

Consumer Panel Response to Commission Communication for the Spring European Council: Driving European Recovery

The Financial Services Consumer Panel was established under the Financial Services and Markets Act 2000 by the Financial Services Authority to represent the interests of consumers. The Panel is independent of the FSA. The main function of the Panel is to provide advice to the FSA, but it also looks at the impact on consumers of activities outside the FSA's remit. The Panel represents the interests of all groups of consumers.

This is the Panel's response to The Commission communication for the Spring European Council: driving European recovery, which draws on the findings of the de Larosiere Group's recent report. The Panel welcomes the Commission's commitment to a programme of financial sector reform. We are looking forward to engaging with the Commission further as the detailed proposals outlined in the Communication are published throughout the year. In the meantime we have set out below our comments on the broad spectrum of the issues covered in the current Communication, which we have considered from the perspective of retail financial services consumers.

Consumer confidence

As a result of the current financial crisis a great deal of attention has been focused, quite rightly, on the prudential aspects of financial regulation - capital adequacy, liquidity, business models and so on. In this financial climate it would be easy to overlook the critical question of consumer confidence in the financial industry, which has sunk below the already precarious level of two years ago. The UK consumer experience of financial services in recent times has centred on crises such as the drop in earnings from savings; the long drawn-out bank charges Court case; a significant drop in house prices; reduction in the availability of mortgage lending; and the 'bailing out' of a number of banks with public funds. Events at Equitable Life and Northern Rock both had implications for the single market and the question of compensation was a key issue in the Icelandic banking crisis. We urge the Commission not to overlook the importance of restoring consumer confidence in financial services, which we consider to be a pre-requisite of the creation of a healthy financial services market. While on an international and strategic level steps are being taken to ensure that global markets are appropriately structured and regulated, this will mean little at an individual retail consumer level if citizens are not sufficiently confident to take the step of engaging in the financial services markets again. They will only do so if they are convinced that the products and services that are available will meet their needs and that those running banks and other financial institutions are competent and responsible.

Regulation

In the context of consumer confidence, the Panel would like to see all financial services regulators – both at national and at EU level – taking into account the interests of retail consumers. The supervisory output should be what consumers need in order to deal confidently with financial institutions. Regular liaison with FIN-NET and its members would assist regulators to understand the consumer experience of financial services.

The Panel itself was set up under statute to represent the interests of consumers and to advise the Financial Services Authority and we believe that this is a model that works effectively. Consumer Panels dealing with financial services exist in other Member States too as do other, non-statutory consumer bodies such as BEUC and its members. The structure for providing consumer input to regulators need not be complex or expensive – much of the groundwork is already there - but we believe it is essential.

We will be interested to see the detailed proposals on supervisory structure. We agree that there is a case for streamlining the supervisory process and making it more transparent. For example, the operations of the Lamfalussy Committees can be quite opaque and appear inaccessible to consumer representatives. The Commission will be aware of the FSA's preference for the creation of a new EU independent institutional structure to replace the Lamfalussy Committees¹. Any such body should be transparent and accountable. Most importantly there should be effective consumer representation at a meaningful level. In this context we commend the arrangements of the European Food Safety Authority, which has a consumer representative on its board and a stakeholder group that includes consumers. Whatever the eventual model we believe its primary objective should be to deliver the outcomes that consumers need.

We welcome the work that is being done on remuneration structures within financial institutions. The Panel has been particularly concerned about possible bias in the way in which UK financial advisers have traditionally been paid and at executive level we would like to see remuneration packages which focus on successful outcomes over time, rather than short-term sales targets.

We look forward to seeing further, detailed communications from the Commission on:

- Strengthening the effectiveness of marketing safeguards for retail investment products;
- Measures to reinforce bank depositor, investor and insurance policyholder protection; and
- Measures on responsible lending and borrowing.

¹ The Turner Review: A regulatory response to the global banking crisis, March 2009

Enforcement

Consumers rightly expect regulators to enforce the requirements they impose on financial firms and so far as possible, it is important that enforcement action is seen to be taken too. Consumers understand that things can go wrong, but they need to see for themselves that regulators deal with these cases swiftly and effectively. We would like to see any unnecessary barriers to transparency removed as part of the programme of rebuilding financial regulation. We do not believe that it is necessary however for enforcement processes to be the same in all Member States. The objective is consistent outcomes and these can be achieved in different ways. It would be helpful if individual Member States were required to produce an annual report setting out enforcement outcomes. Any new body should have a role in monitoring and reporting annually on the performance of national regulators, including on enforcement.

Redress and compensation

Retail consumers need to be sure that if something goes wrong, they have access to compensation and redress. The Panel has always welcomed initiatives from the Commission for improvements in this area as it is important for consumers engaging in both the national and the single market that an affordable and accessible process is in place.

We would like to see Alternative Dispute Resolution schemes covering all financial services available in all Member States. The diverse nature of the schemes that currently exist at national level can be accommodated within the Commission's set of principles and further, binding requirements that should ensure a consistent standard of access, scope and ADR performance for consumers should be put in place. We have responded separately to proposals on consumer collective redress, where again we see an opportunity for consumer interests and consumer confidence to be strengthened by the existence of an affordable and accessible process across all Member States to help individuals in case of need.

The Panel's view is that the Commission has an important role to play in ensuring that there is a level of consistency across Member States in important areas such as compensation. We do not believe however that consistency means maximum harmonisation which can in fact be damaging to the existing interests of some groups of consumers. For example, we strongly support the establishment of a minimum level of deposit savings guarantee in all Member States, which provides individuals with a readily understood limit on the potential loss they might suffer with any bank in the EU. We do not believe it would be appropriate to mandate a maximum level above which individual Member States, either through compensation schemes or Government action, could not set compensation limits – the imposition of a €100,000 limit would mean that savers with UK banks would be worse off than they are now, for example, given the UK Government guarantees that have been made to date. There would be an adverse impact on consumer confidence too if consumers perceived a maximum limit on compensation as a 'watering down' of their existing protection in the pursuit of the single market.

The consumer voice

We were particularly interested to see in Annex 1 to the Communication reference to ensuring that the voice of European investors is heard more strongly on all financial issues. We look forward to hearing much more about the Commission's proposals for direct funding for investor stakeholders. We hope that the Commission will be considering all retail consumers rather than only investors. We have been calling for some time for greater expertise in financial services issues at national level to support the excellent work already being undertaken by national consumer organisations and through BEUC and FIN-USE.

Passporting

The Turner Report highlights weaknesses in the current approach to a single market in retail banking, as highlighted by the Icelandic banking crisis. The Panel believes that there are weaknesses in the passporting arrangements as a whole. We urge the Commission to include passporting within any review of regulation.



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