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By email: cp21-25@fca.org.uk

Dear Sir/Madam,

Financial Services Consumer Panel response to CP21/25: Changes to FCA decision making procedures

The Panel welcomes the opportunity to comment on proposed changes to the FCA's decision making procedures. We strongly support the FCA's ambition to make decisions faster, more effectively and efficiently. We believe this will reduce overall harm to consumers in financial services. All decisions should be taken with consumer outcomes in mind as the priority. Whilst the impact of decisions on firms is of course relevant, it should be a secondary consideration to the best interests of consumers.

In previous consultation responses, we have set out our vision for financial services markets¹. Part of this vision is that firms should act in the best interests of consumers and firms which do not, or are unlikely to, act in this way should not be admitted to the market. Those that are already in the market should be robustly sanctioned or barred. The FCA's proposals to move decisions regarding authorisations, straightforward cancellations and interventions from the Regulatory Decision Committee (RDC) to the Executive functions will help to achieve this vision. We agree that this should allow decisions to be made faster, by those with expert knowledge of the relevant issues and with greater accountability.

Crucially, shifting these decisions to the Executive functions should make the FCA more able to *prevent* harm from occurring in the first place. This mirrors the FCA's expectations of firms proposed as part of the new Consumer Duty consultation. As we said in our response to this consultation², preventing harm occurring in the first place should be the starting point for all decisions made by firms and regulators. It will unite firms and regulators behind a common goal and is the best way to maintain orderly, effective markets that consumers can trust. Preventing misconduct will also ultimately reduce the significant redress costs, including the Financial Services Compensation Scheme (FSCS) levy. The Executive Functions should therefore focus on the prevention of harm when making decisions, rather than taking a 'wait-and-see' approach.

We note that the RDC will continue to decide cases involving significant misconduct, where the harm has already materialised and the firm or individual who has caused that harm needs to be penalised. Whilst we appreciate the need for these decisions to be made by people not involved in establishing evidence on which the decision is based, it is important

¹ For the full vision, see p1 of our response to HM Treasury's consultation on its Future Regulatory Framework review: https://www.fs-cp.org.uk/sites/default/files/final_fscp_response_hmt_frf_review_phase_ii_20210219_v2.pdf

² https://www.fs-cp.org.uk/sites/default/files/final_fscp_response_cp21-13_a_new_consumer_duty_20210729.pdf p5

that the speed and efficiency of these decisions does not become out of step with those transferred to the Executive functions. Another aspect of our vision for financial services is that consumers get prompt and commensurate redress; this requires FCA enforcement decisions to be swift.

We are also concerned about the time it can take for enforcement cases to reach the decision stage. We therefore encourage the FCA to review its internal governance processes to ensure that there is not undue delay in addressing incidents of misconduct.

Finally, it will be important that the FCA can demonstrate how any changes made to its decision making procedures have made a difference. We therefore encourage the FCA to set clear outcomes and monitor and publish key metrics to track progress against these outcomes.

Yours sincerely,

Wanda Goldwag
Chair, Financial Services Consumer Panel