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5 November 2004

WGA/Resp

Dear Jenny

**CP 04/15\* - Insurance: Conduct of Business Sourcebook (ICOB)**

This is the Consumer Panel's response to the proposals in Chapter 5 of the FSA's Quarterly Consultation Paper 04/15\*.

The Panel is surprised and concerned that firms have chosen to disregard the GISC rule which would have enabled them to comply with the ICOB requirement to treat individuals who take out mixed-use policies as retail consumers. The Paper states that the FSA is satisfied that it would be unduly costly for firms to make the necessary changes to their systems by 14 January 2005 and proposes to allow firms until September 2006 to do so. The Paper does not attempt to quantify the cost to consumers of being denied the rights they should have had in the intervening period. Nor is it clear to the Panel why firms need such a long period of time to comply with a rule that they should already have been aware of and which is to be introduced after a reasonable consultation period.


The Panel believes that it should be the FSA's objective to ensure that mixed-use policyholders enjoy the protection provided by the ICOB rule as soon as possible. Our preferred approach is that once the existing waiver falls away the full ICOB requirements should be introduced, in the knowledge that some firms will not have compliant systems. If a consumer taking out a mixed-use policy through a non-compliant firm is disadvantaged by this systems failure – for example, by inadequate product disclosure – it is for the firm to fully compensate the individual concerned. If no agreement is reached the policyholder would have recourse to FOS, where the requirements of the rule would be taken into account. If the issue was to lead to disciplinary action by the FSA, the firm's inadequate systems could be taken into account as a mitigating factor, provided that the firm had advised the FSA at the outset that it was unable to comply with the rule and it was actively taking steps to rectify the situation as swiftly as possible.

The Panel acknowledges that the FSA might have concerns about introducing a rule that it does not intend to enforce fully at the outset and the possible difficulties that might arise from the difference between the approaches that would have to be adopted by the FSA and by FOS. Nevertheless the Panel believes that the FSA must do more to protect consumers' interests than is proposed in this Consultation

Paper. Whatever the FSA's final decision, the Panel cannot support the introduction of a transitional rule which leaves mixed-use policyholders exposed to an unacceptable level of risk until September 2006.

In the light of these events we hope that the FSA is already taking steps to identify firms that have routinely disregarded other GISC rules and to assess the impact of this on firms' ability to comply with the requirements of ICOB.

Yours sincerely

A handwritten signature in black ink that reads "Ann Foster". The signature is written in a cursive style with a horizontal line underneath the name.

Ann Foster  
Chairman  
FS Consumer Panel

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