

Financial Services Consumer  
Panel response to:  
Consultation Paper 170  
Informing Consumers:  
Product Disclosure at the  
Point of Sale

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Financial Services Consumer Panel response to Consultation  
Paper 170: Informing Consumers: Product Disclosure at the point  
of Sale

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## Summary

- I. The Consumer Panel warmly welcomes the proposals in this Consultation Paper. They will greatly benefit consumer understanding and help prevent mis-selling and mis-buying. Although the ABI's Improving Standards Initiative has already improved the documentation of participating companies, this will take things significantly further.
- II. We do have some reservations and comments, which are set out in this response. One of the most important is that all savings and investment products must be brought within the scope of the regime. Currently it covers life products and packaged products (eg unit trusts and open ended investment companies), but we feel very strongly that what the industry calls complex products (which we understand covers a host of investments such as so-called precipice bonds) must be covered too – as illustrated by the current problems regarding precipice bonds where consumers have not understood the risks involved.
- III. The Panel welcomes the continuance of suitability letters and the proposed additional requirements for them. We would like to see this practice carried through to mortgages too, where a decision to abolish them seems to have been taken. A further inconsistency between the regimes appears to be in the use of the FSA logo, which the Panel regards as a valuable tool.

# Panel response to Consultation Paper 170: Informing Consumers: Product Disclosure at the Point of Sale

## Introduction

1. This paper is the response of the Financial Services Consumer Panel ('the Panel') to the Financial Services Authority (FSA) Consultation Paper 170, Informing Consumers: Product Disclosure at the Point of Sale.
2. The Panel welcomes the proposals in the paper, although there are some points on which we would like the FSA to go further to meet consumer needs. In particular we would like all products to be brought within the disclosure regime and to see a consistent approach to disclosure in all markets, including mortgages.

## The way forward – an analysis of the issues

*Q1: Do you agree with our proposals to emphasise the importance of early delivery of product information?*

3. The Panel agrees that the importance of the early delivery of product information should be emphasised, although we would favour a time limit rather than requiring delivery "as soon as possible". For example, delivery should be made within 3 working days or, in exceptional circumstances, before the application is completed.
4. It is excellent news that reference to the Comparative Tables will be mandatory on the point of sale documents. The Panel strongly supports this method of giving exposure to the Comparative Tables.

*Q2: Do you agree with our proposal not to change the scope of the current key features regime, in terms of the products caught?*

5. The Panel strongly believes that complex products like those mentioned in the Paper must be covered by the disclosure rules. Otherwise it leaves

consumers liable to substantial mis-selling and mis-buying. The current problems with so-called precipice bonds is a good example. We also look forward to hearing the FSA's conclusions about extending the point of sale information requirements to products such as structured deposit products using derivatives.

*Q3: Do you agree with our proposals to require information to be offered in relation to all execution-only transactions?*

6. Although it could be argued that product information should be provided before any product is purchased, on balance the Panel agrees with the FSA's proposal that it should be "offered" to consumers buying on an execution-only basis.

*Q4: Do you agree with the proposed extent to which the regime will be different for life and non-life products?*

7. The Panel would like to see the simplified prospectus made as much like the KeyFacts product disclosure document as possible, within the constraints of the UCITS III prescription.

*Q5: Do you understand and accept the distinction we draw between product disclosure and consumer information at point of sale?*

8. The Panel accepts that the distinction drawn in the Paper is appropriate.

*Q6: Do you think that this distinction will lead to consumer detriment?*

9. No. The Panel agrees that in this context, 'less is more'.

*Q8: Do you agree that the new product information document should focus on suitability issues?*

10. Overall the Panel agrees with this proposal, although there is some risk of duplication and danger of confusion with KeyFacts documents. The Panel would like the FSA to take steps to minimise this risk.

*Q9: Do you agree with our proposed approach to the disclosure of risk?*

*Q10: Do you think that it will deliver an appropriate level of consumer protection?*

11. On balance the Panel agrees with the FSA's proposed approach and that it will deliver an appropriate level of consumer protection. For most products there are generic risks and again, 'less is more'.

*Q11: Do you think that our new approach will encourage consumers to read the information?*

12. The Panel believes that advice to consumers to read the information they have been provided with should be both oral and contained within the material itself, wherever possible.

*Q12: Do you agree that the proposed brand-style use of the KeyFacts logo will be of value to consumers?*

*Q13: Do you agree that the incorporation of the FSA logo and regulatory message will be useful for consumers?*

13. The Panel strongly supports these proposals which will help consumers.

*Q14: Do you agree with our proposals in relation to the use and number of projections?*

14. The Panel is concerned that the use of only one projection in the KeyFacts document but more elsewhere in material produced by the firm, will lead to confusion amongst consumers.

*Q15: Do you agree with our proposed inclusion of real terms figures in examples relating to personal pensions?*

*Q16: Do respondents agree that further work is needed in relation to the presentation of comparison projections for contracting out of SERPS?*

15. The Panel agrees with this analysis.

*Q18: Do you agree that our revisions will result in a more transparent, consistent and consumer-friendly outcome?*

16. The Panel agrees that the proposed revisions to the calculation of reduction in yield figures will be beneficial to consumers.

*Q19: Do you agree that our proposed change to disclosure rules for 'guaranteed' or derivative-backed products offers consumers a useful indication of the cost of such products?*

17. The Panel can see that it is difficult to define the charge to consumers within these products. Whatever the charge definition favoured by the FSA, the Panel believes that the effectiveness of the disclosure method can only be measured by extensive consumer research. The key issue with complex products is not the cost but the risk associated with them and this must be made absolutely clear to consumers.

*Q20: Do you agree that life policies with a term of five years or less should not be exempt from disclosing the effect of charges and expenses?*

18. The Panel strongly supports this proposal.

*Q21: Do you agree that a critical yield figure will be useful for consumers considering an income withdrawal plan?*

*Q22: Is one critical yield figure sufficient, or should the critical yields for annuity purchase at ages 65, 70 and 75 be shown?*

*Q23: Do you agree with the basis for calculation proposed?*

19. The Panel agrees that critical yield figures will be useful for consumers and favours the inclusion of figures for annuity purchase at ages 65, 70 and 75. This would help consumers when making the decision about when to purchase an annuity. However it is vitally important that these are properly tested with consumers, especially as they are being encouraged

to think more carefully about income withdrawal/annuities. The Panel has no objection to the basis for calculation proposed.

*Q24: Do you agree with the revised timing and content requirements for the suitability letter?*

20. The Panel supports the continued use of suitability letters and agrees with these proposals. The Panel would also like to see the use of suitability letters in the format proposed being applied in the mortgage market.

*Q25: Do you agree with our proposal to abolish post-sale confirmatory information?*

21. The Panel agrees with this proposal, provided that the information has already been given to the consumer. If there are any differences between the post sale information and the point of sale information, post-sale material should be provided in which the differences are made clear. The Panel considers that the abolition of post-sale confirmatory information (except where differences have arisen) will represent a significant saving to firms which can be offset against the cost of compliance with the new disclosure regime.

## **Detailed proposals: consumer information and disclosure for packaged products and cash deposit ISAs**

*Q27: Do you agree with the proposed application provisions for the new regime?*

22. The Panel has no objection to these proposals, although the proposed rules should apply to all products.

*Q28: Do you agree with our proposals concerning the overarching disclosure requirements for packaged products?*

*Q29: Do you agree with our approach to the implementation of the consumer information requirements of the Third Life Directive and the UCITS directive?*

23. The Panel supports these proposals, although we feel strongly that they should cover all products.

*Q30: Do you agree that KeyFacts should not be combined with other material except in the exceptional circumstances described?*

*Q31: Do our rules on compendium documents offer sufficient flexibility without risk to consumer understanding?*

24. The KeyFacts should be kept separate from other material except where incorporation into other documents is necessary to ensure the integrity of the content of a direct offer financial promotion. The financial promotion would then be subject to the requirements of the financial promotions regime. The proposed rules on compendium documents do not appear to pose a significant risk to consumer understanding, although consumer research on this would be helpful.

*Q32: Do you agree with our proposals concerning the circumstances in which a KeyFacts document must be provided?*

25. The Panel agrees with these proposals.

*Q33: Do you agree with our proposals concerning product information to be provided in the course of telephone-based transactions?*

26. The Panel supports these proposals.

*Q34: Do you agree with our proposals concerning the front sheet or screen of the KeyFacts document?*

*Q35: Do you agree with our proposal to limit the extent to which the KeyFacts document may show co-branding?*

27. The Panel agrees with these proposals.

*Q36: Do you agree with our proposals concerning the quality of presentation and language of KeyFacts documents?*

28. The Panel broadly supports the proposals, although we do not agree that terms such as “FSAVC” are broadly understood.

*Q37: Do you agree that the proposed ‘Quick Guide’ will be a useful tool for consumers?*

*Q38: Do you agree with other aspects of our proposed new structure of the KeyFacts?*

*Q39: Have we indicated the required content of the KeyFacts document with sufficient clarity and detail?*

29. The Panel strongly supports the FSA’s proposals.

*Q40: Do you agree with our proposals in respect of the presentation of past performance in KeyFacts documents?*

30. The Panel agrees with the FSA’s proposals, which we understand will be in line with guidance to be issued by the FSA on the presentation of past performance in financial promotions.

*Q41: Do you agree with the proposals relating to the content of KeyFacts documents for specific types of product?*

31. The KeyFacts documents should be reviewed and tested on a regular basis both to ensure they are meeting the needs of consumers and also to give them the flexibility to react quickly to new products as firms become increasingly creative.

*Q42: Do you agree with the proposed structure and content of the example?*

32. The Panel agrees with these proposals.

*Q43: Do you agree with our proposal to include a reference to the FSA comparative tables in an example?*

33. The Panel strongly supports this proposal.

*Q44: Do you agree with our approach to illustrating the effects of charges on the growth of a product?*

34. The Panel agrees with this approach, subject to further, satisfactory consumer testing of the documents.

*Q45: Do you agree with our proposed approach to targeted investments?*

35. We agree with this approach, provided that the intermediate growth rate is a realistic one.

*Q46: Do you agree with the circumstances in which we propose to require the inclusion of a projection of the future value of a product (pensions and income withdrawals only)?*

36. We agree with these proposals.

*Q47: Do you agree that the disclosure of the cost of an immediate annuity is a useful comparator for information about critical yields?*

37. The Panel would like to see reference to increasing and index-linked annuities.

*Q48: Do you agree with our proposed changes to the projections regime?*

38. Generally the Panel has no objection to these proposed changes, although the rate of 7% should be reviewed to ensure that consumers are given a realistic figure.

## **Cost benefit analysis**

*Q49: Do you agree with our estimate of the costs of these proposals? If not, do you have further information that we should take into account in this analysis?*

*Q50: Do you agree that we have fairly assessed the benefits of our proposals? If not, what considerations should we take into account?*

39. The Panel is pleased by this comprehensive Cost Benefit Analysis as attempts have been made to identify and measure benefits to consumers from these proposals.

## Summary of research

40. We recommend that the FSA should set clear and measurable targets for the new disclosure regime and that it should review the performance of the new regime against those targets regularly. This should include a large-scale long-term study into actual buying behaviour, which the FSA was unable to do before issuing the Consultative Paper.

## Mocked-up versions of a KeyFacts document and example for a personal pension product

41. We do not wish to comment on the documents in detail, but we strongly support simplification wherever possible – for example, the personal pension plan example could state age “39”, rather than “40 next birthday”. Once the documents go live we think that the FSA should conduct research to monitor consumer understanding with a view to making any amendments that might be necessary in practice.

## 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 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.

### Ann Foster (Vice-Chairman)

Ann is an independent consumer affairs consultant and former 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 is also a consumer consultant to OFTEL.

### 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 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, OBE

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

### Harriet Hall

Harriet is a solicitor with considerable experience of consumer policy and retail financial services. She 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

Dianne is on the board of both the National Consumer Council and of the 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 for 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..

### **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 television programmes. He is a member of the Mortgage Code Compliance Board.

### **Vinod Kumar**

Vinod is a social scientist with market research skills and extensive voluntary and public sector experience of policy analysis and research. 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 Non-Executive Director of Barnet Primary Care Trust and a member of the Consumer Liaison Group of the Medical Research Council.

### **Nick Pearson**

Nick has been the Consumer Debt Manager in the Debt Management Division of CPP Holdings Limited since April 2003. He is also National Money Advice Associate for AdviceUK. A career spent in advice organisation including Citizens Advice 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; 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.

### **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 Consumers' Association. Her current committee memberships include the Council of the Ombudsman for Estate Agents 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.

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