

Financial Services Consumer Panel

AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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Dear Jeremy

Consultation Paper CP09/31* Delivering the Retail Distribution Review**

The Panel welcomes the publication of CP09/31***.

Professionalism

We remain fully supportive of aims to improve the professionalism of financial advisers and thereby to give consumers more confidence about engaging with the sector and buying financial products. We also agree that improving the career path and encouraging more people of a high calibre to enter the profession are important. Similarly, the clarity introduced in the paper over transitional arrangements is to be welcomed.

We are, of course keen to see the impetus for the RDR continue. While it has been a relatively long process, we feel the outcomes remain critical. We believe it is vital to maintain the momentum and to remain committed to the 2012 deadline. The industry, we think, has had sufficient time to prepare, although it is critical that all those involved in devising and agreeing the new standards remain responsive to the agreed timetable.

We particularly welcome the level playing field outlined by the FSA for professional standards as it is essential that consumers receive appropriate advice. While most of the focus of your paper appears to refer to independent advice, we remain adamant that the raising of professional standards is just as important in the tied and multi-tied arenas. Indeed, as already articulated by the Panel, we would like to see professional standards raised further at some appropriate future point.

Corporate pensions

The benefits of introducing adviser charging in the corporate pensions market do not appear to be as clearly articulated as in the retail market. We have no objection to the intended approach however.

Pure protection

It is possible that commission bias does not pose the same kind of problems in the pure protection market and that detriment, when it occurs, tends to be caused more by poor sales practices. However we would like to see evidence to support that contention. We would also like to see professional standards reach and/or be maintained at a level that is appropriate for the market, and where consumers can be confident that they are receiving the right advice tailored to their needs.

Our responses to the specific questions raised in the Paper are attached.

Yours sincerely

Adam Phillips
Chairman
Financial Services Consumer Panel

Q1 Do you agree, that the internal model is the least costly and the least complex to establish and will achieve broadly the same outcome as an external Professional Standards Board?

We note that although the Paper states that the Panel was supportive of an internal model, we had not in fact taken a view, preferring to wait until we could assess your cost/benefit rationale. The arguments presented in favour of an internal model are persuasive and we agree that this will be, at least initially, an acceptable and pragmatic approach.

In the brave new world post RDR it is to be hoped that consumers will have more confidence in the professionalism of advisers. An internal PSB will face greater challenges than an external body in delivering increased confidence and trust and the FSA needs to take steps to deal with these challenges, including:

- The danger that professional standards if under the FSA's remit are seen as part of the regulatory process, rather than independent from it
- the RDR is all about significant change, yet the significance and benefits of this could be lessened if the PSB is seen as part of the regulator. This is a step change and needs to be seen as such. There may be a risk that, if part of the FSA, the emphasis is seen as more on minimum compliance rather than significant change to help consumers and inspire trust and confidence.

The Panel has stressed in the past that a PSB should have an independent chair with good consumer representation. We would like to reiterate our support for effective consumer input, no matter the structure.

We would like to see both an assessment of the PSB's effectiveness and a further review into the benefits of future independence after two years.

Q2: Are there any additional criteria that should be included for the initial and ongoing recognition of professional bodies?

We agree that professional bodies can and should play a role in raising standards. We have nothing to add on the proposed criteria. We would however like to draw attention to paragraph 2.37 which deals with existing professional bodies. It is said that, "These organisations already maintain and monitor codes of conduct for their members and increasingly also facilitate and monitor members' completion and recording of CPD activity. So we believe that provided they meet our future criteria, we should recognise this activity". We would emphasise that the organisations *must* meet the FSA's criteria. There will also be a need for ongoing quality assurance to make sure that the organisation continues to meet FSA standards and that quality is consistent across the organisations. This will require ongoing rigorous assessment on the part of the FSA.

We were disappointed to see from paragraph 2.17 of the Paper that individual membership of a professional body would not be mandatory. Given the significance of formal recognition of professional bodies and the role that they will be playing in raising professional standards, we believe that voluntary membership creates a risk of individual advisers falling short of the levels of professionalism that consumers are entitled to expect.

CPD

On the question of CPD more generally, the Panel strongly supports the use of CPD as a means of developing advisers' knowledge on a regular and routine basis. This must however be appropriately recorded and monitored by firms and professional bodies.

Q3: Do you agree that the arrangements described will deliver the required increase in the quality and consistency of professional standards across investment advice sectors?

We hope that it will deliver the required increase, but we would not like to prejudge whether it will be sufficient. We believe there will need to be ongoing monitoring to ensure that this is the case. Supervisory activity; complaints; and feedback from the professional bodies should help to deliver this.

Q4: Do you agree that updating the FSA Register with further information about advisers' qualifications, and introducing practising certificates for advisers, will contribute to the restoration of consumer trust and confidence?

We do support the proposal that the FSA should include information about the professional qualifications of advisers on the register and agree it should also record the professional body to which they belong. The FSA register is potentially a useful tool for consumers, however many simply do not know about it. We would suggest that promoting knowledge of the register is a task which might usefully be undertaken by the Consumer Financial Education Body. It is clearly important that consumers are made aware of the register which, of course, needs to be effectively maintained.

We welcome the proposal to require advisers to hold a practising certificate and have it available for their clients to view. Although this would be of limited practical benefit to consumers it is in line with the practice in other professions ie solicitors and would contribute to a general recognition of hopefully rising status for financial advisers.

Q5: Do you think the arrangements described will support the aim of beginning to improve the reputation of retail investment advice?

The arrangements described will undoubtedly support these aims. But enhancing professional standards, while vital, is only one component of the new marketplace. There also needs to be effective supervision to ensure these standards are being met. Firms, too, have a duty to ensure they are

treating their customers fairly. We hope also that the industry and profession take the opportunity to market the new standards to consumers. Only by perceiving the value in financial advice will consumers be prepared to pay for it under the new arrangements.

We also believe that professional bodies have a role to play in encouraging the change in approach and alerting firms to the ways they can deliver and promote a more professional and respected service.

Q6: Can you provide evidence of any other qualifications meeting all three of the stated criteria?

The Panel is not in a position to respond to this question.

Q7: Do you agree that option iv is the most pragmatic solution and do you agree that these proposals will provide advisers with transferable evidence of their qualifications?

Option iv would appear to us to be the most pragmatic solution to the problem of identifying gaps between the existing and new Level 4 standards although the Panel is not in a position to give a more detailed opinion.

Alternative assessment (2.79-2.85)

While some flexibility and pragmatism may be required when it comes to assessing qualifications, the Panel would like to take this opportunity to reiterate its opposition to 'grandfathering'. We do not support grandfathering and do not want to see any opportunity for the industry to work around these proposals. We would appreciate the FSA giving assurance that additional flexibility does not materially affect professional standards.

As we continue to stress, consumers need to see a step change in professionalism to engage more with the investment market. We are disappointed that the FSA has decided to permit alternative assessments, albeit with strict conditions, for advisers currently holding Level 3 who will need to upgrade to Level 4. The Panel considers that advisers should be required to take either a written exam or its oral equivalent. This was the FSA's position in CP09/18 and also reflects the opinions expressed at the PSAG meetings. We can quite understand that there was resistance to taking exams from certain advisers, but would point out that a similar situation arose some 12 years ago when the Level 3 qualification was first required. The regulator resisted the pressure and all advisers of whatever age and experience were required to take the exam in written or oral form, if they wished to continue to practise.

Corporate Pensions

Q8 Do you have any comments on our analysis of the current GPP market?

We have no comments on the FSA's analysis.

Q9: Do you agree with our proposals for applying the principles of adviser charging to the GPP market? If not, please say why.

Although the adviser charges will be agreed between the adviser and the employer, they will be paid by the scheme member who may not be aware whether or not these represent real value. Consequently while we do not think that adviser charging will cause detriment, we cannot be sure that it will bring significant benefits to scheme members. The benefits of introducing adviser charging in the corporate pensions market do not appear to be as clearly articulated as in the retail market.

Q10: Do you have any suggestions for the fairest way of allocating consultancy charges among different members of a GPP, allowing for different ages, different contribution levels, whether an initial member or a subsequent new entrant and any other relevant factors?

Whatever the method of allocating consultancy charges selected, the FSA must ensure that it delivers an allocation that is equitable and fair.

Q11: Do you have any comments on the CBA outlined in Annex 2 to Section 3?

We recognise that there will be costs and no doubt industry will be reluctant to bear these costs. The overall benefits the RDR is expected to deliver should continue to be considered against these costs, however.

Pure protection

Q12: Please provide any analysis or evidence you may have on the application of professional standards (professional conduct, qualifications and keeping knowledge up-to-date) to pure protection advice, both:

a) where it is provided by an investment adviser; and

b) where it is provided by an adviser who does not advise on investments.

We do not have specific evidence to submit to the FSA on the application of RDR proposals to pure protection advice. We understand that it is more likely that when detriment occurs in this market it tends to be related to poor sales practices, such as inadequate disclosure of key facts relating to critical illness policies. However, we would like to see evidence on this issue before reaching a firm view. We would ask the FSA to continue to monitor the market in case future commission bias leads to actual consumer detriment.

As regards professionalism, we wish to see measures in place to ensure that consumers have access to advice on pure protection products from suitably qualified and competent advisers. However we think that simply applying the professionalism requirements of the RDR to the pure protection market would be unnecessarily onerous and ultimately prohibitively expensive for consumers. The FSA will need to strike the right balance in a market where

the products are often simpler than in the investment market, but where buying the wrong product could nevertheless have significant financial impact on individual consumers.

We are pleased to see that there will be a consultation paper on labelling once the Mortgage Market Review proposals on labelling have progressed further.