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Sheetal Radia  
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Our ref: PR8/MT

Dear Sheetal

**CP171: Conflicts of Interest: Investment Research and Issues of Securities**

I am writing on behalf of the Financial Services Consumer Panel with our response to CP171.

The responses to DP15, and the FSA's own research in this area, show that there clearly are problems in this area and that principle-based regulation has not been effective in controlling abuse. The Panel think that rules and guidance are necessary to reinforce the principles. Detailed comments on some of FSA's specific proposals are given below.

The Panel also believe that FSA needs to go much further in dealing with the retail investor issues. The proposed campaign to raise consumer awareness is welcome and necessary, but far from sufficient. Indeed, the Panel see a contradiction at the heart of FSA's approach, as shown in the 'key messages' in paragraph 4.42. On the one hand, the messages effectively tell the investor not to believe the research, and yet investors are urged to go further and obtain 'basic current and historical information' to judge for themselves the value of a recommendation. The expectation appears to be that the market should still be permitted to disseminate potentially misleading information, while investors are expected to inform themselves to an unrealistic extent in order to analyse the accuracy and relevance of this information.

In the Panel's view, there are more options than disclosure alone and we call upon the FSA to investigate them further. Paragraph 4.40 questions whether it would be proportionate to require firms to insist that disclosures are made by third parties disseminating their research. The Panel believe that it is now time to consider whether third parties should themselves have some responsibility to ensure that research and recommendations are reported in way that is clear, fair and not misleading. The FSA should monitor the use of the media's exemption, and in the event of abuse being uncovered; the Government should bring this activity within the scope of the Regulated Activities Order.

The Panel would like to respond to the following questions:

*Q5 If not, what controls could be implemented that would constitute a viable alternative to prohibition?*

The Panel believe that there should be a prohibition on personal account dealing by analysts. In addition, this needs to be buttressed by very clear Chinese walls – for example, it should not be acceptable for analysts to ‘provide ideas to the sales and trading arm’ as envisaged in paragraph 4.7.

*Q6 Do you think that 1% is the appropriate threshold for disclosure of material shareholdings?*

Yes. The Panel do not support any higher threshold.

*Q10 If not, what arguments are there in favour of self-certification by analysts?*

The Panel are sympathetic to FSA’s conclusion here – self-certification by analysts would be an unwelcome shift of responsibility from the firm to the analyst. However, the Panel do think that, as FSA’s research has shown weaknesses in firms’ controls in this area, firms themselves may need to tighten up their processes. FSA should consider whether senior management should be required to certify the reports their firms publish. An analogy might be the process by which financial promotions are formally approved before they are issued.

*Q13 What arguments are there for requiring investment firms in the UK to fund the provision of independent investment research for the benefit of retail investors?*

The Panel notes that the US regulator in reaching a settlement with investment banks has required those firms to fund independent equity research for consumers. The Panel believe that there are fundamental differences between the UK and the US markets, as more US consumers invest directly in the stock market compared to the primarily fund-based UK stock market. However, UK consumers are equally in need of independent information, though of a different type. The Panel call upon the FSA to follow the principle established in the US and require UK firms to help fund a generic advice service for consumers.

Yours sincerely,



Colin Brown  
Chairman  
FS Consumer Panel

cc. The Consumer Panel

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