

Financial Services Consumer Panel

AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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By email: cp25-12@fca.org.uk

Dear FCA,

Financial Services Consumer Panel response to FCA Consultation Paper CP25/12 Simplifying the Insurance Rules.

The Financial Services Consumer Panel (the Panel) supports appropriate and proportionate UK insurance regulation to underpin the integrity of the industry and consumer trust in it, with both key to maintaining and improving the sectors competitiveness and growth.

We welcome the opportunity to respond to this Consultation Paper (CP) and support its intention, particularly so as it enhances the financial services protections available to sole traders and smaller businesses buying standardised insurance product solutions. These businesses are unlikely to possess insurance expertise nor have access to professional or legal advisers to negotiate with insurers on an equal footing. The Panel view these “commercial” customers in many respects as requiring the same safeguarding, understanding, value, service and support needs as retail consumers and hold that they should equally benefit from Consumer Duty requirements. We view it essential that proportionate regulation in removing barriers to innovation and improving competition should not result in the reduction of retail consumer protections and that they should benefit by a reduction in the costs that they pay for insurance and/or enjoy improved access to insurance. We additionally draw the Financial Conduct Authority’s attention to our responses to the points raised in the earlier DP24/1.

Our long-held Panel position is and remains that consumers, microbusinesses and most smaller SME firms should enjoy the same level of safeguarding and protection as provided for in ICOBS, PROD, PRIN and the ability to bring cases to the Financial Ombudsman Service and Financial Services Compensation Scheme.

The Panel are concerned by the proposal to remove the 15-hour training requirement given the findings of the recent FCA's review of vulnerable customer guidance implementation where lack of non-customer facing staff training was cited. We have additional concerns in relation to both those working in the Protection Sector who are not members of any of the recognised insurance professional bodies plus the recently regulated pre-paid funeral plan sector where we also hold that the 12 month review requirement should be maintained.

As a number of the questions in the Consultation Paper are applicable to insurers, intermediaries and trade organisations, the Panel have responded to those where we view a consumer voice is required.

Please find the Panel's responses to the questions posed in Annex 1.

Yours sincerely,

Chris Pond
Chair, Financial Services Consumer Panel

Annex A – Response to consultation questions

Q1. Do you agree with our proposed new definition to identify contracts and customers excluded from our regulatory protections and its scope?

The Panel agrees and supports the FCA's view that it is necessary to make and distinguish between larger commercial enterprises and both micro businesses and smaller SME firms who tend to have limited financial expertise and generally lack professional advisor support.

Our long-held Panel position is and remains that consumers, microbusinesses and most smaller SME firms should enjoy the same level of safeguarding and protection as provided for in ICOBS, PROD, PRIN and the ability to bring cases to the Financial Ombudsman Service and Financial Services Compensation Scheme.

Q2. Do you have any concerns about our proposal that have not been covered in the chapter?

No

Q3. Do you agree with our proposed rule changes related to co-manufacturing arrangements, including that these should apply to all non-investment insurance products (both retail and Commercial)?

The Panel agrees with the FCA's proposals consistent with current market practice, this said, we hold that the regulator should be vigilant regarding the risk of breach of pricing information confidentiality principles.

Q4. Do you agree that the proposed rule and guidance related to the Bespoke contract exclusion, including that it should be available to all non-investment insurance products?

The Panel agrees with the proposal that the bespoke contracts exclusion should be available to all non-investment insurance products – both commercial and retail, including pure protection products.

Q5. Do you agree with our proposal to remove the 12 month minimum review frequency requirement under PROD 4.2 and Prod 4.3.

The Panel agrees as this approach brings product governance rules in line with the Consumer Duty requirement to review products regularly with the frequency determined by the potential of the product to harm consumers given the risk factors associated with them.

Q6. Do you agree with our proposal to require firms to determine the appropriate review frequency based on the potential harm arising from the risk factors associated with the product?

The Panel agrees.

Q7. Do you agree with the proposed consequential change that only the lead manufacturer should be responsible for producing ICOBS disclosure documents (applicable to insurers and managing agents), where a lead is appointed?

The Panel agrees.

Q9. Do you agree with our proposal to remove the prescriptive minimum 15 hours training and development (and associated monitoring and record -keeping requirements) for non-investment and funeral plan firms. Please explain your answer.

The Panel are concerned by this proposal given that the FCA's recent review of vulnerable customer guidance highlighted customer vulnerability training issues in relation to non-customer facing staff and we hold that the regulator must urgently address this. In addition, we fully appreciate that Senior Managers are required to ensure that those they employ and have oversight of must have the appropriate skills, knowledge and skills to carry out their roles. Plus, insurance professionals who are members of the Chartered Insurance Institute and Institute and Faculty of Actuaries professional bodies have a requirement to undertake continuous professional development and training, this often requiring significantly more than 15 hours. With many of those working in the protection sector not being members of an industry professional body and given scope for harm if these products are not appropriately sold and set up, we urge that the FCA Pure Protection Market Study maintains the 15-hour requirement where individuals are not professional body members.

With the Pre-Paid Funeral Plan market only regulated in July 2022, given the consumer harm experienced in this sector, the Panel urge that the 15-hour requirement is maintained.

The Panel agrees with the concerns identified and current application of the rules to co-manufacturers. We would like to add that it is essential that the rules provide appropriate and effective protection in all distribution arrangements including those with co-manufacturers.

Importantly, firms must be clear as to who is responsible and accountable for compliance and ensuring good customer outcomes.

Q14. Should any restriction be based on the customers habitual residence, the state of risk or both?

Q17. How should the rules apply when the customer changes from being a UK to a non-UK customer (or vice versa) during the term of the contract?

In relation to Q14 and Q17 the Panel hold that the interests of general and life insurance policyholders is best served with the current regulatory approach being maintained.

Q23. Do you think we should remove the minimum 12-month product review requirement for funeral plan manufacturers? Please explain your response.

With the Pre-Paid Funeral Plan market only recently brought into the regulatory perimeter in July 2023 and market participant membership of the insurance professional body and its ongoing CPD requirement low, the Panel hold that the current 15 hours CPD requirement should be maintained. Our view additionally shaped by the high likelihood of claimant vulnerability together with the need to rebuild consumer confidence and trust following the harm experienced in this sector together with the current ongoing issues in relation a major provider failure.