overly complex. However, the proportion has fallen since last year, particularly in the case of life assurance savings policies and pensions.



**Figure 2.2: Proportion of people who find taking out a financial product complicated**

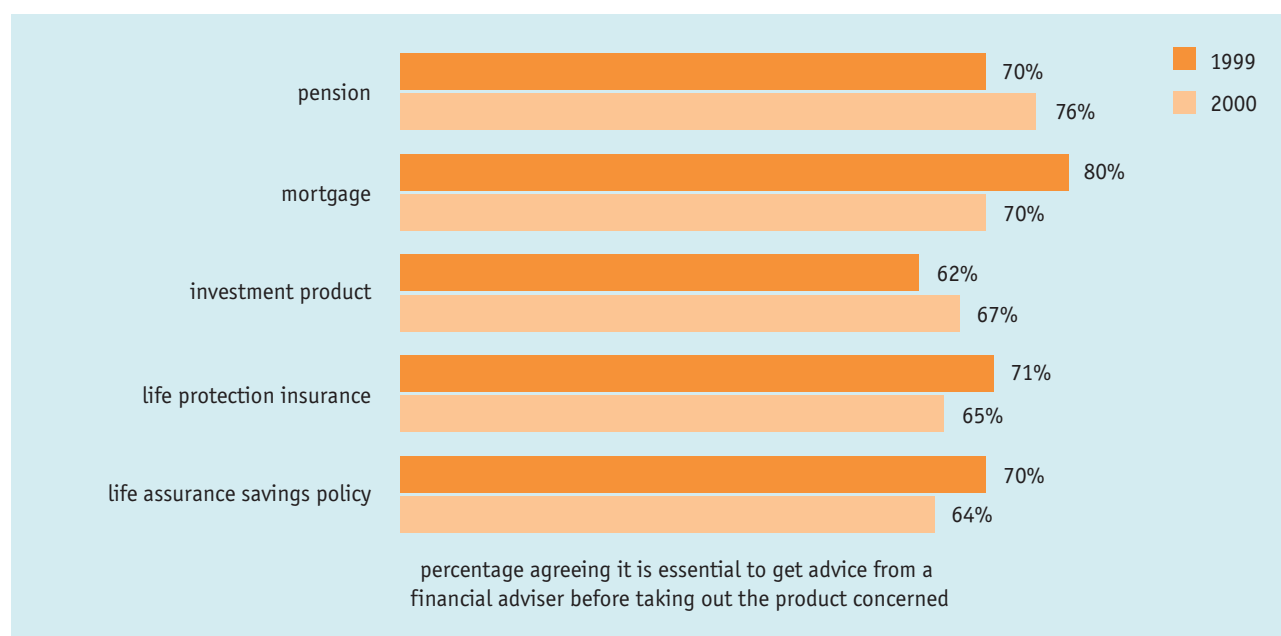
Base: All financial decision-makers who have ever had the product concerned (270 to 953 respondents)

Source: BMRB 2000

- 2.7 The charging structure of products is often cited as a source of complexity. This is borne out by the survey, which found that around a half of respondents who had ever taken out the product concerned agreed that it is difficult to understand charges for pensions (47 per cent), life protection insurance and life assurance savings policies (both 51 per cent) and investment products (52 per cent). Nearly two-

thirds of respondents (62 per cent) agreed that it was difficult to compare the cost of different mortgages. The government and the FSA are involved in several measures that aim to promote simpler charges and better communication to consumers. These include benchmarking through [CAT standards](#) and stakeholder products and also the introduction of [key feature documents](#) for mortgages.

2.8 Even where a product is generally considered straightforward, a high proportion of respondents thinks it is essential to get advice from a financial [adviser](#). This ranges from two-thirds of respondents in the case of life assurance savings and protection policies to three-quarters in the case of pensions – see Figure 2.3. The broad pattern of responses is similar to the previous year, but there are variations by product group – for example, a fall in the proportion thinking advice is essential when taking out a mortgage or life assurance, but an increase in the case of pensions and investments. Overall the results are consistent with [PIA Consumer Panel](#) surveys for 1998 and previous years (which tested respondents’ views about getting advice when ‘taking out financial products and investments’ generally rather than focusing on particular products). However, there are some marked differences between what respondents think is essential and what they do in practice – see paragraph 2.12 below.



**Figure 2.3: Is guidance from a financial adviser essential?**

*Base: All financial decision-makers who have ever had the product concerned (378 to 696 respondents)*

*Source: BMRB 2000*

2.9 When it comes to reviewing their finances, people are less inclined to seek professional advice. Two-thirds (67 per cent) of all respondents carry out reviews themselves. Only 21 per cent seek the advice of a professional. Overall a third of respondents (33 per cent) review their finances regularly; a further third (34 per cent) do so occasionally. A fifth (20 per cent) carry out a review only when there is some change in their circumstances. Twelve per cent of all respondents never review their finances – the proportion is higher among people on a low income (30 per cent), in social group DE (29 per cent), single parents (27 per cent) and older singles (28 per cent). People aged 65 and over are less likely than

average to review their finances (19 per cent). As might be expected, the respondents who are most likely to review their finances regularly are those who have the greatest wealth (46 per cent of those who have between £10,000 and £39,999, rising to 54 per cent of people whose wealth is £40,000 or more). People aged 55 to 64 and 25 to 34 are more likely than average to review their finances regularly (41 per cent and 37 per cent, respectively).

## ***Consumers' search and purchasing behaviour***

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- 2.10 Looking at recent purchases of all products to be regulated by the FSA (in other words those taken out within the previous 12 months), the most commonly used source of information is a financial adviser's recommendation though there has been some decline in use of this source compared with 1999 (see Figure 2.4). Friends and relatives trail a long way behind but took second place in 2000. In 1999, second place went to product information picked up in branches but this appears to have declined in popularity. There has been a big jump in use of the internet as an information source, with one person in ten now referring to the internet for information compared with about one in 30 last year. Despite this, only 2 per cent of respondents used the internet to make a recent financial purchase (see Figure 2.7). The use of specialist magazines and best buy tables also appears to have increased. There has been a marked drop in the use of unsolicited information received by post.

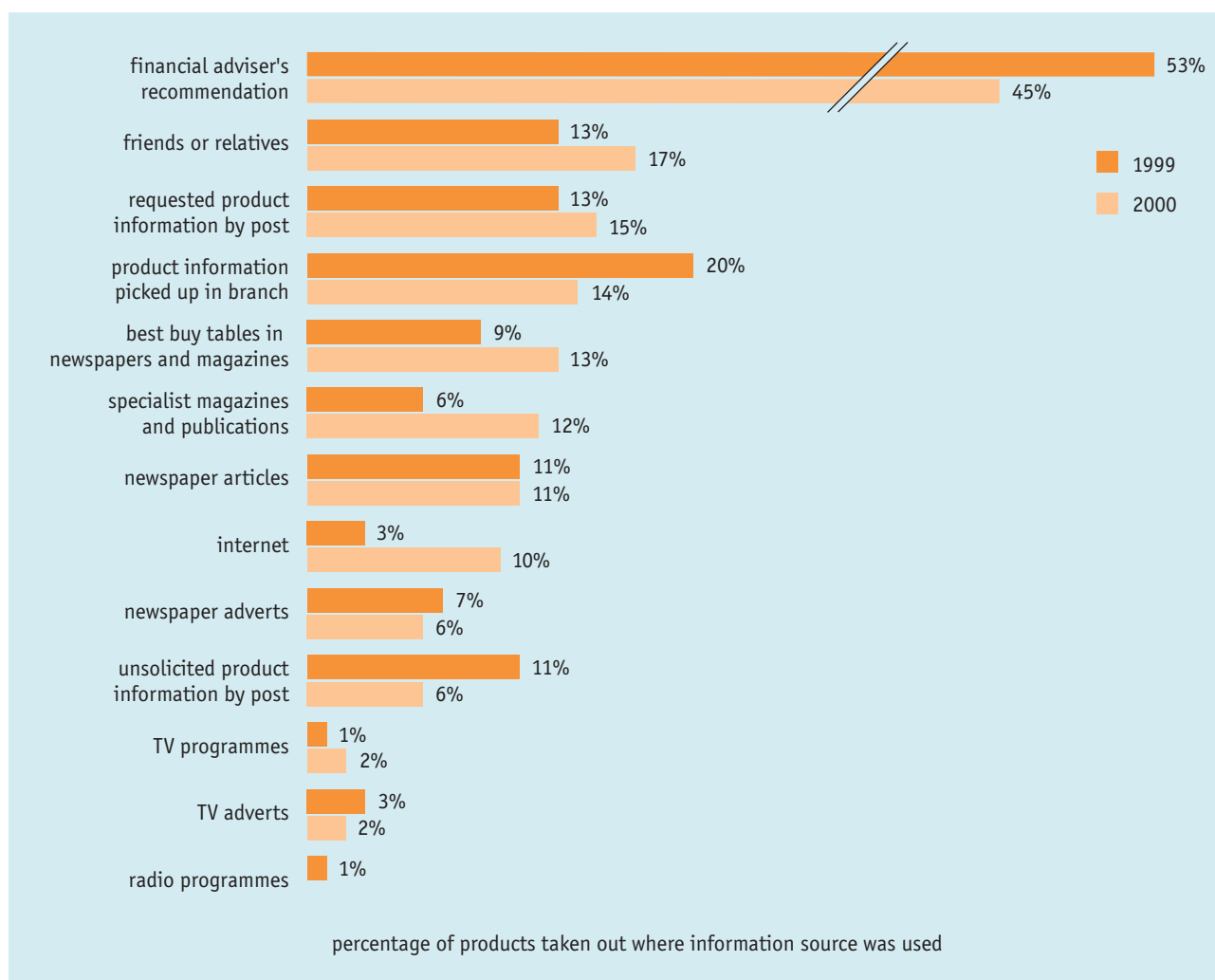
### ***FSA-regulated products***

*For the purpose of the survey, these have been defined as: personal equity plans (PEPs), equity individual savings accounts (ISAs), unit trusts, investment trusts, insurance and investment bonds, open-ended investment companies, stocks and shares obtained through windfalls and privatisations, other stocks and shares, ten-year savings plans, endowment policies not linked to a mortgage, whole-of-life insurance, endowment mortgages, other interest-only mortgages, personal pensions, free-standing additional voluntary contribution schemes (FSAVCs) and pension transfer plans.*

- 2.11 In over two-thirds of cases, only one information source was used. Only one person in six used more than two sources. Despite this, only one person in 20 did not feel confident that they had all the information and advice needed to make the right product choice.
- 2.12 There were some marked differences between products in the sources used (although sample sizes for each product group tend to be small, so these results should be treated with caution):
- financial advisers' recommendations were used more often with endowment mortgages (67 per cent of this product group) and life assurance protection (58 per cent) than with other products. They were used least often with pensions (43 per cent) – this is despite 76 per cent of respondents saying they viewed guidance from an adviser as essential when taking out a pension (see paragraph 2.8 above);
  - friends and relatives were more often used with endowment mortgages (22 per cent) than other products;
  - friends and relatives were least likely to be used in the case of investments (11 per cent), where newspaper articles (19 per cent), specialist magazines (15 per cent), best buy tables in newspapers and

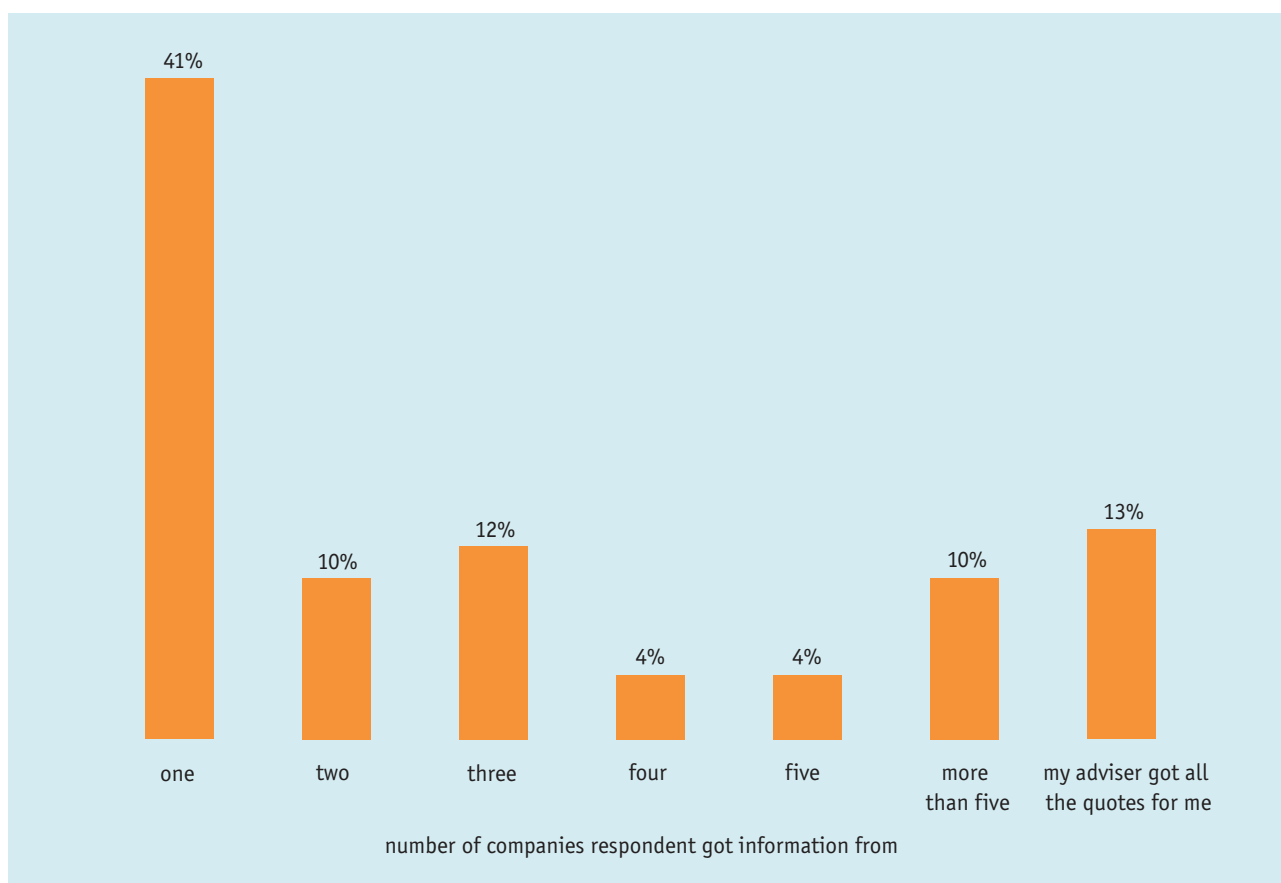
magazines (18 per cent) and requested product literature (17 per cent) are the most used after financial advisers' recommendations (40 per cent).

2.13 Two recent purchases out of every five were made after looking at just one provider's product (see Figure 2.5) – in other words, without any shopping around. However, nearly a third of purchases were made on the basis of looking at three or more products. For one purchase in eight, the consumer relied on their financial adviser to do the shopping around.



**Figure 2.4: Information sources used**

Base: All products regulated by the FSA taken out within the last 12 months (252 and 308)  
Source: MORI 1999; BMRB 2000



**Figure 2.5: Extent of shopping around**

*Base: All products regulated by the FSA taken out within the last 12 months (252)*

*Source: BMRB 2000*

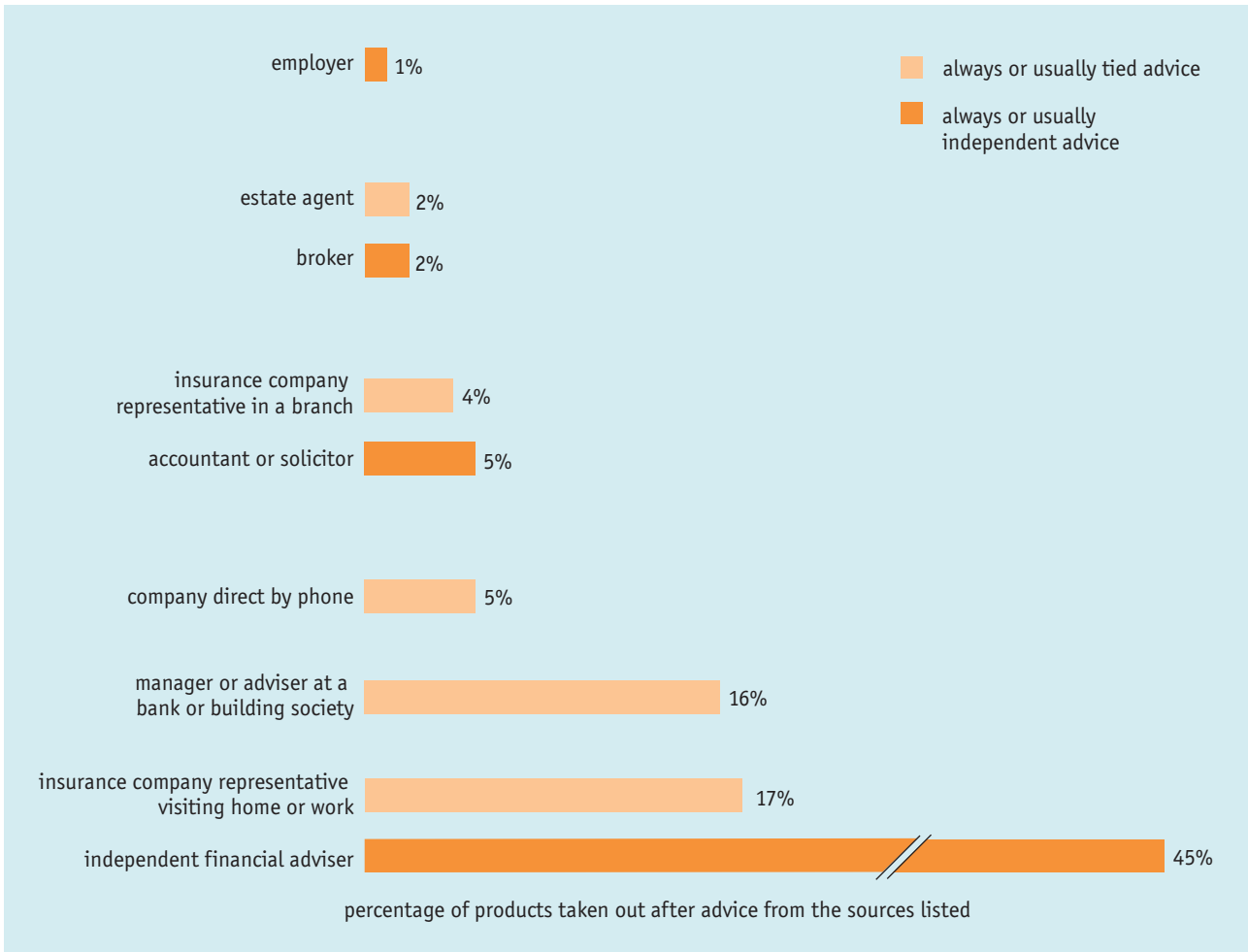
2.14 Nearly three-quarters of recent purchases of FSA-regulated products were made after receiving some form of advice. Figure 2.6 shows the sources of the advice. Independent financial advisers (IFAs) were the most common source (45 per cent) but tied advice – from companies, their representatives or agents was almost as common (42 per cent in total). Banks and building societies were mentioned in one in six cases (16 per cent). In over half of the cases (58 per cent), the respondent had used the same adviser before. This is in line with research by the FSA<sup>3</sup> which found that familiarity is the factor consumers consider most important as a basis for trusting a financial company. Familiarity was found to have encompassed several facets, including being long-established, a history of personal dealings with the company, local prominence and/or high profile through branding and advertising.

2.15 Respondents were asked if they knew how the adviser had been paid – the responses show a widespread lack of understanding of the advice/sales process:

- nearly a third (31 per cent) thought no commission or fee was payable;
- one person in six (16 per cent) didn't know or couldn't remember;

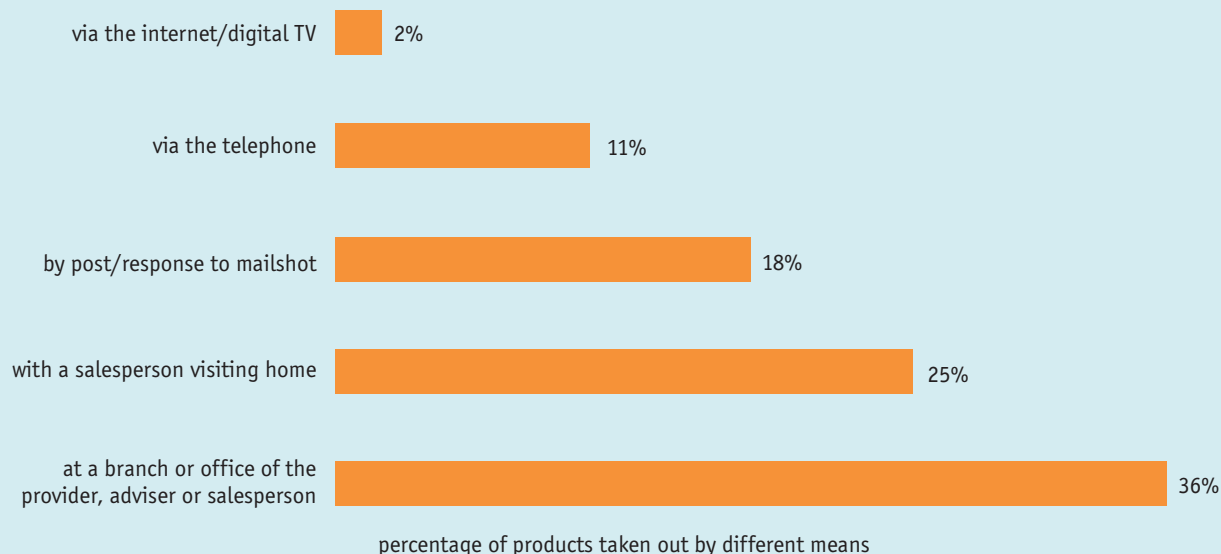
3 FSA 'Regulatory status disclosure', unpublished report of findings from consumer and professional research prepared by H2B, August 2000. Available from the FSA.

- 43 per cent said the adviser was paid by commission;
- 6 per cent said they had paid the adviser a fee;
- 2 per cent referred to both commission and a fee.



**Figure 2.6: Sources of advice**

Base: All products regulated by the FSA taken out within the last 12 months after talking to an adviser (182)  
 Source: BMRB 2000



**Figure 2.7: How products were taken out**

*Base: All products regulated by the FSA taken out within the last 12 months (252)*

*Source: BMRB 2000*

## Direct selling

- 2.16 In 2000, nearly one-third of FSA-regulated products were taken out by 'direct' routes: post (18 per cent), phone (11 per cent) and the internet (2 per cent) – see Figure 2.7. These channels are likely to become even more important in future, particularly given rapid growth in internet access. We commissioned two pieces of additional research to investigate the current scale of **direct selling**, likely future growth and what problems consumers experience now or may in future.
- 2.17 Desk research<sup>4</sup> showed that, except in the case of shares, direct media are currently used by a minority of consumers, though the trend is increasing. The majority of share dealing is carried out by phone with a small but growing share (around 10%) of trades being made by internet. Shares apart, the amount of direct selling varied greatly according to the type of product. Direct mail was most common with investment trusts, unit trusts, **ISAs** and personal pensions. Phone selling featured most heavily with banking, insurance and mortgages. The internet was used mainly for investment trusts (a type of share), however internet usage is changing rapidly, so the picture may already have altered significantly.
- 2.18 The main consumer issues found were:
- effective enforcement of existing regulations;
  - understanding the nature of deals done at a distance – in particular whether the consumer is buying with or without advice;

<sup>4</sup> 'Direct selling of financial products: market overview', report for the Financial Services Consumer Panel by J Lowe, JTL Financial Research, January 2000. Available from [www.fs-cp.org.uk](http://www.fs-cp.org.uk).

- ensuring that the sales media are secure from problems with technology and from criminal activity;
- access to effective channels for making complaints and receiving compensation; and
- exclusion from special deals because consumers do not have the latest technology.

2.19 Qualitative research<sup>5</sup> examined the experience of 50 consumers who had recently bought direct. Ten each had purchased a mortgage, personal pension plan, equity ISA, whole-of-life insurance and internet savings account. The research highlighted a further cause for concern: reluctance to shop around and so a lack of effective competition. Except in the case of mortgages, consumers are heavily influenced by brand name, tending to buy either well-known brands or from companies where they are already existing customers. Brand name is viewed as a proxy for trustworthiness.

2.20 Regarding their reasons for using direct media, respondents fell into two distinct groups:

- consumers who saw themselves as confident and proactive. They viewed direct media as a way of engaging with the market and taking control of their finances. Typically, they held a range of other financial products already, researched the market for themselves, considered a range of competing products and were confident about making their own decisions. Most of the consumers who had bought a mortgage, personal pension plan, equity ISA or internet savings account fell into this group; and
- consumers who classed themselves as less sophisticated and reactive. They used the direct route (mainly post) because it enabled them to *avoid* engaging with the market. This group dominated the purchasers of whole-of-life insurance. In general, they did little or no shopping around and simply responded to a single advertisement in a newspaper or mailshot. Most of these respondents described themselves as unwilling to take risks. Many had little or no money to save. Most held few if any other financial products – one did not have a current account.

2.21 Some reasons were common to both groups. Direct buying can be done at convenient times, product information can be read at leisure, the process is simple, and the products sold direct are often straightforward. Most respondents welcomed the absence of a middleman, some because they preferred to be in control, others because they wanted to avoid the 'hard sell' and mis-selling risks.

2.22 In general, respondents were unable to distinguish between obtaining 'advice' and 'information'. Many respondents thought they had sought advice relating to their product, but on further reflection it was apparent that this advice was normally a response to a specific query or request for general information. (This suggests a need for caution when interpreting results from the annual survey described in this chapter, which found, for example, that, in one case in five where a product had been bought by phone, the respondent said advice had been sought.)

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5 'Direct selling research', report from NOP, August 2000. Available from [www.fs-cp.org.uk](http://www.fs-cp.org.uk).

2.23 The research tried to probe respondents' understanding of the products they had bought. This was problematic because respondents often could not provide [key features documents](#) against which to check their understanding. However, there appeared to be confusion in some respondents' minds about the whole-of-life insurance and more widespread confusion about equity [ISAs](#). Purchasers of internet savings accounts, pensions and mortgages were generally confident that they understood what they had bought.

### [Attitudes towards financial advice](#)

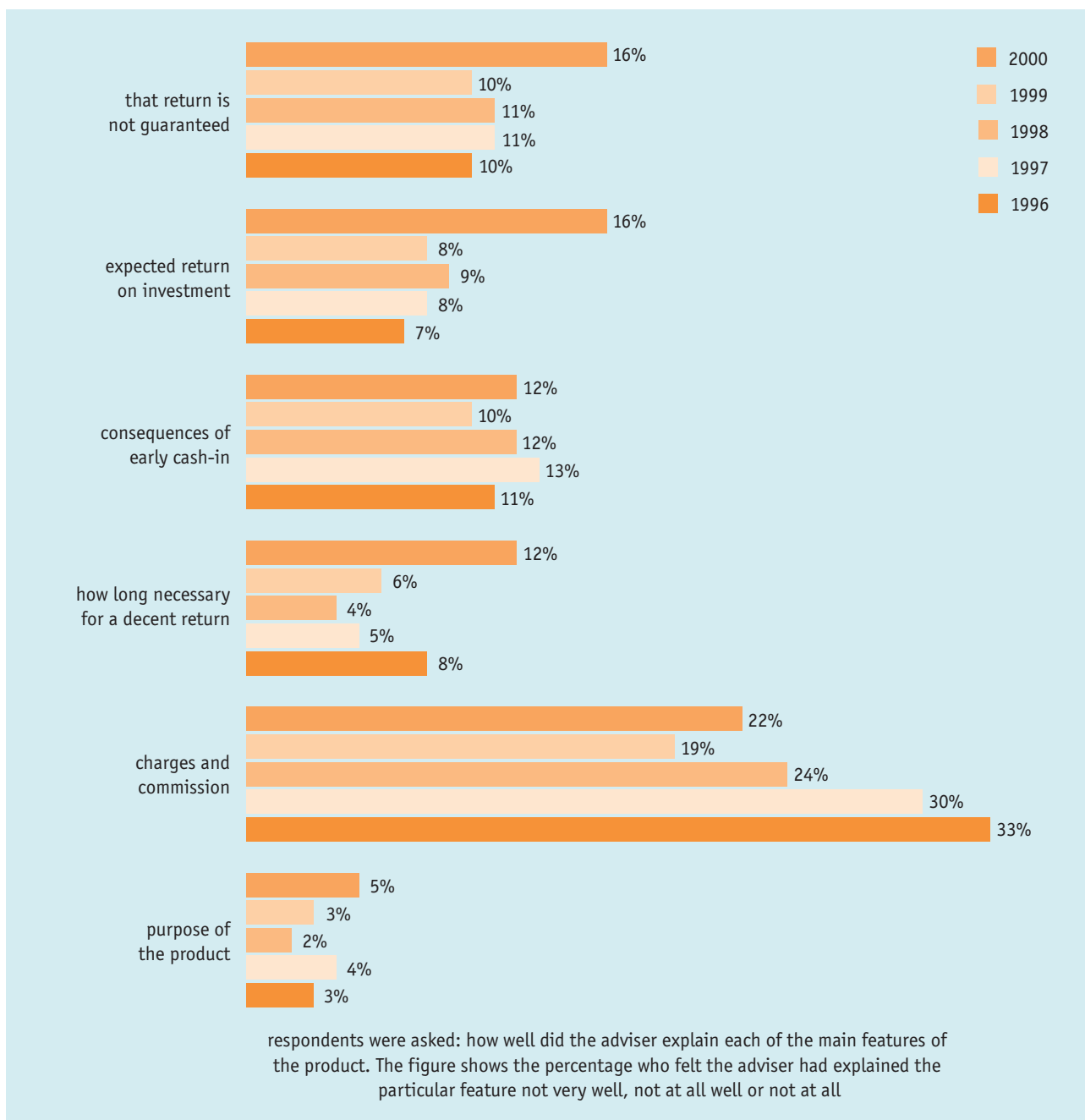
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2.24 Turning once again to the annual survey, 85 per cent of financial decision-makers had bought a personal investment or savings product through an [adviser](#); 6 per cent had not bought any products at all, leaving 9 per cent who had bought something but without the aid of an adviser. Just under a fifth of this last group had talked to an adviser within the last 12 months, even though they had not gone on to buy through the adviser. Those who had not even talked to an adviser were asked why not. The sample was very small (18 people), so the response should be treated with care. However, the majority said they had no need to talk to an adviser. Two respondents referred to advisers being too pushy and keen to sell. No other reasons were given.

2.25 Financial [advisers](#) are required to get to know their client's circumstances and objectives and to recommend suitable products. An important aspect of this work is helping the client to understand the product being considered to find out whether the client is comfortable with, for example, the various risks and charges involved. Respondents who had bought a product (other than a savings account) within the last 12 months with the help of an adviser were asked how well they thought the adviser understood their financial circumstances. One person in eight said 'not very well' or 'not at all well'. This is slightly more than in the previous four years, suggesting no improvement in this essential area.

2.26 Figure 2.8 shows the proportion of respondents who felt that their [adviser](#) did not explain various features of the product well. The only area to show clear improvement over the last five years is explanations of charges and commission. However, the level of dissatisfaction was exceptionally high in 1996 (33 per cent of respondents) and is still at an unacceptably high level of one person in five (21 per cent) feeling that they had received an inadequate explanation or no explanation at all.

2.28 The aspect which [advisers](#) seem to explain best is the purpose of the product. Around one in ten to one in eight respondents are left unclear about other important features, including the consequences of cashing-in the product early and that returns are not guaranteed.



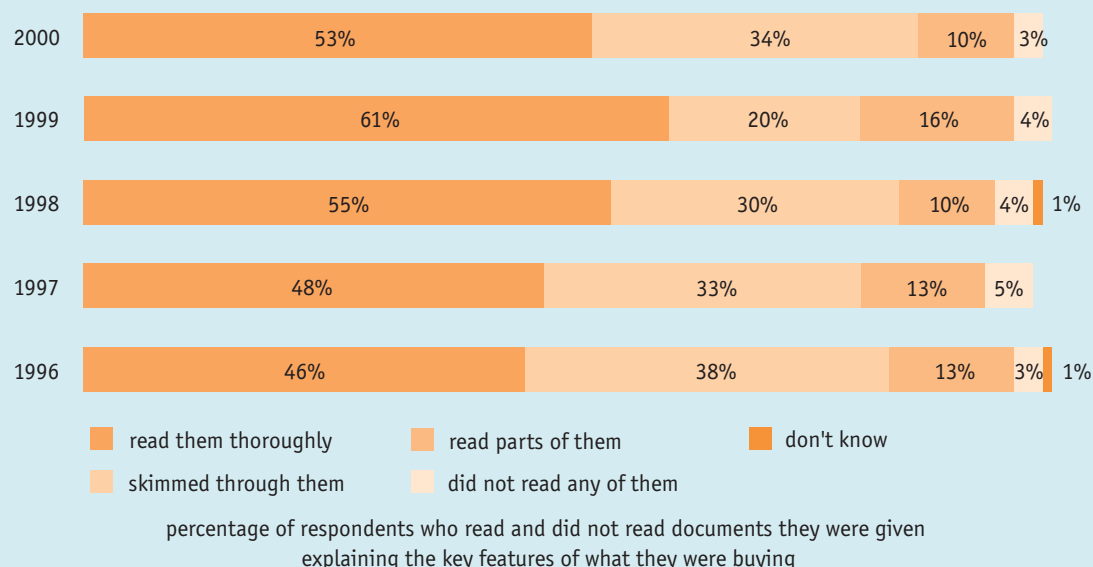
**Figure 2.8: How many people felt their adviser did not explain the product features well**

Base: Financial decision-makers holding non-savings products who had bought from an adviser in the last 12 months (62 to 188 respondents)

Source: BMRB 1996, 1997, 1998 and 2000; MORI 1999

2.29 For many products, financial advisers must give their clients a document setting out the key features of the product concerned. In all five years surveyed, around 90 per cent of respondents said they were given these documents. Respondents were asked whether they read these documents and the results are shown in Figure 2.9. Over the five years, there has been an increase to over half in the proportion who say they read them thoroughly. The results need to be treated with caution, because there may be a tendency for respondents to give what they perceive to be the 'right' answer to the question posed. Recent research by the FSA suggests that consumers do not pay much attention to key features documents.<sup>6</sup>

6 FSA 'Informed decisions', November 2000.



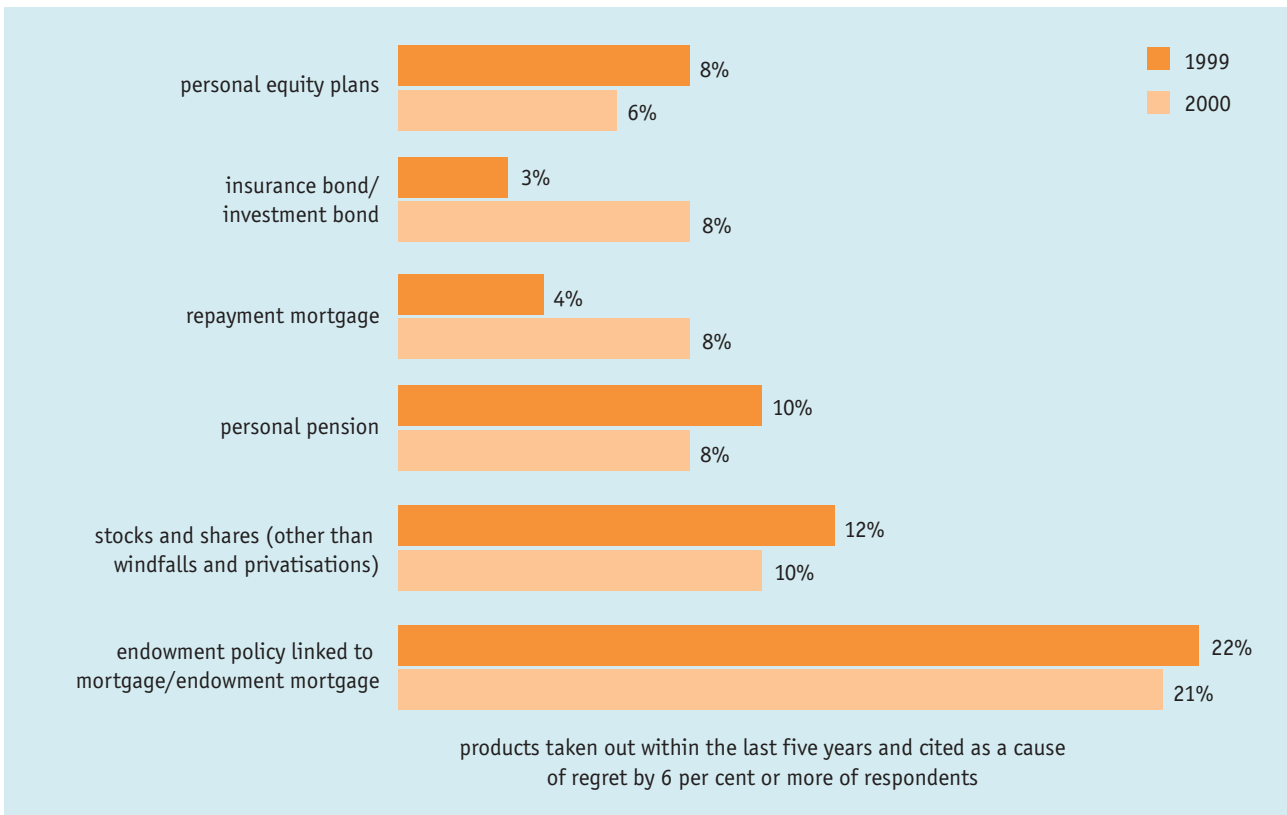
**Figure 2.9: How carefully people read the documents they are given**

*Base: Financial decision-makers holding non-savings products who had bought from an adviser in the last 12 months and had been given documents explaining the key features of the product (56 to 165 respondents)*

*Source: BMRB 1996, 1997, 1998 and 2000; MORI 1999*

## *Incidence of problems*

2.30 The latest survey found that almost one person in five (19 per cent) who had taken out a financial product or service within the last five years had regretted that action. The products most often mentioned as the cause of regret are shown in Figure 2.10. The data suggests a link between the proportion of purchasers experiencing regret and the level of publicity being given to a problem area, for example, mis-selling of endowments and concern about high income products (many of which are insurance bonds). However, it is impossible to determine the extent to which publicity reflects the causes of regret as opposed to regrets being stimulated by publicity.

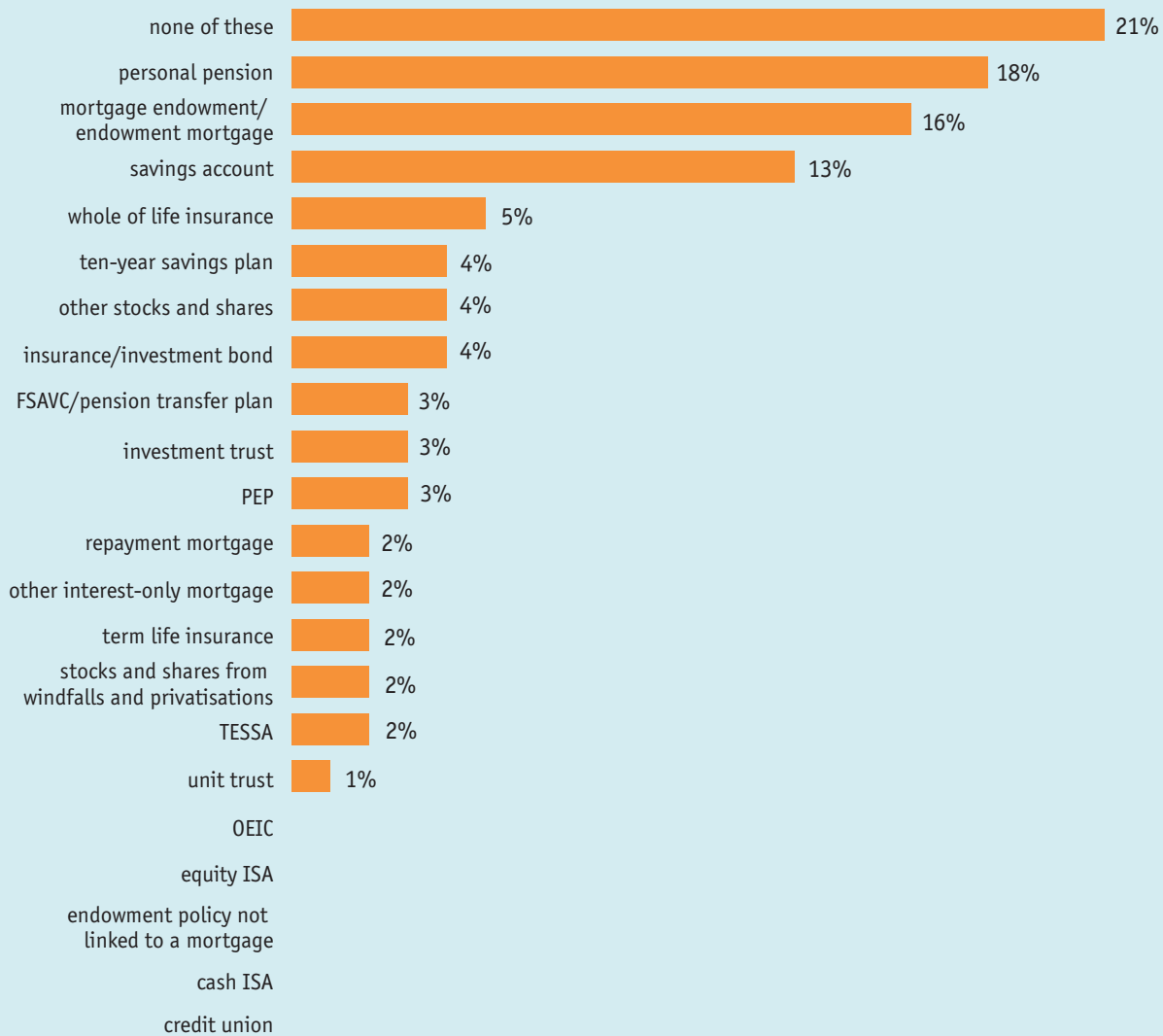


**Figure 2.10: Products which respondents regretted taking out**

*Base: Financial decision-makers who had taken out a product or service within the last five years and regretted taking it out (101 and 145 respondents)*

*Source: BMRB 2000; MORI 1999*

2.31 One person in eight (13 per cent) complained about a financial product or service in the five years up to 2000. The products most often concerned were personal pensions (18 per cent), endowment policies linked to mortgages/endowment mortgages (16 per cent) and savings accounts (13 per cent) – see Figure 2.11.



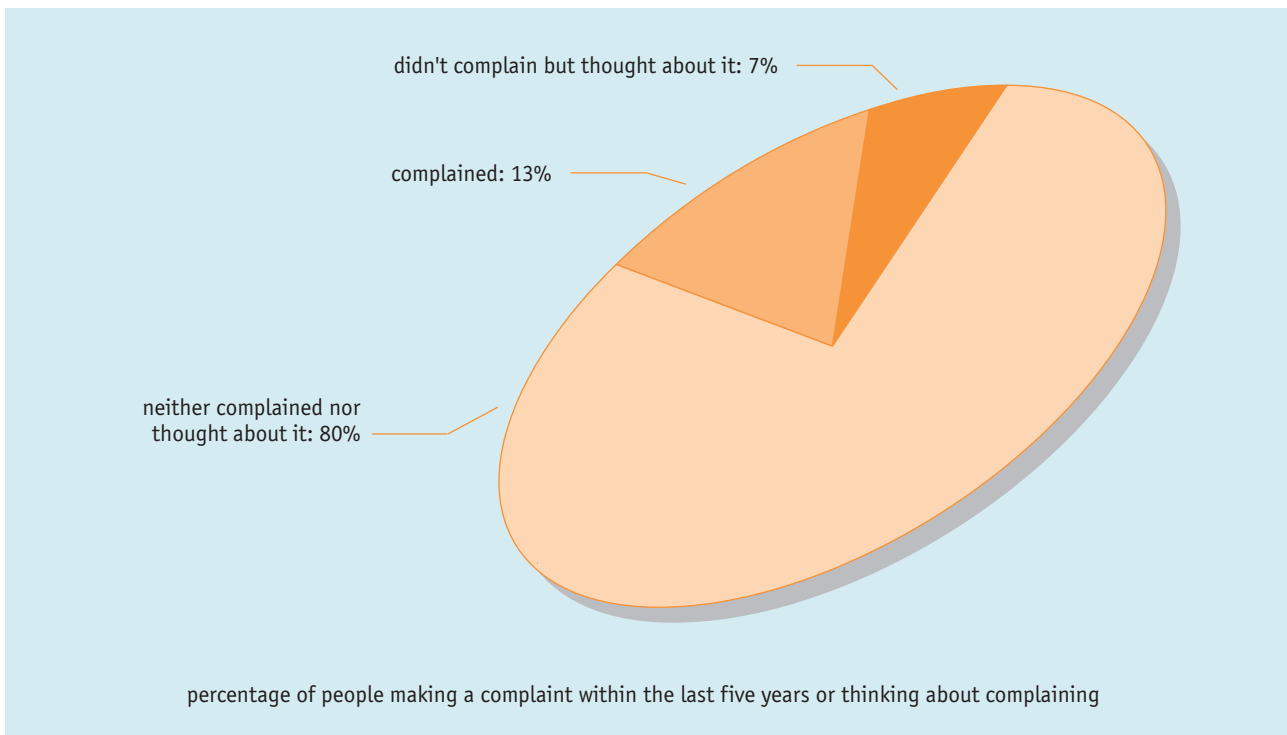
**Figure 2.11: Products complained about within last five years**

*Base: Financial decision-makers who complained about a product in the last five years (149)*

*Source: BMRB 2000*

2.32 A further one person in 14 (7 per cent) did not make a complaint but had thought about complaining – see Figure 2.12. The sample is too small for reliable further analysis, but the most common reasons given for not making the complaint were:

- ‘not worth it’ / ‘didn’t bother’ (25 per cent);
- ‘didn’t know who to complain to’ (17 per cent); and
- ‘wouldn’t have done any good or made any difference’ (17 per cent).

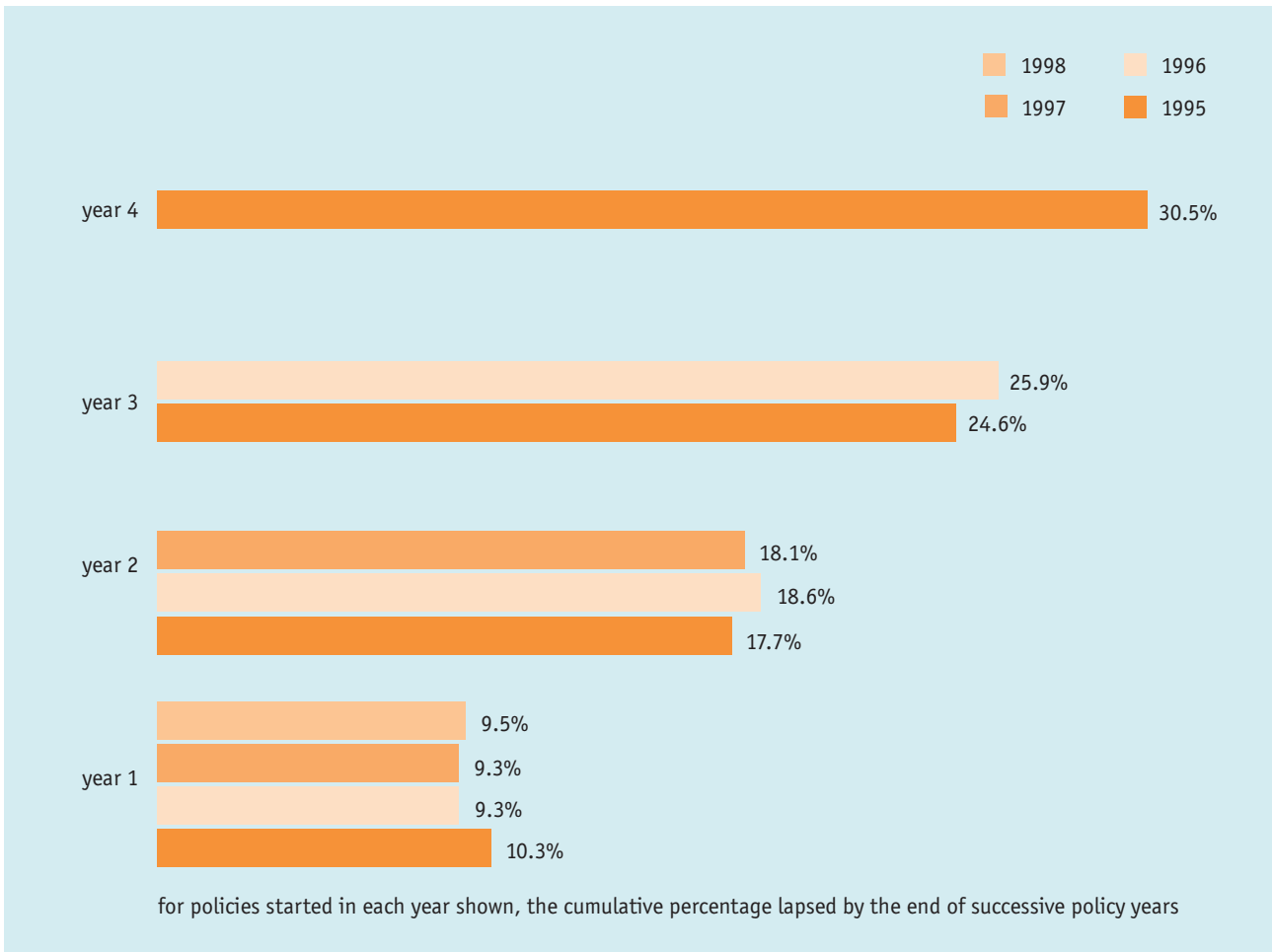


**Figure 2.12: Complaints**

*Base: All financial decision-makers (excluding 'don't knows'), (1,116 respondents)*

*Source: BMRB 2000*

- 2.33 Complaints may relate to individual circumstances and experience, but they can also highlight general problems with the quality of advice and suitability that call for regulatory action rather than simply individual solutions. Another useful indicator along these lines is **persistence**. Stopping regular premiums to life insurance policies and personal pensions causes considerable consumer detriment where – as is often the case – hefty surrender, paid-up or transfer charges eat into the value of the policy or plan.
- 2.34 Figure 2.13 shows, for policies started in each year from 1995 to 1998, how many policies had lapsed by the end of successive years up to 1999. There are several points to note:
- around one policy in ten lapses during the first year. There has been no real improvement in the lapse rate during the first year – in fact, the most recent data show a slight worsening;
  - nearly one policy in five has lapsed by the end of the second year. Recently, there has been a small improvement in the lapse rate over the first two years;
  - a quarter of policies have lapsed by the end of the third year. Recently the lapse rate after three years has worsened; and
  - nearly a third of policies have lapsed by the end of the fourth year.



**Figure 2.13: Policies lapsed at the end of each year**

*Base: Regular premium insurance policies and personal pensions started in each year shown*

*Source: 2000 Survey of the persistency of life and pensions policies, PIA 2000*

2.35 The lack of improvement in **persistency** and the signs of worsening in the most recent year for which data have been collected are worrying. The FSA has conducted research into the reasons for policy lapses<sup>7</sup> in particular to try to assess the extent to which non-persistency might be related to the sales process. The FSA warns that responses are subjective and that people may rationalise their reasons after the event. However, the FSA suggests tentatively that in perhaps a quarter of cases more could have been done at the outset to ensure the product was both suitable and understood by the consumer. As a result, advisers are being encouraged to do more to help consumers understand the consequences of lapsing and the impact that changes in lifestyle might have on their ability to maintain the policy. We shall monitor future persistency data to see if this improves the lapse rate.

<sup>7</sup> FSA 'Persisting: why consumers stop paying into policies', a report on persistence levels carried out by DVL Smith Ltd, December 2000.

## Conclusion

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- 2.36 Up to a third of people find financial products complicated and a half to two-thirds are confused by charges. Most people think it is essential to get advice before buying and in fact do seek advice, but two-fifths rely on tied [advisers](#). A similar proportion do not shop around, buying on the basis of information and/or advice about just one company's products. One person in eight felt their adviser did not understand their circumstances and around one in ten felt product features, such as guarantees and early encashment, were not explained well. Even more were dissatisfied with the explanation of charges. One person in five regretted a financial purchase they had made within the last five years but only one in eight made a complaint.
- 2.37 Despite the increasing trend towards direct buying, the Panel's survey shows that a large proportion of consumers are still reluctant to make choices for themselves, and are still happy to rely on [advisers](#) and accept their recommendations without further shopping around. Possibly as a result of this failure to be proactive before buying, there is a relatively high level of regret later on. The long-term challenge for the FSA is to kindle consumer interest in financial matters and stimulate proactive buying behaviour. In the meantime, consumers' reliance on advisers shows a continuing need for regulation to address the quality and integrity of advice.

## Chapter 3: Influencing policy

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*During 2000, the Panel has had a major input into the FSA's policies and practices both through published consultations and work behind the scenes.*

3.1 This Chapter summarises the work we have undertaken during 2000. Comparing this year with last, the balance of our work has altered in two ways. First, as the [Financial Services and Markets Act](#) approached its final shape, our focus has centred more on FSA policy and operations rather than the legislative framework. Secondly, we have been involved in more informal and pre-consultation dialogue with the FSA.

**SEE GLOSSARY (APPENDIX 7) FOR A DEFINITION OF TERMS HIGHLIGHTED IN THIS COLOUR.**

3.2 During 2000, we have made 19 published reports and formal responses to FSA and government consultation papers – see Appendix 3. In addition, a good deal of our work has been conducted through meetings with FSA staff, correspondence before formal consultation, and discussion before policy decisions are finalised. A list of matters on which the FSA has sought our advice is in Appendix 4. The opportunity to observe and comment on the ‘behind the scenes’ operation of the FSA considerably strengthens our ability to function effectively. We have also recommended consumer representatives to contribute to the work of various FSA bodies – see Appendix 5.

3.3 Our terms of reference give us wide responsibilities to consider all areas of the FSA's operation. To ensure that we handle this large and diverse workload efficiently, we have organised a number of sub-groups within the Consumer Panel. These are:

- **information:** looking at, for example, complaints handling, compensation schemes, consumer education, mortgage information and [direct selling](#);
- **supervision, enforcement and conduct of business:** including development of the rule book in these areas and ongoing work, for example, mis-selling reviews;
- **authorisation, perimeter and scope:** dealing with, for example, [authorisation](#) of professional firms and [credit unions](#), and consumer protection issues arising from the setting of the boundary surrounding the FSA's remit; and
- **research.**

3.4 To ensure that our work is based on a good understanding of consumers' attitudes, behaviour and the problems they potentially or actually face, we commission research when needed. In 2000, we contracted the following research:

- [direct selling](#): market research<sup>1</sup> into how consumers buy financial products and the issues they face, and

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1 Financial Services Consumer Panel 'Direct selling research', report by NOP, August 2000. Available from [www.fs-cp.org.uk](http://www.fs-cp.org.uk).

also desk-based research<sup>2</sup> to give an overview of the role direct selling currently plays and might play in future in the various markets for products. Both reports have already been published on our website and some key findings are discussed in Chapter 2;

- our annual survey of consumers (the highlights are in Chapter 2). Once detailed analysis is complete, we expect to publish a full report on this research in Spring 2001; and
- survey of consumers who have received statements as part of the [mortgage endowment re-projection exercise](#) to check consumer understanding of the information supplied, what action these consumers are taking and their recall of the sales process (see Chapter 4).<sup>3</sup>

3.5 It is important that we also keep abreast of developments in the financial services industry, concerning, for example: changing consumer demand, new products, non-FSA regulation, and so on. To this end, we have informal links with a wide range of trade bodies, consumer organisations, industry regulators and similar bodies. During the past year, the Panel has sought to strengthen its dialogue with grassroots consumer organisations, for example, by holding a seminar on complaints handling and a special briefing for consumer representatives on [stakeholder pensions](#). In addition, the Chairman met the Financial Services Practitioner Forum and the Small Business Practitioner Panel to discuss matters of concern to us all. Appendix 6 lists the external bodies we have met during 2000.

## ***Legislative framework***

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### ***The Financial Services and Markets Act 2000***

- 3.6 We started the year by briefing members of the House of Lords on outstanding changes we wanted to see to the Financial Services and Markets Bill. These included widening the remit of the Consumer Panel to encompass potential users of financial services as well as actual users. We were pleased that this amendment was accepted.<sup>4</sup> We were surprised and disappointed at the government's failure to include mortgage advice within the FSA's remit from the outset and its subsequent absence from the proposed Regulated Activities Order. We are continuing to press for its inclusion. We welcome the Treasury's consultation on the regulation of long-term care insurance, albeit late, which we also believe should be included.
- 3.7 Although the [Financial Services and Markets Act 2000](#) received Royal Assent on 14 June 2000, most of its sections will not be implemented until N2 or later. The exact date of N2 had not been announced at the time of writing, but the Treasury intend it to be in summer 2001. Much of the practical detail of the Act is to be addressed by secondary legislation. Consultations on some of the draft regulations, on which we commented, were issued during 1999; a few more were published towards the end of 2000;

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2 Financial Services Consumer Panel 'Direct selling of financial products: market overview', report by Jonquil Lowe of JTL Financial Research, January 2000. Available from [www.fs-cp.org.uk](http://www.fs-cp.org.uk).

3 'Mortgage Endowment Re-projection Research' report for the Financial Services Consumer Panel by IFF Research, November 2000. Available from [www.fs-cp.org.uk](http://www.fs-cp.org.uk).

4 Financial Services and Markets Act 2000, section 10(6).

and others are still awaited.

- 3.8 We have asked the FSA to draw our concerns to the attention of the Treasury on the lack of power of the FSA to require individuals **grandfathered** into the new regime to undertake a formal 'fit and proper' test. Individuals who have not previously been approved by the FSA or one of the former regulators from which it is constituted – including those who are currently authorised through **recognised professional bodies** – will not have been subject to the test. It is essential that the FSA should be able to test them during the **grandfathering** process. If this is not possible, we believe the FSA should use additional resources to supervise the work of these individuals as the risk to consumers will inevitably be greater.

### ***Mortgage regulation***

- 3.9 While welcoming the government's decision to require all mortgage lenders (including **non-status lenders**) to be authorised by the FSA, we were dismayed by its decision to leave mortgage advice unregulated. This will leave consumers confused and unprotected against poor quality advice. Our annual surveys show that consumers rely heavily on advice in this area, finding mortgages to be one of the most complicated products to buy. Endowment mis-selling is largely a consequence of the partial regulation policy of the past, which the government is now continuing to pursue. It is vital that the FSA monitors the situation and the government stands ready to regulate mortgage advice if problems persist.
- 3.10 We are concerned that the new statutory mortgage regulation is to be jigsawed into place alongside the Consumer Credit Act 1974 which will continue to apply to non-mortgage lending and those mortgages which fall outside the definition proposed by the Treasury. The resulting piecemeal approach to lending will be a long way from the ideal of a single financial regulatory regime and a potential source of confusion for consumers. In particular, we have called on the Treasury to:
- reconsider the mortgage definition and fit the definition to the existing nature of borrowing instead of trying to squeeze borrowers into an ill-judged definition. For example, the definition needs to consider the location of the borrower, to replace the '40 per cent occupation' test with a 'by way of business test' and to include unmarried partners and ex-spouses as 'immediate family';
  - include unsecured loans which are part of a flexible mortgage within the FSA regime;
  - ensure that the FSA and **OFT** liaise closely to communicate to consumers the boundary between FSA-regulated mortgages, Consumer Credit Act-regulated mortgages and unregulated mortgages; and
  - ensure that consumers are told in advance if they are about to cross the boundary (for example, on remortgaging) from one regime to another or from a regulated mortgage to an unregulated one.
- 3.11 We noted proposals from the Department of the Environment, Transport and the Regions in its Green Paper 'Quality and Choice: A Decent Home for All' which outlined a possible future scenario whereby

reforms to state benefits would increase consumers' reliance on [mortgage payment protection insurance](#). We advised the FSA that this should be taken into account in formulating its proposals for mortgage disclosure.

### **Money laundering**

- 3.12 The FSA consulted on its proposed approach to the new role it will have in relation to [money laundering](#). While the consultation paper itself concerned the FSA's policy, we felt that, in large measure, there is a consumer detriment inherent in the present and proposed regime, which stems from the Money Laundering Regulations 1993 and the Guidance Notes of the Joint Money Laundering Steering Group (JMLSG). We recognised that the FSA's consultation was not the appropriate forum for debating those arrangements and strongly urged the FSA to work with the JMLSG, government and prosecuting authorities to reassess the whole regime. In particular, we consider the FSA should identify those requirements in the JMLSG guidance notes (and the FSA's consultation paper) which are additional to the 1993 regulations and weigh their effectiveness in stemming money laundering against the likely detriment to consumers. We were pleased that the FSA took note of our view and stated that it would remove all the detailed identification requirements from the final FSA rules. Furthermore, FSA guidance on the underlying identification rule would set out what kind of identification evidence would be acceptable in circumstances where prospective customers had genuine difficulty in providing the sort of documents normally required by banks and other financial institutions.

#### **Concerns about money laundering requirements**

- *The Money Laundering Regulations 1993 impose onerous requirements on ordinary consumers which are out of all proportion to the risk that they might be involved in money laundering activities. For example, someone opening a bank account will normally be required to provide two pieces of evidence, one of their identity and the second of their address. Recommended documents include a passport, driving licence and recent utility bill. But someone who does not travel or drive will not have the first two documents. Young people, students and people who have left financial matters to their partners may not have any recent bills. In an environment where there is no state requirement to have identity papers, it is questionable whether it is fair and reasonable to require consumers to produce such evidence.*
- *The onerous identification requirements are likely to discourage consumers from buying financial products. This is particularly the case with vulnerable consumers (not all of whom fall into the 'financially-excluded' definition), including poorer, and less experienced consumers and those who live in social housing or are students.*
- *Additional bureaucracy is likely to discourage consumers from shopping around and/or switching between providers. As a result, they risk buying products that do not offer the appropriate price and quality.*
- *Interpretation of the requirements by firms varies widely.*

## Polarisation

3.13 The FSA took the unusual step of inviting comment on research it commissioned from London Economics into the polarisation regime (which requires firms advising on or selling certain types of retail financial products to be either tied to a single company or completely independent). We highlighted<sup>5</sup> six key issues which we believe should guide further debate:

- the FSA is required under the [Financial Services and Markets Act 2000](#) to give precedence to their consumer protection objective before competition effects;
- the FSA needs first to determine whether the current regime is sustainable, given developments in European legislation, low-margin products (such as [stakeholder pension](#) schemes), e-commerce (including the emergence of [fund supermarkets](#)), and the use of product panels. If the FSA decides that the current system is not sustainable, the debate needs to shift to consider what changes should be made;
- the robustness of the London Economics analysis appeared to be poor. The impact on the conclusions of changes in assumptions needs to be closely examined;
- we recommended that the FSA undertake further analysis itself before it determines what advice it gives to the Treasury. In particular we urged the FSA to make a clear assessment of the risks and protection offered by the possible regimes;
- any new regime will need to meet certain key criteria to ensure the standards of consumer protection are maintained. These are:
  - effective mechanisms for complaints and compensation;
  - the regime must be transparent and understandable;
  - there should be no weakening of the requirement for suitable advice;
  - there should be clear responsibility for monitoring compliance with consumer protection rules;
  - cost savings should be passed on to consumers; and
  - access should not be restricted for any groups of disadvantaged consumers.
- there is a considerable weakness in the FSA's current position in that it has not yet done any detailed thinking about how to achieve an adequate level of consumer understanding of polarisation. Without such work, we cannot be confident that any new regime would be widely understood.

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5 Financial Services Consumer Panel 'Response to a review for the FSA by London Economics – Polarisation and financial services intermediary regulation', September 2000.

3.14 Subsequently, the FSA sought the Panel's advice on a pre-publication draft of its consultation paper on [polarisation](#) and related issues. We stressed that we are not yet convinced that polarisation should be abolished and that there are many complex issues that need to be explored. We called for further analysis of the implications for consumers of various alternative proposals.

### *Financial promotion*

3.15 We responded to the Treasury's continuing consultation on financial promotion. Our major concern is that consumers should not be in a worse position where a promotion originates from outside the UK than they are when dealing with UK-originated promotions. So, we consider the FSA's reserve power to discontinue control of incoming financial promotions should be exercised only where the regulatory regime controlling the promotion gives the same level of protection as the FSA regime.

## *The FSA's policy framework*

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### *The FSA's approach to setting high level standards*

3.16 Several areas we have considered in 2000 address the background of rules with which firms must comply before doing business, for example:

- the [permissions regime](#);
- regulation of professional firms (solicitors, accountants and actuaries);
- training and competence; and
- post-N2 fee-raising arrangements.

3.17 Our overriding concern with the proposed [permissions regime](#) is how consumers will understand the protections offered by FSA regulation, given, for example, that some permissions will be linked only to prudential supervision whereas others will involve conduct of business rules, UK firms will also be subject to the full array of FSA rules but European Economic Area [passport](#)ed firms may offer different protection and redress arrangements. This will be complicated to explain to consumers. But it is vital that the information given in the [FSA Register](#) is both understandable and usable by consumers. We recommended that the language planned for the Register be rigorously tested before use. We were also concerned by the FSA's intention to use the internet as the main way of consulting the Register. Many consumers do not have internet access. Also, consumers consulting the Register by internet will be doing so without immediate help from FSA staff, so it is essential that a web-based Register avoids confusing terminology and layout and that it is completely up to date.

3.18 We expressed serious reservations about the FSA's proposals for regulating professional firms as published in the original consultation. Since then, a new section of the [Financial Services and Markets Act 2000](#), has filled in some of the detail and the FSA has developed its proposals in further consultation. The 'Non-Exempt Activities Order' restricts the investment business activities of these firms and we believe it has been tightly drawn and will contribute substantially to consumer protection. The Panel will follow these developments as the important details are fleshed out and will pursue these remaining issues:

- lack of clarity about the interaction of FSA rules and [Designated Professional Bodies'](#) rules;
- lack of clarity about which rules will apply in 'mixed firms' (for example, firms where both solicitor and accountant partners give financial advice);
- there should be no difference in the level of consumer protection whether consumers are dealing with an [authorised](#) firm or an [exempt](#) firm;
- in practice, under these proposals, there is a risk that the level of protection will differ according to the type of firm used. Consumers will not readily understand these differences. The FSA is expected to make [status disclosure](#) rules binding on exempt firms.
- adequate training for members of [designated professional bodies](#) will be key to reducing the risk of consumer detriment; and
- we have doubts about accepting some professional bodies' redress arrangements as alternatives to participation in the [Financial Ombudsman Service](#) and [Financial Services Compensation Scheme](#).

### **Regulation of professional firms**

*Around 15,000 professional firms are currently regulated for investment business by [recognised professional bodies](#) (RPBs). The [Financial Services and Markets Act 2000](#) brings them instead within the regulation of the FSA. However the Act distinguishes between:*

- *firms for which certain financial services are mainstream business. Only these (around 2000 firms) will be directly regulated and authorised by the FSA and subject to the same rules as other authorised firms;*
- *firms whose financial business is complementary to their ordinary professional activities. These will be regulated by [designated professional bodies](#) (DPBs). The DPBs' rules and redress procedures will be different from those of the FSA. But the FSA has certain responsibilities regarding DPBs and has said its aim is **'to provide the same level of protection to consumers dealing with professional firms as for those dealing with other firms'**. The 'Non-Exempt Activities Order' restricts the investment business activities of these firms.*

*A further complication is that all the activities of an FSA-authorised professional firm will be caught by the Act and subject to FSA regulation. But to ensure a level playing field with the DPB-regulated firms, the non-mainstream business of the FSA-authorised professional firms will be more lightly regulated than that of other authorised firms.*

- 3.19 We responded to the FSA consultation on its draft training and competence sourcebook. We supported the effort to move away from a tick-box mechanical approach to compliance towards a positive training culture but pressed for clarity on how this would be achieved in practice. The FSA's response paper addressed many of the points we raised. However, we have expressed our disappointment at the lengthy timespan (several years) envisaged for the FSA's review of examinations. We look forward to seeing a timetable for work and hope that areas of most relevance to retail customers will be tackled first. We also urged the FSA to rethink its requirements on keeping records of compliance with the training and competence rules. Three years is not long enough, particularly given the forthcoming shift to [risk-based supervision](#) which will, for many firms, result in less frequent visits from the regulators and so a greater reliance on records. We were disappointed that the FSA did not accept our view.
- 3.20 The FSA sought our comments on the arrangements for levying regulatory fees from authorised firms. We supported the continuation of cross-subsidies from product providers to independent financial [advisers](#) and the introduction of cross subsidies from banks and building societies to [credit unions](#). This is to ensure that consumers have a choice of distribution channels in the first case and, in the second, to promote access to financial services for financially excluded consumer groups.
- 3.21 We were pleased to note that the FSA has taken on board many of our suggestions on the consultation on [approved persons](#). These include the requirement that certain senior managers of large firms must be approved and clarification about the treatment of sole traders and their employees. We regret the FSA will not be including a record of approved persons on the [FSA Register](#) at N2 but are encouraged that the FSA intends to do so as soon as possible after N2.

### ***Conduct of business sourcebook***

- 3.22 The FSA is clearly under pressure to have a workable [conduct of business](#) regime in place by N2 and consulted on its draft sourcebook which aims to harmonise the numerous existing rulebooks inherited from the previous regulators. We sympathised with the scale of the task, but stressed that a much more wide-ranging review from first principles is needed to build a regime centred on consumer protection. In particular, the sourcebook needs to take account of new ways products are being sold, be flexible enough to work with new and emerging technologies, and to clarify how the rules will deliver within the new risk-based approach to regulation. Subsequent to the formal consultation, we have continued discussions with the FSA on improvements we would like to see to the sourcebook.

### ***Mortgage regulation***

- 3.23 We welcomed the opportunity to comment on the FSA's proposals for mortgage regulation before the public consultation. We were particularly concerned that 'information' should not be limited to written information but should include oral contact with consumers that fell short of advice. We also urged the FSA to give some explanation of how it would work with the Mortgage Code Compliance Board (MCCB, which is responsible for the voluntary jurisdiction over some areas of mortgages, including mortgage

advisers) to ensure a holistic approach to regulation.

### *Consumer education*

3.24 The FSA's Consumer Education team invited us to comment on an internal discussion paper looking at what the key goals for advancing consumer understanding of personal finance should be and how progress towards the goals could be measured. We offered some practical suggestions to clarify individual goals and promote greater discussion about performance measures, and expressed our keen interest in playing an ongoing part in this work.

3.25 Moving consumer education forward is an important task, but its limitations must be recognised. In its proposals for [stakeholder pensions](#), the FSA places great reliance on raising public understanding and awareness as a tool for guarding against mis-buying of stakeholder pensions. We continued to warn the FSA against expecting too much too soon from consumer education.

### *Stakeholder pensions*

3.26 Following a discussion document, the FSA issued its formal consultation on the regulation of [stakeholder pensions](#). We commented on both documents, looking at the broad thrust of the proposals and the detail of the regime. Although low-income consumers will make up a minority of the target market, we focused particularly on this group because:

- they face a possible double detriment by:
  - tying up money for long-term pension goals when it is more urgently required to meet other needs; and
  - getting poor or no value from their pension savings because of interaction with the [minimum income guarantee](#) (and other means-tested state benefits);
- as a result, they are especially in need of guidance on prioritising goals, estimating future income and so on. In other words, they need financial advice but in practice such advice is not generally available to this group.

3.27 Bearing the above points in mind, our detailed response included support for help using [decision trees](#) (away from worksites) from people other than qualified [advisers](#). We envisage organisations such as Citizens Advice Bureaux and money advice centres forming a helper network. However, this will require a substantial programme of training to ensure that helpers give only information and do not stray over the boundary into advice. These organisations are already underfunded, so such involvement would need a commitment from the government or the FSA that money and resources for training will be made available.

3.28 We were also concerned about the complexity of the stakeholder regime, given the dual regulatory

approach (involving both the FSA and the [Occupational Pensions Regulatory Authority](#)), two complaints systems, two compensation arrangements and coexistence of trust-based and contract-based schemes. We see this as highly regrettable and a backward step from the goal of a 'one-stop shop'. However, accepting that we must live with this structure, we urged the FSA to ensure comparability of treatment for consumers however they take out their [stakeholder pension](#) and whatever type it is. There must also be easy links between the regulators so that the regime appears seamless to consumers.

### *Comparative information scheme*

3.29 The FSA plans to publish tables giving comparative information about different companies' products (the 'comparative information scheme') from 2001. The first phase is expected to cover personal pensions, investment bonds, unit trust, [individual savings accounts](#), savings endowments and mortgages. We strongly support this initiative. In response to FSA consultation, we have advised that five key principles be observed in developing the scheme:

- from the outset, the target should be to make the tables available to, and usable by, as many consumers as possible;
- the tables must be interactive, so consumers can find the information relevant to their own needs and circumstances. We are pleased to see that the FSA has embraced this approach and is to concentrate its efforts on a web-based approach;
- the tables should be available in a variety of formats and widely promoted – for example, available by phone, and published in newspapers and magazines;
- any scope for misunderstanding information in the tables should be minimised. The FSA responded that it would carry out detailed research to develop and test a format which is 'as clear and intuitive as possible'; and
- there must be an extensive campaign to raise awareness of the scheme.

3.30 The FSA's consultative paper argued for the exclusion of [past performance data](#) from the comparative tables. We urged the FSA to settle the past performance debate once and for all. If evidence is overwhelmingly against any link between past and future performance, then it should consider stricter controls on the use of such data in advertisements – even banning its use. The FSA has since published research which does not support any link and has set up a task force to consider the use of past performance data in advertising and promotional material.

### *Protecting consumers when things go wrong*

3.31 A key area of our work in 2000 has been influencing the shape and scope of the new [Financial Ombudsman Service](#) (FOS). In developing our response to the FSA consultation, we held a seminar

attended by over 30 representatives from consumer organisations. Commenting on the consultation, we stressed that:

- for FOS to function effectively, it must promote awareness of its existence and role and monitor that awareness;
- FOS should not be a substitute for FSA powers if a systemic problem came to light. So, it is vital that FOS alerts the FSA as soon as possible if it finds a trend in complaints;
- FOS should encourage professional bodies to take up its voluntary jurisdiction.
- mortgage [advisers](#) should be brought within the voluntary jurisdiction as soon as possible. The FOS has included their membership as a longer-term objective, but has not set a timetable;
- FOS should require six months' notice from any firm leaving the voluntary jurisdiction. During the notice period, the firm should inform all its customers in writing, explaining the implications for them. The six months notice rule has been adopted and the FOS will require firms to submit a written plan setting out proposals for writing to customers and handling complaints prior to withdrawal; and
- the award limit (£100,000) has not been increased since its adoption in 1981 by forerunners of FOS. The FSA has decided to keep this limit for now but review it every three years. We have urged the FSA, well in advance and in consultation with consumer representatives, to establish the criteria for review.

3.32 We also expressed our view that third parties involved in an insurance dispute should have direct access to the [FOS](#) voluntary jurisdiction even if they have no legal rights against the insurer in contract law. (At the time we cited two examples: where an employee has a complaint about a group income protection policy arranged by the employer and where a person is claiming against someone else's motor insurance and suffers loss due to an unreasonable delay in the claim being settled). However, the FSA has confirmed that third parties will have direct access to FOS where the insurance contract makes clear that the policy gives benefits to third parties. This means that employees complaining about a group income protection policy arranged by the employer would have access to the FOS. The FSA reports that industry is working towards policies clearly stating what third party rights exist.

3.33 We objected to [FOS](#) being given the ability to make cost awards against consumers (which would undermine the principle of a free service). We are pleased to note that the FSA has decided that they would not approve rules under section 230 of the [Financial Services and Markets Act 2000](#) if FOS had wanted to do this.

3.34 We have called for cooperation and collaboration between the FSA's consumer helpline and the proposed [FOS](#) customer focused enquiry function to avoid duplication of services and confusion for consumers. We understand that arrangements to achieve this are being put in place.

- 3.35 We contributed to the FSA's consultation last year on the [Financial Services Compensation Scheme](#) and this year we have monitored the implementation of the amended proposals. We are pleased to see a number of our suggestions have been taken up either partially or wholly. For example, we strongly supported 100 per cent compensation under the deposit sub-scheme, which the FSA proposes to apply to the first £2000 on deposit. We also called for a raising of the limits for the deposit and investments sub-schemes. The deposit limit is to be raised to £35,000 (from £20,000). However, no change is proposed for the investment limit which remains at £48,000 and is, in our view, now much too low. The FSA has agreed with our recommendation that the limits be reviewed after three years (rather than five as originally proposed). The FSA has also agreed with our point that consumers need to be made aware of the limitations on the extent to which their money is protected. The FSA plans further work on this.
- 3.36 We held preliminary discussions with the FSA about the planned consultation on complaints and compensation arrangements for [credit unions](#).
- 3.37 We responded to an FSA consultation on protecting client money on the failure of an [authorised](#) firm. Our main concern was that the rules adopted should be workable, give priority to private consumers and be safe from legal challenge and so delays in allocating money to customers. We also pointed out that it would be unreasonable to expect retail customers to understand or assess the risks inherent in a firm's client money arrangements.

### *The FSA's work in progress*

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- 3.38 Throughout the year, we monitored the FSA's handling of the [Pensions Review](#), [FSAVC Review](#) and [endowment mortgage mis-selling](#). A general theme is our dissatisfaction with the slow rate at which work progressed in all these areas. To allow monitoring and hopefully speed matters along, we called on the FSA/PIA to publish regular and detailed statistics on industry progress with the Pensions Review. The FSA's agreement to a release of statistics every year up to June 2002 (the target completion date) is, in our view, totally inadequate. In our view, publication every six- or even three-months should be possible. We were pleased to note the publication of progress and costs to date in early December 2000 and hope this will be repeated soon. Concerning the FSAVC Review, we have urged the FSA to issue unambiguous guidance to firms on the urgency of resolving the vast majority of cases well ahead of the June 2002 deadline.
- 3.39 In our 1999 report we praised the FSA's initial £10 million campaign to publicise Phase II of the Pensions Review and encouraged it to carry out additional publicity on the sign-up campaign. We will continue to press for adequate steps to be taken to publicise these reviews in order to ensure that all affected consumers come forward. It is essential that adequate funding is available for publicity and that any materials sent to consumers should be clearly laid out, reasonably short and avoid complex language. When the [ABI](#), on the instigation of the FSA, organised the [mortgage endowment re-projection exercise](#) the Panel commissioned a survey<sup>6</sup> to check the effectiveness of the letters and

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6 Financial Services Consumer Panel 'Mortgage endowment re-projection research report', report prepared by IFF Research Ltd, November 2000. Available from [www.fs-cp.org.uk](http://www.fs-cp.org.uk).

found a high level of understanding amongst consumers contacted – see page 48 for a discussion of the results.

3.40 In October, the FSA published a progress report on endowment mortgages. The FSA decided not to open a widespread mis-selling review. Instead, complaints are to be handled using the normal channels and disciplinary procedures to be used against individual firms as appropriate. This is coupled with initiatives to improve the information that consumers are given before they buy and the publication of a factsheet to explain the position to consumers who already have endowment mortgages. We welcomed this clear guidance which would no doubt help consumers who have already realised they have a problem to achieve a speedy resolution. However, the Panel was concerned that the guidance would do little to help other consumers – who may be numerous. The Panel’s research into the mortgage endowment re-projection exercise found that over half of the policyholders concerned thought they had been given misleading advice at the point of sale (though not all will have suffered loss as a result). The Panel considers that, where there is evidence that firms broke the rules and mis-sold endowments, they should have to identify all consumers concerned and proactively review their sales. It should not be left to consumers to go through the time-consuming – and for some people daunting – process of making a complaint. The Panel was also concerned about the poor record-keeping of some firms involved and the slow pace of regulatory action against companies who broke the rules.

### **External work**

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3.41 We were invited by the Council of Mortgage Lenders (CML) to contribute to its interim review of the mortgage code. We considered it inappropriate to give detailed comments because, in our view, the code needs a fundamental overhaul. This is for two reasons:

- the code currently fails to reflect the new FSA regime which will apply to mortgage lenders and disclosure of mortgage information; and
- the code is too vague and general in many areas to be of practical use in protecting consumers. For example, the code requires lenders to set time limits for the initial acknowledgement of complaints and to inform consumers of how long a fuller response might take. In our view this is wholly unsatisfactory and we advised that the code itself should set time limits for each stage of the complaints procedure in line with the proposals the FSA is implementing for authorised firms.

3.42 We also met with many other bodies during the year, including those responsible for the banking code and the General Insurance Standards Council (GISC) which is the new voluntary regulator for general insurance. A prominent theme in many of our meetings has been the boundary between the FSA’s remit and other regulatory regimes. A full list of our external meetings is given in Appendix 6.

## Chapter 4: Assessing the effectiveness of the FSA

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*Is the FSA providing appropriate consumer protection?* 46

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*Conclusion* 60

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## *An important part of the Panel's role is assessing the effectiveness of the FSA's performance in protecting consumers and promoting public awareness*

- 4.1 This chapter sets out our assessment of the FSA's effectiveness in achieving the following objectives:
- establishing an effective regulatory framework;
  - providing appropriate consumer protection;
  - promoting public awareness of the financial system; and
  - being an open and accountable regulator.
- 4.2 We are developing an extended model for assessing effectiveness. As a starting point, we have identified market outcomes that we would expect to see if the FSA is achieving its consumer-related objectives. During the year, we commissioned research to investigate the availability and robustness of objective measures to track these outcomes.<sup>1</sup> We are still working on the model and are consulting with consumer bodies, the Office of Fair Trading (OFT) and the FSA. We welcome feedback from other sources.

**SEE GLOSSARY (APPENDIX 7) FOR A DEFINITION OF TERMS HIGHLIGHTED IN THIS COLOUR.**

### *Is the FSA establishing an effective regulatory framework?*

- 4.3 During 2000, the [Financial Services and Markets Act 2000](#) received Royal Assent and the FSA published its vision for the new regime.<sup>2</sup> This section looks at the FSA's effectiveness in handling the transition to the new regime due to come into effect from 'N2' (the date, scheduled for summer 2001, on which the FSA will be given the bulk of its powers and responsibilities).
- 4.4 In advising the FSA on its policies for setting up a regulatory framework, we have been struck by the implications of delays in the Treasury's timetable for the FSA's work. The date of N2 has been set back substantially since the timings were first set out in 1997,<sup>3</sup> when N2 was expected to be in autumn 1999. We believe the original ambitious timescale had serious implications for the way in which the FSA chose to develop the new regime. Faced with the task of bringing together nine regulators within a relatively short timeframe, the FSA chose largely to assimilate existing rulebooks and practices instead of undertaking a fundamental review before N2. In our view, fundamental review of the [conduct of business](#) sourcebook was necessary and we had hoped it would cover the implications of new technology, European legislation, development of benchmarked products and other changes in the market. Had the Treasury published a more realistic timetable at the outset, we would have urged the

1 'Assessing FSA's effectiveness', report for the Financial Services Consumer Panel by Fod Barnes, independent consultant, October 2000. Available from [www.fs-cp.org.uk](http://www.fs-cp.org.uk).

2 FSA 'A new regulator for the new millennium', February 2000. Available from [www.fsa.gov.uk](http://www.fsa.gov.uk).

3 FSA 'Financial Services Authority – an outline', launch document, October 1997.

FSA to take this more long-term approach. However, we are relieved that the FSA has now accepted our argument and, while the opportunity for a ‘big-bang’ style overhaul has been lost, the FSA has stated that a fundamental review will go ahead. Their immediate focus must be to prioritise what remains to be done over the next 18 months to get the new regime up and running but, after that, we expect to see progress on the review.

4.5 The Treasury’s timetable has also seen delays to announcements and details regarding mortgage, [credit union](#) and [long-term care](#) insurance regulation. This creates additional confusion and delays the introduction of appropriate regulatory standards for both consumers and the industry.

4.6 It is within the above context that we make our assessment of the FSA’s effectiveness in setting up a regulatory framework. We divide our comments between the development of a single set of rules and forward thinking.

### *Developing a single set of harmonised rules*

4.7 The FSA has faced a large task in developing a single set of rules to cover, for example, [authorisation](#), training and competence, [status disclosure](#), [conduct of business](#) and many more areas. Across this spectrum and bearing in mind the reasons why a fundamental review did not take place, we have measured the FSA against these expectations:

- no new problems should be created as result of harmonisation and there should be no reduction in the level of consumer protection;
- harmonisation should take into account pressing market developments, such as e-commerce and [stakeholder pensions](#); and
- the harmonisation process should meet the requirements of open and accountable regulation.

4.8 From the consumer’s viewpoint, many aspects of the harmonised regime are brought together in the [conduct of business](#) sourcebook which regulates the interface between the provider or [adviser](#) and the consumer. Rather than focusing on the rulebook as a separate topic, we have considered its effectiveness within the context of the various other aspects of the new regime discussed below.

### **Authorisation and the permissions regime**

4.9 A major difference between the old and new systems of regulation is the introduction of the [permissions regime](#). In consultation, the FSA could more strongly have drawn together the link between [authorisation](#), supervision, the protection afforded to consumers and the permissions regime. For example, consumers will need to understand that some permissions involve only [prudential regulation](#), while others require compliance with [conduct of business](#) rules. We shall be monitoring the FSA’s performance in communicating these links to consumers and those acting for them. Key will be the accessibility of [FSA Register](#) information to consumers, especially the language used.

4.10 We have expressed our concern that [grandfathering](#) means that some firms (for example, solicitors and accountants) will become authorised without passing a [fit and proper test](#). The FSA has a transitional power to require such firms to reapply for authorisation, but only where a whole class of firms is involved – not an individual firm. This creates a serious loophole in the regime and we shall expect the FSA to conduct specific monitoring to ensure this loophole is not exploited.

### **Training and competence**

4.11 We welcome the FSA's efforts to encourage firms to take a more proactive approach towards training and competence including, for example, FSA roadshows to explain the rules to firms. However, the effectiveness of this strategy compared with the previous more prescriptive system rests crucially on the FSA's ability to monitor and enforce the new approach. In particular, the FSA needs to be clear about what it will be looking for, both within regulated firms and, more generally, in terms of consumer protection. It must consider how its supervisors will be equipped to evaluate training and competence programmes against the outcomes. In the light of these concerns, we welcome the FSA's proposals in CP60 to make its training and competence supervision programme public.

4.12 The FSA was slow to start its review of the minimum qualifications for individuals working in financial services despite the fact that work in this area had been identified as a priority by the [PIA](#) Board. We acknowledge that the review is now under way, but the intended timescale of 'several years' is unacceptably long and we have pressed for an early consultation on proposals. There have been some suggestions of 're-testing' for [adviser](#). We support the principle of regular testing of someone's competence to ensure that advisers are keeping up with changes in this fast-moving market and would like to see early discussions on how this can most effectively be achieved.

4.14 We welcome the extension of training and competence to the back office overseer within life and pensions firms, but consider the FSA should have extended the regime further. In particular training and competence programmes should embrace all stockbrokers' back office staff and key employees in any firm who are responsible for the interface with customers through information technology systems, such as the internet.

4.15 In general, we support the FSA's training and competence proposals on [stakeholder pensions](#), in particular the lighter regime for individuals limited to taking consumers through [decision trees](#) without giving advice. However, the FSA has not explained how it will monitor the competence of existing [advisers](#).

### **The FSA boundary**

4.16 Many activities and financial products are firmly within the scope of the FSA's powers and responsibilities. But beyond this core is a grey area where it is less clear to firms and individuals whether FSA [permissions](#) and [authorisation](#) apply to them. For example, debt advisers are often unsure what they can legally say to clients who ask whether they should surrender an endowment policy.

Similarly, in the context of [stakeholder pensions](#), unauthorised helpers may find it hard to distinguish between giving generic information (an unregulated activity) and advice (a regulated activity). The FSA must ensure that guidance is given.

- 4.17 Another aspect of the FSA boundary is the divide created by the proposed regime for professional firms (solicitors, accountants and actuaries). The proposals are complicated and create the danger of two-tier standards, with consumers enjoying different levels of protection according to whether they deal with an FSA-authorised firm or one regulated by a [Designated Professional Body](#). The FSA still has considerable work to do in tying in these two sets of rules. Consumers are unlikely to understand the differences and may be confused by the different complaints and redress systems which will apply according to the type of firm they deal with. The onus will be on the FSA and [Financial Ombudsman Service](#) to signpost this to consumers clearly.

### **Status disclosure**

- 4.18 Our own research has consistently shown that consumers do not shop around and rely heavily on [advisers](#) (see Chapter 2). In this situation, consumers need to understand that some advisers are restricted in the range of advice they can offer. Therefore it is important that [status disclosure](#) is timely, clear and effective. We await the FSA's policy decisions on status disclosure and will be particularly interested to know how consumers will be able to check the extent of an individual's authorisation and the issues on which s/he is competent to advise.

### **E-commerce**

- 4.19 At the start of the year, the FSA announced that it would be undertaking thematic work on e-commerce, and we had expected some output or consultation on this area by the end of 2000. However, progress by the FSA has been slow. This means that, given the timetable for [N2](#), the various sourcebooks are being finalised before the new e-commerce work has produced results. Rules and processes may need to be revised in the eventual light of e-commerce research findings. We note that the conclusions of the theme project will be published in Spring 2001, and we hope the FSA will soon set a timetable for the e-commerce work and a commitment to ongoing monitoring. The FSA is to be commended for taking part in an 'internet surf day' when, with other regulators, it undertook a one-day intensive investigation of websites, but consumers need reassurance that e-commerce is being monitored on an on-going basis.

### **Mortgage regulation**

- 4.20 Progress in this area has been made difficult by the government decision to regulate only information and not advice and to regulate lenders but not intermediaries. The tardiness of the Treasury in publishing a mortgage definition added to the delays. At the start of the year, we were concerned that the FSA was not getting to grips with mortgages. However, once its mortgage regulation team was in place, the FSA worked very hard to put its policies in place and to cut through the confusion. Although the proposed mortgage regime falls short of the level of consumer protection we would wish to see, we

believe the FSA's team has done the best it can in the circumstances.

## Forward thinking

### Product disclosure

- 4.21 We are encouraged that the [product disclosure](#) issue is taken seriously across all sections of the FSA and welcome its research into the effectiveness of the current regime. This has confirmed that [key features documents](#) in their present form are not as effective an aid to consumer understanding as they could be – findings which are consistent with our own surveys and research undertaken by the [PIA](#). We have advised the FSA that it should treat disclosure as a priority issue. We have also suggested that current regulatory boundaries between different types of disclosure need to be considered collectively. 'Disclosure' should be interpreted broadly to include financial promotion, [status disclosure](#), comparative information tables and post-sale information, as well as key features documents. This coherent approach to information disclosure must be adopted throughout the FSA's work.

### New regulator for the new millennium

- 4.22 The FSA outlined its new risk-based approach to financial regulation in *A new regulator for the new millennium* in January 2000. In our 1999 Annual Report the Panel said that 'the FSA's statement on its new regulatory approach holds out the challenge of a fundamental reappraisal of financial services regulation that should put the needs of consumers at the centre of this process. We will monitor whether or not this is achieved in reality.' We remain impressed by the thinking behind the new approach and we are hopeful that it will, when fully fleshed out, give consumers the best protection. We note the FSA's progress in developing its operating framework based on the new approach (as reported in *Building the new regulator: Progress report 1*) but we are disappointed to see that the work on consumer risks and industry-wide risks is less advanced than the assessment of firm-specific risks. Preparation for [N2](#) has driven the timetable for fitting firms into the new FSA systems and structures, so the risk classification of firms has had a guaranteed momentum. But there is no corresponding practical imperative pushing the FSA's work on consumer and industry-wide risks, and positive steps are therefore needed to keep up its pace. We hope that in 2001 the FSA will not allow the consumer to slip from the central position promised in the original vision of the risk-based regulator.

## Is the FSA providing appropriate consumer protection?

- 4.23 Protecting consumers is one of the FSA's four high-level regulatory objectives. In assessing how well the FSA is delivering in this area, we have asked the following questions:
- what would we have expected the FSA to have made progress on or have achieved during the year?
  - has the FSA done what we would have expected and, if so, how well?
  - what other action should the FSA be taking?

## Polarisation

- 4.24 The FSA has sought the advice of the Panel on polarisation and related issues before public consultation. We were concerned that correspondence with the Treasury and pre-consultation with staff suggested that polarisation will inevitably be abolished in due course and have been reassured by the FSA that the Board will conduct a thorough and open consultation process and not prejudge the outcome. We acknowledge the pressure from the Treasury to meet the timetable for stakeholder pensions but will seek to ensure that a thorough analysis of the consumer implications has been carried out before further changes are introduced.<sup>4</sup>
- 4.25 Panel and PIA surveys for the past five years have tracked understanding of polarisation using the proxy statement: 'a bank is the best place to get independent advice'. The 2000 survey shows that two out of every five respondents (40 per cent) agree with the statement, indicating that they do not understand polarisation. This result is consistent with previous surveys. We are extremely concerned that consumers will be further confused by the introduction of multi-tied advisers (in other words, advisers who act as agents of a handful of different companies). We are calling on the FSA to demand that full details of regulatory status be included in terms of business letters and monitor closely consumers' understanding of the status of the advisers they deal with.

## Pensions Review

- 4.26 The Pensions Review was well under way by the time this Panel was set up and our main involvement has been with Phase II. However, the numbers of people included in the review continued to rise significantly in the early part of the year as FSA/PIA continued their surveillance and enforcement activity and until the sign-up campaign took effect.
- 4.27 The slow rate of completion of the review by small independent financial adviser firms has caused the Panel concern and we have continued to press for public reporting of progress as part of the FSA's accountability. The FSA agreed to publish statistics in June each year as a result of our comments. At the time of writing £1.7 billion has been accepted in redress to policyholders excluding the value of benefit guarantees and unconditional offers of reinstatement.<sup>5</sup> The target date for completing the Review has been set at 30 June 2002 and the Panel will continue to monitor progress toward this end.
- 4.28 The FSA consulted us over the evolution of policy in respect of the Pensions Review. The Panel was impressed by the open way in which the FSA went on to announce the discovery of a problem with the PIA guidance on loss calculations for Phase II transfers,<sup>6</sup> reassessed the guidance and changed the policy<sup>7</sup> when it was discovered that this could lead to a material mis-statement of loss for a significant number of younger policyholders who had transferred from an occupational scheme.

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4 Financial Services Consumer Panel 'Response to a review for the FSA by London Economics – Polarisation and financial services intermediary regulation', September 2000.

5 FSA/PN/147/2000.

6 FSA/PN/018/2000.

7 FSA/PN/081/2000.

4.29 We expressed concern last year about the FSA's proposal for a sign-up date after which consumers would not be able to obtain a review. The FSA responded to our concerns with an extensive programme of advertising and public relations activity involving press, local radio and advice agencies and has continued to run a dedicated helpline. A vast increase in calls to the helpline during the five weeks following the public relations activity suggests that it reached a significant audience who had not previously asked for a review.

### **FSAVCs**

4.30 In 1999, the Panel welcomed the [FSAVC Review](#) although we were concerned whether those people with FSAVCs who were not covered by the proactive review would be aware of its implications. Where there are a limited number of policyholders widely spread within the population as a whole it is not possible given current industry records for the FSA to determine whether all those who could request a review know that they should do so. The FSA/PIA took the view that it would not be cost-effective to require the industry to follow up all those affected outside the priority groups and some do not have the right records to do so. Indeed, some past regulators ([SIB](#) for example) only required such records to be kept for three years. It is also difficult for the Panel to assess whether the information about the review has been sufficiently widely disseminated. During 2000, the FSA consumer helpline received 4497 enquiries concerning [AVCs](#) (around 15 per cent of total product enquiries for the year, but substantially less than endowment enquiries which accounted for 58 per cent of all product enquiries). A high proportion of the FSAVC enquiries were received in March and April when there was significant national press coverage of the issue.

4.31 We were also keen to ensure that firms should have a clear deadline within which to complete their work. The FSA has continued to progress its supervision work in this area and we are advised that credible plans are in place for completion of the review within the deadline. Product providers comprise 85 per cent of the business involved and the FSA is confident that they are on track. As with the [Pensions Review](#), it appears that firms in the independent sector have been slower to address the problems and the Panel will pay close attention to their progress and the effectiveness of supervisory effort in this area in 2001. This is the first time that a regulator has established a centralised database for tracking each firm's performance. We shall be interested to know whether this enhanced desk-based monitoring arrangement can deliver timely and relevant information next year.

### **Mortgage endowments**

4.32 The regulators made slow progress identifying [endowment mis-selling](#) and the FSA continues to be slow to deal with firms whose sales practices broke regulatory guidance. The FSA has rejected a full-scale review along the lines of the [Pensions Review](#). Instead, it has produced a self-help guide for consumers to decide whether they may have been mis-sold a policy and, as a result, suffered loss they must then

pursue a claim through the normal complaints and ombudsman process. The guide is clear and will undoubtedly help many consumers who are aware of the issue, but we think it will fail to reach many other consumers who are less aware. We had expected the FSA to do much more to identify where the problems are. We had also expected that, where there was evidence that a firm had breached the rules, the FSA would require the firm to identify the affected consumers and proactively to review those sales.

We note that themed visits by the FSA led to referral of a number of firms for further investigation and possible disciplinary action, and that where 'concentrations of consumer loss' are identified, the regulator has indicated to the Treasury Select Committee that it intends to require firms to conduct proactive reviews. This action is ongoing, and the Panel will be monitoring its scale and impact during 2001.

- 4.33 Whether or not mis-selling has occurred, changing economic conditions mean that endowment policies may now produce lower returns than had been expected in the past. The Association of British Insurers (ABI) required its member insurance companies to send re-projections to 6 million mortgage endowment policyholders together with letters advising whether the policyholder should take or consider action in order to stay on target for repaying their mortgage at the end of its term. The ABI worked closely with the FSA throughout the exercise. We commissioned research<sup>8</sup> both to assess the effectiveness of the exercise and to establish the numbers who may have been affected by mis-selling.
- 4.34 Although we had doubts about the FSA not taking on this exercise itself, our research shows that the ABI initiative achieved a high level of success: 94 per cent of policyholders found the information in the letters they received fairly or very clear and understandable; a high proportion of policyholders whose policies show a potential shortfall have taken action or intend to take action. We conclude that the FSA approach to the re-projection exercise was, in fact, proportionate.
- 4.35 Turning to the potential scale of mis-selling, our research found that 44 per cent of policyholders believe they were told that the policy would definitely pay off their mortgage. A further 10 per cent believe they were told the policy was guaranteed to pay off the mortgage. In other words, mis-selling may affect over half of policyholders, although not all of these will have suffered any loss.

### *Mystery shopping*

- 4.36 In 1999 we commented on the value of *mystery shopping* as a regulatory tool which focuses on the quality of the transaction for the consumer and is a good way to pick up flaws in individual selling practices. For a number of years, the PIA Consumer Panel had expressed concern at the delay in feeding back the results of a pilot mystery shopping exercise to the industry. The current Panel believes that this could have a deterrent effect and inform firms of weaknesses in their compliance with regulatory requirements. Recognition of the value of the technique had been disappointingly slow, but the FSA has

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<sup>8</sup> Financial Services Consumer Panel 'Mortgage endowment re-projection research report', report prepared by IFF Research Ltd, November 2000. Available from [www.fs-cp.org.uk](http://www.fs-cp.org.uk).

now included it in its regulatory toolkit.<sup>9</sup> We welcomed the FSA's commitment to carrying out mystery shopping of [individual savings accounts](#) and personal pensions last year before the introduction of [stakeholder pensions](#) and we have seen evidence of some of the work on this.

- 4.37 Mystery shopping has continued to be done by the [PIA](#) and was extended to include mortgage endowments. We understand that a limited number of shops have been carried out so far. The approach appears to have been more difficult to apply in practice than we would have hoped. Technical hitches were also experienced and it is clearly vital for the FSA to define the most appropriate way to assess particular selling practices. Building this work into the FSA's themed surveillance activity in the future should reinforce the FSA's effectiveness, however, and we are hopeful that as experience develops it will prove to be a valuable tool. We particularly welcome the commitment to release the results of the work on [individual savings accounts](#) to the industry and to use it to inform future consumer relations and enforcement work.

### ***Record keeping***

- 4.38 Last year, we called on the FSA to take robust action to address poor record keeping by firms. The lack of adequate records has hampered the [Pensions Review](#), [FSAVC Review](#) and [endowment mis-selling](#) investigation. We are also concerned that different standards apply to different types of records. We expect the FSA to tackle these issues urgently and to set in place a credible and sustainable regime which is consistent, clear to firms and properly enforced. The move to electronic records should help with this task.

### ***Stakeholder pensions***

- 4.39 The FSA made good progress consulting on regulation and the use of [decision trees](#). We were particularly pleased that the FSA reviewed its position and accepted our advice that decision trees must be given to potential customers before a phone sale takes place and that workplace presentations must be carried out only by authorised firms. There are still questions over the suitability of decision trees for some groups of consumers and we expect the FSA to address this issue and to monitor experience from April 2001 onwards. The complex regime for [stakeholder pensions](#) – with responsibility split between the FSA and the [Occupational Pensions Regulatory Authority](#) (OPRA) – creates the potential for consumer confusion. It is essential that the FSA works in co-ordination with OPRA and the Department of Social Security to ensure that different sources do not give different information and that standard terminology is used by all.

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9 PIA Regulatory Update 69, September 1999; FSA 'A new regulator for the new millennium', February 2000. Available from [www.fsa.gov.uk](http://www.fsa.gov.uk).

## *Financial promotions*

- 4.40 We are disappointed that the FSA has not carried out a review of its implementation of the financial promotions rules, taking into account successes and failures from past experience.
- 4.41 We note the FSA's regulatory guidance to firms regarding some areas of financial promotion (for example on the presentation of websites in June, and on bond funds in May). We hope the regulator will do more in future to clarify the required standards for all financial promotions and publicise any regulatory actions in this area.

Some of the weaknesses which we consider should be addressed are:

- **lack of transparency.** The FSA appears to have a set of precedents and standards which it uses when assessing advertisements. These are not made public, nor are the results of decisions about the need to change advertisements. Consistency of regulation and promotion of consumer confidence would be better served by a more open system with FSA standards. They might also publish advice along with case reports in a similar way to the system used by, say, the Advertising Standards Authority (ASA). If the confidentiality requirements of the [Financial Services and Markets Act 2000](#) make this impossible, then the FSA needs to develop an alternative approach which will set clear standards, achieve consistency and be apparent to all parties; and
  - **product rules.** Clear rules need to be laid down to enhance consumers' understanding of particular types of products. For example, advertising of [guaranteed-return stock market bonds](#) might include a compulsory table showing the value of an investor's capital given various assumptions about stock market growth.
- 4.42 The FSA's decision not to include [past performance data](#) in its [comparative information scheme](#) created an inconsistency with the financial promotions rules. We are pleased to see that the FSA has now set up a task force to examine the use of past performance data in advertising.

## *ISAs/PEPs*

- 4.43 There was speculation during the year that a large number of people might have breached the [ISA](#) investment limits. In the event, this applied to a relatively small percentage, but Inland Revenue statistics still suggest that around 85,000 people may have taken out incompatible ISAs. We would expect the FSA to have kept in close touch, ready to pick up and act quickly on any regulatory issues which arise (for example, if breaches appear to be due to poor information or inadequate staff training). It is regrettable that the FSA has not commented publicly on this matter.
- 4.44 The FSA should take a more proactive stand in tackling potential problems before they arise. In our last report, we warned of the risk that people with [PEP/ISA](#) mortgages might be inappropriately advised. We are still concerned that people with interest-only mortgages may later find that the expected repayment

vehicle is not in place. The FSA has asked PEP managers to write to their clients, but the potential consequences of any problems are so serious that the FSA should also use its new role as regulator of mortgage lenders at least to find out whether there is a problem and, if so, its scale.

### **Credit unions**

- 4.45 It is too soon to comment on the FSA's effectiveness in this area. At the time of writing, it had recently published its first consultation paper on [credit unions](#). We were pleased to see a focus on increasing consumer confidence – a point we had stressed in pre-consultation meetings between the Panel and the FSA. The FSA has so far taken a welcome proactive approach towards regulation in this area. They have set up a Credit Unions Consultation Panel and are promising roadshows as part of the consultation process. We were also impressed by the extent to which the FSA took our views into account in the pre-consultations on this new issue.
- 4.46 In the coming year, we shall be looking to the FSA to show how it will balance regulation and flexibility and to convey to the public the social role of [credit unions](#) and the reasons why some need a different regulatory approach. Training and competence will be key issues given credit union reliance on volunteers who tend to be a mobile population. It is important that the FSA works with other bodies, such as the proposed Central Services Organisation, the Association of British Credit Unions and local authorities.

### **Complaints/redress**

- 4.47 The FSA is required to set up both an ombudsman scheme and a compensation scheme which are to operate independently of the FSA. This work is well under way. The [Financial Ombudsman Service](#) (FOS) has made good progress on integrating the existing ombudsman and arbitration services. The FSA has proposed that the [Financial Services Compensation Scheme](#) be brought into operation several months ahead of [N2](#) to allow it to press on with integrating the schemes it replaces.
- 4.48 The FOS will have a wider scope than the previous Ombudsman Schemes but will continue to fall short of a one-stop shop for all financial services complaints for a variety of reasons including the scope of the legislation and timetable for implementation. The FSA must find ways of informing consumers of their rights, or lack of rights, to redress if they do business with a firm not authorised by the FSA – e.g. by using financial promotion rules to require internet firms targeting the UK to have warning on their home pages.
- We are also concerned about the lack of clarity over plans to extend the scope of FOS. For example, it is unclear whether the FSA or FOS has yet opened a dialogue with the [designated professional bodies](#) which will be responsible for the complaints services available to consumers of professional firms, such as solicitors and accountants. We hope that such firms will be encouraged to accept the voluntary jurisdiction of FOS at an early opportunity. In the meantime it is essential that the FSA and FOS set clear and effective signposting mechanisms, so that consumers are not put off pursuing complaints. Given

that regulatory problems will generally lead to complaints and that complaints can be an indicator of regulatory problems, it was essential that the FSA and FOS made arrangements for sharing data, and that the FOS report the volume and types of complaints which fall outside its jurisdiction.

### *Is the FSA promoting public awareness of the financial system?*

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4.49 Promoting public awareness of the financial system is the second of the FSA's two high-level statutory consumer objectives. We recognise that this is a long-term goal and results cannot be expected immediately. So, in this section, we focus on the steps the FSA is taking towards achieving the public awareness goal.

#### *Consumer education*

4.50 A major area of development has been the publication of booklets and leaflets. While the content is very good, we think that they are sometimes too focused on sophisticated consumers. We understand that these are extensively used to brief the media but also recognise the potential value in producing a more diverse range of materials, some of which adapt a tabloid style. We look forward to further initiatives on this front in 2001 and are pleased that the FSA is revising its pensions booklet to be a guide to saving for retirement. In future, we would like to see booklets addressing general financial aims rather than products. The FSA also needs to produce materials in minority languages and to ensure that a full range of materials catering for people with physical and sensory disabilities and learning difficulties is available.

4.51 However, it has not been clear to the Panel how these initiatives fit within the FSA's strategy for consumer education. We would like to see a more precise strategy developed with defined short, medium and long-term goals, performance targets and dates for review. Progress on such a strategy has to date been slow. The elements we would expect to see are:

- development of materials and effective delivery mechanisms;
- tailoring materials and delivery to an expanded audience. In particular the FSA should take care to extend its reach beyond the more readily accessible AB social categories;
- addressing topical issues; and
- alliances with other agencies and networks, such as [OFT](#), [DTI](#), Citizens Advice Bureaux and the Money Advice Trust.

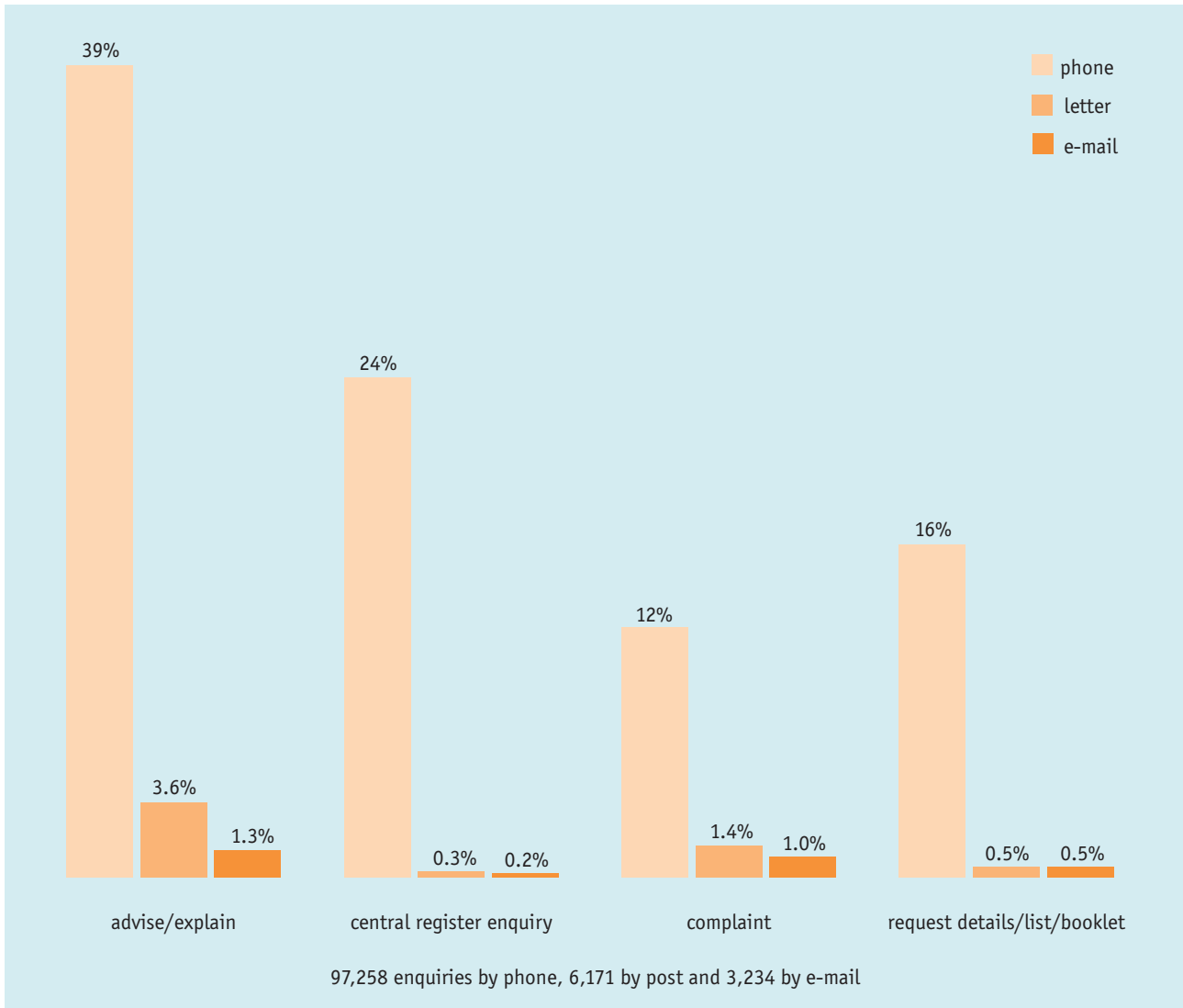
Many of these elements are in the process of development, but we would like to see them incorporated into a coherent and focused strategy, the effectiveness of which can be measured over time. We understand that uncertainty over the outsourcing of the helpline has limited the FSA from being more pro-active in promoting their resources.

- 4.52 Consumer education has also been used to support the FSA's consumer protection objective by identifying key messages for consumers for inclusion in letters about endowment re-projections, producing fact sheets, e.g. on endowments, [FSAVCs](#) and complaints, and determining appropriate information for inclusion in company mailings and the FSA's website. Following representations from the Panel and others collaborative ventures have been pursued and working links established with advice agencies and other regulators.
- 4.53 During the year, the FSA has brought on stream its consumer website. We endorse the content it has produced to date, but urge the FSA to raise public awareness of its internet resource. The internet is especially useful as a means of reaching people with a range of disabilities. We are pleased that the FSA has taken advice on the design of the website and presentation of material on it to ensure it is accessible to people with visual impairment.
- 4.54 The FSA has had a major success in getting personal finance on to the National Curriculum and has produced some excellent materials for use in schools. The FSA must now turn its efforts to ensuring that finance is actually taught. In Scotland, we applaud the FSA's involvement with the 'Young Scot Guide' (which is sponsored by the Royal Bank of Scotland).
- 4.55 An important educational function is responding to topical events as it has done on chat rooms, high income products, with profits funds and inherited estates among innumerable examples. The FSA has been admirably swift in producing such materials. However, it hasn't been as good at follow-up publicity to ensure that consumers are aware of these materials even after the initial blaze of press interest has died away.

### *Consumer helpline*

- 4.56 The helpline is strategically important since it is the public face of the FSA and offers one of the most direct means of communicating with consumers. However, we have the impression that the helpline has been short of resources, because callers have been frustrated during peak demand and at times the FSA has been reluctant to promote the helpline further. The FSA is now arranging to outsource delivery of the helpline and we hope that this will resolve resourcing issues.
- 4.57 We have high expectations of the helpline which should deliver fast, efficient and useful information and be accessible to all consumers.
- 4.58 We have been impressed by the quality of service provided by helpline staff and the FSA's own surveys show high levels of satisfaction. However, we are concerned that at times of peak demand (for example, when endowment policy factsheets became available to consumers), it has been difficult for callers to get through. Not only does this lead to lost calls, but also damages consumers' confidence in the system. Outsourcing should help the service to cope with peaks in demand, but the FSA will need to monitor this closely. The FSA's regular helpline statistics will be a useful aid to monitoring.

4.59 The helpline needs to be much more widely promoted to raise awareness of its existence. Research shows that the typical helpline user is middle class. So the FSA must address expanding its caller base. It is important that all phones providing public information can be accessed by minicom, text phone or similar devices. We are disappointed at the length of time it has taken for the FSA to do this, though we understand it will be part of the outsourced service.



**Figure 4.1: Enquiries to the FSA's consumer helpline**

Base: Enquiries from January to December 2000

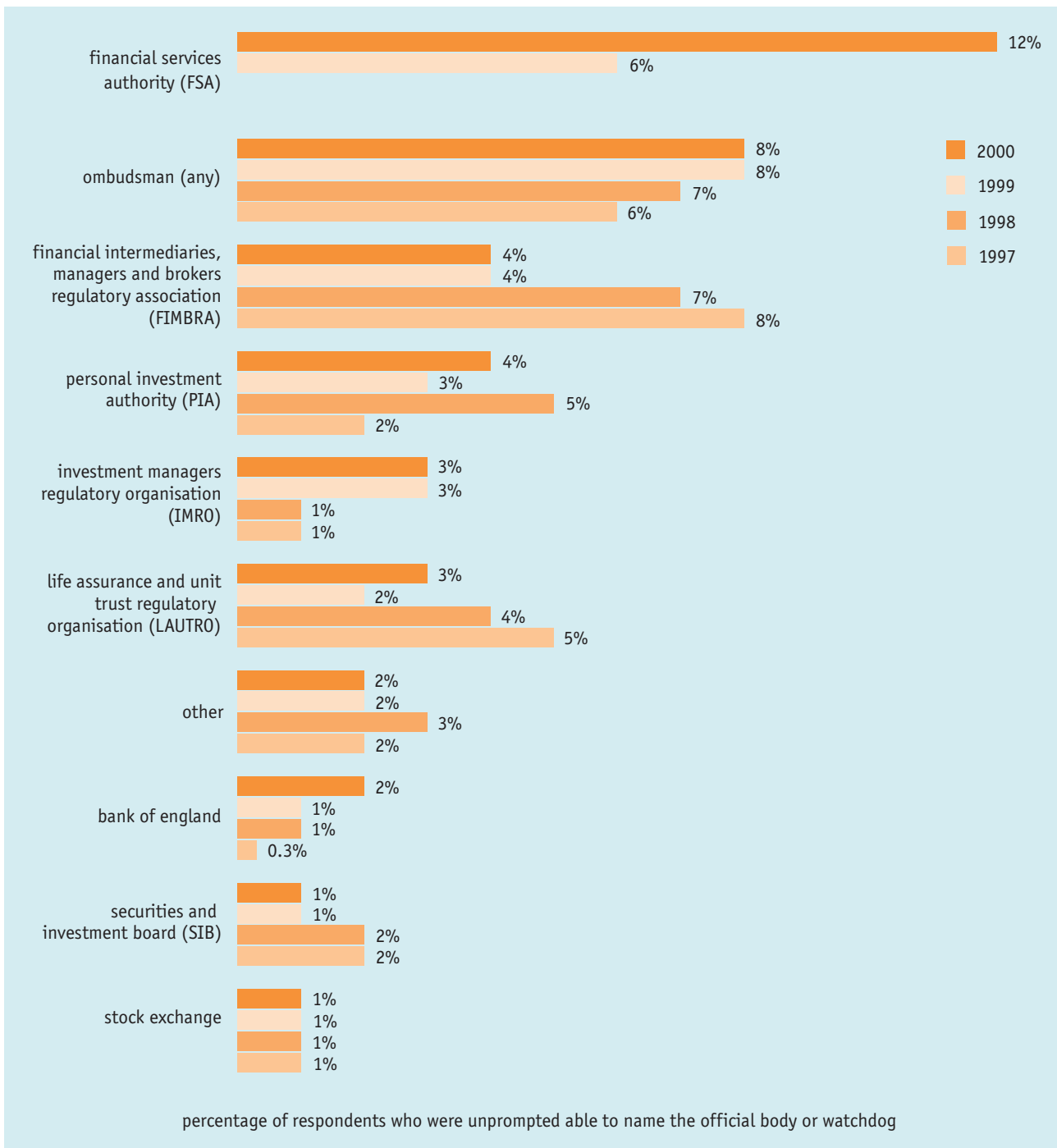
Source: FSA 2000

## *Comparative information*

- 4.60 The FSA has exceeded our expectations by the swiftness of its move towards broad agreement on the collection and presentation of [comparative information](#). The FSA is also to be commended on the high profile it has given to the past performance debate. This is a controversial topic and the reasons underlying the exclusion of [past performance data](#) from the tables will need careful and widespread publicity in the run-up to the launch.
- 4.61 The next steps, where the detailed decisions about collection and presentation of information will be made, are vital and it is important that consumers continue to be consulted. It is also important that consideration is given to ways of presenting extracts from the tables for regular use by the press and to decide how advice agencies can be used to pass on the information. It is essential that massive publicity is given to the tables to create widespread public awareness, otherwise the FSA's work will be wasted.

## *Awareness of the FSA and its role*

- 4.62 We expect the FSA to be active in raising awareness of its existence and the services it offers, such as those discussed above and most importantly the [FSA Register](#).
- 4.63 Our annual surveys test public awareness of financial watchdogs and official bodies. The results are shown in Figure 4.2. A consistent trend has been that the vast majority of respondents cannot spontaneously name any watchdogs or official bodies. However, the FSA has got off to an extremely good start. In 1999, it raised awareness of itself to 6 per cent of respondents - already ahead of most of the financial regulators it is replacing. But this year, the survey suggests that awareness of the FSA has doubled to a very impressive 12 per cent of respondents. That is a higher level than for any other regulator and higher even than awareness of ombudsmen who have in past surveys fared fairly well. Awareness of the FSA was highest amongst the AB social group (24 per cent) and those who see themselves as financially literate (20 per cent). These tend to be the groups more likely to have pensions and endowment mortgages and so most likely to have received FSA communications and publicity about mis-selling. Awareness was lowest among social groups C2 (4 per cent) and DE (5 per cent). The FSA must build on its good start but take particular pains to reach a wider range of consumers.



**Figure 4.2: Awareness of official bodies or watchdogs**

Base: All financial decision-makers

Source: BMRB 1996, 1998 and 2000; MORI 1999

4.64 An important role which consumers are expected to play within the regulatory system is to check whether the firms they deal with are authorised by the FSA. The Panel’s most recent annual survey asked respondents where they would go to check whether an adviser is properly qualified or registered to give advice. The key findings were:

- one person in eight (12 per cent) recognised the FSA as the (correct) source of information. This is in line with the percentage of respondents who are aware of the FSA’s existence;

- one-fifth of respondents (20 per cent) would refer back to the adviser's firm. It seems probable that this result is due to consumers' reliance on brand names as a proxy for trustworthiness. Although referring back to the adviser's firm could be a dangerous strategy if the firm itself was of dubious character, it is a reasonable course of action where the firm is an established household name; and
- over a third of respondents (36 per cent) did not know where to go for this information.

4.65 We conclude that the FSA needs to do more to publicise the [FSA Register](#) and the reasons for its importance, particularly since over a fifth (21 per cent) of respondents in the annual survey thought the FSA would give them some protection if an unauthorised company went bust while holding their money, and over a third (36 per cent) of respondents did not know whether they would be protected in that situation.

### *Is the FSA an open and accountable regulator?*

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4.66 The FSA has clearly stated its intention to operate as an open and transparent regulator and to respond to input from both consumers and practitioners. [The Financial Services and Markets Act 2000](#) actually states: 'the Authority must make and maintain effective arrangements for consulting practitioners and consumers' about its policies and practices. In assessing how well the FSA has achieved this with respect to consumers, we have the following expectations:

- the FSA should act as an open and accountable regulator for consumers;
- the FSA's consultation processes should be accessible to consumers and their representatives; and
- the FSA should listen to consumers' views and respond appropriately to them.

### *The consultation process*

4.67 The FSA issued over 40 consultation papers<sup>10</sup> in 2000 – double the number in 1999. We welcome the continuation of this open approach to policymaking, and recognise that the sheer volume of papers is an inevitable consequence.

4.68 We welcome the initiatives taken by the FSA to encourage input from the public (for example, producing newsletters giving short summaries of consultation and including electronic reply forms on the FSA website) and the moves to give consumer representatives a voice in its policy development (for example, including consumer speakers in its seminars on [stakeholder pensions](#) and mortgages).

4.69 However, more could be done to make the consumer issues clearer and to encourage responses from consumer representatives. Many of the consultation papers have not stated whether they contain issues

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10 The FSA's 'CP' series of publications.

of consumer interest and, where they do, have not drawn attention to these issues. A substantial proportion of this year's consultations focused on technical matters which were mainly of interest to regulated firms, but they also contained some important consumer issues. The problem has been to find them. It has often been necessary for consumer representatives to pick through all the detail of consultation papers, irrespective of the intended target audience, to ensure that all the consumer risks are picked up. This is unduly laborious and deters consumer participation in the consultation process. In our 1999 Annual Report, we asked for the inclusion of consumer impact statements in all FSA consultation papers. The FSA agreed that further steps should be taken to improve consumer input into consultation and agreed to consider introducing consumer impact statements. The FSA should now put this into practice as a matter of urgency.

4.70 The range of different types of publication produced by the FSA in its consultation process is confusing:

- industry and consumer views are usually invited via the *Consultation Paper* series; but
- there are occasions when *Discussion Papers* are issued instead, as in the case of [stakeholder pensions](#);<sup>11</sup>
- views are also invited via miscellaneous one-off publications about important regulatory questions, such as [polarisation](#);<sup>12</sup> and
- FSA's feedback after consultations is published sometimes in a *Response Paper*, sometimes in a *Policy Statement* and sometimes as part of another *Consultation Paper*.

There may be good internal reasons for this range of formats, but from the outside it is hard to understand the differing status of the publications. The large volume of consultations makes clarity particularly important. A more straightforward system is needed.

### ***Debate on relevant economic, regulatory and consumer topics***

4.71 We welcome the publication of a number of papers giving analysis, background information and field research results, all of which aid debates on financial regulation and often relate to areas of consumer protection and awareness. For example, last year, the Panel called for the FSA to investigate thoroughly whether [past performance data](#) is useful for consumers selecting equity funds. An occasional paper in August provided evidence and analysis to show that it is not.<sup>13</sup>

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11 FSA 'The FSA's approach to the regulation of the conduct of stakeholder pensions business', Discussion Paper, May 2000.

12 FSA 'Polarisation and financial services intermediary regulation', review for the FSA by London Economic, July 2000.

13 FSA 'Past imperfect? The performance of UK equity managed funds', Occasional paper, August 2000.

## Relationship with the Consumer Panel and other consumer representatives

- 4.72 The FSA has provided staff and resources for the Consumer Panel, enabling us to operate as an independent voice for consumers. On many subjects the FSA has asked for our advice on policy matters before formal public consultation. This ‘pre-consultation’ helps to broaden the consideration of consumer interests during the FSA’s policy formulation at an early stage. The FSA has responded readily to our requests for detailed briefings both on operational matters and on policy development. Generally we are encouraged by FSA’s ability to be open with the Panel and to take our advice while respecting our independence.
- 4.73 In its policymaking the FSA has listened to consumer representations on key issues. In particular we are pleased to note that the Panel’s responses to consultations this year have had an impact on the FSA’s decisions on the [comparative information scheme](#), training and competence, [stakeholder pensions](#), [polarisation](#) and the [conduct of business](#) sourcebook. Furthermore, we note a greater willingness in published consultation feedback to identify and discuss points made by the Panel and other consumer representatives. We continue to encourage the FSA to look for and explicitly deal with the arguments put by consumer respondents. This will be particularly important when the [Financial Services and Markets Act 2000](#) is in force because it requires the FSA to explain its reasons in writing if it disagrees with views or proposals put by the Consumer Panel.
- 4.74 On some high-profile issues – particularly in the area of operational decision-making rather than strategic policy – there is concern among consumer representatives that the FSA’s mechanisms for consultation have been inadequate. For example, there was no consumer consultation in advance of the FSA’s decision on the reasonableness of AXA’s plans to distribute its so-called ‘orphan assets’. On [endowment mis-selling](#), the Consumers’ Association has complained that it had difficulty getting detailed information on the FSA’s calculations of endowment policyholders’ losses. We accept that when the regulator intervenes in rapidly moving events in sensitive commercial markets there are legal and practical limits on the scope for consultation. However, as these are events of great importance to consumers, we think the FSA should make a positive effort to ensure that every possible avenue for consultation is taken. The Consumers’ Association told us: *‘It is fair to say that in some cases the FSA’s hands are tied by the legal and regulatory framework which protects commercial interests but we believe this card can be overplayed’*. The Panel’s view is that more attention needs to be given – both by the regulator and by consumer representatives – to the procedures for consultation and briefing on the FSA’s major regulatory actions in the market place.

## Conclusion

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- 4.75 In our view, the FSA continues to move in the right direction. Its emphasis is changing from getting the pre-N2 ground rules to putting regulation into practice. As such, there are significant changes yet to come and the Panel’s own focus will be shifting from the big policy issues to the effectiveness of the supervisory regime and the operational issues of the future.

## Chapter 5: Future issues

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*The Panel will be closely monitoring the implementation of the new regulatory regime and taking necessary steps to ensure that the consumer interest is at its heart. Other areas of our work will focus on changing products and practices in the retail market*

- 5.1 This chapter sets out some key issues facing the FSA that will affect consumers and may influence our priorities in the coming year.
- 5.2 The year 2001 will be a time of great reorganisation and cultural change for the FSA. Until now, several distinct regulators have continued to operate within the framework of the FSA. These are now being amalgamated to form a single, seamless regulatory body. The way in which the regulatory task is approached is also shifting: the FSA is developing a model of **risk-based supervision** to guide the efficient use of its resources; regulation will be **thematic** rather than firm-based; and it is developing a broad and diverse range of tools from enforcement measures to consumer education.
- 5.3 The FSA is also adjusting its executive and committee structure. This includes appointing a third managing director whose responsibilities will include consumer relations, the aim being to sharpen its focus on retail and consumer issues.

**SEE GLOSSARY (APPENDIX 7) FOR A DEFINITION OF TERMS HIGHLIGHTED IN THIS COLOUR**

### ***Regulatory issues***

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- 5.4 The year 2001 is significant because the FSA will receive its full statutory powers. Its own rulebooks and procedures will replace those inherited from the former self-regulating organisations and key aspects of the consumer protection mechanism – such as the **Financial Ombudsman Service** and the single **Financial Services Compensation Scheme** – will ‘go live’. We shall be monitoring the transition to the new regime and responding to Treasury consultation on the secondary legislation needed to implement the **Financial Services and Markets Act 2000**. The Act sets out the framework for regulation, but the secondary legislation is very important and contains most of the essential detail. Around 80 pieces of secondary legislation are to be implemented before **N2**. The issues which will be the subject of further consultation include:
- defining the investments and activities which will be the subject of regulation (the Regulated Activities Order);
  - the framework for financial promotions; and
  - the circumstances in which firms are allowed automatically to transfer their existing authorisation to the new regime (so-called ‘**grandfathering**’).

We hope to be consulted about, and shall monitor, the rules to be applied to members of the professions

(solicitors, accountants and actuaries). We shall continue to press the Treasury over improvements in the regulation of mortgages.

- 5.5 An area of ongoing concern is the boundary between [generic advice](#) (unregulated) and [specific advice](#) (regulated), particularly in the context of the internet. This is an area the FSA needs to monitor closely.
- 5.6 We shall continue to monitor the three mis-selling reviews concerning pensions, endowment mortgages and [FSAVCs](#), respectively, and press the FSA to keep to a strict timetable in progressing these reviews. We shall also be alert to other product and business areas in which there is a potential for mis-selling or past mis-sales are suspected.
- 5.7 The FSA is shortly to consult publicly on [polarisation](#) (the requirement that those who advise on life insurance, pensions and unit trusts be either independent or tied to a single product provider) and related issues. We shall respond to the formal consultation and await convincing proposals to reduce consumer confusion about the status and responsibilities of [advisers](#).
- 5.8 The FSA has started a major internal review of the [product disclosure](#) requirements, in particular disclosure of commission and charges. Its initial research has found that the majority of consumers do not use [key features documents](#) before buying. As discussed in Chapter 2, our own research has found that around half of consumers do not read key features documents or only skim through or read parts of them. This implies that key features documents in their current form are seldom used as aids to shopping around. However the documents also have an important role as a reference source which consumers can use after buying to check policy details and the options available in various circumstances. We shall take both these functions into account when we come to examine the FSA's proposals for improving the disclosure regime.
- 5.9 There are several other regulatory initiatives aimed at improving the information available to consumers in order to improve the transparency and competitiveness of financial retail markets. These include new rules on the information to be included in documents for mortgage customers. In the coming year, the FSA will start to publish tables under its [comparative information scheme](#) to help consumers make sense of the vast choice of products, such as pensions, endowments and mortgages. From April, [stakeholder pensions](#) will be on sale, bringing into use stakeholder [decision trees](#). [CAT standards](#) (covering changes, access and terms) are already in use for [individual savings accounts](#) and mortgages and the Department of Trade and Industry has suggested extending their use to financial information.
- 5.10 As part of its thematic work, the FSA is examining the fair treatment of consumers after purchase. We look forward to examining the FSA's findings and recommendations.
- 5.11 The FSA is undertaking a review of approved examinations and proposes restrictions on the use by [advisers](#) of numerous initials denoting diverse and confusing qualifications.
- 5.12 In the past, [index funds](#) (also called tracker funds) have been viewed as a medium-risk investment

option. However, changes in the market place and European legislation might raise the maximum amount a fund can invest in a single company, which could result in many index funds becoming a higher-risk choice. This will be of particular concern where such funds have been designated as the routine investment (the 'default') for [stakeholder pension schemes](#).

5.13 The European Council of Ministers has stated its intention to create a single European retail market for financial services by 2005, focusing in particular on e-commerce, investment services and pension reform. This follows on from the European Commission's 1999 action plan for implementing a framework for financial services. The plan focuses on six areas:

- information and transparency (including a draft directive on the [distance selling](#) of financial services);
- redress procedures;
- consumer protection rules – establishing equivalence across member states;
- electronic commerce – a draft directive covering issues such as marketing rules and redress procedures;
- for insurance intermediaries, a [passporting](#) framework to facilitate cross-border business across the European Economic Area; and
- better cross-border payment systems, especially for low-value transactions.

Our role will be to try to ensure that levels of protection for UK consumers are not undermined.

## [Market developments](#)

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5.14 The government has published its long-awaited consultation on [long-term care](#) insurance. This opens the way for significant growth in the markets for long-term care insurance and equity release products, including long-term local authority loans. We shall continue to press for selling and advising on long-term care products to be defined as regulated activities, under the Financial Services and Markets Act 2000.

5.15 The long-term fall in annuity rates has resulted in growing demand for with-profits [annuities](#) and [income drawdown](#). The government has so far not responded to pressure to abolish compulsory purchase of annuities with the proceeds of pension schemes but has announced proposals to raise the age limit from 75 to 80. All these developments may pose additional risks for the consumer and will not be suitable for everyone.

5.16 The introduction of [stakeholder pensions](#) will, given current rules, reduce the attractiveness of free-standing additional voluntary contribution ([FSAVC](#)) schemes and many employer-run [AVC](#) schemes. It may also affect the scale and development of occupational pension schemes – for example, with employers reducing the overall level of contributions or shifting away from the provision of salary related schemes.

- 5.17 The internet is likely to increase in importance as a distribution channel. We expect both direct buying and advice-led buying through this medium to increase, particularly now a framework of legislation is in place to enable electronic signatures to be contractually binding in some circumstances. We have already expressed our concern that the draft [conduct of business](#) sourcebook so far fails to take adequate account of new technology. The FSA plans a media neutral approach to rule-making. We shall be monitoring the value of this approach and pressing the FSA to set appropriate rules to keep pace with new ways of doing business.
- 5.18 In the first part of 2001, the FSA will produce a report on lessons to be learnt from events that led to Equitable Life closing for business in December 2000. As our Annual Report goes to press, the future of Equitable Life is unresolved. Whatever happens, there will clearly be major implications for consumer protection and consumer confidence, and the Panel will therefore make Equitable Life a priority. We will also consider whether an internal review process is the most effective way in which to learn lessons. Meanwhile, the FSA should take steps to ensure that it is, and is seen to be, transparent and accountable in the way in which it undertakes this review.

## [Social issues](#)

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- 5.19 Changing work patterns, household formation, levels of government provision, the introduction of pension splitting on divorce and other factors mean new groups of consumers are entering the market for financial services. It will be important to investigate the needs and experiences of these groups to decide whether existing regulation gives them enough protection and relevant education. A more segmented approach may be necessary to cater for diverse groups of consumers. The FSA has already started to do this by setting up a working group on women and personal finance and its contribution to the government's initiatives concerning [financial exclusion](#).
- 5.20 We shall continue to take account of financial exclusion when assessing the impact of the FSA's regulations and policy proposals, with a view to ensuring that all consumers have access at least to basic financial products. In particular, we shall track the progress of proposals and market developments, especially the progress of plans to set up universal banking and to foster expansion of [credit unions](#).
- 5.21 The development of government policy on pensioner incomes will have implications for suitable advice on pension saving, particularly through [stakeholder pensions](#). The level of the [minimum income guarantee](#), provision of other means-tested benefits (such as housing and council tax benefit) and interaction with a pensioner's credit will all be relevant factors. The interaction of these factors will be complex, but it seems probable that there will be some low-income groups of consumers for whom pension saving is unlikely to create any increase in eventual retirement income.
- 5.22 Low-income and middle-income consumers are sometimes those most in need of advice and yet least likely to be of interest to mainstream financial [advisers](#). There is a lack of realistic advice options for this group of consumers. The model for [stakeholder pensions](#), which might be applied to other products, suggests growth may be focused on giving general information rather than specific advice. The

availability of advice, in its broadest sense, will be a key issue for consumers as an increasing proportion of people become individual purchasers of investment products.

## **Conclusion**

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- 5.23 There are a vast number of new regulatory and market developments which could command the Panel's attention during 2001. As in its first two years, the Panel will have to evaluate priorities continually to ensure that it concentrates on those issues which most directly affect consumers and where it can have most impact on future developments. Some new issues have arisen during 2000 which will lead the Panel to focus more attention on prudential regulation than in the past and there will also continue to be major consultation papers to which it must respond. The Panel will give priority to its specific obligations under its terms of reference and continue to encourage the FSA itself to undertake analysis of the consumer impact of its proposals and actions.

# Appendix 1: Terms of reference of the Financial Services Consumer Panel

*Our terms of reference are agreed by the FSA Board. Our current terms of reference are a working draft because the Panel's status will change when the Financial Services and Markets Act 2000 is implemented. At that stage, the terms will be reviewed.*

## *The Panel is principally established to:*

- represent the interests of consumers by advising, commenting and making recommendations on existing and developing FSA policy;
- speak on behalf of consumers by reviewing, monitoring and reporting to the FSA on the effectiveness of FSA's policies in pursuing its statutory objectives;
- keep under review and influence actual and potential developments in financial services in so far as they impact on consumers; and
- be accountable through public reporting including publication of its recommendations.

## *Accordingly the Panel shall:*

- be consulted on the FSA's policy proposals which affect consumers of financial services;
- provide advice and make recommendations to the FSA on the relevant interests and concerns of consumers;
- provide advice to the FSA concerning the need for further information on the needs and views of consumers of financial services;
- keep under review, monitor, and report to the FSA on the effectiveness of the FSA's policies in pursuing its statutory objectives; and
- contribute to the FSA's information in the form of reports, recommendations or otherwise.

## *In its deliberations, the Panel shall:*

- have particular regard to:
  - any group of consumers that is especially disadvantaged in the context of the financial

services under discussion; and

- consumers who do not have ready access to financial services, and the impact of regulation on consumer access.

***To facilitate its work, the Panel shall:***

- collect information and views on consumer issues from outside sources to include as appropriate:
  - researching, canvassing and representing the views of individual consumers of financial services (including research funded from outside the FSA);
  - establishing links with other public interest and consumer representatives within the FSA, with the Financial Services Ombudsman Scheme and with consumer and voluntary organisations with an interest in financial services;
  - taking steps to be aware of wider policy developments relevant to consumers of financial services, through liaison with other policymakers or otherwise; and
  - taking steps to be aware of developments in the marketplace through liaison with regulated firms and their representative bodies.
- request information from the FSA Executive on its regulatory work and responsibilities relevant to the effectiveness of such work in relation to consumers, together with associated market and other information. The Panel shall have regard to the proportionality of such requests but shall be entitled to such information within reasonable constraints of time, resources and confidentiality. Matters will be treated as confidential wherever required, for example, where they relate to individual regulated firms or marketing groups rather than to classes of firms or businesses, where that information is not in the public domain; and
- work closely with the FSA Executive to minimise duplication of effort through means such as agreed programmes of work, the regular exchange of information, circulation of minutes and otherwise.

***To contribute to its accountability, the Panel shall:***

- publish an annual report, dealing in particular with the interests and concerns of individual consumers of financial services and with the effectiveness of the FSA's policies in relation to consumers. The annual report shall be discussed in draft with the FSA Board prior to publication; and
- agree a yearly budget with the FSA Board and report on the previous year's expenditure in its annual report.

### *The Panel may:*

- issue press releases and publish other reports and material from time to time, including its recommendations to the FSA and responses to public consultations. The Panel shall give the FSA Executive reasonable notice in advance of the publication of all material with policy implications.

### *The Panel shall also:*

- review these terms of reference from time to time and recommend appropriate changes to the FSA Board; and
- advise the PIA Board on interests and concerns of private investors and consumers, respond to requests from the PIA Board and assess the effectiveness of the PIA in meeting its consumer protection objectives by making regular reports to the Board until N2 (being the date on which the Financial Services and Markets Act is implemented).

## Appendix 2: Who is on the Panel?

*At 31 December 2000, the Panel comprised the following members. For changes from 1 January 2001, see the end of this appendix.*

### **Barbara Saunders (Chairman)**

Barbara is an independent consumer consultant, former public interest member of the PIA Board and past Chairman of the Council of the Insurance Ombudsman Bureau. Among other public and professional appointments she is a Non-Executive Director of the West Hertfordshire Hospitals NHS Trust and a member of the Architects Registration Board.

### **Colin Brown (Vice-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.

### **Jean Gaffin**

Jean chaired OFTEL's Advisory Committee on Telecommunications for Disabled and Elderly People until 31 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 the 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.

### **John Howard**

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

### **Joan Harbison**

Joan is Chief Commissioner of the Equality Commission for Northern Ireland. She was Chair of the Commission for Racial Equality for Northern Ireland and is a former Chairman and member of the Executive Committee of the Northern Ireland Association of Citizens Advice Bureaux. She has held a number of public appointments including Vice-Chairman of the Eastern Health and Social Services Board and the Northern Ireland Standing Advisory Commission on Human Rights and was a founding member of the Human Fertilisation and Embryology Authority.

### **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.

### **Gerald Lanchin**

Gerry is a Vice-President of the National Federation of Consumer Groups. He is a former Under-Secretary of the Consumer Affairs Division of the Department of Trade and Industry and author of *Government and the Consumer*. His involvement in consumer protection includes being a former Council Member of Consumers' Association and of Consumer Congress Committee. He was the first chairman of the Direct Mail Services Standards Board and a member of the Data Protection Tribunal for ten years.

### **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 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. Other research has included 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 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.

## ***Changes from 1 January 2001***

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***Barbara Saunders*** leaves the Panel after two years as its Chairman and previously four years as Chairman of the PIA Consumer Panel. ***Colin Brown*** takes over as Chairman.

***Ann Foster*** joins the Panel as its new Vice-Chairman. She 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.

***Joan Harbison*** and ***Gerry Lanchin*** stand down, having completed their term of office.

**Harriet Hall** newly joins the Panel. Harriet is a solicitor with considerable experience of consumer policy and retail financial services. She is a former 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** also joins the Panel. 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.

## Appendix 3: Publications and press releases

### *Public responses/public statements*

#### **'Professional firms'**

Response to FSA Consultation Paper 69  
20 December 2000

#### **'Regulated activities'**

Response to HM Treasury consultation 'Regulated activities – second consultation document'  
20 December 2000

#### **'Financial promotion'**

Response to HM Treasury consultation 'Financial promotion – third consultation document'  
20 December 2000

#### **'Regulating mortgages'**

Response to HM Treasury consultation 'Regulating mortgages'  
19 December 2000

#### **'Stakeholder pensions'**

Response to FSA Consultation Paper 61  
September 2000

#### **'Conduct of business sourcebook supplement'**

Response to FSA Consultation Paper 57  
6 September 2000

#### **'Training and competence sourcebook'**

Response to FSA Consultation Paper 60  
6 September 2000

#### **'FSA's post-N2 fee-raising arrangement'**

Response to FSA Consultation Paper 56  
31 August 2000

**'Polarisation'**

Response to a review for the FSA by London Economics

13 September 2000

**'Money laundering'**

Response to FSA Consultation Paper 46

17 July 2000

**'Regulation of stakeholder pensions business'**

Response to FSA Discussion Paper 3

30 June 2000

**'Conduct of business sourcebook'**

Response to FSA Consultation Paper 45

19 June 2000

**'Training and competence'**

Response to FSA Consultation Paper 34

25 February 2000

**'Protecting client money'**

Response to FSA Consultation Paper 38

25 February 2000

**'Consumer complaints'**

Response to joint FSA and Financial Ombudsman Service (FOS) Consultation Paper 33

10 February 2000

**'Professional firms'**

Response to FSA Consultation Paper 30

14 January 2000

**'The permissions regime'**

Response to FSA Consultation Paper 29

14 January 2000

### **'Comparative information'**

Response to FSA Consultation Paper 28

13 January 2000

### **'Financial Services and Markets Bill'**

Briefing note to members of the House of Lords

11 January 2000

## ***Research reports***

### **'Mortgage endowment re-projection research report'**

Report prepared by IFF Research Ltd

November 2000

### **'Direct selling research'**

Report from NOP on the issues consumers face when buying through direct channels

August 2000

### **'Consumers in the financial market'**

Financial Services Consumer Panel annual survey of consumers 1999

July 2000

## ***Working papers***

### **'Assessing FSA's effectiveness'**

Report by Fod Barnes, independent consultant

October 2000

### **'Direct selling of financial products: market overview'**

Report by Jonquil Lowe, JTL Financial Research

January 2000

## ***Press releases***

### **Proposed mortgage regulation is insufficient to protect consumers**

19 December 2000

**FSA must assess polarisation changes before promoting fundamental reforms, says Financial Services Consumer Panel**

9 November 2000

**Consumer Panel calls for tougher action on mis-sold endowments**

3 October 2000

**Consumer protection should take priority in Polarisation Review, says Financial Services Consumer Panel**

13 September 2000

**Survey shows women still take back seat in financial decisions**

7 July 2000

**Survey shows consumers still wary of financial products**

6 July 2000

**Consumer Panel urges FSA to protect vulnerable and low income consumers from mis-buying stakeholder pensions**

30 June 2000

**FSA needs to plan for a fundamental review of rulebook, says Consumer Panel**

19 June 2000

**The Financial Services Consumer Panel today launched its first Annual Report**

12 March 2000

**Consumers deserve a simple and highly visible complaints service**

10 February 2000

**Government compromise leaves consumers vulnerable and confused**

26 January 2000

**'League tables' will help clarify baffling financial products for consumers**

13 January 2000

## Appendix 4: Matters on which the FSA has sought the Panel's advice

Approved persons regime  
Common terms for FSA committees  
Comparative information scheme  
Compensation scheme  
Complaints handling  
Conduct of business sourcebook  
Consumer education (measuring progress in improving consumer understanding)  
Credit unions  
E-commerce theme work  
Endowment mortgages  
Fee-raising arrangements  
Financial Ombudsman Service  
FSA independent complaints investigator  
FSA powers to vet individuals grandfathered into the new regime  
FSAVC review  
Low-inflation environment theme work  
Money laundering  
Mortgage regulation  
Mortgage endowment policies  
'A New Regulator for the New Millennium'  
Pensions review (publicity, statistics on progress)  
Permissions regime  
Persistency  
Polarisation  
Protecting client money  
Regulation of professional firms  
Stakeholder pensions  
Training and competence  
Treating customers fairly theme work

## Appendix 5: Panel members serving as consumer representatives on other FSA bodies

FSA Collective Investment Schemes Forum

Jane Vass

FSA Consumer Education Forum

Jane Vass, Yvonne Gallacher

FSA Credit Unions Consultation Panel

Nick Pearson, Yvonne Gallacher

FSA Training Advisory Panel

Jane Vass

FSA Working Group on Past Performance and Advertising

Dave Watts

## Appendix 6: Meetings with external bodies

Association of British Insurers

Association of Friendly Societies

Association of Independent Financial Advisers

Association of Unit Trusts and Investment Funds

British Bankers' Association

Consumers' Association

Council of Mortgage Lenders

Financial Ombudsman Service

Financial Services Practitioner Forum

FSA Small Business Practitioner Panel

General Insurance Standards Council

Life Insurance Association

M & E Network

Mortgage Code Compliance Board

National Consumer Council

Office of Fair Trading

Securities Institute

# Appendix 7: Glossary of terms and abbreviations

**ABI**

Association of British Insurers

**Adviser**

refers both to independent financial advisers who can help consumers select products from the full range on offer from all companies, and to tied agents and salespeople who can advise only on the products of a single company or, in the case of multi-tied agents, the products of a small number of companies.

**AUTIF**

Association of Unit Trusts and Investment Funds

**AITC**

Association of Investment Trust Companies

**Annuity**

type of investment where a lump sum is exchanged for an income usually payable for life.

**Appointed representative**

an authorised firm can appoint an 'outside' organisation to advise on its products (if the firm is a product provider) or to provide independent advice (if the firm is an IFA). Such an organisation may be a company, a firm or a sole trader and is known as an appointed representative. The authorised firm is referred to as the appointed representatives' principal and is responsible for ensuring that it meets regulatory requirements.

**Approved person**

people who work for firms and who are approved by the FSA or applying for FSA approval and are subject to certain regulatory requirements. In certain circumstances approved persons may be corporate bodies. Approved persons are defined in the Financial Services and Markets Act 2000 as persons exerting significant influence on the conduct of a firm's affairs in relation to activities that are regulated by the FSA; individuals dealing directly with customers; and individuals dealing with the property of customers.

**Authorisation/authorised**

a firm wanting to undertake activities that are subject to regulation is required to become authorised by the relevant regulator before it can do so.

**AVCs**

additional voluntary contributions. These can be paid by an employee if their benefits from an occupational pension scheme are less than the maximum allowed by the Inland Revenue. The employee makes additional voluntary contributions in order to improve their pension benefits. There are two ways of doing this: (i) via their employer (this is known as an AVC) or independently of the employer, where the provider can be an insurance company, bank, building society or unit trust (this is known as an FSAVC).

**Banking code**

a voluntary code of practice observed by banks and building societies.

**CAT standards**

The government has set voluntary CAT standards for ISAs and mortgages to help consumers identify products which are straightforward and offer a reasonable deal. CAT stands for Charges, Access and Terms.

**Caveat emptor**

a general principle in contract law meaning 'let the buyer beware'.

**Central Register check**

enquiries to the FSA to check whether a firm is authorised.

**CEG**

Consumers in Europe Group

**Churning**

advice to cancel one product to earn commission by replacing it with another. This is prohibited by regulation.

**CML**

Council of Mortgage Lenders

**Company representatives**

investment advisers working for an authorised firm or an appointed representative, who work solely for that provider.

**Comparative information scheme**

tables comparing different companies' products that are designed to help consumers make suitable choices. The FSA plans to make these tables publicly available from 2001 for products, such as pensions, mortgages and endowment policies.

**Conduct of business**

some activities regulated by the FSA, such as the sale of life insurance and unit trusts to the public, are subject to conduct of business rules governing, for example, how salespeople and advisers contact prospective customers, the information they must provide, and so on.

**Credit union**

a financial co-operative owned and run by the savers and borrowers who are its customers.

**Decision tree**

questions and answers set out in a flowchart and designed for use by consumers to help them make decisions about whether a product is suitable for them. Decision trees are being introduced initially for stakeholder pensions. If successful, their use may be extended to other products.

**Designated professional body**

an organisation responsible for maintaining the standards of members of a profession, such as accountants or solicitors, which under the Financial Services and Markets Act 2000 is given responsibility for regulating members' activities which would otherwise fall to be regulated by the FSA.

**Direct selling**

generally describes companies selling direct to the public, often by mail, phone or internet, and without the use of an intermediary.

**Distance selling**

a transaction made other than on a face-to-face basis – in other words, by mail, phone, fax, internet or similar medium.

**DTI**

Department of Trade and Industry

**ECHR**

European Convention on Human Rights

**Endowment mortgage mis-selling**

occurs if a salesperson or adviser recommends that a consumer takes out an endowment mortgage, knowing that the mortgage is unsuitable given the consumer's needs, circumstances and attitude towards risk, or having failed to establish whether or not the product is suitable.

**Exempt**

describes activities, individuals or firms that would need to be authorised by the FSA except for the fact that they are specifically exempted under the Financial Services and Markets Act 2000 or rules made under that Act.

**Factfind**

this is the process that an adviser providing investment advice is required to go through to obtain information from a client. It consists of a prepared list of questions.

**FIMBRA**

Financial Intermediaries Managers and Brokers Regulatory Association. This was replaced by the FIA from 1 October 1997. FIMBRA mainly regulated IFAs.

**Financial exclusion**

describes lack of access, for whatever reason, to basic financial products and services.

**Financial Ombudsman Service/FOS**

this is the name of the new scheme that will replace the eight existing dispute resolution mechanisms in the financial services area. The framework for the scheme and its responsibilities are set out in the Financial Services and Markets Act 2000.

**Financial planning certificate**

to advise on or sell investments, an individual must have gained this basic qualification or its equivalent.

**Financial Services and Markets Act 2000**

new legislation that establishes the FSA as the single regulator for the financial services sector and gives the FSA its full range of powers.

**Financial Services Compensation Scheme**

new scheme which will replace the various existing compensation schemes in the financial services area. The framework for the scheme is set out in the Financial Services and Markets Act 2000.

**'Fit and proper' test**

a check to establish whether someone seeking authorisation is of good character, competent and otherwise suitable.

**FSA, the**

The Financial Services Authority, announced in 1997 by the Government to take over the responsibilities from the existing financial services regulators. The existing regulatory organisations, including SROs, are working with the FSA until the Financial Services and Markets Act 2000 is implemented when the FSA will assume its full powers.

**FSA Register**

the Financial Services and Markets Act 2000 requires the FSA to maintain a public record containing details of all authorised firms including a description of the regulated activities that they are permitted to undertake. This will be known as the FSA Register. The FSA intends to make this available on the internet so that consumers can check whether a firm they are intending to use is authorised.

**FSA's principles**

a set of high-level standards that set out the fundamental obligations on regulated businesses.

**FSAVCs**

free-standing additional voluntary contributions. See AVCs.

**FSAVC Review**

an investigation led by the FSA into allegations that significant numbers of people were persuaded by authorised firms to take out FSAVCs when alternative arrangements would have been more suitable. Firms are required to identify affected customers and arrange suitable redress.

**Fund supermarket**

a single website where consumers can buy unit trusts and OEICs from a range of different product providers.

**Generic advice**

advice which is not about a product from a specific provider. It could be about types of products such as different types of pensions. Generic advice about investment products is not subject to FSA regulation. Also see specific advice.

**GISC**

General Insurance Standards Council

**Grandfathering/grandfathered**

the process of granting automatic authorisation under the Financial Services and Markets Act 2000 to a firm which was already authorised under the previous regulatory regime.

**Guaranteed-return stock market bond**

an investment where the return is linked to the movement of a stock market index, such as the FTSE 100, but you are guaranteed to get back at least your original capital even if the stock market falls.

**Home state regulation**

where regulation of each financial services firm is the responsibility of the state in which the firm is authorised. Currently in the EU prudential regulation is on a home state basis, whereas advertising, conduct of business and consumer protection requirements are applied on a host state basis.

**Host state regulation**

where regulation of financial services firms is the responsibility of the state in which the firm or branch is based or where a customer is resident. Currently in the EU advertising, conduct of business and consumer protection requirements are applied on a host state basis whereas prudential regulation is on a home state basis.

**IFA**

independent financial adviser. IFAs act as agents for their customers and can give advice from the range of products on the market.

**IMRO**

Investment Management Regulatory Organisation. The SRO regulating wholesale and retail investment management firms. It will be replaced by the FSA.

**Index fund (tracker fund)**

investment where your money grows – and can fall – in line with the movement of a stock market index, such as the FTSE 100 index.

**Income drawdown**

alternative to buying an annuity with a pension fund you have built up. Instead the pension fund continues to be invested and you draw an income direct from the fund.

**Individual savings accounts/ISAs**

products available since 6 April 1999 that have tax advantages. They can consist of up to three components: (i) cash; (ii) life assurance; and (iii) stocks and shares.

**JMLSG**

Joint Money Laundering Steering Group

**Key features document**

a statement that gives the key features of a specific packaged investment product which is being purchased by a customer. The key features document is customer specific. It must be given to the customer before s/he signs the application for a product.

**LAUTRO**

Life Assurance and Unit Trust Regulatory Organisation, replaced by the PIA from 1 October 1996. LAUTRO controlled providers of packaged investment products such as pensions and life assurance policies.

**Long-term care**

describes the issues about how to pay for personal and nursing care if your health fails in old age.

**MCCB**

Mortgage Code Compliance Board

**Minimum income guarantee**

arrangement whereby pensioners whose income from all sources is less than a given amount are eligible to claim income support to bring their income up to that level.

**Money laundering**

the process of recycling money from criminal activities through seemingly legitimate businesses and personal arrangements in order to disguise the origins of the money.

**Mortgage Code, the**

a voluntary code of practice observed by most mortgage lenders and advisers and administered by the MCCB.

**Mortgage endowment re-projection exercise**

process whereby insurance companies have been required to contact their endowment mortgage customers to provide them with new illustrations of the return they may get from their endowment policies. The returns are lower than those shown in earlier illustrations, reflecting changes in the inflationary and economic environment. The exercise involves warning customers where the return looks likely to be insufficient to repay the mortgage at the end of its term.

**Mortgage payment protection insurance**

insurance to pay your mortgage interest for a limited period (for example, up to two years) if you are unable to work because of illness or unemployment.

**Mystery shopping**

exercise whereby people posing as customers go through the stages of making a purchase in order to test the sales and/or advice process.

**N2**

Date on which the FSA gets its full powers under the Financial Services and Markets Act 2000 – expected to be summer 2001.

**Nolan principles**

The Nolan Committee, chaired by Lord Nolan, published its first report in May 1995 called 'Standards in Public Life'. It details a Code of Practice for Public Appointments Procedures and sets out the principles by which Ministerial appointments should be made to the boards of public bodies. It stated that all public appointments should be governed by the overriding principle of selection based on merit and that scrutiny via an independent panel (one member being an independent assessor) should be the main element of the appointment process.

**Non-status lender**

mortgage provider willing to offer loans to customers without any proof of their income. In return, the customer usually pays a higher-than-normal rate of interest.

**OFT**

Office of Fair Trading

**Occupational Pensions Regulatory Authority/OPRA**

regulator responsible for occupational pension schemes and also some aspects of stakeholder pensions.

**Passporting/passported**

process of allowing foreign firms to operate in the UK without going through the normal UK authorisation procedures, provided they are subject to the control of a regulator in the country where their operations are based.

**Past performance data**

historical record of the returns from an investment fund. Providers and consumers often look to these records as a guide to selecting funds they expect to do well in future. However, a large body of research has found no (or only a slight) link between past and future performance.

**Pensions Review**

a review of personal pensions sold between April 1984 and June 1994 to identify cases where people were badly advised to take out personal pensions in circumstances where they would have been financially better off at retirement by staying in, or joining, an employer's occupational pension scheme. Where the review showed that an individual was badly advised, and that the advice has caused loss, the firm responsible is required to provide redress.

**PEPs**

Personal equity plans. A plan with special tax advantages. PEPs have been replaced with ISAs. No new investments could be put into PEPs after 5 April 1999, but existing PEPs can continue.

**Permissions regime**

system being introduced by N2 whereby firms do not directly apply for authorisation. Instead, they seek permission to carry on specific activities in relation to specific products being sold to particular types of customer. If permission is granted, authorisation is automatic. If the firm wishes to alter its activities, products or customers, it must seek further permission.

**Persistency rate**

the proportion of investors who continue to pay premiums into their life and pensions policies, or who do not surrender their single premium policy.

**PIA**

Personal Investment Authority. The SRO regulating firms conducting investment business with the private investor. It will be replaced by the FSA.

**Polarisation**

the requirement enshrined in SIB rules for those who advise on life assurance, personal pensions and unit trusts to either be independent (see IFA) or a representative of a particular product provider which means they are an agent for that company and can only sell products in its range.

**Product disclosure**

formal system for ensuring that consumers are given specified information (such as charges, risk, tax treatment, and so on) about products usually prior to purchase. Disclosure often takes the form of a key features document.

**Product panel**

a group of products which an adviser has pre-selected as suitable recommendations for clients meeting specified criteria. Typically, an IFA will use a product panel rather than review the whole market afresh for each customer. Product panels should be reviewed regularly to take account of the changing market.

**Prudential regulation**

ensuring that an authorised firm's resources, internal procedures and controls are sufficient to enable it to act in accordance with high business standards.

**Recognised professional body**

an organisation representing members of a profession (such as accountants, solicitors and actuaries) and responsible for the investment activities of its members. Under the Financial Services and Markets Act 2000, this arrangement is being replaced by a system of designated professional bodies.

**Registering**

keeping a list of individuals (people and firms) who are allowed to conduct regulated business. Registration continues indefinitely and terminates only if there is some specific reason triggering it (for example, the individual ceases to work in financial services).

**Risk-based supervision**

new approach to regulation whereby the FSA will target regulatory resources according to the probability and scale of potential problems. The approach is set out in an FSA paper 'A new regulator for the new millennium', January 2000.

**SFA**

Securities and Futures Authority. The SRO which is responsible for regulating firms involved in the securities and futures sector of the financial services industry. It will be replaced by the FSA.

**SIB**

Securities and Investment Board. Responsible for monitoring the requirements of the Financial Services Act 1986 to protect investors. SIB monitors the SROs and the Recognised Professional Bodies. SIB was re-named the FSA on 28 October 1997.

**Single Compensation Scheme**

this will replace the existing compensation schemes in the financial services industry. Its framework and responsibilities are set out in the Financial Services and Markets Act 2000.

**Specific advice**

defined in the secondary legislation to be made under the Financial Services and Markets Act 2000 as advice about the buying, selling, subscribing for or underwriting a particular product. Also see generic advice.

**SROs**

Self-Regulating Organisations. Under the regime established by the Financial Services Act 1986, SIB created two groups to deal with the day-to-day practicalities of authorisation and the running of the regulatory structure – the Self-Regulating Organisations (SROs) and the Recognised Professional Bodies (RPBs). The SROs are the SFA, IMRO and PIA.

**Stakeholder pensions**

these are low-cost products with built-in standards (charges, flexibility and information) primarily aimed at low to middle income earners with no existing pensions provision. They are due to be launched in April 2001.

**Status disclosure**

requirement that salespeople and advisers tell customers at the outset whether they are representatives of particular product provider(s) or independent and so able to consider all products on the market.

**Thematic-based regulation**

new approach to regulation whereby the FSA will focus its work on targeted areas rather than relying on open-ended information gathering and routine inspection. The approach is set out in an FSA paper 'A new regulator for the new millennium', January 2000.

**White labelling**

process by which an authorised firm can extend its product range by selling the products of another firm branded as if they were its own products.

## *Financial Services Consumer Panel*

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