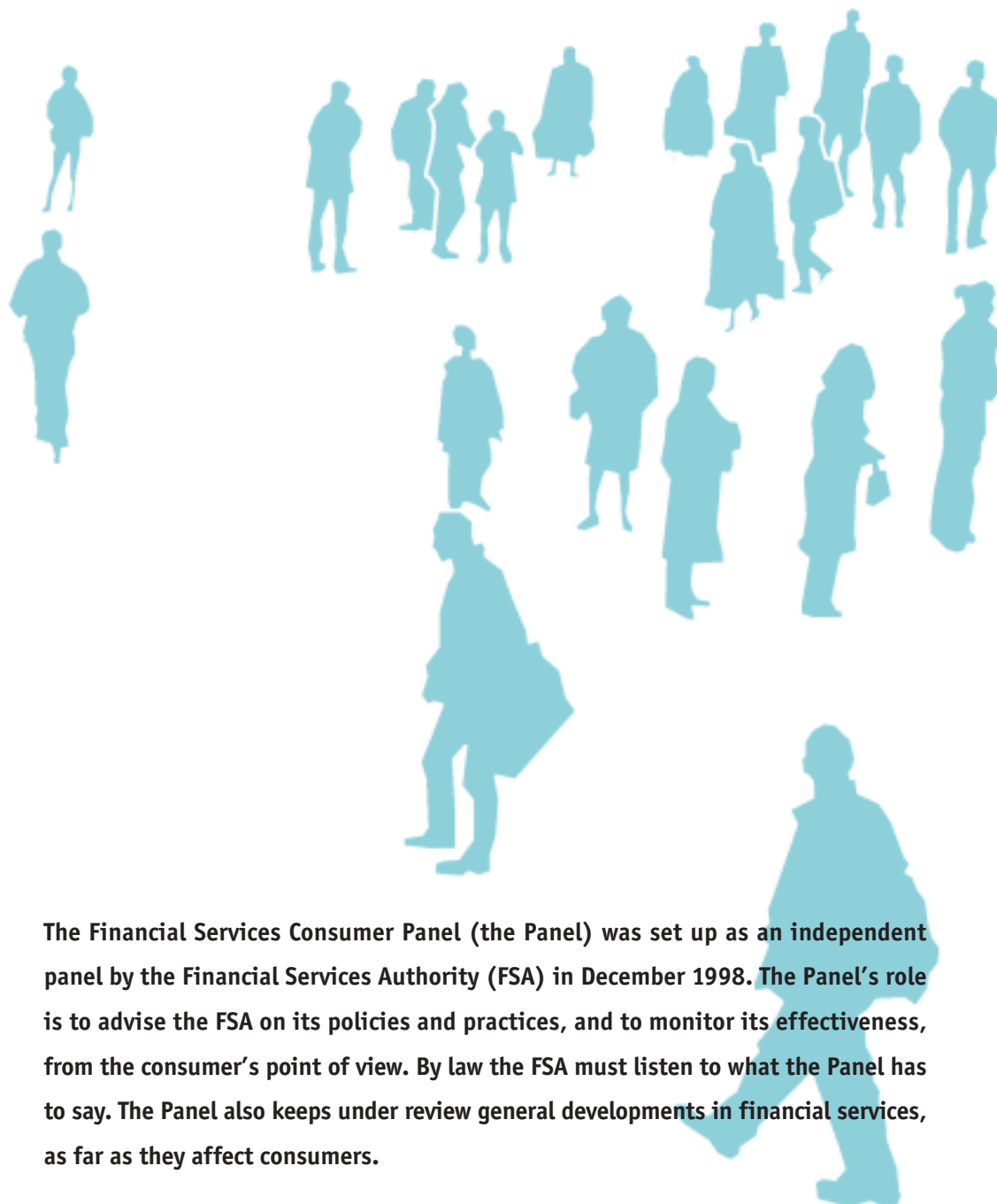


## Annual report highlights 2002/03



The Financial Services Consumer Panel (the Panel) was set up as an independent panel by the Financial Services Authority (FSA) in December 1998. The Panel's role is to advise the FSA on its policies and practices, and to monitor its effectiveness, from the consumer's point of view. By law the FSA must listen to what the Panel has to say. The Panel also keeps under review general developments in financial services, as far as they affect consumers.

The Panel has 13 members, with a range of experience. There are more details of the Panel's membership and work on our website [www.fs-cp.org.uk](http://www.fs-cp.org.uk) and in the full version of our Annual Report 2002/03, which is also available from our offices. Our contact details are shown at the end.

## What has the Financial Services Consumer Panel done for consumers in 2002/03?

### Helping people to get the right advice

We have been concerned about whether people can get financial advice that is right for them. So we have looked at the following issues:

- We think there should be a *financial planning advice* service. Before becoming involved in discussing specific products, this advice service would look at a person's whole financial situation, including saving more, paying off debts, tax efficiency and claiming the correct benefits. As a first step we wanted the Government to set up a study to look at how such a service might be provided – should it be by Government, by the financial services industry, or by a combination of both? We are disappointed that the Government has not undertaken such a study, and we shall continue to push for this during 2003/04.
- When the Government consulted about working and saving for retirement, we pointed out again that consumers need to be given *plain and unbiased advice about savings and pensions*. For annuities, we believe that firms should be obliged to provide advice – the Government's proposal to make the products simpler is not enough on its own.
- We are pleased that the FSA is developing an interactive computer program called the *Financial Healthcheck*, to assess individuals' financial needs. If this is used widely by consumers and their advisers, we believe that many people will then make better financial choices.
- We have warned the Government that its plans to *encourage medium- and long-term saving* should not focus exclusively on investment products based on the stock market. These are too risky for many consumers. We have also made it clear that we could not support the Government and the FSA's proposals to reduce the consumer-protection rules for selling the new 'stakeholder' products. (The Sandler Report of 2002 recommended the Government allow their purchase without regulated advice.)
- We have urged the FSA to ensure that its plans for *de-polarisation* really deliver greater choice for consumers. (De-polarisation is the removal of rules that obliged sellers of packaged investments – such as personal pensions and unit trusts – to offer products from the whole of the market or from only a single provider.) In our response to the FSA's consultation we called for stronger rules to make sure that advice given is suitable for each individual, and for the rules to be applied in the same way to all types of financial advice. We believe that the people helping consumers to buy should be allowed to call themselves 'advisers' only if they are

truly acting on the consumer's behalf. We also proposed, and the FSA accepted, that independent advisers should always offer customers a choice of paying by fee or by commission.

- However, we have yet to be convinced that the new proposals for de-polarisation will enable consumers to understand what to expect when dealing with a particular adviser or salesperson and on whose behalf they are working – the consumer's or the financial service provider's. We are concerned that consumers will end up confused, and we will be discussing this further with the FSA over the coming year.

### Helping people to get clear information

We believe it is vital for consumers to be given the clearest possible information in such a complicated area as financial services. This has been a theme of much of our work.

- We have been pleased with the FSA's work on the new **'Key Facts' disclosure documents**, which will improve the information given to consumers on some investment products. We would like to see the same regime applied not only to 'packaged products' (that is life policies, regulated collective investment schemes, investment trust savings plans and stakeholder pension schemes) but also to all retail investment products.
- However, we have been concerned that the FSA has not made enough use of its powers to police **financial promotions** (promotional material produced by firms to sell their products, including adverts, flyers and letters). We were delighted that, following pressure from the Panel, the FSA's Plan and Budget for 2003/04 commits it to devoting more resources to monitoring and proactively policing financial promotions. The FSA is also setting up a team to focus on its financial promotions strategy; the team will work with the industry and ensure a co-ordinated approach. In the coming year, we look forward to hearing more from the FSA on this.
- We believe the FSA has taken several positive steps over the past year to address the misleading use of references to **past performance** in adverts. However, the Panel believes the FSA should be acting more quickly, and should set the wording for consumer warnings, rather than its current plan of leaving firms to draft their own warnings within certain rules.
- The FSA consulted the Panel on rules to insist that pension companies should write to pension savers approaching retirement, informing them of their rights to **shop around for annuities**. We prompted the FSA to extend those rules to include those who had delayed taking out their annuity until past their retirement date or those who had income-withdrawal products.

- During this year we have continued to call on the FSA to improve the way in which it tells consumers when there are *firms in financial difficulty*. The FSA must be clear about what and when it tells the public in these situations. In addition, the FSA must tell the public more clearly what it means by its statement that it does not run a zero-failure regime (in other words, that firms will occasionally fail).
- We have continued to express concern that the FSA's *consumer education* work has lacked a clear strategy, and we are pleased that the FSA is committed to tackling this over the next year. In the meantime, we have been pleased by some of the FSA's individual initiatives in helping consumers to get clear information – the addition of mortgage information to the FSA's Comparative Tables being one good example. However, we think the FSA should do much more to publicise these tables, as few consumers are aware of them at present.

### Helping people to get the right products

We have a continuing interest in ensuring that the right products are made available to the right people with the appropriate level of protection from the FSA. Here are examples of our work from both ends of the range on this subject:

- We suspected that *basic bank accounts*, which had been introduced to provide a way into the banking system for low-income consumers, were often not being offered to would-be customers. We sent some 'mystery shoppers' into a number of high-street banks, and the results showed that our fears were justified. We took the results to the British Bankers Association, HM Treasury and the Department for Work and Pensions, and follow-up work was undertaken by the Banking Code Standards Board.
- We have also been worried that, with the continuing poor performance of the stock market and resulting low returns on traditional investment products, such as investment trusts, consumers have been tempted into buying *newer complex products*. These promise better returns and may cover up the risks to the total money invested. The FSA has different levels of consumer protection in its rules for traditional and non-traditional products, so consumers may, without realising it, receive less protection when they choose a complex product. We believe the FSA must act quicker when 'too-good-to-be-true' products come onto the market. Although the FSA has now developed a system for spotting risks to consumer protection, this has not always resulted in effective action. We were pleased when the FSA decided not to allow hedge funds – which are risky and complex products – to be made more accessible to general consumers.

## Helping people when things go wrong

Of course a major part of the FSA's role is ensuring that consumers get the right help when things go wrong. The FSA has faced several of these issues over the past year, and the Panel has continued to advise on the handling of developments for consumers.

- We have been monitoring the FSA's handling of problems with **endowment mortgages**. We agreed with the FSA's assessment in June 2002 that a full-scale review of the selling of all endowment mortgages would be the wrong level of response. However, following research by the Panel into the way some firms were handling complaints about endowment mortgages, we encouraged the FSA to collect more information. The FSA's letter asking chief executive officers of firms for information about complaints appeared to result in a greater proportion of complaints being accepted as valid.
- We also expressed concern that there was a 'time-bar', meaning that a consumer had to complain within three years of first becoming aware of potential mis-selling of their endowment. We said that firms should be required to make the effect of the time-bar absolutely clear to policyholders. The Panel also pushed for, and obtained, the concession that consumers would not be time-barred until at least six months after receiving a second reprojected letter following a 'red' reprojected letter (indicating that their endowment was unlikely to be enough to pay off their mortgage). This now applies even if their deadline for raising a complaint would be more than three years after receiving the first such letter.
- We have continued to monitor the FSA's management of lessons learnt from the **Equitable Life** crisis and the ongoing developments. We have urged HM Treasury to publish the Penrose Inquiry report as soon as possible, so that its lessons can be fully learnt. We will continue to monitor this issue.
- Although the FSA is not responsible for fully regulating **split caps** (split-capital investment trusts), we called on the FSA to give consumers as much information as possible. These are complex and risky investment products, which caused large numbers of individual investors to lose substantial amounts of money. We have called on the Government to change the rules so that investment trusts become regulated by the FSA. In the meantime we asked the FSA to publish information about who could complain about split caps, which it did on its website. We also asked the FSA to make information publicly available about 'problem trusts'. It was unable to do this, but supported the Association of Investment Trust Companies (AITC) in doing so.
- We are pleased that the FSA has acted to plug a gap in the **Financial Services Compensation Scheme** that we pointed out. The gap excluded consumers from claiming compensation if their claim related to a company dissolved for more than two years, regardless of the merits of their case. The FSA changed the rules to as far back as it could – to 1st December 2001, when the FSA was given its powers. This only affected a small number of people immediately, but will affect more in future.

## A consumer voice in FSA regulation

The main role of the Panel is to advise on financial services regulation from the point of view of consumers. The Panel has made its voice heard in areas where new policy is being developed.

- Over the past year the Panel has monitored and questioned the way in which the FSA *supervises insurance firms, major financial groups and small firms*. We have generally been satisfied with the way the FSA's processes have been developing within its risk-based approach to supervision.
- We have also responded to FSA consultation on *training and competence standards* for those who qualify to be investment advisers. We agree with many of the aims of the examination review, but argued for additional requirements. These included the FSA setting minimum standards for advisers, which are consistent for different types of adviser.
- The Panel has previously welcomed the extension of the FSA's responsibilities to *regulating mortgage* sales and advice. Following its consultation document on mortgage regulation, we are delighted that the FSA accepted our suggestion that there should only be two types of regulated sales of mortgages – advised and non-advised sales. We were also pleased that the FSA has dropped its suggested third category ('non-advised filtered questions'), which we felt would be confusing for consumers. We have welcomed the requirements for product disclosure – the information that firms will be required to give consumers before they buy a mortgage product.
- We are continuing to press HM Treasury to give the FSA powers to regulate the whole of the rapidly growing market for products enabling older consumers to use the value of their home to generate capital or income. HM Treasury has asked the FSA to regulate one type of scheme that involves taking out a mortgage on the value of a home (a *lifetime mortgage*). However, other schemes that involve selling a proportion of the home will remain unregulated (*home-reversion schemes*). The Panel believes this could lead to these schemes being mis-sold, with consumers having no right to redress or compensation.
- We welcomed the FSA's general approach to *general insurance regulation*, as set out in its consultation paper this year, although we proposed some further consumer-protection measures such as the training of people handling customer complaints. The Panel has asked for the FSA's reach to be extended. It could cover travel insurance as sold by travel agents and tour operators, and extended warranties, which are usually insurance contracts to cover future repairs, taken out when buying products such as washing machines and TVs.

## Putting the consumer point of view to Government and other organisations

The Panel is also committed to keeping in touch with other consumer organisations, and looking beyond the work of the FSA to keep under review general developments in financial services, as far as they affect consumers.

- During 2002/03, the Panel has also responded to **Government consultations** on annuities, on pensions, and on the Sandler Review into medium- and long-term savings. We also held regular meetings with Government Ministers and officials, particularly from HM Treasury and the Department for Work and Pensions, to debate issues of concern to the Panel. The Financial Secretary to HM Treasury, Ruth Kelly MP, attended the Panel's April 2002 meeting.
- The Panel continues to develop relationships with a wide range of **external bodies** working in the financial services field as well as other consumer bodies. In May 2002, the Panel held its monthly meeting in Edinburgh, and used this opportunity to meet business and consumer representatives in Scotland.
- The Panel has become increasingly concerned about the impact of **European legislation** on the regulation of financial services in the UK. We have urged the FSA to work to ensure that the UK's consumer-protection measures are not lost in the new developments, and have been involved in direct discussions in Europe on some of the key issues.
- We have also worked over the last year to raise more of the Panel's issues in the **media**, in order to encourage wider awareness and debate. This has resulted in coverage in major national newspapers and specialist press, as well as radio interviews, with particular coverage being given to our work on basic bank accounts, financial planning advice, de-polarisation and financial advertising.

## What will the Panel be looking for from the FSA in 2003/04?

Over the next year, the Panel will continue to advise and monitor the FSA from the consumer point of view. We believe that the FSA must put consumers at the heart of the organisation and speak in their language. The FSA must get ahead of the game in dealing with market developments and demonstrate that it can act quickly to secure appropriate consumer protection.

The pressing challenges include:

- ensuring a market for sales and advice that consumers understand, and helping to make general financial planning advice accessible to all;
- delivering a regulatory regime for all new products – no matter how simple or complex – that offers suitable consumer protection;
- ensuring the right level of compensation in the quickest possible time for consumers who have suffered from poor advice and unsuitable products;
- promoting consumer confidence in the financial services sector by encouraging high standards in firms, giving consumers the same protection from the regulator for whatever type of financial services company they use, and making sure that lessons are learnt from past mistakes;
- giving consumers the power to decide by giving them information that meets their needs; and
- listening to and understanding consumers by making sure that the consumer voice is represented, particularly on European issues, and carrying out consumer research to help develop policy.

More details on the particular issues for next year, and our review of 2002/03, are in the full Annual Report, which is available on our website or by post from the address below.

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