



Solicitors Regulation Authority

By email

8 June 2023

Dear Sir/ Madam,

**Practitioner Panel and Smaller Business Practitioner Panel joint response to the Solicitors Regulation Authority (SRA) consultation on Protecting consumers from excessive charges in financial services claims**

The FCA Practitioner Panel and the FCA Smaller Business Practitioner Panel were established by the Financial Services and Markets Act (as amended) to represent the interests of regulated firms and to provide input to the Financial Conduct Authority (FCA). The Panels provide advice to the FCA on its policies and strategic development of financial services regulation, representing the interest of practitioners of larger firms, and of small and medium sized firms, respectively.

The Panels welcome the proposals set out in the SRA's consultation on new rules that prevent excessive fees being charged for claims management activities connected to financial products or services which is closely aligned with those of the FCA.

While we are supportive of these proposals, our view is that this will only address part of the problem. We have for some time raised concerns with the FCA about inappropriate practices by some CMCs, with volumes of unmeritorious claims causing considerable disruption to UK businesses and posing a particular threat to the viability of smaller firms. Restrictions to CMC charges for financial products and services claims introduced by the FCA in 2021, alongside initiatives aimed at preventing phoenixing, have had a positive effect in reducing the number of new complaints about CMCs. However, an inconsistent approach to regulating CMCs has created the conditions for regulatory arbitrage, including a growth in the numbers of CMCs registering under the SRA framework. The SRA's proposals to adopt an approach which is consistent with the FCA's should help close this gap.

The Panels' overriding concern remains that there is no real disincentive to CMCs behaving in an aggressive way, and that unscrupulous activity by some CMCs continues to impact unfairly on firms and exploits vulnerable consumers. As one example, evidence of poor practice from CMCs in motor finance includes mass 'fishing' exercises to consumers which misrepresent redress options/ likely compensation, and groundless attempts at class action litigation some of which also show disregard for the protection of identifiable personal information. We would encourage the SRA to consider reviewing the current poor practices we are seeing across different financial services sectors

against their existing rules including the SRA code of conduct (especially sections 5.1-5.3 which outlines specific rules for generating new client referrals, 6.3-6.5 on client confidentiality and disclosures, and 8.6-8.11 on client information & publicity).

Part of a future solution might also involve exploring a change in legislation which could allow the Financial Ombudsman Service (FOS) to start charging case fees to CMCs, and we would encourage the SRA to liaise with regulatory partners and government to explore options aimed at lifting service standards.

Alongside this, there is a pressing need for the FCA, SRA, the FOS and the Financial Services Compensation Scheme to collaborate with consumer interest groups to help educate consumers. Ensuring consumers understand their redress options at the outset of their engagement and feel able to make claims directly, rather than being caught by the 'fishing' exercises of unscrupulous third parties, will be key.

We would be happy to discuss these points further.

Yours sincerely,

[signed]

Matt Hammerstein  
*Chair, FCA Practitioner Panel*

[signed]

Andy Mielczarek  
*Chair, FCA Smaller Business Practitioner Panel*