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Dear Debbie,

Consultation on the Financial Ombudsman Service's Business Plan and Budget 2017/2018

This is the response of the Financial Services Consumer Panel (the Panel) to the consultation on the Financial Ombudsman Service's (FOS) Business Plan and Budget 2017/2018.

We understand that the FOS has carried out its planning at a time where there is a period of uncertainty about the impending FCA announcements on the potential PPI time bar, and on rules for handling PPI complaints in light of the *Plevin* judgement.

PPI complaints

Although there has been a decrease in the number of new PPI complaints received by FOS since 2014¹, it seems sensible for FOS to forecast that there will be an increase in PPI complaints in light of the FCA announcing a possible time bar. We assume FOS will adjust its projections, if required, once the FCA announces its plans.

In addition to new PPI complaints under *Plevin*, it is likely that Claims Management Companies (CMCs) and individual consumers will resubmit previously rejected PPI claims. We understand that CMCs are already trying to buy up details of rejected PPI complaints. Other CMCs will trawl their databases for those that have been rejected. To minimise the administrative cost and hassle for consumers we believe that the FOS should assess all complaints received after 12 November 2014 against the two-stage process (to cover the issues raised by *Plevin*) which we expect to be set-out in FCA guidance.

The FOS should make it clear on its website that consumers who have previously had a complaint about PPI rejected can complain again due to the outcome of the *Plevin* case. As we said in our response to the FCA consultation², our preferred option for *Plevin* would be for the FCA to use S404 to introduce an industry-wide redress scheme.

Life insurance, investments and pensions complaints

In the FCA's thematic review into the Fair treatment of long-standing customers in the life insurance sector, the FCA found a number of firms' practices resulted in poor outcomes for consumers. This may well result in increasing numbers of complaints in this area, as well as other areas where firms are not treating their closed-book customers fairly.

The consultation says that the FOS does not expect a rise in investment and pensions complaints as it has received very few complaints post pension freedoms. Research undertaken by Ignition House³ and by the ABI⁴ has shown that people are taking longer than expected to make decisions about what to do with their pensions, which may partly explain why fewer than expected complaints have been received. Poor outcomes, in relation to both pensions and investments, may not become known for some time.

¹Page 20, <http://www.financial-ombudsman.org.uk/publications/directors-report-2016.pdf>

² <https://www.fs->

cp.org.uk/sites/default/files/fscp_response_rules_and_guidance_on_payment_protection_insurance_complaints.pdf

³https://www.ssga.com/definedcontribution/uk/docs/New%20Choices_Big%20Decisions.pdf?ts=1484687861141

⁴ <https://www.abi.org.uk/News/News-releases/2016/08/ABI-publishes-full-year-of-pension-freedom-data>

We believe the FOS should prepare for the possibility that consumers increasingly complain about income drawdown decisions and defined benefit transfers, particular if there is a downturn in the stock market.

We also believe that there should be clearer guidance for consumers on when they should complain to the FOS, and when their complaint would be more effectively directed to another organisation, such as the Pensions Advisory Service or the Pensions Ombudsman.

In December 2016 the Panel published research⁵ and a position paper⁶ on online investment and advice services. The consumers used in the sample could not work out the fee they would be charged for their investment; they were confused by portfolio labelling; and did not understand the probability of returns. The research also found these consumers had a poor understanding of the regulatory landscape. As the use of these online services increases we would expect the number of complaints in this area to increase. We would also be interested in discussing what the FOS's thoughts are on the implications of this research.

New complaints handling rules

We would be interested in finding out more about the new complaints-handling rules and the potential impact on the number of complaints referred to the FOS before the usual eight weeks. Whilst the FOS has said it has been encouraged by the results of the change, there is a risk that firms take advantage of this help rather than being incentivised to improve their complaint handling process.

We believe that the FOS should ensure any complaints which are referred before the eight weeks are reported separately. There may be consequences for uphold rates, insight and case studies. The FOS is able to provide valuable insights and market intelligence, which can incentivise firms to improve their behaviour and treat customers more fairly. Complaints handling should be transparent, which ensures intelligence can be shared with the FCA as well as consumers.

The Panel's research into 'Consumers as Co-regulators'⁷ highlighted the value of complaints data for consumers. We believe that access to detailed information such as types of complaints and uphold rates can empower consumers to make better informed decisions about their choice of financial services provider. However this data has to be clearly visible to consumers.

External engagement

Finally, we believe more effort is needed to increase consumer awareness of the FOS. If customers have to apply for redress many will miss out on what is rightly theirs due to lack of awareness, lack of confidence or lack of know how. The Panel's recent research by Boring Money⁸ and as yet unpublished evidence from the Money Advice Service focus groups for the Financial Advice Market Review (FAMR) highlights that there is still poor consumer understanding of when and how to complain. CMCs exploit this lack of knowledge. There is a role for CMCs for people who want to save the hassle of seeking redress themselves, but users should know what this is costing them, and that there is a few option available. We would encourage the FOS to promote its services more actively to consumers.

Yours sincerely

Sue Lewis
Chair, Financial Services Consumer Panel

⁵ Assessing online investment and advice services, a report by Boring Money on behalf of the Financial Services Consumer Panel: https://www.fs-cp.org.uk/sites/default/files/final_online_investment_and_advice_services_summary_report_bm_30_regulator_doc_05_12_2016.pdf

⁶ Online investment and advice services – the consumer experience: https://www.fs-cp.org.uk/sites/default/files/final_panel_position_paper_online_investment_and_advice_services.pdf

⁷ https://www.fs-cp.org.uk/sites/default/files/consumers_as_co-regulators_final_0.pdf

⁸ Assessing online investment and advice services, a report by Boring Money on behalf of the Financial Services Consumer Panel: https://www.fs-cp.org.uk/sites/default/files/final_online_investment_and_advice_services_summary_report_bm_30_regulator_doc_05_12_2016.pdf