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Our ref: RU64/RT

Dear Dan

CP 05/08 – Suitability Standards for Advice on Personal Pensions**

The group of Consumer Panel members and I very much appreciated meeting you and your team to discuss progress on the above consultation last week. As you know we are concerned about the proposals that the FSA made in the above consultation that they might remove COB 5.3.16R (3), more commonly known as RU 64. This rule essentially requires all types of adviser (tied as well as whole of market) to explain in a suitability letter, why the personal pension recommended is at least as suitable as a stakeholder pension.

We understand that you are still considering the responses to the consultation. We would like to highlight two issues which are in addition to the points that we have already raised in our formal response to your consultation.

The proposals from Lord Turner in the 2nd Pensions Commission Report

Since the FSA consultation paper CP 05/08** was published, the 2nd Pensions Commission report has also been published, which recommends the creation of a new National Pensions Savings Scheme (NPSS). This would be a state administered scheme aimed at offering low and middle earners the opportunity to save at a low cost. However the detail of this is worked out, it is likely to involve lower charges on a pension, and so be potentially attractive to the large majority of people seeking a personal pension at the moment. So this would have implications for the suitability standards for advice on personal pensions in both the short and long term.

In the long term, if the NPSS is introduced, it would increase the need for an RU64 type rule. It looks like many people would be subject to lower charges on an NPSS pension than a stakeholder or personal pension, and this will need to be taken into account in suitability rules.

In the short term, it may be that, with the introduction of NPSS on the horizon and no RU64 in place, some financial services firms could decide to push personal pensions at people in the last few years before NPSS. This could mean a new round of mis-selling, causing consumers not only to take on a pension that is more expensive than they need, but might also disqualify them from being eligible for the NPSS (or make them disinclined to join it) when it is introduced.

The rule is not in itself creating price distortion

The industry has argued that this rule means that the FSA is dictating the price of pension products in the market and so becoming an economic regulator. To this accusation we would make the following points.

- It was the Government and not the FSA which imposed the price cap on stakeholder pensions.
- RU64 requires advisors to point out the charges made for stakeholder pensions but does not prevent the sale of other pensions with higher charges.
- It is quite legitimate for an advisor to sell a more expensive product if the advisor can demonstrate that other aspects of that product make it a better deal.
- If the industry cannot rise to the challenge of offering products with features that justify them being more expensive that is not the fault of the FSA.
- If the industry cannot rise to the challenge of offering products with features that justify them being more expensive, the industry is saying that all other personal pensions offer worse value for money than stakeholder products.

We believe that if the industry cannot justify selling personal pensions at a higher price, and is allowed to avoid the obligation of telling consumers about cheaper stakeholder products, this will be tantamount to mis-selling on a significant scale. So the industry and the regulator should brace themselves for widespread claims for mis-selling in the future.

Overall, the Consumer Panel believes that this suitability rule is a key element in consumer protection and we believe that its removal could cause major consumer detriment. We urge you in the strongest possible terms, not to remove the rule at this stage.

Yours sincerely



John Howard
Chairman
Financial Services Consumer Panel