Summary of feedback received

July 2012

Consultation title	Proposed guidance on payment protection insurance customer contact letters (PPI CCLs) – fairness, clarity and potential consequences.
Date of consultation	The draft guidance was published on 6 March 2012. Consultation on the guidance closed on 3 April 2012.
Summary of feedback received	We received responses from 11 respondents. These included three consumer representative bodies, four industry trade bodies and four firms. All respondents were, in the most part, supportive of the guidance and welcomed the additional clarity that it brought to firms' customer contact exercises. The most significant issues raised by responses are summarised below: 1. Some respondents suggested that **the form and content of the PPI CCL** outlined in paragraph one of the guidance should include (or exclude) certain additional matters that they considered were (or were not) appropriate for a CCL. Some respondents suggested that we should ensure that CCLs were kept short. Specifically, respondents suggested that the guidance should not require firms to include point of sale documentation with their CCLs. Firms also disagreed with the proposal that all CCLs should include a warning that the amount of redress was unlikely to be trivial. Some consumer bodies recommended that CCLs should include information about how the response would be dealt with once it was received by the firm and how the recipient could complain to the FOS. 2. Respondents were divided on the need to provide greater certainty on the **time barring of complaints**. Firms and trade bodies believed that greater certainty was needed about the circumstances in which a firm could regard the time limitation as starting. But consumer bodies advocated a bespoke approach that took a consumer's individual circumstances into account.

3. Some firms and consumer bodies believed that the guidance needed to provide greater certainty on whether a consumer's **response to a CCL would constitute a complaint**.

4. Consumer bodies suggested that **more specific guidance should be given on reminder letters** sent to consumers who fail to respond to a CCL.

5. Respondents also suggested **further actions** that the FSA could undertake to facilitate consumer action (which included, for example, suggestions that the FSA encourage consumers to respond to firms directly rather than use CMCs).

Response to feedback received

We are grateful to all respondents for taking the time to respond to the consultation.

On **the form and content of the PPI CCL**, our view is that the guidance sets out the basic and minimum matters that a CCL should include to ensure that it is consistent with a firm's obligation to treat its customers fairly and to be clear, fair and not misleading in its communications. But we recognise that, depending on the nature of the root cause analysis (RCA) undertaken by the firm and the issues identified, a CCL may not necessarily be shorter than two pages. We also consider that including information in a CCL about how a customer may complain to the FOS may be confusing for the customer as the customer will not yet be able to bring the complaint to the FOS at this stage. The information about how a customer can complain to the FOS will be included in a firm's response at the end of the eight-week period the firm has for considering the complaint.

We have amended the guidance to take on board minor suggestions on the form and content of the guidance where they improve the clarity of the guidance. These are outlined further below.

We maintain our view that in most instances the redress payable as a result of a mis-sale is unlikely to be trivial, so we consider this to be a fair and not misleading statement to include. We have made some amendment to the guidance to clarify our views about the information that the firm should include about how it will deal with a response to a CCL.

For **time barring of complaints**, some firms believed that they should not have to consider whether the customer had actually received the CCL to time bar a complaint. We disagree. The test for considering whether a complaint is time barred in accordance with DISP is conditional on a consumer's knowledge about having a cause for complaint. If consumers do not receive a CCL, we do not believe they could have the knowledge to complain (assuming that the consumer does not already have actual or constructive knowledge for any other reason).

Some consumer bodies suggested that receipt of a CCL would not in and of itself always result in the consumer understanding that they had a cause for complaint. On the other hand, firms have argued that the receipt of a CCL outlining specific failings by the firm should *always* start the time bar in relation to *any* complaint about the issues identified. We reiterate our view that, where a firm is considering rejecting a complaint about the mis-sale of a policy without considering its merits because it received the complaint more than three years after the complainant had received a PPI CCL, the firm will need to consider carefully, and satisfy itself on a case by case basis, that the complaint is indeed time barred on the basis of the particular facts of the complaint, having regard to the factors set out in paragraph 8 of the guidance. We have, however, accepted a suggestion that the wording in the CCL should be stronger to urge prompt consumer action where they think they might be affected by the issues identified in the CCL, because time may well have started to run from the receipt of the PPI CCL (if it has not already begun).

In relation to whether a **response from a consumer to a CCL would constitute a complaint**, we maintain our view that the vast majority of responses are likely to be complaints for the purpose of our complaint-handling rules. We are clear that where a firm solicits responses to the CCLs that are not complaints, then they should make this very clear in the CCL.

Consumer bodies strongly advocated the sending of **reminder letters**, suggesting that this would be consistent with a firm's obligations to treat a customer fairly. We maintain our view that it would be consistent with a firm's obligations to consider whether it would be appropriate to provide reminders. The appropriateness of such reminders should, however, be judged by the firm having regard to the circumstances of the case. For example, where a firm had made reasonable attempts to verify a customer's contact details but was not able to obtain up-to-date contact details for that customer, the firm may decide that it is able to justify why it is not appropriate to provide that customer with reminders.

Respondents also suggested that the FSA should undertake **further action** in addition to the publication of the guidance (such as consumer education exercises and increased monitoring of customer contact exercises). We can confirm that we intend to monitor firms' consumer contact exercises and will dig deeper into any that cause us concern about their fairness. We will also be undertaking a consumer communications exercise, but this is outside the scope of this guidance (see PS 10/12. paragraph 4.6). In response to the suggestions that the guidance should encourage customers to respond directly to firms (rather than CMCs) we note that the guidance does not prevent firms from encouraging customers to respond directly to the firm. However, we do not think this is a matter that needs to be included in the guidance.

Changes made to the guidance as a result of feedback received

We have made the following amendments to the guidance:

1. We have inserted the word 'concisely' in line 2 of paragraph 1 to clarify our expectation that CCLs should not be unnecessarily long.

2. In response to concerns about the effectiveness, practicality and cost of including point of sale documentation with PPI CCLs, we have deleted the second paragraph under paragraph 1(b). While we consider that customers can make better decisions if they have information about the product that they were sold, we recognise that in some instances, firms may have to undertake significant administrative and costly exercises to provide the relevant documentation applicable to each client who is sent a PPI CCL. It remains our view that firms must provide a sufficient and appropriate amount of information in the PPI CCL to enable customers to make an informed decision about their response on the basis of the CCL. Having considered the feedback we have, however, removed paragraph 1(b) to recognise that, in this instance including specific documentation may not necessarily be appropriate for all firms that will be sending PPI CCLs. Firms should in any event consider the information needs of their customers carefully in accordance with Principle 7 of the FSA's Principles for Businesses and be prepared to justify the approach they determine as appropriate.

3. Firms raised concerns that it may not always be appropriate to indicate that the loss incurred by the consumer is unlikely to be trivial. While we acknowledge that the loss may be trivial in some instances, we think that in general, it will not. As such, we have replaced the words 'is unlikely to be trivial' with the words 'is very often not trivial.'

4. Some respondents suggested that the guidance should require firms to explain how responses to PPI CCLs will be dealt with. We have added wording in paragraph 1(e) to indicate that where a firm invites responses that are not complaints, it should set out the matters in paragraph 11. This will make it clear how the firm intends to deal with responses that are not complaints.

5. Some respondents suggested that the PPI CCLs should urge a customer to action. In response, we have amended the wording in paragraph 1(f) to further stress the fact that the time limitations may have already started to run. We have also included some standard wording in paragraph 1(h) which is directed at highlighting the importance of the PPI CCL and encouraging consumers to respond.

6. Many firms queried whether it would be appropriate to include a PPI questionnaire with their PPI CCL. We have included a new paragraph 3, which sets out our view on such

questionnaires.

7. Respondents asked for greater clarity about when responses to PPI CCLs may not be complaints. While we acknowledge that there may be circumstances in which a firm may invite such responses, we consider that the large majority of responses to PPI CCLs are likely to be complaints. We have amended the wording in paragraph 12 to reflect this.

8. Respondents also asked for greater clarity about our view on any obligation for them to send reminders. While we think the appropriateness of providing reminders, and the number of reminders that is appropriate is a matter for the firm to consider with regard to the circumstances of the case, we have amended the guidance to reflect our view that the firm may send reminders in any medium they choose, so long as it is an appropriate and accepted medium for communicating with the client.

You can find the full text of the guidance we consulted on, on our website