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By email: [retail.disclosure@hmtreasury.gov.uk](mailto:retail.disclosure@hmtreasury.gov.uk)

Dear Sir / Madam,

**Financial Services Consumer Panel response to HMT consultation on UK Retail Disclosure Framework Policy Note and Draft Statutory Instrument (2024 No. XXX) Financial Services and Markets, Consumer Composite Investments (Designated Activities) Regulations 2024**

The Financial Services Consumer Panel (the Panel) is an independent statutory body. We represent the interests of individual and small business consumers in the development of financial services policy and regulation in the UK.

Our focus is predominately on the work of the FCA, however, we also look at the impact on consumers of other bodies' activities and policies where relevant to the FCA's remit. We welcome the opportunity to respond to this consultation on the UK retail disclosure framework and Draft Statutory Instrument, which covers some important issues:

- The Panel support the creation of a Consumer Composite Investment regime to replace the regime for Packaged Retail and Insurance-based Investment Products (PRIIPs) and to bring Undertaking for Collective Investment in Transferable Securities (UCITS) into scope of the new regime. The Panel has long argued that it would be helpful to have a consistent regime covering retail disclosure for all consumer investment products, in order to make it easier for consumers to compare options, particularly in relation to both the risks and costs of different options. It considers that transferring decisions about the rules governing disclosure for retail investments from legislation into regulation is sensible. Doing so will provide greater flexibility and allow the FCA to create a robust and coherent retail disclosure regime.
- The Panel supports the decision that the scope of the new framework should cover manufacturing, advising and offering a Consumer Composite Investment.
- The Panel supports extending firms' civil liability to include all designated activities, not solely manufacturing. However, the Panel considers that it is important that this should not be used as an excuse by product manufacturers to deny liability where their organisations have benefited from the issues raised in civil liability cases. In addition, however, the Panel notes that many consumers may not be able to afford to bring a civil liability case, particularly where they have lost money. Therefore, the Panel considers that it is important that other forms of redress are available to them, including access to the Financial Ombudsman Service (FOS).
- The Panel wishes to highlight that when formulating rules under the draft Statutory Instrument the FCA it will have to apply the international competitiveness and growth objective as a secondary objective

In relation to the drafting of the draft Statutory Instrument, the Panel has no specific comments beyond noting that it might be helpful to more clearly define the terms being used, and which parts of the SI those definitions apply to. For example:

- the term "P" is used to denote a "retail investor [or potential retail investor]" in Part 2, para 4.(1)(b)(ii), but is also used in Part 2, para 7.(1) as "the person concerned" under the "Directions: procedure" where the definition of "P" as a retail investor does not make sense; and
- as the term "person" is not defined for most of the SI, we assume that the Interpretation Act 1978 will apply, so that a retail investor would include a body of persons corporate or unincorporate.

In general, the Panel considers it important that the overarching regulatory regime governing retail investments, including disclosure requirements, provides a coherent approach to setting regulation that meets consumers' needs. Our response should be considered in the context of our vision for how the market should function, which is set out in our [response to the FCA's call for input on consumer investments](#). The foundation of this vision is a correctly implemented and supervised Consumer Duty<sup>1</sup>. This would make the firm responsible for consumers' overall suitability for and understanding of the products which they invest in. This would create a market where:

- more of the population with investible assets, and where the decision is right for them, make an active and informed choice to invest, so maximising their own returns and supporting the real economy;
- the information disclosed to potential investors is designed in a way that will allow them to make effective decisions, and to compare the risks, rewards and sustainability not only of different options for a given product type, but also of different products;
- it is not possible to use regulatory arbitrage to circumvent rules designed to protect consumers;
- information, education, guidance, and advice is readily available and tailored to the consumer to ensure they are supported in taking decisions both pre-investment and on an ongoing basis. This will require the re-engineering of current thinking to better integrate these aspects and blend them throughout the customer's investment life-cycle. Only in this way will trust be established;
- the use of guidance or advice should be the gateway to anything other than a range of default-based, simple, tax-efficient investments;
- products must be better designed, labelled and described to enable consumers to better understand fully the opportunities, risks and costs involved and easily compare these across options; and
- when harm does occur, there must be easily accessible and efficient redress and compensation solutions.

Yours sincerely,

Helen Charlton

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<sup>1</sup> For the Panel's comments on the FCA's proposed new Consumer Duty, please see here: [https://www.fs-cp.org.uk/sites/default/files/final\\_fscp\\_response\\_cp21-36\\_a\\_new\\_consumer\\_duty\\_20220214.pdf](https://www.fs-cp.org.uk/sites/default/files/final_fscp_response_cp21-36_a_new_consumer_duty_20220214.pdf)

Chair, Financial Services Consumer Panel