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Our ref: WG B/DF

Dear Simon

CP142 – Operational Risk Systems and Controls

The Consumer Panel welcomes the opportunity to comment on the draft guidance on operational risk systems and controls.

While we acknowledge the importance of controlling operational risk in prudential matters, we particularly welcome the emphasis in the cost benefit analysis which states that operational risk can affect the quality of a firm's services and that consumers may lose out through processing errors and delays (para 6.32).

Customers of a firm have a contractual relationship. They have expectations of receiving what is promised under the contract and of being able to communicate with the firm with reasonable ease as they require during the life of the contract. If they are prevented from doing so by systems, they may suffer loss which can range from minor irritation at not being able to get in touch with the person who can answer a question, to consequential loss if a sum owed is not paid on time.

The financial pages of the press frequently cover consumer problems in these areas in the letters pages. Often the response given to the journalist investigating is that 'the firm's systems appear to have let them down'. Only last weekend, the Sunday Times carried an article about what were described as "customer service failures" at the Woolwich.

Consumers may also suffer loss because an outside event puts stress on the systems which pay sums due or allow proper communication. An example is the difficulties customers of Equitable Life had in getting in touch with the company after the House of Lords case.

The acknowledgement of this dimension appears to be translated in the draft guidance into general statements in a number of places that a firm must consider the effect operational risks may have on its ability to fulfil its obligation to treat its customers fairly. We very much approve of these statements, but we think that the guidance could go further and give a better idea of what the risk to customers is in some areas. This would help firms address the issue.

In 3A.1.12(2), the examples of the risk posed to a firm and its clients could include not just fraud and damage to physical assets, but the risk of consumer loss.

In 3A.1.14 (People), the example given could mention the loss and inconvenience suffered by clients where poor training or outsourcing of customer facing services does not address the needs of clients to communicate with the firm effectively.

In 3A.1.18 (Processes and strategies), the examples given could again stress client loss, as for example the late payment of sums due.

In 3A.1.19, the indicators in sub paragraph 5 should include the incidence of complaints from clients.

In 3A.1.32 (Expected changes) we think the emphasis on significant changes is misplaced. Changes of any kind which affect direct communication with consumers should be assessed for their effect on the firm's ability to meet contractual obligations and clients' reasonable expectations of service level from the firm. For example, where a firm seeks to reduce costs by cutting back office staff, the proposal should be tested against the effect it may have for clients.

In 3A.1.47 (Outsourcing) the identification of performance targets should relate to service to clients as well as the firm. A firm should also know how it will monitor if the service standards of a company performing outsourced functions for clients are being met.

We have put considerable emphasis on making the guidance look as if considering operational risk as it affects clients is as important as the way in which it affects the firm's internal operations. This is because much emphasis by firms (and to some extent by the regulator) is put on the process of winning new business and not on the service provided to clients who are bound by contract. We think observance of the guidance in this respect could go some way to remedying this.

Yours sincerely



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