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Our ref: WGA/smb

Dear Eleanor

CP187: Insurance selling and administration and other miscellaneous amendments

This is the Consumer Panel's response to CP187.

Overall Approach

The Panel has dealt with the issues arising from this consultation paper, rather than the specific questions posed within it, although we have comments on some of the draft rules. We are disappointed that the FSA has not taken on board some of the suggestions made by the Panel in its response to CP160, in particular the use of the term "independent", commission disclosure for retail customers and the need for training and competence and other requirements for those involved in claims handling. These are all areas in which the FSA should do more to protect consumers' interests. We are also disappointed that the FSA is conducting no research into consumers' experience of claims handling which we believe could be a key area of consumer detriment.

The Regulation of Commercial Business

The Panel has no objection to the proposals for new protections for the regulation of commercial business. Firms must ensure, however, that they take account of the nature and size of a business when deciding how much information should be provided to enable the customer to reach an "informed decision".

Status Disclosure

The Panel believes that the status of a firm is an important piece of information for consumers, although it is unlikely to be uppermost in a consumer's mind on first contact with the firm. However we think that the draft rule requiring status disclosure "before conclusion of the contract" is too vague and that the appropriate time for status disclosure would be the point at which a quotation is given. At this stage the consumer will not be committed to a particular contract and would be in a position to

decide whether to shop around further. Given that the firm would be providing a detailed quote at this time, the costs incurred in adding the additional status information would be negligible. We also think that initial disclosure (the table at ICOB 4.2.6R) should include a simple statement setting out whether the firm acts for the customer or the provider and who pays them.

The Panel believes that the FSA's decision not to impose any restrictions on the use of the term "independent" in the non-investment insurance market could severely damage the reputation of the FSA, as well as causing considerable confusion for consumers. The FSA has argued that differences between the insurance and the investment markets, such as the 'whole of market' concept, are sufficient to justify free use of the term. Many consumers are not conscious of discrete financial sectors and to permit firms to use different meanings of "independent" when selling different products is likely to cause confusion. This confusion could lead to a loss of confidence in the process and status of FSA authorisation, as consumers realise that what they see as an FSA endorsement or assurance of standards means far less in some circumstances than in others. We urge the FSA to undertake further consumer research in this area and to review their decision in the light of the findings.

Advised Sales and Demands and Needs statements

The Panel is pleased that the FSA has decided that firms should provide 'suitable' advice, particularly the inclusion of cost in the guidance at ICOB 4.3.7. We also support the draft rule requiring the demands and needs statement to include whether advice was given by the firm.

Training & Competence

The Panel supports the extension of the Training & Competence Sourcebook to those giving advice to retail customers. We are disappointed, however, that the FSA does not intend to extend the Sourcebook to staff handling claims. Claims handling is core business for insurance firms and has a significant impact on consumers; after all consumers buy the insurance in the first place so that it will pay out satisfactorily if they have to make a claim. We do not believe that the proposals outlined in Chapter 10 of CP187, on which we have commented below, will provide adequate protection for consumers in this area.

Product Disclosure

We are pleased that the FSA is including guidance for firms on what would constitute a significant exclusion or limitation in a contract. This guidance would, of course, have to be kept under review.

Commission Disclosure for Retail Customers

The Panel would like commission disclosure to be compulsory in retail insurance sales. Even though insurance markets have become increasingly competitive, some consumers are reluctant to seek more than one quote – something that might

change if they were shown the commission on the sale. Shopping around is not only beneficial to consumers, it can help to increase competition over time. There is also the issue of consistency as commission disclosure is compulsory in the investment sector. In CP187 the FSA undertakes to re-consult on commission disclosure if it is considered necessary in the light of supervision work. Given the 'lighter touch' supervision that will apply to a great many firms selling general insurance, the Panel is unsure how supervisory work would identify such a need. We would like the FSA to undertake consumer research in this area.

Unfair Inducements

The Panel supports the introduction of a high-level rule preventing firms from providing inducements that may conflict with a firm's duty to its customers. The Panel has no suggestions for inducements that the FSA would automatically consider unfair – although perhaps those responsible for the supervision of investment firms might have identified real examples of unfair inducements which could be read across into the non-investment insurance market. The Panel also believes that inducements should be disclosed to customers. An unwillingness to disclose particular types of inducement could be an indication of unfairness.

Excessive Charges

The Panel supports the introduction of the rule on the basis proposed.

Cancellation Rights

The Panel supports the introduction of these draft rules.

Claims Handling

Handling claims is core business for firms, but consumers are likely to make only a handful of claims in their lifetime. We believe that many consumers might not get what they are entitled to under their insurance policies because of the length of time taken to deal with claims, the complexities of the process and the firms' interest in negotiating claims down. The Panel is concerned that the FSA has drafted the proposals in CP187 without the benefit of research into consumers' experience of claims handling and has failed to take this opportunity to ensure that customers are treated fairly in this area. The decision to impose guidelines instead of rules for deadlines for responding to claims, making payments etc is one example of this. Times of crisis such as flooding are precisely the occasions on which consumers are entitled to a fair service from firms. Long periods of routine claims activity will provide firms with ample opportunity to make contingency plans for emergency situations. The Panel would also like to see the Training & Competence Sourcebook extended to staff handling claims. The FSA should conduct research into consumers' experience of claims handling, both now and twelve months after the new regime comes into effect. Only then can the scale and nature of consumer concerns in this area and the effectiveness of the FSA's regime be identified and steps taken to address them.

Combined Initial Disclosure Document

The Panel has no objection to a rule requiring the use of the combined IDD for packaged investment products and regulated mortgage contracts. We do, however, have comments on the IDD itself. We are not convinced that it is necessary to include sections 7 and 8, except for sales of lifetime mortgages. Section 6 could usefully be included in section 1. On section 2, option 2 in each case should be "we can select [product types] from X companies". An explanation of the reasons for choosing the firms from which the choice is made would be helpful. Option 3 should say "we can only select from all/some of the [product types] from X Limited. What we recommend may not be the best in the market". On section 3, we suggest "we will advise you and make recommendations on what is suitable for your circumstances. You can take action against us if that is not the case". The second statement should read "you will not receive advice or recommendations on what is suitable for you. We may ask you questions to narrow down the selection of products we offer you. You will then need to make your own choice about how to proceed. If a purchase you make turns out not to be suitable for your circumstances, you will not be able to take action against us." Section 4 should make clear that, when referring to fees it does not include valuation fees for mortgages.

Exempt Professional Firms – Extending the Regime

The Panel's principal concern with professional firms who carry on regulated business without authorisation by the FSA is the need for absolute clarity in their dealings with consumers. The Panel supports the use of a prescribed status disclosure as set out in PROF 4.1.3R(2), although we think that the following statement would be clearer:

"This firm is not authorised by the Financial Services Authority. This part of our business, including arrangements for complaints or redress if something goes wrong, is regulated by [DPB]. This firm is included on the Financial Services Authority register only so that it can advise on and sell insurance and undertake the handling of insurance contracts. The register is maintained by the Financial Services Authority and can be accessed via their website at www.fsa.gov.uk/register."

We agree that including exempt professional firms on the FSA register could lead to confusion among consumers and it is important that similar, plain wording is used to clarify the position for consumers accessing the register.

Yours sincerely,



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