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Dear Mike

The Treatment of Windfall Benefits for the Personal Pensions Review, the FSAVC Review and Mortgage Endowment Complaints

I am responding on behalf of the Consumer Panel to the questions raised in CP126.

Q1 Do you have any comments on the proposed approach to the identification of windfall benefits?

We welcome the judgement in *Needler* establishing a general presumption that windfall benefits derived from the demutualisation of a life office should not be brought into account when calculating the redress that is due to an investor who has been missold a personal pension. We support the FSA's proposed approach to the identification of windfall benefits.

Q2 Do you agree that firms should have the opportunity to establish causal connection in particular, if rare circumstances?

Yes - under specific conditions.

Q3 Are the conditions and the test for causation the right ones?

Yes.

Q4 Are there any further measures that should be taken so that customers may know whether or not a firm's proposal is fair in their case?

Yes. Where the customer tells a firm that he/she does not accept the proposal to take the benefit into account (third bullet point of paragraph 3.12), we believe that the firm should be required to inform the customer explicitly in writing that, if he/she remains dissatisfied with their response, they may refer the matter to the Financial Ombudsman service.

Q5 Do you have any comments on the valuation basis for cash and shares?

No.

- Q6 Do you have any comments on:
- (i) the proposed principles for valuing windfall augmentations;
 - (ii) the approach to simplification and proxy calculations;
 - (iii) the requirement for verification; and
 - (iv) the requirement to provide data to customers and others ?

No.

- Q7 Do you agree that the proposed target date for completing cases affected by windfall augmentations in the pensions and FSAVC reviews is appropriate?

Yes.

- Q8 Do you have any comments on the application of Needler to cases reopened as a result of calculation error?

We note that the proposed guidance is not intended to have any retrospective effect and that there is no intention that correctly completed cases should be reopened. Yet it seems that the FSA has been advised that cases reopened because of incorrect calculation should take account of Needler. This seems inconsistent to the Panel and I would be grateful if you could let me have more information on the reasoning behind this proposal. As we said to you previously - and reiterated in our recently published Annual Report - we regard the decision not to apply the judgement retrospectively in the case of pensions as unfair.

- Q9 Do you have any comments on the specific proposals for the pensions review?

- Q10 Do you have any comments on the specific proposals for the FSAVC review?

- Q11 Do you have any comments on the specific proposals for mortgage endowment complaints?

We have no further comments on the specific proposals for handling in the case of the pensions review, the FSAVC review or mortgage endowment complaints.

Yours sincerely,



Colin Brown
Chairman

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