

# Financial Services Consumer Panel

Annual Report 2010/2011



An independent voice for consumers of financial services

The Consumer Panel is an independent statutory body, established in 1998. Our main purpose is to ensure that the Financial Services Authority (FSA) promotes fairer outcomes for consumers during policy development. The Panel also takes a broader role in advising European institutions and the government on financial services regulation and legislation.

Since its establishment, the Panel has helped deliver significant benefits for consumers. We support the FSA where we believe policies can help consumers and challenge the FSA forcefully when we feel consumers would be disadvantaged.

Panel Members are recruited through a process of open competition and serve a maximum of two terms of three years. During the last year, Members' expertise included: market research, journalism, law, financial services industry, financial inclusion, European regulation, financial regulation, consumer advice, campaigning, communications, compliance and later life issues. You can find out more about our Members in Appendix 2 or on our website [www.fs-cp.org](http://www.fs-cp.org).

The Panel engages with the FSA as it develops policy, usually well before consultations are published. Regular dialogue is ensured by inviting members of FSA staff to attend Panel meetings and working groups. The Panel submits regular monthly reports to the FSA's Board. We also liaise on a quarterly basis with the FSA's Chief Executive. Key meetings are held with other stakeholders such as the Financial Services Ombudsman, Which? and Consumer Focus to progress our agenda: these are detailed in Appendix 5.

*When you talk to consumers about fairness in financial services you get some pretty stark conclusions. They simply don't think financial services are fair compared to other retail experiences.*

**Adam Phillips, Chartered Banker, October 2010**



**Adam Phillips**  
Consumer Panel Chair

## Foreword by the Chair

The last year has witnessed the beginning of the most profound change in the regulation of financial services since the FSA was established a decade ago. The change of government has introduced a new, and potentially exciting, era in financial services regulation. It ushered in the proposal to abolish the FSA and introduce ‘twin peaks’ regulation. This proposal has had a significant effect on the work of the Panel, as much of our focus has been directed towards understanding the implications of the changes for consumers and responding to the proposals.

The Panel is enthusiastic about the creation of the new structure. Admittedly, the transition is creating serious short-term challenges and more detail is required to ensure that the roles of the Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) are complementary and sufficiently ‘joined up’. It is also essential that the Financial Policy Committee (FPC) takes into account the wider impact on society of its actions to protect the stability of the system. But at the general level the changes proposed, if passed into law next year, should create the conditions for the financial services industry and the regulators to restore trust and confidence, to encourage improved service and deliver better outcomes for consumers.

Since the crisis, the FSA has done much to improve the effectiveness of its prudential regulation – a stable and secure financial system is a basic requirement for consumers and society. However, the supervision of business conduct is also essential to ensure that business risks are understood, for example the level of risk in mortgage lending or the costs created by large-scale mis-selling or product design failure. These costs are ultimately borne by consumers, in addition to the cost of regulation.

The move to more intensive regulation of business conduct over the last two years has been consistently encouraged

and supported by the Panel. The regulatory philosophy, information systems and supervisory tools needed to deliver more effective conduct regulation are still being developed. The Panel has been closely engaged in the discussions about the best way to achieve this. Getting it right will be vital if the FCA is to rebuild trust in the industry by delivering better consumer protection, better value and useful innovation through more effective competition. As I write, there is still some way to go before it will become clear whether the benefits of the transition to ‘twin peaks’ will be realised in practice.

The Panel too has undergone substantial changes in the last year; reacting to an independent effectiveness review and significantly increased workload, we have sharpened our focus to concentrate our work on five key issues. This year’s report reflects this new approach. The Executive Summary details the way we have worked in the last year and our reasoning behind this, as well as the Panel’s key outcomes. The following chapters give further detail on our key priorities, our regular agenda and our increasing efforts to influence European regulation.

Our work on banking, set out in the second chapter of the report, concentrated on reviewing the improvements brought about after the first year of the FSA’s Banking Conduct of Business (BCOB) regime, which replaced banks’ self-regulation by the Banking Code Standards Board. While we are pleased that there has been considerable progress, more remains to be done to get better outcomes for consumers.

The Panel has continued to support strongly the FSA’s Retail Distribution Review (RDR) despite increasing criticism from some sectors of the industry. We believe that the abolition of commission and the raising of professional standards for advisers will deliver considerable benefits for

consumers and the industry. Our work on platforms has demonstrated the importance of ensuring that the regime for removing adviser commission in retail distribution is extended to eliminating rebates for platforms. In addition, we have undertaken further work on simplified advice and straightforward outcome products to seek to ensure problems created by an emerging middle market gap are minimised and that consumers continue to have access to good advice channels.

We wish to see the return of a healthy mortgage market and were concerned that the Mortgage Market Review (MMR) was taking a rather narrow approach to assessing the consumer welfare impact of its proposals. We are glad that the FSA has been persuaded to carry out further analysis of the costs and benefits of its policy. We are also interested in hearing more about the FSA's work on transitional arrangements to ensure those mortgage holders who are solvent and currently posing no threat to the system will not be unfairly disadvantaged.

For years the Panel has pressed for increased access to unbiased free generic advice and education for consumers. We were very pleased with the establishment this year of the Money Advice Service (MAS). In view of the focus of the MAS on the financial health check, there remain issues with the broader advice arena for consumers. As effective as the MAS may prove to be, its presence should not absolve the FSA and its successor bodies from engaging effectively with consumers and from any responsibility for improving the knowledge and financial understanding of consumers.

As this report goes to print I am pleased to be in the position of welcoming the acceptance by the banks of the judgement that they are liable for the mis-selling of Payment Protection Insurance (PPI). It is very unfortunate that it has taken such a long time to resolve the mis-selling scandal. However, I am hopeful that the behaviour of the banks in resolving the scandal may open a new chapter in their relationship with consumers. The scale of PPI mis-selling has been enormous with more than 1.5 million complaints since the FSA took over regulation in 2005. More than 200,000 mis-selling cases have been before the ombudsman, with nearly three-quarters resolved in favour of the consumer. PPI is a good example of how an area of emerging consumer detriment should have been subject to early intervention to 'nip it in the bud'. Lack of clarity between the role of the Office of Fair Trading (OFT) and the FSA contributed to the delay and this needs to be resolved in future.

We have been encouraged by the FSA's tougher approach to enforcement recently and we hope that this will continue in the new regulatory environment.

This year, the Panel has had to devote more resource to its European Union work. Brussels has become of pivotal importance in financial services. The Panel finds itself increasingly having to scrutinise EU consultations and having to liaise with European bodies, officials and MEPs. The Panel was pleased that our Vice-Chair, Kay Blair, was appointed to the Insurance and Reinsurance Stakeholder Group of the European Insurance and Occupational Pensions Authority (EIOPA).

I would like to end by thanking my colleagues for their support and hard work in what has been an even busier year than last year. Given the scope and size of the reforms to UK regulation it has been an arduous process to ensure that the FCA will be an effective body that has the consumer interest at heart. I would also like to acknowledge the contributions of Tony Hetherington who left the Panel in April, Nick Lord who left the Panel in December and Carol Stewart who left the Panel in May last year.



**Adam Phillips**

Chair, June 2011

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The Panel in March 2011.

For a list of the 2010-2011 Panel see Appendix 2.

# Executive summary

**This report outlines the work and achievements of the Financial Services Consumer Panel for the financial year of 1 April 2010 to 31 March 2011.**

## How the Consumer Panel carried out its work in 2010/11

We work to deliver good outcomes for consumers which improve fairness, value for money, transparency and effective competition.

The Panel commissioned an independent review of its effectiveness in 2010 which demonstrated that there was growing recognition of the Panel's effectiveness and influence. One of the Review's recommendations was that a clearer focus was necessary to deal with the increasing quantity of work the Panel was undertaking. The Panel has acted on this and placed much more emphasis on its key priorities and in the following chapters we set out our objectives, actions and outcomes achieved for each:

- the shape of future UK regulation of financial services;
- the effectiveness of the FSA in regulating retail banking;
- implementing the Retail Distribution Review (RDR);
- the FSA's Conduct of Business Strategy; and
- developing the Mortgage Market Review (MMR).

These key priorities took up about half of the time and resources of the Panel. The Panel also spent a significant amount of time on its regular agenda that arises from topics the Panel has pursued in the past and issues raised by the FSA and other organisations in the course of the year. This included consumer issues such as 'with-profits' funds, pensions, savings and later life, authorisation and general insurance. In addition, there were a host of other issues that arose from consultations, the media or the Panel's scoping of emerging consumer risks.

The FSA has recognised the growing demands facing the Panel and agreed to increase its resources. We will continue to keep Panel effectiveness under review, especially as the new regulatory framework is introduced.

The Panel publishes as much of its work as possible on its website. This is so that we can get our message across on consumer issues and it allows us to give our stakeholders in the consumer movement, government and regulatory circles a clear explanation of our views and priorities. We also publicise our work in the media where we feel this may advance the consumer argument and perspective.

We strongly encourage collaboration between the FSA and other key consumer stakeholders such as Which?, Citizens Advice, Age UK and Consumer Focus. To inject new impetus and create consensus we held three round table meetings on the issues of 'with-profits', fairness in financial services and banking conduct regulation. These brought together stakeholders from the consumer movement and FSA staff.

Our European work continues to grow, as does our influence in Europe supported by our partnership with the European consumer body BEUC. We regularly visit Brussels and hold meetings with the European Commission and MEPs. The Panel's Vice-Chair has accepted a place on the Insurance and Reinsurance Stakeholder Group of the European Insurance and Occupational Pensions Authority (EIOPA).

The Panel has been particularly keen to increase its liaison and engagement work with consumer organisations, through identifying emerging consumer risks, working on the future regulatory structure, the Mortgage Market Review and our round table events.

We work with the FSA and our other stakeholders at a number of levels. In addition to our monthly Panel meetings and Working Groups, which are regularly attended by the FSA and others, the Panel Chair meets with Hector Sants four times a year; is a regular witness before the Treasury Committee of the House of Commons;

meets regularly with industry associations including AIFA<sup>1</sup>, the ABI<sup>2</sup>, the BBA<sup>3</sup> and the CML<sup>4</sup>, and has ad hoc meetings with other groups and stakeholders on a regular basis. He also speaks regularly on consumer issues, including a speech at the FSA's Annual Meeting.

## Outcomes – where we have made a difference

### Ensuring consumer protection in the new regulatory framework

In the last year we have worked to ensure consumer protection is enhanced in the new regulatory framework. We believe our input to the Treasury and the Treasury Committee Inquiries has resulted in an increased focus on consumer protection, as indicated by the most recent Treasury proposal: A new approach to financial regulation: Building a Stronger System. The government has taken on board several of our suggestions on consumer representation in the new structure. These have included greater transparency, in particular with regard to warning notices, publishing misleading financial promotions, encouraging effective competition and delivering effective redress.

Moreover, we are pleased that the role of the Panel in delivering more effective regulation has been recognised and that as a result it is proposed to give the Panel a greater role in the new regulatory structure with enhanced powers. We hope that this strengthened role will allow the Panel to further improve the effectiveness of its work for consumers.

There is still more work to be done in the area of regulatory reform. We will continue to press for greater consumer accountability for the Prudential Regulation Authority (PRA) and the Bank of England. During the last few months the Panel has examined the proposals to bring credit regulation into the new Financial Conduct Authority (FCA) structure. We believe a unified regime for retail financial services will benefit consumers. However, there are risks involved with the scale and scope of the exercise and in integrating the different requirements of the Consumer Credit Act and FSMA, so we will be keeping this area under close scrutiny.

### Retail banking

The Panel carried out a review of the first year of the FSA's retail banking conduct of business regulation. After a decade of inactivity under the Banking Code the FSA has made reasonable progress. We made seven key recommendations that included the need for the FSA:

- to be more forceful to get management buy-in within banks to fairer consumer outcomes;
- to be more effective in the enforcement of treating customers fairly;
- to conduct wider consumer research, including mystery shopping;
- to collect more regulatory data;
- to be swifter in dealing with conduct of business issues;
- to consider the feasibility of the power to introduce temporary product bans; and
- to conduct greater supervision of bank performance at the point of contact with customers.

As a result of the Panel's action the FSA is considering these issues and has opened up a dialogue with banks and consumer groups to take some of them forward.

### Retail Distribution Review

We have strongly supported the FSA's work on the Retail Distribution Review (RDR) and believe the elimination of commission bias and the increase in professional standards will benefit consumers. We have also championed simplified advice and straightforward financial products over several years as the Panel believes that they will help close any middle market gap. We continue to engage with the FSA to ensure it does not waver from its stance and objectives, or cave in to pressure from the industry on 'grandfathering' exemptions from qualification requirements for long-standing advisers. The Panel was the only consumer body to respond to the FSA's Consultation Paper on platforms, CP10/29. The Panel's research-based position on the platforms market argues for maintaining the principles of the RDR by ensuring a market free of bias. This requires an end to all forms of provider rebate. We have asked the FSA to undertake further analysis on its work on platforms.

### Straightforward products

The Panel has for some time promoted the idea of simpler, or what it prefers to call straightforward products: products that meet expectations and deliver good consumer outcomes. This year saw the publication of our research on safer products in November 2010 and subsequent discussions with the Treasury and other key stakeholders. We are hopeful that, with greater industry support, straightforward products, or products from which consumers can expect straightforward outcomes, will become a reality in the near future.

### Conduct of Business

The Panel has long been concerned about the effectiveness of the FSA's approach to regulating retail firms' conduct of business. After the abolition of the FSA,

1 Association of Independent Financial Advisers  
 2 Association of British Insurers  
 3 British Bankers' Association  
 4 Council of Mortgage Lenders

the new regulatory structure will separate prudential regulation, keeping money safe, and conduct of business regulation, ensuring good behaviour by firms. We are focusing attention on building a clearer view of the FSA's practice at an operational level and identifying how the approach to risk identification and integration in operational supervision is developing in the transition to the FCA. We have an ongoing dialogue with the FSA over emerging consumer risks, including providing information to the FSA that we have obtained from our meetings with a range of consumer representatives, and we meet the FSA regularly to monitor progress in key areas.

### Mortgages

By challenging the FSA and encouraging it to undertake more work in certain areas, the Panel has helped persuade the FSA to think more broadly about the best outcomes for all consumers from the Mortgage Market Review. The FSA has acknowledged and committed to taking on board the concerns expressed by the Panel. While supportive of the FSA's high level principles on responsible lending and the work it is proposing on arrears and repossessions, the Panel had serious concerns about the quality of the FSA's cost benefit analysis, the wider implications of its policies on the housing market and the need for more 'joined up' thinking with other key stakeholders. This was especially the case with the possibility for interaction of the FSA's conduct proposals with the macro-prudential policy requirements of the Financial Policy Committee. We continue to press the

FSA to look more closely at the transitional arrangements, that is, the effect of its mortgage market proposals on consumers currently having no difficulty servicing their mortgage, but for whom the FSA proposals could potentially lead to significant difficulties when remortgaging. The FSA in turn has committed to introducing transitional provisions to ensure that the difficult conditions in the mortgage market are not made worse.

### Double-charging of mortgage arrears costs in Scotland

The Panel has taken a leading role in highlighting the activities of some mortgage lenders in Scotland in double-charging fees to their customers after the Supreme Court found that the law had been misinterpreted and repossession actions had to be re-issued. As a result the FSA is now aware of this issue in Scotland and will be monitoring firms' behaviour in this regard.

### Payment Protection Insurance (PPI)

We have kept up pressure on the FSA to stand firm against the banks over Payment Protection Insurance mis-selling, and have publicly urged banks to take steps to resolve consumer complaints quickly. We are disappointed that the failed judicial review called by the banks caused further delay in resolving the PPI mis-selling debacle. The Panel continues to be vocal in the media in support of the FSA's actions and has repeatedly called for the early settlement of mis-selling claims.

***Consumers rightly regard financial services as an essential part of life. The industry needs to do more to increase transparency, giving customers clear and meaningful information, so that they see an improvement in standards of customer service and greater ability to compare products.***

Adam Phillips, 26th July 2010

## ***Our Objective:***

The Panel will engage in the process for the reshaping of UK financial services regulation, in the context of making a strong case for consumer well-being.



# The future of regulation

## Our action and outcomes:

The reconfiguration of UK financial services regulation has profoundly changed the outlook for future consumer protection with the emergence of a conduct of business regulator, charged with scrutinising the behaviour of the financial services industry, as well as a prudential regulator. The Panel's actions on regulatory reform have focused on ensuring that:

- regulatory reform promotes good consumer outcomes;
- consumer protection is enhanced;
- effective competition is encouraged;
- greater transparency is introduced in the publication of regulatory information such as complaints data and warning notices; and
- consumers get effective redress quickly when things go wrong.

### Credit regulation

We support the proposal in the joint Business Innovation and Skills and Treasury consultation, A new approach to financial regulation: Consultation on Reforming the Consumer Credit Regime to move credit regulation into the new FCA, on the basis that the consumer protection and enforcement options currently available in the credit regime are also transferred. The Panel will continue to engage with the debate as more detailed proposals are put forward.

### Priorities for the new Financial Conduct Authority

Consumer protection should be a particular focus of regulation and we support the formation of a FCA with a focus on conduct of business. We have urged that the FCA be more strategic in its approach, with less circumscribed powers and a willingness to intervene earlier to avoid consumer detriment. The Panel believes that the FCA should have the power to promote effective competition as a tool to encourage good behaviour, rather than relying on general principles and the threat of sanctions when

problems emerge. We have set out our proposals for the new regulator in our submissions to the three Treasury consultations and in our submissions to the Treasury Committee inquiries, which are detailed on our website and in Appendix 7.

### Competition

We welcome the inclusion of competition in the regulator's toolkit and seek a full range of competition powers in financial services regulation for the FCA. Effective competition in a well-functioning market has the potential to deliver great benefits to consumers.

### Access

Significant parts of the financial sector are now essential services. This should be recognised and the FCA given the job of ensuring an appropriate degree of protection and access for all consumers.

### The role of the Panel and accountability in the new structure

The strengthened role of the Panel proposed in the new structure is an endorsement by government of the important role the Panel has played in the governance and accountability of the FSA over the years. We are pleased that this has been recognised. Whilst the balance and emphasis of regulation post-financial crisis has been on financial stability, it is important that both conduct risks and confidence in the market are given proper consideration.

We have called for greater consumer engagement in the Prudential Regulation Authority (PRA) and the Financial Policy Committee (FPC) as well as a consideration of the public interest in relation to the needs of consumers in vital aspects such as future pensions and effective retirement provision, home ownership and the availability of consumer credit. We want the PRA to have a relationship with the Panels as we believe that there is a need for greater accountability to consumers in the Bank of England

structure, especially when the PRA has a veto over the decisions of the FCA. We hope that the powers of oversight which the Consumer Panel possess under Section 11 of the Financial Services and Markets Act will be extended to cover the new PRA and FPC and not only the FCA.

### Transparency

For many years the Panel has advanced the case for greater transparency in the workings of the regulator and the industry. The Panel published its transparency research in September 2010. Interestingly, while there was room for improvement, the FSA fared well in global comparisons with other financial services regulators. This is an industry that seems to be unduly fearful of openness and reporting failure. We are pleased that some of our concerns about greater openness have been taken on board in the recent Treasury consultations, in particular the introduction of regulatory principles committed to transparency and provision of information, and the discretion to make public the fact that a warning notice has been issued. However, we remain concerned that there have been no specific proposals for powers to release information or to make exceptions to confidentiality in the public interest. Also that though the publication of complaints data is now required by the FSA, important contextual information about complaints and investigations will still not be available to consumers to assist them in their choices and prevent consumer detriment.

### Enforcement

The Panel has made the case strongly over the years for tougher enforcement action and penalties. We are pleased to see that there are signs that this work has paid off with stronger enforcement powers for the FCA in the new legislation. We particularly welcome the power to temporarily ban products as this should prevent further consumer detriment from accruing while the regulator investigates further.

### Future key priorities

We will:

- monitor the passage of the Financial Services Bill, and press for good consumer outcomes, from involvement in the pre-legislative scrutiny stage through to influencing implementation;
- raise governance and accountability issues to ensure the structure and process of regulation adequately takes into account the consumer interest and in particular respond to the government's forthcoming consumer landscape review;
- analyse and respond to proposals for a new competition regime and for competition powers for the regulator and in particular respond to the Independent Commission on Banking's (ICB's) report on banking; and
- work assiduously towards creating a workable and consumer focused unified regulatory regime in retail banking that embraces consumer credit appropriately and effectively.

*The Panel wants the new regulator to have a clearer vision of its role in providing consumer protection, to be more strategic in its approach to regulation and to use effective competition as a tool to encourage good behaviour rather than relying entirely on the threat of sanctions after problems emerge.*

Adam Phillips, BBA Seminar on the Financial Conduct Authority  
The Consumer Perspective on the FCA



### ***Our Objective:***

To assess whether, in taking over the regulation of retail banking conduct of business, the FSA has brought about improvements for consumers, and to work with the FSA on areas that could be further developed or improved.

# The effectiveness of the FSA in regulating retail banking

## Our actions and outcomes:

### FSA Effectiveness

Having welcomed the FSA's decision to regulate retail banking conduct of business, the Panel decided to review its first year of operation in November 2010. We examined specific aspects of banking regulation; the treatment of unauthorised transactions; the application of the right of set-off; and interest rate change notification. We identified a constructive set of recommendations for future strategy, policy and practice. Our work found that there were a number of areas where the Panel believes the FSA should have acted with greater speed and force. In particular, our seven key recommendations were that:

- the FSA needed to be more forceful in ensuring senior management buy-in within banks to what was happening at the customer level;
- the principle of treating customers fairly needed to be enforced more widely and effectively;
- a wider programme of FSA consumer research was required including mystery shopping;
- more regulatory data was required through regular returns regarding unauthorised transactions, including firms' root cause analysis;
- swifter regulatory action to deal with bank conduct of business failures was required;
- the FSA should have the power to introduce interim or temporary measures to protect consumers, whilst consulting on permanent changes to its rules; and
- greater supervisory scrutiny of banks' performance at the point of contact with customers was needed.

Overall we believe real progress has been made in the three areas we chose to focus on in our Banking Report. We are pleased that after years of refusing to do so under the Banking Code, FSA regulation now requires banks to provide customers with details of the interest rates on their saving accounts and let them know in advance of material falls in

rates and the expiry of bonus rates. We were disappointed that banks chose to waste their shareholders' money challenging the definition of the word 'immediate' in an effort to delay returning money taken without authorisation from their customers' accounts; we supported the FSA's tough stance. And while we are pleased that the FSA listened to the Panel's concerns with regard to set-off and the assessment of essential living costs, we will continue to monitor closely how banks apply set-off to joint accounts.

### Engagement on banking issues with consumer groups

In February 2011 the Consumer Panel followed up its effectiveness review with a banking round table to engage with other consumer groups. There were a wide range of attendees from both the FSA and consumer groups.

The Panel expressed the view that the FSA has taken measures during 2010-2011 that will bring about improvements for consumers of retail banking services. However, there is much more still to be done and we have welcomed the FCA's proposed new powers of earlier intervention and firmer action. In particular, consumer groups agreed that improvements need to be made in the areas of:

- engagement with consumers through more consumer research shared at an earlier stage;
- greater consultation and explanation of the FSA's position;
- use of the FSA's Retail Conduct Risk Outlook as an opportunity to maintain a regular dialogue with consumer groups;
- useful guidance to consumers that promotes best practice;
- naming and shaming firms that are being investigated and providing better contextual information on complaints to enable consumers to exercise choice;
- transparency over costs of banking and what is being offered;

- dealing with the problems of use of set-off;
- product development and governance;
- improving switching and barriers to entry and access; and
- consistent standards in payment regulation such as cheque clearing, faster payment services, payment security issues and innovation.

### Complaint handling

The Panel called for greater transparency from the regulators in relation to complaints data and for a naming, faming and shaming approach to ensure consumers are provided with information about the performance of the institutions they are dealing with by brand. The poor handling of complaints by firms is symptomatic of a lack of customer service focus in the industry and a failure of competition to drive better performance.

We look forward to the FSA introducing a requirement that firms are to analyse their complaint process in the light of Financial Ombudsman Service (the ombudsman service) decisions and guidance to improve the consumer experience. We support the abolition of the internal two stage process because evidence suggests that complainants may suffer complaint exhaustion by being put through too many hoops. Clear pathways need to be provided to the ombudsman in relation to all complaints and also in relation to poor complaint handling.

### Banking Conduct of Business (BCOB) industry guidance

The Panel has a formal role in advising the FSA, BBA, BSA and Payments Council on the Banking Conduct of Business Guidance and we have worked to encourage better consumer engagement with all these bodies. In carrying out its role the Panel liaises with a wide range of consumer groups as well as the FSA's Banking and Payments Conduct Policy Team. The Panel believes that the consultation process on guidance has improved on last year but concerns remain.

Our concerns relate to:

- the consultation process, which needs to be better structured to facilitate comments and feedback and allocated more time;
- transitional periods remain too long;
- consumer guidance is still limited, although the FSA's Know Your Rights information leaflet is helpful; and
- processes for dealing with matters outside the industry guidance need to be enhanced with an emphasis on the importance of constructive dialogue between the consumer groups and the BBA, and the mutual benefit that could follow.

The BBA has agreed to initiate regular dialogue with consumer groups and we hope that this will lead to a better reflection of consumer interests in BBA work.

### Transparency of bank charges

In our November evidence to the Independent Commission on Banking (ICB) and the November Treasury Select Committee's inquiry into competition in banking, the Panel raised the issue of transparency of bank charges for current accounts.

The present opaque nature of bank charges means that it is virtually impossible for consumers to compare charges and the service they are receiving. This severely restricts the ability of consumers to shop around for the best deal.

### Compensation limits

The Panel has continued to campaign for bank brands to be separately authorised. This would have the effect of ensuring compensation limits, in the event of a bank's failure, are always the European maximum of £85,000. The current approach means that more than one brand can be covered by a single authorisation, reducing the compensation level if a customer has accounts in more than one of the brands covered by the same authorisation. We believe that this creates unnecessary complexity and risk for customers. We have taken this campaign to Europe where the issue is being debated.

### Future key priorities

We will:

- promote effective consumer protection regulation during the transition of the FSA to the FCA/PRA and in particular follow the impact and effectiveness of guidance and recent changes to BCOBs and banking regulation;
- continue to argue for greater transparency in complaint handling and investigations; and
- encourage more effective FSA consumer engagement, better consumer intelligence and more meaningful cost benefit and detriment analyses.

*In spite of most of them never having witnessed the 'traditional' bank manager – the avuncular stalwart of yesteryear typified by Arthur Lowe in Dad's Army – consumers continue to call for his return, such is the level of distrust of contemporary financial services provision.*

Adam Phillips, Investment Adviser, September 27 2010

**Our Objective:**

To help facilitate the debate on simplified advice and straightforward products, bringing it higher up the political and regulatory agenda, and resulting in a more effective consideration of the pros and cons of this issue.



# Implementing the Retail Distribution Review (RDR)

## Our Actions and Outcomes:

Improvements in retail distribution should deliver real benefits for consumers. The FSA's RDR has been a programme the Panel has welcomed since its inception. It is one of the most significant steps in more than ten years of FSA regulation. However, more could still be done on improving intermediary services for consumers, in the areas of the regulation of platforms and the development of simplified lower cost advice for straightforward financial products.

### Input to the Treasury Committee RDR Inquiry

The Panel submitted evidence to the Treasury Committee's January 2011 RDR inquiry, making clear our support for the RDR and opposition to any further delay with its implementation beyond the end of 2012. We reiterated our view that the RDR presents an opportunity for independent financial advisers to raise the perceived value of their advice, improve professional standards within the industry, and deliver a range of services and products that meet consumer needs.

We outlined to the Treasury Committee that our key outcomes for the RDR remain:

- the elimination of bias in the market;
- ensuring the adviser is the true agent of the consumer;
- clarity over the costs of advice; and
- appropriate qualifications for financial advisers.

### Professionalism

The Panel has welcomed action to raise standards of professionalism within the industry and the introduction of QCF Level 4 is a good starting point for financial advisers, but ultimately we believe that Level 5 is the appropriate standard. It is in the interest of consumers and financial advisers alike that they are adequately qualified, trained and committed to continuing professional development. We wish to see the emergence of a financial advice profession on a par with law, medicine and accountancy.

During the last year we have urged the FSA to reconsider its model for a Professional Standards Board, which should be independently chaired with clear lines of accountability and clear mechanisms for ensuring consumer interests are taken into account.

### The advice gap and simplified advice

The RDR will bring changes to firms' business models, with some firms migrating to provide services to the top end of the market. Some advisers will inevitably leave the market as a result of the professionalism requirements. This could expand the gap in the advice market for middle income consumers. We envisage that such a gap could be filled by an affordable simplified advice process. This would offer a range of straightforward products with clear outcomes. We have been closely involved in discussions with the FSA, Practitioner Panels and industry to help stimulate debate and development in this area and to ensure no reduction in consumer protection.

There has been considerable concern expressed at Westminster due to the lobbying efforts of the IFAs. The Panel has been working to highlight the benefits of the RDR in the media and in meetings with Parliamentarians.

### Straightforward outcome products

Straightforward products, the logical partner of simplified advice models, have been the subject of extensive work by the Panel in the last year. Not all simple products are necessarily safe, nor are all complex products automatically risky. Consequently, we believe the focus should be on product outcomes: do they meet consumer needs and deliver what they promise? Effective competition, facilitated by regulatory oversight of their design, should ensure that these products represent good value. Support from both industry and the regulator will be necessary to make these products generally available. We believe that they could generate considerable benefits for consumers.

Our November 2010 research was designed to explore the scope for safer products. We have been involved in discussions with the Treasury and responded to the Treasury consultation on simple financial products. We are also commissioning more research into 'straightforward outcome' products to further inform our views and to stimulate debate.

### Investment platforms

Investment platforms are becoming increasingly important for buying, selling and administering investment portfolios. The current market stands at £110 billion with a potential future market estimated at £2 trillion. The Panel believes the FSA has to act, while the platforms market is still relatively immature, to bring the platforms market into line with other areas of retail distribution where the FSA has abolished commission payments. We would like rebates eliminated in order to promote competition and deliver better value to consumers. To inform the debate on platforms the Panel commissioned research into the platforms market and the implications of the FSA's proposals for consumers. The Panel held a media breakfast to launch this work alongside the Panel's own position paper on platforms in March 2011.

### Product intervention

The Panel is participating actively in the debate around the development of a framework for regulatory intervention in the design and development of new financial products and services. Currently we favour a flexible approach that reserves individual product approval for firms that have failed to demonstrate responsible product development, while firms with a proven track record would be able to 'self certify', provided that they had a clear audit trail showing that they had identified, considered and sought to mitigate key causes of potential consumer detriment. We believe the enforcement of the principle of Treating Customers Fairly should form the underlying basis of the approach.

### Future key priorities

We will:

- press the FSA to continue to work with the industry on simplified advice;
- commission research on straightforward outcome products, in particular into the structure and development of these products, to further inform the on-going debate, including the Treasury's possible initiative on simple financial products; and
- lobby the FSA on the future regulation of investment platforms to encourage them to ensure that the principles of the RDR are applied to investment platforms.

*The very well signalled changes that are being introduced by the RDR aim to reduce mis-selling, improve value for money for the consumer and introduce effective competition which limits the ability of intermediaries to extract excess profit from both the product provider and their customers.*

Adam Phillips Speech to the BBA, 2 March 2011

### **Our Objective:**

To support the FSA in developing its new approach to identifying and supervising conduct risk to consumers to ensure it is developed in a way that maximises the likelihood of good consumer outcomes (as it transitions to the FCA). The work concentrates on reviewing approaches to identify conduct risks before they crystallise; reviewing approaches to prioritise conduct risks; and, reviewing the supervision of firms with recognised conduct risks.



# Conduct of Business

## Our actions and outcomes:

The development of its approach to conduct of business policy, supervision and enforcement by the FSA and its successor the FCA is critical to maintaining and enhancing effective consumer protection. Consumers need to be able to trust that the financial services firms they deal with will treat them fairly.

The Panel is currently focusing its attention on building a clearer view of the FSA's practice at an operational level and identifying how the approach to risk identification and integration in operational supervision is developing as it transitions to the FCA. The Panel has sought to provide constructive input to this development process.

Clearly the early identification, analysis and mitigation of emerging risks is an important area. The Panel has in place a round of regular meetings with consumer groups to exchange information about such risks and to act as a

conduit for this information to the FSA. We keep a record of developments in key areas and pursue these actively where appropriate. We liaise closely with the FSA team producing the Retail Conduct Risk Outlook and intend to continue our liaison during the early stages of the conduct supervision programme.

### Future key priorities

We will:

- take a close involvement in the development of the FSA's regulatory philosophy, to ensure the approach is meaningful, effective and enhances the consumer interest;
- continue regular liaison with consumer groups and the FSA and its successors to identify and discuss emerging conduct and consumer risks; and
- encourage the FSA to improve the level of effective engagement with consumers and consumer groups.

***The FCA should not simply be the FSA in new clothes but must learn the lessons of the last decade and act far more assertively in favour of consumers. We look forward to seeing greater transparency, straightforward products, temporary product bans and the publication of enforcement action taken against misbehaving firms so that consumers can make appropriate choices.***

Adam Phillips, Consumer Panel Press Release, 2 March 2011

***Our Objective:***

To work constructively and positively with the FSA to achieve a balance between a well-functioning and well-regulated market that meets consumers' needs and provides good consumer protection.



# Mortgage Market Review (MMR)

## Our actions and outcomes:

The FSA launched the MMR with its October 2009 discussion paper. The review had the admirable aims of seeking to protect consumers not only by ensuring the financial system is prudentially sound but by ensuring that firms conduct their business fairly. The Panel supports the MMR's high level principles but has voiced concerns over the thrust of the FSA's early proposals. The mortgage market needs to function more effectively and our view is that consumers should be able to shop around for affordable mortgage products that meet their individual needs. The total cost of a mortgage should be easily comparable across the market, with lenders competing for consumers' business on price and level of customer service. For any customers experiencing financial difficulty, firms should be treating them positively and sympathetically, with a solution to managing the mortgage arrears developed on an individual basis.

We have been very supportive of the FSA's proposals that deal with firms' arrears management practices and repossessions. This is an area with significant risk of detriment and hardship for consumers, especially in the current economic climate. Strong and decisive action by the FSA on this front is required to remind firms of their duty to treat customers fairly and signal the FSA's commitment to identify and take action against non-compliant firms.

We voiced serious concerns about the FSA's most substantive proposals on responsible lending expressed in its summer 2010 consultation paper.<sup>5</sup> This covered a range of issues related to responsible lending and the fairer treatment of consumers, including the assessment of affordability and verification of income. The Panel had significant concerns regarding:

- The scope and quality of the FSA's economic analysis, which failed to take into account the potential negative consequences of the MMR such as consumers being forced to settle for less expensive property, the impact on those who are deemed no longer able to afford to buy at all or those who may be forced to sell their properties at a time not of their choosing and when market conditions are not favourable.
- The interaction between the FSA's conduct proposals and the macro-prudential policies the Financial Policy Committee may adopt to deal with an emerging property bubble.

- Detail of the FSA's transitional arrangements for those with existing products.

Our response to the consultation<sup>6</sup> provides greater detail on each of these points. Subsequently, the Panel did not feel it had sufficient information to be able to respond effectively to the FSA's Responsible Lending Consultation (CP10/16) in November 2010.

As a result of the work of the Panel and others, the FSA was persuaded that it should proceed with greater care and deliberation. The lack of an imminent recovery in the housing market helped persuade them to agree to consult on the full range of the Responsible Lending proposals. We are continuing to engage closely with the FSA as its analysis progresses.

That consultation will include, as we now understand, a more complete analysis of the welfare costs and benefits of the draft proposals. We are led to believe this will mean, where possible, a quantification of the potential loss to creditworthy borrowers who cannot obtain a mortgage or who are obliged to accept a smaller mortgage as a result of the proposed income-expenditure affordability test. The latter point is one of our greatest concerns.

Persuading the FSA to move with greater care and deliberation in this regard is a tangible sign of the impact the Panel has had in the last year when working closely with the regulator.

### Future key priorities

We will:

- continue to press the FSA to conduct a fully comprehensive cost benefit analysis, which is given due consideration when the Board makes its decision on the policy proposals and we will work to achieve the appropriate balance between conduct and prudential interventions; and
- clarify with the FSA whether it will proceed as previously proposed with its draft rules on affordability and press for early sight of the transitional proposals while working to ensure that the wider social and economic implications are understood.

<sup>5</sup> [www.fsa.gov.uk/pubs/cp/cp10\\_16.pdf](http://www.fsa.gov.uk/pubs/cp/cp10_16.pdf)

<sup>6</sup> [www.fs-cp.org.uk/publications/pdf/resp\\_mmr1611.pdf](http://www.fs-cp.org.uk/publications/pdf/resp_mmr1611.pdf)

# Our regular agenda

Aside from our work in our priority areas, topics we have worked on in previous years and issues raised by other organisations in the course of the year, have continued to take up the Panel's time as well.

## With-profits funds

With-profits remains a problem area for consumers. With 25 million with-profits policies currently being held for pensions and other savings the Panel believes that it is totally unacceptable that firms' failure to play by the rules is still potentially exposing substantial numbers of consumers to risk. Moreover, there is still a lack of affordable advice for those stuck in 'with-profits' policies. The FSA review report, published in June 2010, demonstrated that firms were still not conforming to FSA rules and outlined a number of possible changes to the regulatory regime to address some of these.

Ahead of the publication of the FSA's report the Panel organised a round table meeting in April 2010 for a range of consumer groups and representatives of the FSA, which focused on the consumer issues surrounding with-profits. The participants raised continuing concerns over, amongst other things, the governance of with profits funds, communications with fund members and the fate of closed funds. The FSA's consultation on the rule changes was published as this report went to press.

## Payment Protection Insurance (PPI)

The Panel remains extremely disappointed with the behaviour of the industry over the mis-selling of Payment Protection Insurance (PPI). The Panel believes that PPI is fundamentally a useful product that has been flagrantly mis-sold. This sorry saga has seen the banks attempt to litigate their way out of responsibility instead of accepting responsibility and compensating consumers. Trust and confidence in the sector will not be restored when financial institutions fail to take responsibility for bad practice and continue to hide behind legal challenges.

Consequently, PPI has been an issue to which the Panel has had to return to many times throughout the year. We welcomed the FSA's temporary safeguards that allowed consumers more time to go to the ombudsman by suspending the six-month time limit, issued calls for stronger action by the FSA, called for banks to resolve outstanding mis-selling claims and raised concerns over the time it was taking to resolve PPI cases.

## Authorisation and Crown Currency

The Panel raised the issue of the registration of payments institutions with the FSA in December 2010 after the collapse of Crown Currency. Consumers cannot be expected to understand the difference between firms that are "registered" with the FSA and "authorised" by the FSA. This difference is significant in terms of the powers the FSA has to ensure the business is run professionally and with adequate arrangements to safeguard customers' money. Furthermore, if something goes wrong consumers have no access to the Financial Services Compensation Scheme. We are aware that the FSA is currently undertaking research in this area and we will work with the FSA to improve levels of consumer protection, including wider and stronger supervisory and enforcement powers for the FSA/FCA. We hope that this will be forthcoming from the Government's regulatory reform proposals.

## Annuities

The Panel undertook research into annuities which we published in October 2010. The research demonstrated the risk of potential detriment in the annuities market from the lack of information provided to consumers on shopping around and the choice of appropriate types of annuities.

*We are very pleased with the result of the court case which is a comprehensive endorsement of the FSA's action over PPI. This judgement is a triumph for common sense.*

Adam Phillips, 20 April 2011 Consumer Panel Press Release, commenting on the outcome of the judicial review.

### Mortgage arrears and repossessions in Scotland

The Panel achieved a notable success in persuading the FSA to act to challenge double-charging by mortgage lenders in Scotland involving an estimated 20,000 mortgage loans, which includes 15,000 older cases. The FSA has also spoken with the Council of Mortgage Lenders (CML) to recommend guidance for its members on this point. Affected borrowers will be able to apply to the Financial Ombudsman for compensation.

This followed the UK Supreme Court in the case of RBS Plc v Wilson and others on 25 November 2010. The case concluded that there had been a misinterpretation of the law applicable to arrears and repossessions in Scotland and that when borrowers fell into arrears lenders should have first issued a default notice “calling up” their arrears rather than simply proceeding with an action for repossession.

Following the ruling, mortgage lenders then reissued proceedings appending the failed repossession costs to the borrowers’ bills, thus effectively double-counting consumer costs. This was challenged by the FSA following representations from the Panel. As a result of the Panel’s work the FSA is now monitoring firms’ behaviour.

### Consumer advice and Money Advice Service (MAS formerly known as CFEB)

For years the Panel has pressed for increased access to unbiased free advice and education for consumers. We were very pleased with the establishment of the Money Advice Service (MAS), formerly known as the Consumer Financial Education Body (CFEB). The Panel worked closely with CFEB during the set-up period and signed a memorandum of understanding with them in summer 2010. We do however believe that as effective as the MAS may prove to be, their presence should not absolve the FSA and its successor bodies from also carrying out work in improving the financial understanding of consumers. Given the focus of the MAS on the financial health check there are still issues with the broader advice arena for consumers.

### Edinburgh financial services sector

With the growing maturity of the governmental and Parliamentary structures in Scotland and Europe, the Panel has taken the view that it is essential to develop our links with these institutions in order to fulfil our role of representing consumers across the UK financial services

sector. Therefore, the Panel held its October meeting in Edinburgh and also held several meetings with various representatives of the Scottish financial services sector and members of the Scottish Parliament’s Economy, Energy and Tourism Committee.

Our meetings also assisted in informing our response to the Treasury on the future of financial services regulation. We have called for more account to be taken of the concerns of the regional financial services sector and in particular raised the issue of lack of competition in the banking sector in Scotland and Northern Ireland with the Treasury.

### Financial crime

Financial crime is an area which the Panel often comes across in the course of its work. We have raised the misuse of the names and details of authorised firms – in particular for firms passporting into the UK from Europe – by non-authorised persons in order to offer investments or take deposits without authorisation. Otherwise, we have raised concerns over unauthorised collective investment schemes such as trees, crops and wine with the FSA and also with CFEB, as it was then known.

Looking forwards, the Panel has raised the importance of financial crime issues with the FSA and with the Treasury in terms of what might be perceived as a downgrading of financial crime in the objectives of the FCA. With the cuts to other enforcement areas it is crucial that this role continues to have a strong focus, expertise and resources in the FSA.

#### Future key priorities

We will:

- continue to press the FSA to resolve outstanding areas of detriment in the with-profits market, particularly with regard to governance and communications with policyholders;
- work with the FSA and other consumer bodies to persuade the banks to settle their PPI mis-selling liabilities promptly;
- press the FSA to do more on registered payment institutions, in particular to introduce more consumer safeguards; and
- work with the FSA and the Treasury to ensure tougher action on financial crime and stronger powers for the FCA.

# European Union regulation

## Our Objective:

The Panel will work to influence the development of EU financial services policy so that it reflects the interests of UK consumers and ensures that UK consumers can buy financial services with full confidence about market supervision, enforcement, transparency, competition and redress, including buying financial services cross-border if they choose to do so.

## Our actions and outcomes:

In 2006 around 70% of changes to the FSA Handbook resulted from new EU requirements.<sup>7</sup> This figure continues to rise steadily. Consequently, the Panel has dedicated a significant proportion of its resources to engaging early and strategically with EU policymakers and opinion formers as well as responding to specific initiatives.

### Consumer representation in the EU

We contribute to, and benefit from our involvement with our partners in BEUC, the European consumer group, by exchanging views on emerging policy and participating in seminars and meetings.

The Panel was pleased to see that the new European Supervisory Authorities (ESAs) have in place stakeholder groups to contribute to the policy debate. The Panel's Vice-Chair, Kay Blair, has been appointed as a consumer representative on the Insurance and Reinsurance Stakeholder Group of EIOPA.

### Compensation

The Panel has been campaigning for consistent minimum standards of compensation in all Member States for deposits, insurance and investments. We have opposed a maximum

harmonisation approach as this would reduce the existing level of consumer protection in individual Member States and restrict the ability of national regulators to respond to particular features of the market. We have also called for greater protection in the case of temporary high balances.

### Per brand compensation

We have called for deposit compensation limits to be applied by brand, rather than by authorisation or licence, to make it clearer to consumers how well they are protected and the limits that apply. We have raised our concerns in our discussions with the FSA, the Commission, with Sharon Bowles MEP, Chair of the European Parliament's Economic and Monetary Affairs Committee, and with other influential Committee members.

### PRIPS – Packaged Retail Investment Products

Overall, the Panel supports the Commission's intention to bring about greater consistency in regulation in this area as we believe that this will increase consumer protection within the single market. Clearly, a 'one size fits all' approach to disclosure would not be feasible and further work is required on market testing the PRIPS Key Investor Disclosure Document to ensure that it is sufficiently flexible to accommodate different products and that it is effective in delivering what consumers need to know.

<sup>7</sup> *International Regulatory Outlook* July 2006 at [www.fsa.gov.uk](http://www.fsa.gov.uk)

*My role on the Consumer Panel has enabled me to fight to get a fair deal and better outcomes for consumers of financial services. This appointment [to the EIOPA stakeholder group] will help ensure the interests of consumers are adequately represented in Europe as well as complementing my work for the Consumer Panel.*

**Kay Blair, 11 March 2011**

#### **MiFID – Markets in Financial Instruments Directive**

We supported the strengthening of consumer protection within MiFID and its future application to the sale of PRIIPS, but we urged the Commission to introduce a principle that financial advisers and sales staff should have a duty to act in their clients' best interests. This is the simple premise on which the retail financial services market should be based and would provide a fundamental protection for consumers which is currently implied, but not explicit, within MiFID.

#### **Insurance Mediation Directive**

In our response to the review we called for a minimum harmonisation approach to accommodate the diverse range of insurance markets in different Member States. As with MiFID, we called for an explicit general overarching principle that advisers and sales staff must act in the best interests of their clients.

#### **Alternative Dispute Resolution (ADR)**

We are concerned that consumer protection has not kept pace with the Single Market in its provision of an EU-wide network of financial ombudsmen and consumer complaints organisations. The Panel would favour a requirement that all financial services companies operating cross-border should belong to a redress scheme meeting minimum EU requirements, which could be a scheme based in either

the host or the home state and we have called for the strengthening of the EU redress network FIN-NET.

#### **EU Banking Reforms**

The Panel supports the principle, currently under discussion in the EU, that all citizens should have access to a basic bank account, including those with an adverse credit history or without conventional means of proving their identity. Moreover, account charging structures should be simple, clearly explained to the customer and consumers should be made aware of the costs and benefits of particular accounts and services.

There is a great deal of other work underway on banking issues, much of which has not yet resulted in specific policy proposals, which we are monitoring closely. We will continue to be closely engaged in the debate as it moves forward.

# Future key priorities

Over the next year we will continue our focus on better consumer outcomes across the financial services sector. We will continue to engage effectively with the FSA as it transitions into the FCA, ensuring that at all times the consumer voice is heard and consumer interests safeguarded. This is a very exciting and challenging time for financial services regulation and the Panel intends to play a critical role in influencing the debate and delivering better consumer outcomes.

In particular, as highlighted in the preceding sections, we will devote our resources to key priorities, namely:

- financial services regulation;
- retail banking;
- retail distribution;
- FSA/FCA conduct of business; and
- mortgage market.

We will review our priorities at key intervals throughout the year, ensuring that we are taking into account significant issues as they arise. We will also continue with our regular agenda as we interact with the FSA/FCA and its ongoing programme of work.

The last year has seen some dramatic changes proposed for the future of financial services regulation. We look forward to 2011/12 ushering in a new era of consumer protection.

# Appendix I – Panel Terms of Reference

The FSA Board agreed the following revised terms of reference for the Consumer Panel on 15 March 2001.

The Financial Services Consumer Panel ('the Panel') is established by the Financial Services Authority (FSA) under the Financial Services and Markets Act to represent the interests of consumers. The Panel is independent of the FSA and can speak out publicly on issues where it considers this appropriate.

Panel Members are appointed by the FSA in accordance with Nolan principles, in order to represent consumers, with HM Treasury's approval in the case of the Chairman. The FSA Board approves the Panel's annual budget and provides a dedicated Secretariat to support the Panel.

## Scope

The main purpose of the Panel is to provide advice to the FSA. As such it does not carry out responsibilities on behalf of the FSA. For example, the Panel does not undertake consumer education, nor does the Panel take up individual consumer complaints.

The emphasis of the Panel's work is on activities that are regulated by the FSA, although it may also look at the impact on consumers of activities outside but related to the FSA's remit.

The Panel will have regard to the interests of all groups of consumers including those who are particularly disadvantaged in the context of financial services, including consumers who have little or no access to financial services.

## Purpose

The Panel will:

- a. represent the interests of consumers by advising, commenting and making recommendations on existing and developing FSA policy and practices as appropriate;
- b. speak on behalf of consumers by reviewing, monitoring and reporting to the FSA on the effectiveness of the FSA's policies and practices in pursuing its duties; and
- c. keep under review and influence actual and potential developments in financial services to enable it to fulfil (a) and (b) effectively.

In addition, it can advise the government on the scope of financial services regulation.

The Panel can consider other matters that assist it in carrying out its primary functions.

## Accountability

The Panel shall publish an Annual Report on its work and expenditure.

The Panel can speak out publicly when it wishes to draw attention to matters in the public interest and when it disagrees with the FSA.

# Appendix 2 – Consumer Panel Members



## **Adam Phillips – Chair**

Adam has extensive experience of market research, including research into consumer financial products. He is Managing Director of Real Research, his own market research consultancy, and is chair of the Professional Standards and Legal Committees of ESOMAR (the world association of market research professionals). He was appointed to the Panel in March 2004, became Vice-Chairman in November 2005, and was appointed Chairman of the Panel in July 2009.

Attendance at Full Panel meetings – 10/11 eligible to attend



## **Kay Blair – Vice Chairman**

A former business journalist, Kay now owns and manages the Edinburgh-based marketing and communications consultancy, Business Perceptions. She is also a non-executive director of NHS24, Chair of the Scottish Housing Regulator, a consumer representative on EIOPA's Insurance and Reinsurance Stakeholder Group and a non-executive member to the Court of St Andrews University. A Fellow of the Chartered Institute of Marketing, Kay is also a former member of the Scottish Consumer Council and a past non-executive director of the Scottish Ambulance Service and the Scottish Legal Aid Board. Kay was appointed Vice-Chairman of the Panel in October 2009.

Attendance at Full Panel meetings – 11/11 eligible to attend



## **Stephen Crampton**

Stephen is an independent EU and consumer affairs consultant with over 25 years of knowledge of consumer and regulatory issues at EU and UK level. Previously he was EU Advisor at Which? and was responsible for developing their European strategy and for policy research on EU issues. Previous to that he was director of the Consumers in Europe Group and also held various roles at the National Council for Voluntary Organisations.

Attendance at Full Panel meetings – 11/11 eligible to attend.



## **Mike Dailly**

Mike is Principal Solicitor and Director of Govan Law Centre, Glasgow, one of the largest community-based law centres in the UK. He is a Member of Glasgow University's Law School Advisory Panel and Vice-Chair of the Active Learning Centre, a small international human rights charity. Mike was a Member of the Secretary of State for Scotland's Poverty Advisory Group until 2010, Legal Advisor to the UK Sustainable Home Ownership Partnership, and a Member of the Child Poverty Action Group in Scotland's Advisory Panel.

Attendance at Full Panel meetings – 9/11 eligible to attend



### **Caroline Gardner**

Caroline is a Director of Deloitte's Financial Services Strategy Team, leading strategic, marketing and consumer projects across a wide range of financial services markets but particularly focusing on insurance and investment markets. She has provided advice to the government, trade and consumer bodies and to financial services providers, investors and distributors. Caroline has more than 20 years experience of understanding consumer dynamics in the financial services arena. Caroline chairs one of the Panel's working groups.

Attendance at Full Panel meetings – 11/11 eligible to attend.



### **David Harker (Appointed to Panel 1 January 2011)**

David Harker is a non-executive director of the Gas and Electricity Markets Authority, the gas and electricity regulator, and a member of the Council of the Advertising Standards Authority, which regulates advertising in the UK. For 13 years he was the Chief Executive of Citizens Advice, the national body for Citizens Advice Bureaux. Previously he spent eight years as the Managing Director of Sense, the national disability charity. David has an MBA from the London Business School and a masters in social policy. His earlier career included management consultancy and working as a policy analyst for a local authority. David received an OBE in 2003 and a CBE in 2011. In 2009 he was made a Companion of the Chartered Management Institute.

Attendance at Full Panel meetings – 2/3 eligible to attend.



### **Frances Harrison (Appointed to panel 1 January 2011)**

Frances Harrison is National Partnership Adviser to Fairbridge Training (part of the Princes Trust Group) and a member of the Finance and Leasing Association's Lending Code Group. Previously, she was Manager of Fairbridge West, a charity working with disadvantaged young people; spent nine years with the National Consumer Council as Head of Policy Research and Development and Senior Policy Officer, High Street Law and Practice. Prior to this, Frances worked for the National Association of Citizens Advice Bureaux as a Specialist Support Officer for consumer law. Frances has also worked for the Wolverhampton Metropolitan Borough Council as Manager of a Consumer Advice Centre, and for West Midlands County Council in their Consumer Protection Department. She is a former Chair of Consumer Congress and the Institute of Consumer Affairs and has been a member of various government working groups representing the consumer interest. She has a Masters (LLM) in Commercial Law from the University of Bristol.

Attendance at Full Panel meetings – 3/3 eligible to attend



### **Tony Hetherington (Retired from Panel 31 March 2011)**

Tony Hetherington has been a financial journalist since 1982. His weekly column responding to readers' letters on financial matters appears in the *Mail on Sunday* and he has a midweek column published online by the *Mail*. He also writes a syndicated weekly advice column, which appears in local and regional newspapers.

Attendance at Full Panel meetings – 10/11 eligible to attend.


**Nick Lord (Retired from Panel 31 December 2010)**

Nick has over 25 years' experience advising consumers on money issues. His past roles include Head of Money issues at Citizens Advice and National Lead Tutor for the Money Advice Trust. Nick continues to spend two days a week advising consumers. He is also a member of the Finance & Leasing Association Lending Code Group, the Solicitors Regulation Authority Financial Protection Committee, and he chairs the Governance Board of the recently established Home Credit Comparative Website.

Attendance at Full Panel meetings – 9/10 eligible to attend.

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**Bill Martin**

Bill is an experienced macroeconomist, and is currently a Senior Research Associate of the Centre for Business Research at the University of Cambridge. With an early career with the Government Economic Service, Bill was a special adviser in the Central Policy Review Staff between 1981 and 1983. Between 1983 and 1998, he held various senior roles, including that of Chief UK Economist, at the investment banking arm of the Swiss bank UBS (formerly Phillips & Drew). He was then appointed as Chief Economist of the fund management arm of UBS until 2004.

Attendance at Full Panel meetings – 11/11 eligible to attend.

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**David Metz**

David Metz had a career first as a research scientist and then as a senior civil servant in a number of Whitehall departments where his responsibilities included regulation and consumer protection. He is currently a visiting professor at University College, London and is co-author of the book *Older, Richer, Fitter: identifying the customer needs of Britain's ageing population* published by Age Concern Books. David is a Non-Executive Director of Camden Primary Care Trust.

Attendance at Full Panel meetings – 9/11 eligible to attend.

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**Dan Plant (Appointed to Panel 1 January 2011)**

Dan Plant is Web Editor at MoneySavingExpert.com. His six years at MSE has involved major input and oversight of campaigns including reclaiming mis-sold payment protection insurance, unfair bank charges and improving financial education in the UK. The core part of his role is creating and managing the consumer-focused content in all areas of personal finance, helping the website's ten million monthly users save money in almost all areas of life, as well as developing innovative new tools to bring financial information to new audiences.

Attendance at Full Panel meetings – 3/3 eligible to attend.



**Faith Reynolds (Appointed to Panel 1 January 2011)**

Faith Reynolds is an inaugural Clore Social Fellow, currently undertaking research on Big Society while being based at the Institute for Government. Until autumn 2009 Faith was Development Manager at Toynbee Hall, East London, where she led strategic development for Financial Inclusion. She established Services Against Financial Exclusion in 2002, which has since helped over 10,000 people manage their money more effectively. In 2004 Faith founded Transact, the national forum for financial inclusion, which has over 1,400 organisational members across the UK from the not-for-profit, public and private sectors. Faith is a member of HM Treasury's Financial Inclusion Taskforce and its Money Advice sub-group, advising government on its financial inclusion strategy. She has also advised major high street banks on the development of their financial products and services.

Attendance at Full Panel meetings – 3/3 eligible to attend.

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**Lindsey Rogerson**

Lindsey is a freelance financial journalist, and currently writes for The Herald, Sunday Herald and The National, as well as contributing to numerous other publications and websites, including her columns in Aurora and Moneymagpie. She was chosen as European Private Equity Journalist of the Year 2005/6. Previously she has been Personal Finance Editor of The Scotsman and editor of Private Banker International.

Attendance at Full Panel meetings – 10/11 eligible to attend.

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**Carol Stewart (Retired from Panel 31 May 2010)**

Carol Stewart is currently a generalist adviser with Citizens Advice. Prior to this she spent over 20 years working in investment banking, most recently with UBS where she held a senior position in the Legal and Compliance area.

Attendance at Full Panel meetings – 4/4 eligible to attend

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**Claire Whyley**

Claire is a professional researcher, policy analyst, and consumer champion. She is currently a freelance consultant helping organisations develop their capacity to understand and respond to consumer needs, and undertaking specialist research and policy development in the fields of consumer disadvantage, poverty, debt, credit regulation, financial and social exclusion. Claire is a member of the Finance and Leasing Association Lending Code Group, and a former member of the Financial Inclusion Taskforce. Previously, Claire was Head of Consumer Futures and Deputy Director of Policy at the National Consumer Council until the end of 2008.

Attendance at Full Panel meetings – 9/11 eligible to attend.

# Appendix 3 – Budget and expenditure

The FSA's Board agrees a budget for Panel Members' fees, expenses and any work we commission; and we are supported by a Secretariat of FSA staff.

Actual expenditure in 2010/2011 was £865K. This overspend on budget relates to the fact that the work of the Panel increased significantly during the period due mainly to the restructuring of the regulatory framework, as a result of the change of Government, and the new policy initiatives being developed by the FSA and EU as a result of the crisis. The increase in the Panel's workload was recognised by the FSA, which approved an expansion in Panel membership from 12 to 15.

	<b>Budget April 2010– March 2011 (£000)</b>	<b>Actual April 2010– March 2011 (£000)</b>	<b>Actual April 2009– March 2010 (£000)</b>
<b>Panel members' fees' and expenses</b>	254	372	322
<i>Fees</i>	<i>211</i>	<i>299</i>	<i>269</i>
<i>Travel &amp; Expenses</i>	<i>43</i>	<i>73</i>	<i>53</i>
<b>Professional fees<sup>2</sup></b>	226	163	72
<b>Sundries<sup>3</sup></b>	200	330	109
<b>Total</b>	681	865	503

1. The fees are exclusive of employers' National Insurance contributions paid by the FSA. The fees payable to Panel members during the year from 1 April 2010 to 31 March 2011 were as follows:

Panel Chairman	£52,000 per annum
Panel Vice Chairman	£30,000 per annum
WG Chairs	£22,000 per annum
Members whose minimum commitment is 45 days a year	£18,000 per annum
Members whose minimum commitment is 32.5 days a year	£13,000 per annum

2. Professional fees includes research expenditure. As in 2009-10, the spending on research in 2010-11 was lower than budgeted as some of the planned research did not take place.

3. Includes costs of recruitment, non-FSA meeting facilities and other miscellaneous expenditure.

# Appendix 4 – Panel Members on other bodies

## Panel members as Consumer Representatives on FSA Bodies

### **FSA Complaints Data Committee**

Tony Hetherington

### **HMT & FSA IMD Working Group**

Lindsey Rogerson

## Panel members as consumer representatives on bodies related to the Panel's Work

### **Banking Code Review Group**

Lindsey Rogerson

### **Consumer Financial Education Body, Financial Healthcheck Group**

Claire Whyley

### **Department for Business Innovation & Skills Consumer Finance Forum**

Nick Lord

### **European Insurance & Occupational Pensions Authority, Insurance and Reinsurance Stakeholder Group**

Kay Blair

### **Financial Ombudsman Services Committee – Complaints Handling Group**

Tony Hetherington/Claire Whyley

### **Financial Ombudsman Services Consumer Liaison Group**

Tony Hetherington/Claire Whyley

### **Financial Health Forum**

Nick Lord/Adam Phillips

### **Financial Services Expert Group of the European Consumers Association (BEUC)**

Stephen Crampton

### **Financial Services Compensation Scheme Consumer Awareness Advisory Panel**

Adam Phillips

### **Payments Council Forum**

Lindsey Rogerson/David Harker

# Appendix 5 – Meetings with external bodies

AEGON	Financial Services Compensation Scheme (FSCS)
Age UK	Financial Services Smaller Businesses Practitioner Panel (FSSBPP)
Association of British Insurers (ABI)	Financial Services Practitioner Panel (FSPP)
Association of Independent Financial Advisers (AIFA)	Her Majesty's Treasury
Association of Investment Companies	Inside Government – Financial Exclusion
Bank of England (Andrew Bailey and Paul Tucker)	Institute for Consumer Policy, Germany
Barclays	Investment Management Association (IMA)
British Bankers' Association (BBA)	Lending Standards Board
Building Societies Association (BSA)	Money Advice Scotland
Capital Credit Union	National Employment Savings Trust
Citizens Advice Bureau (CAB)	Nottingham University (Financial Services Forum)
Consumer Focus	Office of Fair Trading (OFT)
Consumer Financial Education Body	Payments Council
Clydesdale	Resolution Foundation
Chartered Insurance Institute	Royal Bank of Scotland
Committee of European Securities Regulators	The Economy, Energy and Tourism Committee of the Scottish Parliament
Council of Mortgage Lenders (CML)	Scottish Widows
Department of Work & Pensions (DWP)	Shelter
European Consumers' Organisation (BEUC)	Standard Life
European Parliament Economics & Monetary Affairs Committee	Tesco Bank
FairBanking	UK Shareholders' Association
Fidelity Investments	Department for Work and Pensions
Finance & Leasing Association	Which?
Financial Ombudsman Service (FOS)	

# Appendix 6 - Events at which the Chair, Vice Chair or Members of the Financial Services Consumer Panel have spoken:

ABI Annual Conference on Simplified Advice

AGE UK seminar on Equity Release

British Bankers' Association Seminar on the Consumer Perspective on the FCA

British Bankers' Association RDR Seminar

Fidelity Investments Seminar on RDR

FSA Training & Competence Sourcebook Event

Midland Fraud Forum

Scottish Financial Services – Future of Banking Event

BEUC Annual Conference

St Andrews University London Alumni Club – The Big Debate

FSA Enforcement Conference

FSA Annual Meeting

# Appendix 7 – Panel publications, research and responses to consultations

The full list of our publications for this and previous years in on our website at: [www.fs-cp.org.uk](http://www.fs-cp.org.uk)

## Panel position papers

- Consumer Panel Position Paper on Delivering the RDR: Platforms, March 2011
- Panel views: Retail Distribution Review (RDR), October 2010
- Consumer Panel Position Paper on Retail Banking, October 2010

## Research:

- Research by Bluerock Consulting Limited on Implications of RDR Platform Proposals on Consumer Outcomes, February 2011
- Regulation of Retail Banking Conduct of Business – a review of the first year of the new regulatory regime, November 2010
- Chairman’s Foreword to Safer Products report, November 2010
- Research by David Severn on Safer Products, November 2010
- Annuitisation Process and Consumer Detriment, October 2010
- Transparency – Executive Summary, September 2010
- Transparency as a regulatory tool by John Leston, September 2010
- Opinion Leader Research – Consumer perceptions of fairness within financial services, June 2010

**Responses to Consultations****Accountability of the Bank of England**

Response to the Treasury Committee Inquiry  
31 March

**Response to the Treasury Consultation Paper:  
Simple Financial Products**

25 March

**Response to the joint Treasury/Business Innovation  
and Skills consultation on reforming the consumer  
credit regime**

22 March

**Transportation of UCITS IV**

Response to HMT/FSA consultation document  
17 March

**Alternative Dispute Resolution**

Response to European Commission CP  
15 March

**Proposed changes to BCOBS**

Response to FSA CP11/1  
10 March

**Review of the Insurance Mediation Directive**

Response to DG Markt consultation document  
28 February

**Early access to pensions savings**

Response to HMT Consultation Paper:  
25 February

**Mortgage Market Review: Distribution and  
Disclosure**

Response to FSA CP10/28  
21 February

**Delivering the RDR and other issues for platforms  
and nominee-related services**

Response to CP10/29  
16 February

**Removal of the requirement to annuitise pension  
savings by age 75**

Response to FSA CP11/1:  
4 February

**Review of the Markets in Financial Instruments  
Directive**

Response to consultation document  
1 February

**Pension reform - Conduct of business changes**

Response to FSA CP10/26  
1 February

**Legislative steps for the Packaged Retail Investment  
Products Initiative**

Response to consultation by Commission Services  
31 January

**Competition and Choice in the Banking Sector  
Further evidence to the Treasury Committee Inquiry**

9 January

**The Ombudsman award limit and changes to  
complaints-handling rules**

Response to FSA CP10/21  
20 December

**Review of consumer credit and personal insolvency**

Response to the Department for Business  
Innovation and Skills  
10 December

**Decision Procedure and Penalties manual and  
Enforcement Guide review 2010**

Response to FSA CP10/23  
10 December

**Consultation on PPI draft order**

Response to Competition Commission  
3 December

**Further Evidence to the Treasury Committee Inquiry  
into financial regulation**

3 December

**Retail Distribution Review: Advisor Charging Changes**

Response to FSA CP10/22  
3 December

**Implementation of the Second Electronic  
Money Directive**

Response to FSA CP 10/25  
30 November

**Insurance Guarantee Schemes**

Response to the Commission White Paper  
25 November

**Access to a basic payment account**

Response to DG Markt's CP  
17 November

**Mortgage Market Review - Responsible Lending**

Response to FSA CP10/16  
16 November

**Submission of Independent Commission on Banking  
issues paper**

15 November

**Chapter 10 Change to the compensation limit for deposits (COMP)**

Response to FSA CP10/22  
8 November

**Quarterly Consultation No 26 Chapter 8: Retail Distribution Review: Professionalism Notification**

Response to FSA CP10/22  
5 November

**Consultation on financial regulation**

Response to HM Treasury  
26 October

**Mortgage Market Review – Responsible Lending**

Response to FSA CP10/16  
30 September

**Working Paper on Responsible Mortgage Lending and Borrowing**

Response to DG Markt's Working Paper  
24 September

**Question 3 Delivering the RDR: Professionalism**

Response to FSA CP 10/14  
23 September

**Removing the requirement to annuitise by age 75**

Response to HMT  
10 September

**Quarterly Consultation no 25 Chapter 8**

Response to FSA CP10/15  
6 September

**Quarterly Consultation no 25 Chapter 7**

Response to FSA CP10/15  
6 September

**Competence and Ethics**

Response to FSA CP10/12  
2 August

**Review of Barriers to Entry, Expansion and Exit in Retail Banking**

Response to the OFT  
8 July

**Strengthening the administration regime for insurers**

Response to HMT  
24 June

**Enhancing the Client Assets Sourcebook**

Response to FSA CP10/9  
21 June

**Pure protection sales by retail investment firms: remuneration transparency**

Response to FSA CP10/8  
21 June

**Implementing aspects of the Financial Services Act 2010**

Response to FSA CP10/11  
10 June

**Consumer Complaints (emerging risks and mass claims)**

Response to FSA DP10/1  
10 June

**Quarterly Consultation no 24 – proposed changes to Chapter 10 of the Supervision Manual**

Response to FSA CP10/10 (Chapter 11)  
4 June

**Chapter 6: Proposed changes to the Conduct of Business Sourcebook (COBS4)**

Response to FSA CP10/10  
4 June

**Platforms: Delivering the RDR and Other Issues**

Response to FSA DP 10/2  
26 May

**Regulatory reform of credit unions in Northern Ireland**

Response to HMT/DETINI  
19 May

**Mortgage Market Review – Arrears**

Response to FSA CP10/2  
29 April

**Effective Corporate Governance**

Response to FSA CP10/3  
27 April

**Mortgage Market Review – Approved Persons**

Response to FSA CP10/2  
26 April

**The assessment & redress of payment protection insurance complaints**

Response to FSA CP10/6  
22 April

**Study on Tying & Other Potentially Unfair Commercial Practices**

Response to DG Markt CP  
14 April

*When you talk to consumers about fairness in financial services you get some pretty stark conclusions. They simply don't think financial services are fair compared to other retail experiences.*

Adam Phillips, Chartered Banker, October 2010

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