

Financial Services Consumer Panel

AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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Our ref: Responses

18 May 2007

Dear Peter

Consultation Paper CP 07/04* Training & Competence Sourcebook Review**

This is the Financial Services Consumer Panel's response to CP 07/04*** The Training & Competence Sourcebook Review.

Overview

Generally we welcome the proposals set out in the Paper, which recognises the need for a sensible balance between an outcome focused, more principles based regime and the need to provide adequate levels of protection for retail consumers. We remain concerned however about the FSA's longer-term aim of removing the Training & Competence Sourcebook altogether. We are pleased that the FSA recognises in the Paper that there is "some way to go" before it can step back from prescription entirely - the FSA's own work on Treating Customers Fairly and the quality of advice (referred to in the Paper) has shown how far many firms and advisers are falling short of what is required of them. We are not convinced, however, that full account has been taken of the importance of the relatively prescriptive regulatory framework for Training & Competence for consumer confidence in the industry. This is particularly relevant at a time when consumers are coming under increasing pressure to take more responsibility for their financial decisions and where they will be relying heavily on their advisers. Examinations play a crucial role in any definition of a profession. If financial advisers are to be seen as professionals there needs to be a recognised examination structure in place.

In our view this current review also presents an opportunity to develop the benefits provided to consumers by the examination regime, for example by making the meaning of the various industry qualifications more transparent.

Detailed Questions

Q1: Do you agree with our proposal to extend the high-level competence requirement in MiFID to non-common platform firms so that it applies to all UK authorised firms – and do you have any comments on the draft rules and guidance we propose to insert into SYSC 3 to achieve this?

The Panel supports the extension of the high-level competence requirement in MiFID across the board. It is important for consumers, very few of whom will be aware of MiFID or its requirements, that there is a common set of standards within the industry at this overarching level.

Q2: Do you agree with our proposal to remove the TC Commitments?

Yes, we agree with the proposal to remove the TC commitments as they will no longer add value over and above the extended MiFID high-level competence requirement.

Q3: If so, do you agree that it is appropriate to apply the new high-level competence requirement in SYSC to wholesale business instead?

The Panel does not propose to comment on the requirements for wholesale business.

Q4: Do you have any comments on our proposed provision indicating that we will take account of firms' exam arrangements where they choose to use an examination selected from the FSSC's list of appropriate examinations, even though they are not required to do so?

We think this is a reasonable approach.

Q5: Do you agree that it is appropriate to retain a TC Sourcebook at this stage, but that the longer-term aim should be to remove it?

We agree that it is appropriate to retain a TC Sourcebook. We do not support the FSA's longer term aim to remove it altogether. The Paper states that the FSA would only consider doing so once it was satisfied that that this can be done "without reducing competence standards in the industry." We take this to mean that the FSA is committed to measuring competence standards within the industry before making such a move and that it would have in place some form of continuous programme of assessment to ensure that standards did not fall as a consequence of the removal of the Sourcebook. We are reassured by this, particularly given the generally poor levels of competence revealed by the FSA's recent work on Treating Customers Fairly and the quality of advice – Chapter 3 of the Paper refers to the FSA's TCF findings, where around one third of the firms covered in the sample did not have appropriate T & C procedures in place for their advisers, with half of those advisers providing unsuitable recommendations. Sufficient weight must also be given to the importance of the TC Sourcebook to consumers and to consumer confidence in the industry. In this as in other professions consumers look to a common set of recognised qualifications as evidence that a required standard of competence has been achieved. Consumers are entitled to expect advisers to be appropriately

supervised; their continuing professional development to be monitored; and their knowledge and skills to be up to date. We believe that a structure put in place by the regulator is essential and that without it consumers will feel less inclined to trust advisers than they do now. This is a particular concern in an environment where consumers are coming under increasing pressure to take more responsibility for their financial decisions and where they will be relying heavily on their advisers.

Q6: do you have any comments on the proposed provisions in Section 1 of the new TC Sourcebook or on the scope tables?

We have no comments on the text.

Q7: Do you have any comments on the requirements and guidance in section 2 of the new TC Sourcebook (with the exception of the exam-related provisions on which we ask separate questions)?

We have no objection to the revised requirements and guidance in section 2 of the new TC sourcebook.

Q8: Do you have any comments on the proposed record-keeping requirements in section 3 of the new TC Sourcebook?

We would like to see the five year retention period carried across to all firms.

Q9: Do you agree with our proposal to retain the current examination requirements for retail business carried out by UK firms?

Yes, we strongly support this proposal. Removal of the current examination requirements would have an adverse impact on consumer confidence and on levels of competence within industry itself. There are indications in the Paper (Chapter 3) that the findings of the research undertaken by Europe Economics also tend to support this view. The review of the TC Sourcebook presents an opportunity for the FSA and the FSSC to enhance the benefits provided by the examination requirement by making the meaning of the various industry qualifications more transparent to consumers – a series of different letters after an adviser's name can be confusing and do not always convey the real extent of an adviser's knowledge or proven level of ability. The Paper raises the issue of the possible competitive distortion arising from MiFID between UK firms and inwardly passporting MiFID firms. In our view, from a consumer perspective the examination requirement is a valuable competitive advantage.

Q10: Do you agree with our proposal to retain the current 'safe harbour' for retail firms that are subject to an exam requirement and select an exam from the list maintained by the FSSC?

Yes, we agree with this proposal.

Q11: Do you have any comments on the proposed guidance relating to exam time limits in section 2 of the TC Sourcebook?

We believe that the existing exam time limits should be retained for non-MiFID firms. The level of consumer protection provided by the time limits is sufficiently important to justify a differing regime for scope and non-scope firms.

Q12: *Do you agree with our proposal to continue:*

- a. *To require employees to pass a regulatory module before starting to carry on certain activities for retail clients or customers (as now);*
- b. *To require employees to pass the whole of an appropriate examination before starting certain specified higher risk activities for retail clients or customers (as now); and*
- c. *To provide the Overseas Exemption?*

We strongly support the proposals to retain the current requirements as specified in (a) and (b) above. We have no objection to the provision of the Overseas Exemption.

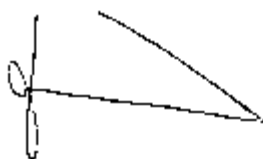
Q13: *Do you think the proposed guidance at TC2.1.4G is sufficient or should we also keep the rule requiring supervisors of those advising retail clients on packaged products to pass an appropriate examination?*

We support the retention of the current rule as we believe it is in consumers' interests for this important area to be a requirement rather than the subject of guidance. The FSA's move to more principles based regulation is not in itself justification for the removal of prescriptive rules, particularly where the TC Sourcebook Working Group – made up almost entirely of professional and trade bodies – also thought that the rule should be retained on consumer protection grounds.

Q14: *Do you agree that there is no need to carry forward the appropriate examination rule and associated guidance relating to convertible long term care insurance contracts?*

As advisers may well be dealing with consumers who already have such a policy we do not feel it would be appropriate to remove the rule and guidance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Howard'. The signature is written in a cursive style with a large loop at the end.

John Howard
Chairman
Financial Services Consumer Panel