

Financial Services Consumer
Panel response to:
new collective investment
scheme products

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CP 135: new collective investment scheme products

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Introduction

1. The FSA proposes to amend its rules to permit the development of new collective investment schemes, such as unit trusts, increasing consumer choice and flexibility for the collective investment industry. The Consumer Panel has reviewed these proposals in the context of consumer choice and consumer protection, and has comments to make on volatility disclosure, index replication, and the proposals in Chapter 4 to allow guaranteed and protected funds. The Panel is not in a position to comment on the other more technical questions.

Volatility disclosure and index replication

Q3.3 Is this [a change to the definition of 'higher volatility fund'] an appropriate way of dealing with the Product Directive's requirements for high volatility disclosure?

2. It is important that consumers who buy into a potentially more volatile fund are aware of the implications. The FSA needs to ensure that disclosure of high volatility in key features and other promotional literature is effective in practice. The Panel welcomes the FSA's research into consumer attitude

towards and understanding of risk, which we understand will take account of volatility. We look forward to the results of this and hope that they will be useful in the context of deciding on an appropriate way of dealing with the requirements for high volatility disclosure.

Q3.11 Are you content with the approach for index-replicating funds? Is further guidance necessary, and what should it include?

3. Index-tracking funds have often been presented as a relatively low-risk way into share ownership. The Consumer Panel acknowledges that consumer expectations of index-tracking funds may not always be easy to reconcile with full index replication. The Panel therefore believes that the FSA needs to give more detail of how the proposed relaxation of the 10% spread rule (possibly to 35% in exceptional conditions) could affect the risk and volatility profile of funds and whether there should be disclosure requirements in the light of this, such as volatility disclosure.
4. The proposed approach places the responsibility on the FSA to ensure during the authorisation process that an index fund meets the criteria set down in the Directive for recognition. The Panel is content with this approach, but believes that the FSA will need to explain and publish its policy on authorising index funds. There may be various ways of achieving this, which will not necessarily narrow flexibility – the FSA's recent review of the financial promotion regime may provide some examples.

Guaranteed and protected funds

Q4.1 Do you agree that there will not be any demand to convert existing funds and sub-funds into LIFs. If not, do you think the rules for AUTs should be extended to allow such a change?

5. No comment.

Q4.2 Do you agree that our proposals [on disclosure for limited issue funds] provide sufficient flexibility combined with suitable protection for investors?

6. The Panel believe that consumer protection would be improved by disclosure of a volatility indicator and the cost of guarantees (see below).

Q4.3 Do you agree with our proposals concerning the guarantor?

7. The Panel believes that it is essential that there should be third party protection for guaranteed funds, provided by a completely independent legally entity. We support the FSA's proposals that neither the fund manager nor the trustee or depositary should provide the guarantee. However, we do not support the FSA's proposal not to extend this prohibition to associates of the fund manager or depositary, which could undermine the perceived independence of the guarantor as well as introducing the risk of conflicts of interest.

Q4.4 Do you agree that it is desirable to:

- i) allow a fund to be described as 'guaranteed' where the conditions specified are met:*
 - ii) allow the word 'guaranteed' to be used in the fund name, but suitably qualified, where less than 100% of the capital is guaranteed?*
8. The Panel recognises that guarantees may be attractive to consumers. However, consumers need to be aware that guarantees come at a price, if they are to be able to exert effective competitive pressure. The Panel believes that the costs of providing the guarantee should be clearly disclosed to the consumer.
9. The Panel regards it as premature to allow the use of the word 'guarantee' in fund names where less than 100% of the capital is guaranteed, until research has been carried out to establish how consumers interpret the word. If the research shows that the concept of a qualified guarantee is clearly understood by consumers, and would be acceptable in return for a lower-cost guarantee, disclosure of the cost of guarantees would be necessary so that consumers can make the trade-off.

Q4.5 Do you think it is appropriate to:

- i) *differentiate between capital protected and guaranteed funds: and*
- ii) *allow funds to be described as 'capital protected' where the protection is outside the fund?*

10. The Panel is concerned by the proposals to introduce 'capital protected' funds. It is not clear that consumers will understand the term, particularly since it is used in other contexts such as annuities. There are also equity-linked bonds on sale from banks and building societies that may be confused with the new schemes. The Panel believes that FSA need a common approach for all 'protected' products and should not go ahead with their proposals for capital protected collective investment schemes until they have done some research into what consumers understand by the term 'capital protected'.

Q4.6 Do you foresee any demand to introduce a capital or guarantee protection into existing funds (and to change their names accordingly)? If so do our proposals provide an appropriate balance between flexibility and consumer protection?

11. No comment.

Q4.7 Do you think that the arrangements for early encashment are appropriate? I.e. investors should not expect any element of guarantee or protection if they cash in early.

12. The Panel does not accept the argument that 'a reasonable investor would [not] expect delivery of that promise if, for whatever reason, he chose to encash the investment early'. Again, consumer research is necessary to test this assumption.

About the Financial Services Consumer Panel

The Financial Services Consumer Panel was established by the Financial Services Authority (FSA) in December 1998 to ensure that consumers' interests are represented in the development of the regulation of financial services. The Panel is independent of the FSA so that it can: advise the FSA on policy as it evolves, monitor the FSA's effectiveness in meeting its statutory objectives towards consumers, review developments in financial services where they impact on consumers, and publicly report its findings and recommendations. It can raise its own concerns and has resources to carry out its own research.

Who is on the Panel?

Colin Brown (Chairman)

Colin is a consultant specialising in consumer affairs, working with consumer organisations throughout the EU and in Central and Eastern Europe. Previously Deputy Director of Research at the Consumers' Association and Senior Fellow at the Policy Studies Institute, he has over 25 years' experience of research and development in social and consumer policy. He was appointed to the Panel in December 1998 and appointed Chairman in January 2001.

Ann Foster (Vice-Chairman)

Ann is an independent consumer affairs consultant and a formerly Director of the Scottish Consumer Council. She is a member of Postwatch, the Consumer Council for Postal Services, and a member of the Health Professions Council. She was appointed Vice-Chairman of the Panel in January 2001.

Jean Gaffin, OBE

Jean chaired OFTEL's Advisory Committee on Telecommunications for Disabled and Elderly People until 31 December 1999 and is currently Chair of Brent Primary Care NHS Trust. She has extensive experience of working on behalf of vulnerable customers. Previous positions include: the Executive Director of the National Council for Hospice and Palliative Care Services and Chief Executive of Arthritis Care. She was appointed to the Panel in December 1998 and re-appointed in January 2002.

Yvonne Gallacher, OBE

Yvonne is Chief Executive of Money Advice Scotland, set up in 1989 by the Scottish Consumer Council. She has over 13 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. She was appointed to the Panel in December 1998 and re-appointed in January 2002.

Harriet Hall

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 has 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. She was appointed to the Panel in January 2001.

Dianne Hayter

Dianne is on the board of both the National Consumer Council and of the newly established National Patient Safety Agency. She was formerly the Chief Executive of the Pelican Centre (a cancer charity). Before that she had periods as the Director of Corporate Affairs of the Wellcome Trust, Chief Executive of the European Parliamentary Labour Party, Director of Alcohol Concern, General Secretary of the Fabian Society, a journalist and trade union research officer. She is a member of the Labour Party and on their National Executive Committee. She is currently also a research student at Queen Mary College, London. She was appointed to the Panel in January 2001.

John Howard

John is a solicitor with extensive experience of consumer issues as a 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 programmes. He is a member of the Mortgage Code Compliance Board. He was appointed to the Panel in October 2000.

Vinod Kumar

Vinod is a social scientist with market research skills and extensive voluntary and public sector experience of policy analysis and research. Until recently, he was Head of Policy and Research at the Royal National Institute for Deaf People, and he has previously worked for the Commission for Racial Equality. Now retired, Vinod is currently a Non-Executive Director of the Barnet Primary Care Trust, and a member of the Consumer Liaison Group of the Medical Research Council. He was appointed to the Panel in October 2000.

Nick Pearson

Nick is the National Money Advice Co-ordinator for the Federation of Information and Advice Centres. With 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. He was appointed to the Panel in December 1998 and re-appointed in January 2002.

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. He was appointed to the Panel in October 2000.

Richard Smethurst

Richard is Provost of Worcester College, Oxford University; previously a non-executive Director of IMRO, he chaired their Training Standards Panel. He has served as an economic adviser in Whitehall, and on the Monopolies and Mergers

Commission, where he was Deputy Chairman. He was appointed to the Panel in December 1998 and re-appointed in January 2001.

Jane Vass

Jane is an independent consumer researcher specialising in financial services. She is a former Head of the Financial and Economic Research Group at the Consumers' Association. Her current committee memberships include Council of the Ombudsman for Estate Agents and the FSA Training Advisory Panel. She was appointed to the Panel in December 1998 and re-appointed in January 2002.

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 the Consumers' Association. He was also a policyholder representative on the Insurance Brokers Registration Council for nine years. He was appointed to the Panel in December 1998 and re-appointed in January 2001.

How to contact the Panel

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