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Julian Watts  
Financial Conduct Authority  
12 Endeavour Square  
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3 September 2018

By email: [cp18-18@fca.org.uk](mailto:cp18-18@fca.org.uk)

Dear Mr Watts,

## **CP18/18 Guidance on regular premium PPI complaints and recurring non-disclosure of commission**

The Financial Services Consumer Panel welcomes the opportunity to respond to the FCA's consultation on 'Guidance on regular premium PPI complaints and recurring non-disclosure of commission'.

The Panel's responses to the questions posed are set out below.

**Q1: Do you agree RND is a matter that should be assessed by firms when assessing complaints about regular premium PPI covering restricted or non-restricted credit relationships within the scope of s140A CCA?**

**Q2: Do you agree RND should be assessed under our general fair complaint handling rule (DISP 1.4.1R)?**

**Q3: Do you agree with our decision not to propose rules and guidance about how to assess RND in PPI complaints and to let details of how to assess and potentially redress RND emerge from firms' learnings from the Ombudsman Service and its decisions on individual cases?**

**Q4: Do you agree that any RND on or after 6 April 2007 brings a complaint about restricted credit covered by PPI sold before 6 April 2007 into DISP jurisdiction?**

We support the introduction of new Handbook guidance to make clear that firms, when handling PPI complaints about regular premium PPI, should assess Regular Non-Disclosure (RND) of commission and whether it makes the relationship unfair under s.140A of the CCA. Letting details "emerge" from firms' experience with the FOS risks inconsistencies and some firms not paying attention to FOS rulings. It would be better for the FCA to propose rules and guidance about how to assess RND in PPI complaints

As noted in our previous responses to [CP 15/39](#) and to [CP 16/20](#), where the RND of commission makes the relationship unfair the firm should refund all of the commission paid and not just the portion over the FCA's 50% tipping point. The FCA's current approach has no justification given court rulings and consideration of what is fair and reasonable for the consumer. The FCA should reassess its approach.

The response rates for the existing Plevin mailing exercises (for consumers who have already had a complaint rejected) are low and we calculate that consumers are likely to suffer around £400 million of harm if the FCA continues with its flawed approach. Given this, the FCA's proposal

that consumers should have to complain again (possibly for the third time) to have their complaint assessed properly and the RND of commission considered seem very unfair and likely to have a disproportionate impact on vulnerable consumers and groups with a protected characteristic. As the FCA noted, some groups who bought PPI products affected by the proposed guidance have lower than average incomes, and may have lower financial confidence. As identified in the Equality Impact Assessment, this may make them less likely to complain.

Instead of being proactive, the FCA seeks to impose a burden on consumers to complain again when they will have absolutely no knowledge about the issue of RND or the fact that their complaint has previously been rejected unfairly. Only a small proportion of consumers who have had their complaint rejected will have gone to FOS.

The FCA should require firms to automatically reassess any complaints which were rejected by firms because they did not consider RND. This would be a far more efficient approach and would ensure that the harm caused by the inadequacies of the current approach is minimised.

In addition, we continue to hold the view expressed in our response to CP 15/39 and CP 16/20 that the FCA should require firms to reassess automatically all previously rejected complaints to determine if they are in scope of the new Plevin guidance.

**Q5: Do you agree that types of PPI complaint which are not covered by our detailed PPI rules and guidance should be assessed by firms under our general fair complaint handling rule?**

Yes.

**Q6: Do you have any comments on our cost benefit analysis?**

The cost benefit analysis is inadequate as it fails to consider options such as requiring firms to automatically reassess complaints for RND of commission. We also note that the FCA continues to place no value on the time of the consumer in having to make another complaint.

Yours sincerely,

Sue Lewis  
Chair, Financial Services Consumer Panel