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Our ref: Responses

14 March 2007

Dear Mr Martin

Consultation Paper CP 07/02 Review of the Enforcement and Decision Making Manuals

This is the Financial Services Consumer Panel's response to CP 07/02 Review of the Enforcement and Decision Making Manuals. We have focused on the potential consumer impact of the proposals in the Paper, rather than specific questions.

As it is unlikely that consumers or their representatives will need to access the new Decision Procedure and Penalties Manual and Enforcement Guide, we do not propose to comment specifically on the draft text, nor on the presentation. Nevertheless, in principle we support attempts to shorten and – more importantly – clarify the enforcement and decision making process for firms and their advisers. Clearly there would be an indirect impact on consumers if the Manual and Guide were unclear or open to misinterpretation.

It is vitally important that the FSA puts in place a robust process for monitoring and reviewing the new Manual and Guide once in place and for making any necessary changes swiftly. Overall we support the approach set out in Chapter 6 of the Paper, although given the potential impact of any changes on consumers we would wish the Panel to be notified in advance of any proposal by the FSA to consult “informally” on changes, rather than be expected to identify these from the FSA’s website (as described in paragraph 6.3 of the Paper).

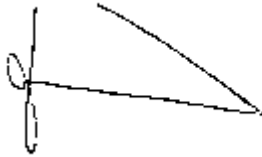
Reference is made in the Paper to the potential relevance of Industry Guidance to enforcement cases. We have a number of criticisms of the FSA's current thinking and we remain concerned about how guidance might be used (or otherwise taken into account) in the enforcement context. As we see it, there are significant issues regarding transparency and stakeholder input which have not yet been properly resolved. We would like to be kept up to date with any development of the FSA's proposals as set out in DP06/05.

As regards publicity (paragraphs 5.18-5.19 of the Paper), we would like any notices and press releases removed from the FSA's website as part of the proposed six-year review to be moved to an archive section of the site, covered by the search facility.

This means that consumers will still be able to find details of earlier enforcement action against particular firms, or where the FSA has already dealt with similar issues of concern.

It is of course the enforcement “output” that is of most concern to consumers. We have no objection to the proposals in Chapter 4 of the Paper relating to the exercise of delegated authority and related processes. We hope that these changes will lead to the more efficient and effective resolution of cases and swift redress for consumers, as well as greater clarity for firms.

Yours sincerely

A handwritten signature in black ink, consisting of a vertical line on the left, a horizontal line extending to the right, and a diagonal line extending upwards and to the right from the end of the horizontal line.

John Howard
Chairman
Financial Services Consumer Panel