

FINANCIAL SERVICES CONSUMER PANEL
BRIEFING ON THE FINANCIAL SERVICES BILL 2009

OVERVIEW

The Financial Services Consumer Panel believes that consumers deserve a financial services market where companies treat customers fairly. Naturally, stability is extremely important to consumers, however, at a time when the Government is proposing legislation to improve financial stability, we believe it important not to neglect the wider interests of consumers

The role of the regulator is to set effective rules that deliver fair treatment and consumer protection: firms should comply with those rules. Where firms do not comply with rules the FSA needs to take tough and prompt action. **Overall we do not believe that the consumer has been best served by 'light touch regulation' and we would like to see more effective and timely intervention from the regulator.**

We believe that a well regulated retail marketplace should deliver the following outcomes for consumers:

- a credit market which is accessible and which treats customers fairly;
- a well-functioning mortgage market which lends responsibly to customers;
- products which are presented in a way which is simple and honest and prices that can be easily compared with other products of the same type;
- the widespread availability of competitively priced products that meet key needs (for example planning for retirement), and which “do what it says on the tin”
- good’ product innovation, rather than innovation that conceals cost or risk in the pursuit of providing an apparently better price or higher rate of return.
- a retail distribution structure that provides real choice for the customer, a structure that operates through different channels and one where competition works effectively to hold down costs while, at the same time, meeting customer needs.
- access to independent advice, free from product, provider and sales bias, where financial intermediaries act as true agents of the consumer.
- a market that recognises and responds effectively to the needs of more vulnerable consumers, whether due to age, location or ability.

FINANCIAL SERVICES BILL 2009

We responded to the HM Treasury White Paper that preceded the Financial Services Bill, and are pleased to see many aspects of policy that we supported being taken forward in this Bill. We believe however that more intervention is required on the part of the FSA to deliver the better outcomes required for consumers. We make the following overarching comments on the content of the Bill:

- **Objectives of the FSA** – While we acknowledge the Bill’s proposal to give the FSA an additional statutory objective of market stability is necessary, we have called for an additional element in the FSA’s objectives to be more explicit. We believe the FSA should have regard to ‘value for money’ when discharging its regulatory responsibilities. We believe most consumers would view ‘value for money’ as an essential component of fairness and that this should inform the regulator’s interventions on behalf of consumers. This might have encouraged prompter, tougher action in dealing with issues around payment protection insurance. We would therefore wish to amend FSMA at Section 2, Clause 3, to add ‘value for money’ as an additional subsection.
- **Consumer Financial Education Body** – We have been supportive of the work of the FSA on consumer financial education so far, and we regard the plans for a Consumer Financial Education Body as an important step forward. We have, for many years, the Consumer Panel has called for a way to give generic financial advice unrelated to the selling of specific financial product as a way to help consumers through the minefield of the financial services landscape. We therefore welcome ‘Money Guidance.’
- **FSA’s Disciplinary powers** –Although the FSA has increased the amount of enforcement action over the last year or so, we still believe that FSA action against firms not following the rules should be tougher. The FSA should be prompter to punish poor behaviour and to encourage firms to comply with rules. This will both improve practice and give consumers greater confidence in the system. We therefore welcome the Bill’s proposals to give the FSA greater enforcement powers and would encourage the FSA to make use of these enhanced powers. We also note the FSA’s stated intention to take to tough action against senior management and individuals in firms. We look forward to seeing this in practice.

- **Consumer Redress**

We welcome proposals in the Bill to strengthen the FSA’s ability to achieve redress for large numbers of consumers. Current section 404 of FSMA, which

was provided for this purpose, has never been used, suggesting that it is not fit-for-purpose. We welcome the Bill's provisions which will ease access in this area. We also welcome the Bill's provisions with regard to class actions, which we hope will make it easier for consumers to obtain redress when they have been treated unfairly.

- **Other consumer protection measures** – We are pleased to see the outlawing of unsolicited credit card cheques in this Bill, as these have been a source of great consumer detriment in the past. However, we believe that there may be other areas where the FSA could be encouraged to engage in greater product scrutiny in addition to their current concentration on the appropriateness of the sales process. This is needed due to the asymmetry which exists between consumers and firms and the fact that consumers will always lag behind providers when it comes to detailed knowledge. As in other retail markets, such as health and aerospace, we believe more attention should be paid to the safety of the product, in particular to the risks inherent in financial products. We would like more to be done to encourage the FSA to make use of its powers in this area, so that in future appropriate warnings can be issued and consumers will not be sold products which are inappropriate to their needs.

ADDITIONAL AREAS FOR CONSIDERATION

- **Consumer Credit** – we have called for the FSA to be responsible for regulating consumer credit in the firms with which it has an ongoing supervisory relationship. We believe this would strengthen protection for consumers and address possible confusion over regulatory roles. Trading standards officers would continue to be responsible to small retail providers of credit while major lenders would be accountable to one regulator, the FSA, for all their activities. This would help to bring clarity in many areas including, for instance, with overdraft charges where the OFT has pursued a test case on unfair contract terms: we have argued that if the FSA had responsibility for bank lending, with responsible lending rules, the charges could be considered under its principle of needing to treat customers fairly, without resorting to court.
- **Greater FSA and industry transparency** – We believe consumers have the right to know when the firms they are dealing have broken the rules so that they might be better informed and more able to take appropriate action. So the FSA should provide more and earlier information on where it is taking action with firms. Section 348 of FSMA currently prevents the FSA from using more transparency. We wish to see the FSA's powers in this regard made more explicit so that the FSA is empowered to divulge when action is being taken against a firm and consumers can benefit from greater

transparency. There could also be more information provided on the firms that are complying well with the FSA rules, so instilling greater consumer confidence and encouraging firms to aim for best practice. While the publication of complaints data by both the FSA and FOS is welcome, we would like further refinement to provide more meaningful information for customers.

- **Fairer financial advice through the Retail Distribution Review** – we have supported the FSA’s drive for a fairer, more effective retail market for savings and investment. We agree it is necessary to raise professional standards and end commission bias. We are anxious that the proposed 2012 target is not delayed, as the envisaged RDR outcomes are critical and will deliver considerable benefits. We are also keen to see a Simplified Advice Process where more straightforward products can be marketed effectively. The Panel also supports the proposed rollout of an effective Money Guidance Service through the new Consumer Financial Education body.

THE FINANCIAL SERVICES CONSUMER PANEL

The Panel is an independent statutory body set up under the Financial Services and Markets Act 2000. It was established to advise the FSA on the interests and concerns of consumers and to report on the FSA’s performance in meeting its objectives. We focus on the policies of the FSA, although we may also look at the impact on consumers of activities outside but related to the FSA’s remit.

For further information, please

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