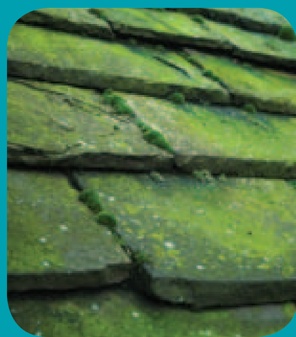
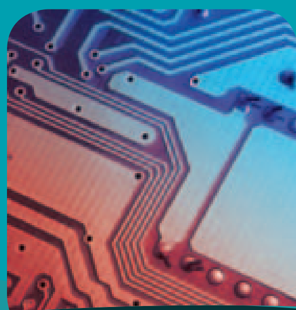
Financial Services Consumer Panel

Annual Report 2011/2012

An independent voice for consumers of financial services







The Consumer Panel is an independent statutory body, established in 1998. Our main purpose is to ensure that the Financial Services Authority (FSA) promotes fairer outcomes for consumers during policy development. The Panel also takes a broader role in advising European institutions and the government on financial services regulation and legislation.

Since its establishment, the Panel has helped deliver significant benefits for consumers. We support the FSA where we believe policies can help consumers and challenge the FSA forcefully when we feel consumers would be disadvantaged.

Panel Members are recruited through a process of open competition and serve a maximum of two terms of three years. During the last year, Members' expertise included: market research, journalism, law, financial services industry, financial inclusion, European regulation, financial regulation, consumer advice, campaigning, communications, compliance and later life issues. You can find out more about our Members in Appendix 1 or on our website www.fs-cp.org.

The Panel engages with the FSA as it develops policy, usually well before consultations are published. Regular dialogue is ensured by inviting members of FSA staff to attend Panel meetings and working groups. The Panel submits regular monthly reports to the FSA's Board. We also liaise on a quarterly basis with the FSA's Chief Executive. Key meetings are held with other stakeholders such as the Financial Services Ombudsman, Which? and Consumer Focus to progress our agenda: these are detailed in Appendix 3.

Adam Phillips
Consumer Panel Chair

Foreword by the Chair

Regulatory reform was very much the theme of last year's report and it has continued to be a major element of the Panel's work this year. Last year we enthusiastically welcomed the 'twin peaks' structure but stressed the challenges that would be created. We remain enthusiastic about the direction of change and the intention for a more interventionist approach by the Financial Conduct Authority (FCA). As the detail of the new Financial Services Bill has become clear, the Panel has worked to identify and reduce the risks of unintended consequences for consumers. In the coming year, much of our work will continue to be centred on trying to ensure that the consumer interest is adequately taken into account at all levels in the new structure.

I set out our expectations for the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA)in a speech to the British Bankers' Association (BBA) in January.[1] We are looking forward to the FCA becoming an effective regulator in a way the FSA has never been. To be fair, the FSA has made a serious attempt over the past two years to engage with outcome-focused regulation in the retail market, but the financial crisis has not made that easy. The conduct-focused role of the FCA gives it a better chance of meeting that aspiration, but to be effective it will have to be clearer than the FSA has been about what it expects and more determined to achieve what it sets out to do. This means:

- better economic and research analysis, looking at root causes rather than symptoms, and having sufficient resources to engage effectively with the PRA and Financial Policy Committee on behalf of the consumer;
- a reasoned debate with the industry and consumers about what it is aiming to achieve and the consequences of regulatory intervention;
- less focus on process and the application of rules and more on the intended outcomes and the extent to which they are not being achieved;
- actions that encourage good behaviour by the industry and rebuild consumer confidence – in our view this requires early intervention and regulatory transparency including publicising regulatory action such as warning notices;
- more effective enforcement and early intervention; and
- effective interaction with Europe representing the interests of both the consumer and the industry, something which the FSA has done well.

If the FCA can do this there is a good chance that it will be able to deliver better treatment of consumers. However, a regulator cannot make people or organisations behave better. What it should do is create an environment that encourages good behaviour, make clear statements about its intentions, allow reasonable time for organisations to adapt and punish those who fail to meet its requirements. The rest will be up to the industry.

The Mortgage Market Review has been a major policy initiative by the FSA and has provided a helpful proving ground for some of the opportunities and problems that the new regulatory structure will create. The Panel is pleased that the FSA responded positively to its concerns about the overly-prescriptive nature of the original 2010 proposals and the need for a robust cost-benefit analysis. We welcome the majority of the proposals in the recent consultation and believe that they should improve consumer protection. We remain concerned about the predicament facing so called 'mortgage prisoners' – those trapped with their current lender on the standard variable rate because they are unable to meet the affordability criteria – and have urged the FSA to act quickly to mitigate this situation. We also hope

1 The Financial Conduct Authority – A Keynote Briefing – BBA 25 January 2012

that the lessons learned in this process will be considered by the shadow Financial Policy Committee when developing its strategy for dealing with asset bubbles.

A particular aspect of the mortgage market is that conduct regulation has important prudential elements. In the present structure, where both conduct and prudential issues are regulated by the FSA, we were able to contribute to the discussion of issues that relate to the potential interaction of conduct rules and prudential controls. This will be more difficult in the future when we will have no statutory relationship with the PRA.

The other major policy initiative by the FSA has been the Retail Distribution Review (RDR). This is finally close to becoming a reality. The Panel published a significant research project last year aimed at understanding how to ensure that the principles of the RDR could be incorporated in the platforms market. This is a market which has the potential to manage assets of more than £1000bn and therefore to significantly influence the cost of asset management for retail investors. We are pleased that the discussion stimulated by this research has led the FSA to introduce proposals which we hope will lead to a more transparent market delivering better value for investors.

The Panel has also focused attention on the ‘advice gap’ this year. The need for financial advice and education is growing as people are required to take more responsibility for their long-term financial security. Patterns of employment are changing and employers and the state are providing less financial security. The Panel has commissioned two research projects this year looking at ‘straightforward outcome’ products and the advice market, clarifying where the gap might really lie and identifying underlying causes and potential solutions. We are pleased that both the government and industry are now directing more attention at this area and we are involved in the various projects that are examining the problem.

The Panel has been pleased with the way the FSA pursued financial institutions over payment protection insurance (PPI) mis-selling. The cost of mis-sold PPI to both customers and the industry has been staggering. In March this year the Panel published a paper outlining what needs to be put in place to improve banks’ behaviour in the personal current accounts market. We want the industry and the regulator to act to remove opaque charging structures, empower consumers to shop around and ensure banks act honestly, fairly and professionally, for example by abolishing the remuneration practices instrumental in the mis-selling of products.

We have been convinced for some time that it is essential that consumer credit is regulated by the same organisation that regulates deposit taking. It is nonsense that that the FSA regulates the notification of an unauthorised overdraft and the grounds on which payments may be bounced but not the overdraft itself. That is regulated by the Office of Fair Trading. In the circumstances, it’s not surprising that some banks have been able to profit from the resulting confusion. We are therefore pleased that the government is proposing to transfer the regulation of credit to the FCA. We have published a position paper and two reports on the issues that need to be taken into account to ensure that consumer protections are maintained and hopefully enhanced in the transfer.

The EU dimension has become central to UK regulation. Most prudential rules are now set by Europe and subject to maximum harmonisation. Financial conduct regulation is rapidly moving in the same direction. Two years ago the Panel regarded a sub-group that met bi-monthly and a part-time policy officer as sufficient to maintain an effective grip on what was happening in Europe. This year we have had a working group meeting monthly and a full-time policy officer dedicated to Europe. Two Panel members are also involved in EU committees. Kay Blair is Vice Chair of the EIOPA[2] insurance and reinsurance stakeholder group and I am a member of the consultative working group of ESMA’s[3] Investor Protection and Intermediaries Standing Committee (IPISC). The Panel is also a partner of BEUC[4], the European consumer group. We believe that it is essential that the interests of consumers are effectively represented to EU institutions, given the very limited resources of consumer groups in most Member States.

I would like conclude by thanking my colleagues for their support and hard work. In particular, I would like to acknowledge the contributions of David Metz and Caroline Gardner who both left the Panel in December after making a valuable contribution to the Panel’s work. I would also like to pay tribute to Hector Sants and his role in leading the transformation of the FSA into the FCA. His experience will be missed in the new structure and the Panel would like to wish him well for the future.

Adam Phillips
Chair, June 2012

2 European Insurance & Occupational Pensions Authority
3 European Securities & Markets Authority
4 Bureau Européen des Unions de Consommateurs

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The Panel in March 2012.

For a list of the 2011-2012 Panel see Appendix 1.

Executive summary

This report outlines the work and achievements of the Financial Services Consumer Panel for the financial year of 1 April 2011 to 31 March 2012.

The Panel's role is to advise the FSA on its policy and practice from a consumer perspective and to assess the FSA's effectiveness in meeting its objective of protecting consumers. As outlined in last year's report, the Consumer Panel has adopted a more streamlined approach to its work in recent years choosing six priorities for 2011/12 in order to focus its activity:

- the shape of future UK regulation;
- EU regulatory and legislative issues;
- the future regulation of consumer credit;
- the Mortgage Market Review (MMR);
- the advice gap; and
- the effective regulation of business conduct.

As intended, these priorities took up about half of the Panel's time and resources in the past year. Aside from this activity we dealt with a range of issues arising from our work. In 2011/12, this included banking, transparency, payment protection insurance (PPI), complaints, enforcement and redress, with-profits funds, saving for retirement, insurance and money advice.

The Panel has continued to publish as much of its work as possible on its website. This is aimed at communicating our work more broadly to the public, and our stakeholders in the consumer movement, government, regulatory circles and industry. We have also publicised our work in the media and through conferences and events.

The Panel works with the FSA, Treasury, consumer groups and other stakeholders at a number of levels. In particular, we work closely with Which?, Consumer Focus, Citizens Advice, Age UK, the Financial Ombudsman Service and the Financial Services Compensation Scheme. The main business of the Panel is conducted through our monthly meetings when we consider consultations and policy papers as well as questioning external witnesses and meeting with FSA directors and staff. There are also monthly meetings of smaller working groups which are regularly attended by the FSA and others.

The Panel Chair also meets with the FSA Chairman, Chief Executive, future FCA[5] Chief Executive and senior personnel at the Bank of England, as well as MPs and Peers. The Panel has also held roundtables and media briefings to analyse and discuss particular issues of concern, and Panel members meet regularly with industry associations including the ABI[6], AIFA[7], AMI[8], BBA[9], BSA[10], and CML.[11]

The Panel has continued to encourage the FSA and consumer stakeholders to collaborate. We have worked particularly closely with consumer groups in responding to the challenges of the Financial Services Bill and the reform of the consumer credit regime. We also continue to work closely to identify emerging risks and ensure that these are communicated to the FSA and shared amongst consumer groups.

The importance of the EU is reflected through the increasing workload of the Panel's EU working group and the growing involvement in Panel members in EU regulation. Kay Blair, is a consumer representative on EIOPA's Insurance and Reinsurance Stakeholder Group and Adam Phillips is the only consumer representative on the Consultative Working Group of ESMA's Insurance and Investor Protection and Intermediaries Standing Committee (IPISC).

Outcomes – where we have made a difference

The Panel has worked hard in the last year to ensure that consumer interests are protected. The government has taken on board many of our concerns about the new

5 Financial Conduct Authority
6 Association of British Insurers
7 Association if Independent Financial Advisers
8 Association of Mortgage Intermediaries
9 British Bankers' Association
10 Building Societies Association
11 Council of Mortgage Lenders

regulatory structure and the future regulation of consumer credit. We have also managed to influence the FSA's work in several areas for the benefit of consumers. Additionally, we have worked successfully at EU level to get consumer protection moved higher up the agenda of policymakers and regulators.

Ensuring consumer protection in the new regulatory structure

The changing regulatory structure will undoubtedly transform the outlook for consumer protection. The Panel has worked to ensure that the changes will benefit consumers.

We identified six key priorities for our lobbying work around the Financial Services Bill. We want it to require:

- providing the FCA with effective competition powers to enable it to deliver its statutory objectives;
- requiring the PRA to take account of the views of consumers by responding to representations from the Consumer Panel;
- requiring financial services providers to have a fiduciary duty of care to their customers;
- requiring the FCA to have regard to consumers' ability to access financial services;
- increasing the transparency of the new regulators by requiring them to publish warning notices without consultation and empowering them to publish information about the individuals and firms they regulate; and
- requiring the regulators to undertake full and robust cost benefit analysis when developing new rules.

We are pleased to note that the government has incorporated competition into the objectives of the new FCA, which is a change the Panel and others have been calling for since the proposals for regulatory reform were first announced. As with all legislation, it may take many years before the actual effect of the legal provisions, as well as the context in which they are applied, can be seen. Nevertheless, we remain cautiously optimistic at the direction of travel of the FCA. However, we continue to argue cogently that the PRA should have a formal relationship with the Panel to ensure that it takes sufficient account of the consumer perspective.

EU regulation

The Panel has been working to raise the profile of consumer issues at EU level and is seeking to ensure effective consumer representation is enshrined at the heart of financial regulation across Europe. We work closely with BEUC[12], the European Consumers' Organisation, in campaigning for greater protection for consumers.

Following our work over the last three years raising the issue of compensation per brand for consumers, the Panel has been instrumental in persuading the European Parliament to support the proposal. The proposed Deposit Guarantee Scheme Directive could allow bank customers to be compensated with a separate limit for each financial brand, whether or not the brands are covered by a single authorisation. Consumers have long been bamboozled by the array of different bank brands which can be covered by a single authorisation and therefore by a single compensation limit of £85,000, resulting in a risk of significant loss should a bank with multiple brands fail. However, it remains to be seen if the Directive will be approved by Member States.

We are also working on the issue of the basic bank account. We were disappointed that the Commission issued only a recommendation, rather than legislation, on access to basic bank accounts. But the review of this decision by the Commission and the Parliament gives us cause for optimism that the Panel's lobbying work will result in a change of heart.

The future regulation of consumer credit

The Panel has taken the view for some time that it would be better for consumers to have a single conduct regulator for financial services. This would remove the anomaly whereby a bank account in credit is regulated by the FSA but lending aspects of an account in debit is regulated by the OFT under different regulatory regime; the Consumer Credit Act (CCA).

The Panel has always appreciated the significant challenges of incorporating the consumer credit regime into the Financial Services and Markets Act (FSMA) and earlier this year called for a transitional approach. Under this, the administration of the CCA would initially be transferred to the FCA, which would subsequently move credit regulation to a FSMA-based regime. At the time of writing, it seems that a FSMA-based regime will be introduced when consumer credit regulation transfers to the FCA with some transition arrangements.

The Panel's key priority in this area will be to ensure that in its FSMA-based regime, the FCA keeps the protections consumers have gained on the CCA – such as section 75 protection for breach of contract in the supply of goods and services e.g. the non-arrival of goods bought by credit card.

As part of its work the Panel commissioned two think pieces on the CCA and its protections. These formed the basis of the position paper on consumer credit we published in January 2012.

12 The European Consumers' Organisation – Bureau Européen des Unions de Consommateurs

Mortgage Market Review

Following its work on the FSA's Mortgage Market Review (MMR) in 2010/11, the Panel has continued to devote considerable time and resources to mortgage regulation because of the importance of the mortgage market to so many consumers. This has proved a good example of the Panel's effectiveness at influencing FSA policy making.

In terms of the MMR the Panel has always agreed that inappropriate mortgage lending during the last housing price boom led to serious consumer detriment. We recognise that some consumers have been left struggling to maintain their mortgage payments, others are subject to forbearance by lenders and some have had to fight repossession. So we supported the FSA in its efforts to develop regulation to prevent future problems in the mortgage market and we welcomed the detailed proposals to regulate the sales process and to mandate appropriate affordability assessments.

In our response to the FSA's revised proposals for the mortgage market, however, we did not rely on its central belief that its responsible lending requirements will prove 'net beneficial in well-being terms'. This was in the light of the inherent uncertainty of the impact estimates and the critical conclusions of two independent Peer Reviews, commissioned by the Panel, of the FSA's welfare analysis.[13]

Furthermore we have contended that it is vital the FSA's MMR proposals do not depress an already depressed housing and mortgage market, making life worse for indebted consumers. We made three recommendations:

1. the proposed interest rate stress test should be made more sensitive to market conditions;
2. unless the FSA is fully confident on the basis of solid empirical evidence that consumers would not be harmed by prompt implementation, the new responsible lending requirements should not be brought into effect until the housing market has demonstrably recovered; and
3. the transitional arrangements should be considerably strengthened and applied immediately.

Retail Distribution Review

The Panel has worked diligently on the FSA's Retail Distribution Review (RDR) for many years and has been a strong supporter of its aims which include delivering better value for consumers. The implementation phase of the FSA's RDR has been the focus of the Panel's work in 2011/12 and our key priority in this area has been the so called "advice gap" which may emerge after implementation of the RDR. The Panel commissioned research which we published in March 2012. This examined the various models for delivering advice available in the market and also examined potential new models for advice. This followed on from the FSA's November 2011 simplified advice guidance consultation which we strongly welcomed and our October 2011 roundtable where we brought together consumer, industry and professional groups to discuss the way forward.

The natural corollary to the advice gap is the Panel's call for straightforward outcome products: products that consumers can access to meet their needs with straightforward or expected outcomes. We published research in this area too in August 2011, which built on our research last year into safer products.

The Panel is involved in the various industry groups that are working on defining simple products and simplified advice. We will continue to contribute to discussions on savings, advice and product design as it is important that there is cohesion between the various important work streams underway in the savings and investment areas.

Over the last few years it has become apparent that platforms will play a significant role in the post RDR world. The Panel has successfully lobbied to ensure platforms conform to the principles of the RDR. This followed on from the research we commissioned during 2010/11 that demonstrated that it should be possible for the providers of these services to change their business model, given a reasonable amount of time, and therefore ensure a more transparent and competitive market.

The FSA will imminently publish proposals for what we hope will be a more transparent platform industry that delivers better outcomes for consumers. We are keen to ensure that platforms are free from opaque payments between fund managers, platform operators, advisers and consumers.

Effective conduct regulation

Effective conduct regulation has proved one of the more intractable challenges of financial services regulation. We believe that the new robust approach of the FSA and the intent for the FCA give considerable cause for optimism. The FCA Approach Document's proposals outlining commitment to root cause analysis, drive towards more frequent information sharing and a commitment to greater consumer engagement were particularly positive developments.

During 2011/12 we also undertook three case studies examining FSA conduct regulation including replacement payment protection products, packaged bank accounts and reward strategies.

13 Peer reviews of FSA welfare analysis: www.fs-cp.org.uk/publications/research_documents.shtml

Our Objective:

The Panel will work to ensure consumer protection standards are enhanced through the changes to the future shape of financial services regulation.

The shape of future UK regulation

Our actions and outcomes

The government is changing the structure of UK financial services regulation. This has the potential to transform the outlook for future consumer protection. The Panel has been keen to ensure consumer protection standards are improved to prevent a reoccurrence of the detriment created by industry mis-selling scandals and the failure of firms to put their customers' needs first. The Panel's work to influence the draft Financial Services Bill has focused on:

- providing the FCA with effective competition powers to enable it to deliver its statutory objectives;
- requiring the PRA to take account of the views of consumers by responding to representations from the Consumer Panel;
- requiring financial services providers to have a fiduciary duty of care to their customers;
- requiring the FCA to have regard to consumers' ability to access financial services;
- increasing the transparency of the new regulators by requiring them to publish warning notices without consultation and empowering them to publish information about the individuals and firms they regulate; and
- requiring the regulators to undertake full and robust cost benefit analysis when developing new rules.

These issues will come as no surprise to those who have followed the Panel's work in recent years as the Panel has long campaigned on many of these points. We specifically referenced competition and access in our previous annual report.

The Bill

The Panel briefed a wide range of Parliamentarians ahead of the debates on the Bill in both Houses of Parliament. We were pleased with the support for increasing consumer protection and several amendments inspired by the Panel's briefing were tabled and debated by MPs. In particular, the Panel's concerns about fiduciary duty and access received considerable attention. Although ultimately the amendments were not successful they demonstrated the seriousness with which the government and opposition views the Panel's ideas and we will continue to argue the case as the debate moves into the House of Lords.

The Panel's submissions to the Treasury, BIS, Joint Committee and Treasury Committee

The Panel gave evidence to the Joint Committee scrutinising the draft financial services Bill on 2 November 2011 and also submitted evidence to the Treasury Committee. Previously, in June 2011 the Panel responded to the Treasury White Paper and Draft Bill CM8083 on the future of financial services regulation as we did with the Treasury's second consultation in April 2011.

The Panel also produced and circulated a briefing document for MPs and Peers which we circulated to the Parliamentarians with an interest in financial services or serving as members of the Joint Committee, Treasury Committee or Bill Committee.

We also worked with Consumer Focus, Citizens Advice and Age UK, submitting a joint letter to Mark Hoban MP, Financial Secretary to the Treasury.

Fiduciary Duty Position Paper and the Panel's round table

The Panel undertook considerable work around the Bill imposing a fiduciary duty on the providers of financial services. The overall aim was to strengthen consumer protection and rectify the huge imbalance of knowledge between the industry and ordinary consumers. The Panel was keen to raise a debate around measures that ensured:

- no conflict of interest;

- no profit at the expense of the customer without their knowledge and consent;
- undivided loyalty to the customer; and
- a duty of confidentiality.

The Panel held a very well attended roundtable event on the 6 December 2011 which led to a position paper published on the 23 February 2012. This position paper was publicised in the media and launched to coincide with the discussion of the relevant amendments to the Financial Services Bill, then in Commons Joint Committee stage.

Coordination of PRA, FCA etc at European level

Through our submissions on the government's regulatory reform programme we have consistently stressed the need for close integration between the UK's new twin peaks regulators, the EU institutions and, in particular, the three European Supervisory Authorities (ESAs).

We have been encouraged by the proposals to establish an International Coordination Committee (ICC), chaired by the Treasury and attended by members of the relevant UK authorities. They include keeping each other informed, consulting 'where possible' with each other, sharing information, and agreeing consistent objectives.

The draft principles under which it will operate appear to be sensible. However, we have concerns that the initial proposals for the ICC to meet only quarterly will not be sufficient to maintain adequate coordination in an environment which is both fast-moving and complex. We also believe there should be explicit recognition of the need for both the FCA and PRA to be in constant communication when representing the UK's interests in European and international forums, particularly as key EU institutions and the ESAs will consider prudential and conduct of business issues jointly. We believe a joint European/international team for the FCA and PRA would be the most efficient way of doing this.

The nations and regions

A recurring concern surrounds the FSA's presence in the nations and regions of the UK. This issue rose in particular in the context of Northern Ireland credit union regulation as consumers and politicians have been accustomed to more local regulation. The Panel wants to ensure that the FSA adequately resources its presence in the regions to ensure that Scotland, Northern Ireland and Wales get the regulation they deserve.

Ongoing dialogue with HMT, FSA, BoE and other interested stakeholders

The Panel continues to speak to those who are responsible for framing and implementing the legislation. We have recently been active with regard to the Memorandum of Understanding (MoU) between the PRA and FCA, and the MoU with international regulatory organisations.

Future key priorities

We will work to requirel:

- financial services providers to have a duty of care to their customers;
- the PRA takes account of the views of consumers by responding to representations from the Consumer Panel;
- the FCA to have regard to consumers' ability to access financial services;
- the new regulators to be open and transparent by requiring warning notices to be published without consultation and empowering the regulators to publish information about individuals and firms they regulate;
- the FCA to be provided with effective competition powers to enable it to deliver its statutory objectives; and
- both regulators to undertake full and robust cost benefit analyses when developing new rules.

Given the clear failures by providers of financial services to treat their customers fairly, we believe the new act should require the industry to provide the service that consumers expect.

Adam Phillips, 23 February 2012

Our Objective:

We will influence the development of EU financial services policy so that it reflects the interests of UK consumers and ensures that UK consumers can have confidence in financial services.

EU regulatory and legislative issues

Our actions and outcomes

Consumer protection is written into the legislative DNA of the European Union, which is explicitly committed to protecting the health, safety and economic interests of consumers. The three new supervisory authorities set up in the wake of the financial crisis are required to take a leading role in promoting transparency, simplicity and fairness in the market for consumer financial products and services across the EU.

Working in this context, the Panel's EU strategy is to support and challenge the development of EU financial services policymaking for the benefit of consumers and to protect existing safeguards. People should be able to buy financial services with full confidence about market supervision, enforcement, transparency, competition and redress whether buying a product in their home state or cross border. This should be the case whether they are buying from a provider based in their own home state or elsewhere in the EU.

Banking

At a speech to the BBA's Complaints seminar in March 2012, Mike Dailly Panel Working Group Chair emphasised that there can be little doubt that the European consumer agenda will have a profound impact, particularly upon our banking services market.

Basic banking services are essential everyday tools for consumers. The Panel supports the right of consumers to have access to basic payment accounts and expressed disappointment in July 2011 that the Commission's response to its consultation on the subject was in the form of a recommendation rather than concrete legislative proposals. It is actively encouraging the Commission to replace this recommendation with actual legislation sooner rather than later. We had been encouraged by the Commission's original bold statement that all Europeans should be guaranteed adequate access to a basic bank account.

The Panel firmly believes in transparency of charging in relation to bank accounts and, while acknowledging that banking providers have been in discussions to improve this, looks to the European Commission to make proposals in this area, with a commitment to policing implementation.

Consumers also have a right to clear information about the levels of protection they can expect if their bank gets into difficulties. The Panel has long argued that it should be a requirement for all brands to be separately authorised, to make it easier for consumers to spread their savings between brands to reduce the risk of loss. The Panel has been instrumental in the successful campaign to persuade the European Parliament to support this provision for the Deposit Guarantee Schemes Directive. However, it remains to be seen whether this will be approved by the Member States.

Insurance Mediation Directive (IMD), Packaged Retail Investment Products (PRIPs), Markets in Financial Instruments Directive (MiFID)

Concerns about the patchwork of regulation and legislation for different investments and a lack of consistent and effective standards for investor protection are behind three connected pieces of work, the Insurance Mediation Directive (IMD), Packaged Retail Investment Products (PRIPs), and the Markets in Financial Instruments Directive (MiFID). Further information is expected later in 2012 on PRIPs and the IMD, but the Panel has already provided input to the European Parliament's consultation on revising MiFID. Its main concern is the interaction of the MiFID reforms on adviser remuneration and disclosure, and the Retail Distribution Review in the UK. It has also raised issues dealing with transparency of sanctions, record keeping and potential for regulators to apply a fiduciary duty of care to firms. All of these would help to improve protection for consumers of financial services, and the Panel has been working with its European partners to get its messages across.

Promoting consumer views at EU level

The Panel would like more progress in seeing effective consumer representation enshrined at the heart of financial regulation across Europe, and has noted the work of the Supervisory Authorities towards this objective. The Panel engages actively at EU level through its relationship with BEUC. It also benefits from the involvement of its members with the EIOPA and ESMA stakeholder groups.

Mortgages

One of the Panel's key priorities at UK level is the FSA's Mortgage Market Review and it has published a six point plan for a sustainable and healthy mortgage market. So the simultaneous work at EU level for a Mortgage Credit Directive is of particular interest. The Panel is providing input to expert groups to ensure there is consistency across EU and UK regulations and that both are in the best interests of consumers.

European Supervisory Authorities

The Panel supports the work being done by the European Supervisory Authorities on consumer protection, and in particular the work of the Stakeholder groups advising each authority. In her capacity as Vice Chair of the EIOPA Insurance and Reinsurance Stakeholder Group Kay Blair spoke at the EIOPA annual conference in November.
Her key message was that the effectiveness of the ESAs should be judged on how they deliver better outcomes for consumers. Kay also took part in the first EIOPA Consumer Strategy day in December, where she called for sharing of good practice across Europe to promote transparency, simplicity and fairness.

Future key priorities

We will:

- work to influence the European Commission to ensure greater transparency on bank charges and ensure the risks to financial inclusion and recovery are recognised;
- work on MiFID to influence the EU debate to ensure the cost of investment products and services is fair and transparent for consumers whether they are purchasing at home or in another member state; and
- strengthen the mechanisms for effective consumer representation at EU level and the ability of consumers to contribute to and influence the decision making process.

The new European Supervisory Authorities must be judged on how well they deliver better outcomes for consumers.

Kay Blair, EIOPA Annual Conference, Frankfurt, 17 November 2011

Our Objective:

We want to ensure that the reform of consumer credit regulation leads to improvements in consumer protection.

The future regulation of consumer credit

Our actions and outcomes

For some time, we have believed it would be better for consumers to have a single regulator for financial services. This would remove the anomaly whereby a bank account in credit is regulated by the FSA but an account in debit is regulated by the OFT under different regulatory regime; the Consumer Credit Act (CCA).

The government has decided, in principle, that the FCA should assume responsibility for consumer credit regulation under the FSMA regime. Although not completely consistent with the Panel's position, which was for the FCA to take over regulation initially under the existing CCA, we welcome this decision and hope this will create a strong single regulator that is responsible for the conduct of firms across the whole retail financial services market.

The Panel responded to the government's consultation over whether responsibility for regulating consumer credit should be retained by the Office of Fair Trading (OFT) or transferred to the new Financial Conduct Authority (FCA). We have also conducted further work on the future of consumer credit, publishing a position paper and two think pieces in January 2012.

The Panel met with Ed Davey MP, then at the Department for Business, Innovation and Skills (BIS), and had discussions with both BIS and Treasury staff working to develop the government's position to ensure effective protection of consumers.

The Panel has successfully argued that the overriding priority for the future of consumer credit should be to increase consumer protection standards. We are pleased that responsibility for regulating consumer credit will move quickly to the FCA. We argued that this should initially be under be the Consumer Credit Act (CCA), but with an aim of reviewing whether transitioning to Financial Services and Markets Act (FSMA) style rules would be appropriate at a suitable time. We will engage with the development of the new regulations to try to ensure that the government's aspiration to deliver enhanced consumer protection is achieved as a result.

Commissioned Work

As with other areas of the Panel's policy work, to help inform our position on the future of consumer credit regulation, we commissioned two independent research projects:

- a comparative analysis of how the CCA is currently implemented and how a FSMA-style regime could work in the future; and
- an assessment of the protection offered to consumers under the CCA – including where it works, where it falls short and the impact of a move to a FSMA-style regime.

Both projects highlighted the valuable consumer protection mechanisms available under the CCA. This includes, for example, Sections 40, 75 and 140 which ensure, among other things, that goods and services provided through the provision of credit are fit-for-purpose. Sections 129 and 136 also protect consumers who experience difficulties repaying any monies borrowed.

The Panel has argued strongly that it is essential that these consumer protection mechanisms are maintained and not undermined. So we welcome the government's commitment to ensure that the new consumer credit regulatory regime '*does more to protect consumers*'.[14]

14 HM Treasury, *A new approach to financial regulation: securing stability, protecting consumers*, January 2012

Position paper

To communicate the Panel's position to the government and interested stakeholders, we published a Position Paper in 2012. This sets out our analysis of the key issues and we are pleased that the government has taken these into account when reaching its final decision.

Future key priorities

We will work to ensure:

- existing consumer protection standards are not undermined, but improved, as part of the transfer of regulatory responsibility to the FCA;
- HMT, BIS and the FSA develop a risk-based model that recognises the need for proactive, local activity relating to smaller credit providers, which often serve the more vulnerable consumers;
- the FCA is empowered to adopt a proactive approach to tackle emerging market risks; and
- the FCA has an appropriate level of expertise in consumer credit during the critical stages of transition.

The government can only deliver its vision of a powerful conduct regulator if the FCA has comprehensive responsibility for the whole retail market whether consumers are saving or borrowing money. The creation of the new regulator is a golden opportunity to end the historical anomaly that leaves consumer credit alone outside FSA regulation.

Adam Phillips, January 2012

Our Objective:

The Panel will engage in the process for the reshaping of UK financial services regulation, in the context of making a strong case for consumer well-being.

The Mortgage Market Review (MMR)

The Panel devoted a considerable amount of time to the FSA's review of the mortgage market in 2011/12 due to the importance of mortgages to so many consumers and the breadth of the proposed changes. We have worked with the FSA since it initially launched the MMR in its October 2009 discussion paper. In last year's annual report we covered our call in November 2010 for the FSA to take more time over the review, in particular because we wanted the FSA to conduct a full cost benefit analysis.

The MMR set out with the aim of protecting consumers by delivering a prudentially sound financial system and ensuring firms conducted their mortgage business fairly. Therefore, the Consumer Panel supported the principles behind the FSA's proposals including reducing irresponsible lending.

The Panel would like to see a mortgage market where consumers can shop around for affordable mortgage products that meet their individual needs. We have called for comparable prices across the market and the competition between lenders based on customer service. The Panel has also been earnest in arguing for more positive treatment of those in arrears.

In terms of the FSA's latest proposals, the Panel led its response with the issue of mortgage prisoners, those people trapped in an existing mortgage agreement, perhaps because of a high loan-to-value mortgage, negative equity, inability to exit a fixed term deal or by the severe contraction in the interest-only market. We urged the FSA to adopt a strengthened regulatory approach to ensure consumers are treated fairly. The Panel also supported the FSA's proposals to strengthen its approach to firms' arrears management practices. This is an area with significant risk of detriment and hardship for consumers, especially in the current economic climate.

Otherwise, the Panel called for a delay in the introduction of the new responsible lending requirements across the whole market given the potential to further restrain lending. The Panel was of the view that the FSA should be fully confident that prompt implementation would not harm consumers; otherwise it should wait until the housing market had demonstrably improved. Any change should be based on solid empirical evidence that consumers would not be harmed by the prompt implementation of the requirements. Given the already tight underwriting standards present in the market changing the requirements now could further restrain lending and cause detriment to consumers.

The Panel's six-point plan

The first major initiative of the Panel with regard to mortgages in 2011/12 came in June 2011 when we launched a well-received six-point plan for a sustainable and healthy mortgage market.

i. Effective regulation to help consumers
ii. Regulatory policy to take account of wider social and economic implications
iii. Lenders required to judge affordability and suitability for individual consumers
iv. Transitional arrangements which take account of the implications of the changes for all
v. A future regulatory structure responsive to consumers' needs
vi. Balanced debate which overcomes the polarised views on the mortgage market

The Panel followed up on it in March 2012 in its response to the FSA's consultation in CP11/31. Greater detail on the Panel's position is available in this response. Following the format of our six-point plan, some of the key issues were as follows:

1. *Effective regulation to help consumers – Effective regulation needs to prevent irresponsible lending while not*

overly constraining the market for millions of responsible borrowers. The FSA's policy needs to be based on a robust and comprehensive cost benefit analysis.

The Panel was content that the FSA's proposals went some way towards ending irresponsible lending. However, we were still concerned about the robustness of the FSA's welfare cost benefit analysis and whether the market might be unduly constrained. We also welcomed support for income verification with a flexible approach to required documentation and new safeguards for interest-only mortgages. We continue to regard interest-only mortgages as legitimate financial products for some consumers.

Peer Reviews especially commissioned by the Panel concluded that the FSA's welfare analysis was inadequate. Consequently, we felt we were unable to rely on the FSA's contention that the MMR proposals were 'net beneficial in well-being terms'. We advised the FSA that it should address the criticisms in the independent peer reviews before coming to final policy conclusions.

2. *Regulatory policy to take account of wider social and economic implications – The Panel wants to see 'joined up' thinking on the MMR and its wider implications for housing policy.*

   We welcomed the FSA's less prescriptive affordability requirements. The new affordability requirements would undoubtedly lessen the potential impacts of the FSA's proposals on related markets such as those for rental, buy-to-let and social housing properties.

   The Panel did, however, call for greater joined-up thinking in terms of the wider social and economic implications. In particular, we remained keen to see greater evidence of joined-up thinking on – and evidence of consideration of – the potential changes to the home-ownership population brought about by the MMR.

3. *Lenders required to judge affordability and suitability for individual consumers – lenders should take responsibility for assessing whether consumers can repay according to their individual circumstances, with an intelligent, tailored assessment of potential risks, rather than having overly prescriptive rules which could be unfair to some consumers.*

   We were pleased with the FSA's revised proposals, perhaps the single biggest area where the FSA's demonstrated its willingness to listen to others and adopt a more balanced and proportionate approach.

   Overall, the Panel agreed that with the FSA that when calculating affordability lenders should, as a minimum, take full account of consumers' committed and basic expenditure. We welcomed the removal of both the proposed buffer on standard affordability tests for the credit impaired and the proposal to restrict the maximum assessable mortgage term to 25 years.

   However, we thought that the proposed definition of credit impairment and proposals regarding debt consolidation might prove too restrictive. The Panel suggested the FSA should conduct further work in this area to ensure its proposals were balanced and evidence based. We also disagreed with the FSA's proposals to abolish non-advised sales. The Panel believes that many consumers, particularly those who have bought before, are sufficiently knowledgeable to make their own choices about using intermediaries and this should not constitute regulated advice.

4. *Transitional arrangements which take account of the implications of the changes for all segments of the market – those with historic mortgages need to be taken into account in the transition to any new mortgage regime. The timing of implementation of new affordability tests will be crucial.*

   The Panel was already seeing firms in the market move to restrict loan-to-value and loan-to-income ratios. This is problematic for those 'mortgage prisoners' unable to exit their current agreements if they find themselves paying significantly higher interest rates without the option of moving elsewhere.

   We called for the FSA to strengthen its proposals by imposing a specific rule for consumers remortgaging from historical products so they are not unfairly treated or discriminated against through their inability to access more competitive products.

5. *A future regulatory structure responsive to consumers' needs – it is vital that the interests of consumers are adequately represented in the new regulatory structure. The Panel is concerned that the new Financial Policy Committee may not take adequate account of the consumer interest when making important decisions about the mortgage market.*

The MMR proposals did not dispel the Panel's concern that insufficient consideration had been given to the potential regulatory overlap between the FSA's proposals and future macro-prudential interventions of the Financial Policy Committee (FPC). Given that at its 16 March 2012 policy meeting the FPC itself called for more public debate, the Panel believes the FSA should conduct further analysis in this area. Consumers should not suffer unnecessary collateral damage from prudential action to avert an unsustainable lending boom.

6. *Balanced debate which overcomes the polarised views on the mortgage market – the current heated debate over the MMR should not divert attention away from the needs and interests of consumers who either have, or aspire to have, a mortgage. The Consumer Panel seeks to represent all consumers and is working with the FSA to achieve good consumer outcomes.*

   We made this point in our six-point plan as we believed that the MMR debate had become unhelpfully polarised. We were pleased to note that the FSA's current proposals have been far less contentiously received than the original proposals. This positive response from both sides in the debate was evidence of the far more proportionate approach taken by the FSA, which the Panel advocated and supports.

Future key priorities

We will:

- continue to press for effective regulation to help consumers which takes account of the implications of changes for all sectors of the market; and
- respond to the FSA's final proposals when they are published in 2012.

The FSA is undoubtedly right to bring forward proposals for stricter regulation of the mortgage market given the chaos which has resulted from weak regulation of our financial system.

Adam Phillips, April 2012

Our Objective:

To help progress the development of advice models that allow mass market consumers to access advice at an acceptable cost.

The advice gap

For many years the Panel has been concerned that financial services providers are failing to meet consumer needs when it comes to advice on financial products. The gap in provision – the so called 'advice gap' – was the subject of Consumer Panel independent research published in March 2012. The objectives of the research were twofold: to inform the Panel's future thinking and also to refresh the long-running debate on defining and meeting the advice gap, which seems to have reached an impasse.

The findings were based on in-depth discussions with a range of key stakeholders and included an analysis of various models for delivering advice, some of which are already operating in the market. It also examined the constraints on development of other new models of advice imposed by the regulatory framework and the consequent lack of current growth potential in the overall provision of financial advice, guidance and help for consumers.

From the outset, the Consumer Panel has been keenly involved in the development of the Retail Distribution Review (RDR). The Panel views it as one of the most significant developments in financial services regulation since the FSA's inception. We are keen to see the RDR implemented as we believe it has the potential to deliver significant advantages to consumers, including much fairer and clearer advice. We are working at European level to address the issue of coordination of the RDR and European initiatives to encourage levelling up, rather than levelling down, of consumer protection across the European Union.

During 2011/12 the Panel's focus has shifted to the implementation phase of the RDR and related issues such as the advice gap. We responded positively to the FSA's consultations CP11/25 and CP11/26 on adviser charging, legacy assets and disclosure. While we were pleased to see the FSA maintaining the objectives and principles of the RDR we had some concerns around the potential for non-standardised wording in disclosure documents to confuse clients. We continue to press the FSA on the need for effective communication of key messages to consumers about the RDR and its benefits and consequences. And we would like to see mystery shopping used to test the effectiveness of implementation of FSA requirements in this area.

Professionalism

The Panel strongly supports efforts to increase professional standards across the financial services sector. This does not just mean higher academic standards. The RDR requirements on continuing professional development and ethical standards will benefit consumers through improvements in the quality of the service and products they purchase, helping to rebuild consumers' trust in financial services firms and enabling advisers to demonstrate objectively the high standards required of the profession.

Simplified advice

The Panel continued its work on simplified advice in 2011/12. We welcomed the FSA's November 2011 simplified advice guidance consultation and were pleased to see that the guidance clarified how simplified advice could be offered within the current suitability rules without undermining the requirements of the RDR.

The Panel's roundtable in October 2011 brought together the FSA, consumer, industry and professional groups and stimulated wide and healthy discussion – although no general consensus on the way to proceed. It became evident that while the stimulus for much of the current debate had been the possible reduction of access to financial advice as a result of the RDR, what we have actually been talking about are broader issues such as:

- the savings gap (which is itself the subject of differing interpretations);
- the protection gap;
- the income gap (after all, if consumers do not have sufficient disposable income, they will not buy savings and investment products whether there is an advice service available or not);
- the impact of auto enrolment;
- consumer buying behaviour; and
- the key role of the Money Advice Service.

The FSA consultation focused on simplified advice services that would be accessible on-line, or through major outlets such as banks, bancassurers and the insurance sector. We continue to argue that account has to be taken of other access and delivery points, such as the workplace, and interaction with the requirements of other regulators such as The Pensions Regulator. In particular, with NEST[15]

15 National Savings Employment Trust

fast approaching, the Panel believes that there is a real possibility that the workplace could become a far more significant financial services 'entry point' for consumers. There are potential risks as well as benefits in this proposition and consequently we continue to work with the FSA and other stakeholders as ideas are developed.

Straightforward outcome products

The Panel believes that consumers should be able to access products that meet their needs by delivering a straightforward and expected outcome. Currently, many consumers find choosing the right product a stressful and frequently unrewarding experience, with product complexity a significant stumbling block.

In August 2011 the Panel published independent research it had commissioned on defining straightforward outcome products. In the foreword to that, Adam Phillips set out the Panel's concern that very few financial services products were straightforward, could be easily understood or 'do what they say on the tin'. We see the development of straightforward outcome products as crucial to restoring consumer trust in financial services.

Therefore the research investigated the likely character of a straightforward outcome product and evaluated the other types of products in this space. This followed on from the Panel's 2010 research which looked at 'safer' products and the Treasury's consultation on 'simple' products. The analysis suggested that it was feasible to specify appropriate criteria to allow consumers to purchase products well suited to their needs, with little likelihood of regret or complaint. The Panel believes that such straightforward outcome products might well be suitable for distribution both to more confident consumers without advice, or through some simplified advice or other advised models.

Work with other stakeholders

The Panel is involved in Carol Sergeant's groups that are working on defining simple products. We will continue to contribute to discussions and debates on savings, advice and product design initiated by industry bodies, and we think it important there is cohesion between the various important work streams underway in the savings and investment areas.

Platforms

As outlined in last year's report, investment platforms are likely to become an increasingly significant part of the investment market with a future market estimated at £1-2 trillion. As the RDR has progressed, the Panel has lobbied successfully to ensure platforms conform to the principles of the RDR. As part of this, the Panel commissioned and published research on platforms in early 2011, detailed in last year's annual report.

The Panel therefore welcomed the FSA's announcement in August 2011 that it would ban rebates, or commission payments on platforms in principle. We also called for the FSA to increase its supervision of the platforms market during the transition period. We look forward to the FSA's imminent proposals on the future regulation of platforms which will, we hope, clarify the detailed rules on rebates.

Discussion with MPs and the Treasury Select Committee on the RDR

Discussion with MPs on the RDR and issues of the advice gap and straightforward outcome products has continued throughout 2011/12. The Panel expressed concern over the Treasury Select Committee's recommendation of a 12-month delay in RDR implementation. However, we were pleased with the change in the tone of the debate over this period and the recognition by MPs of the importance of the RDR to consumers.

Future key priorities

We will:

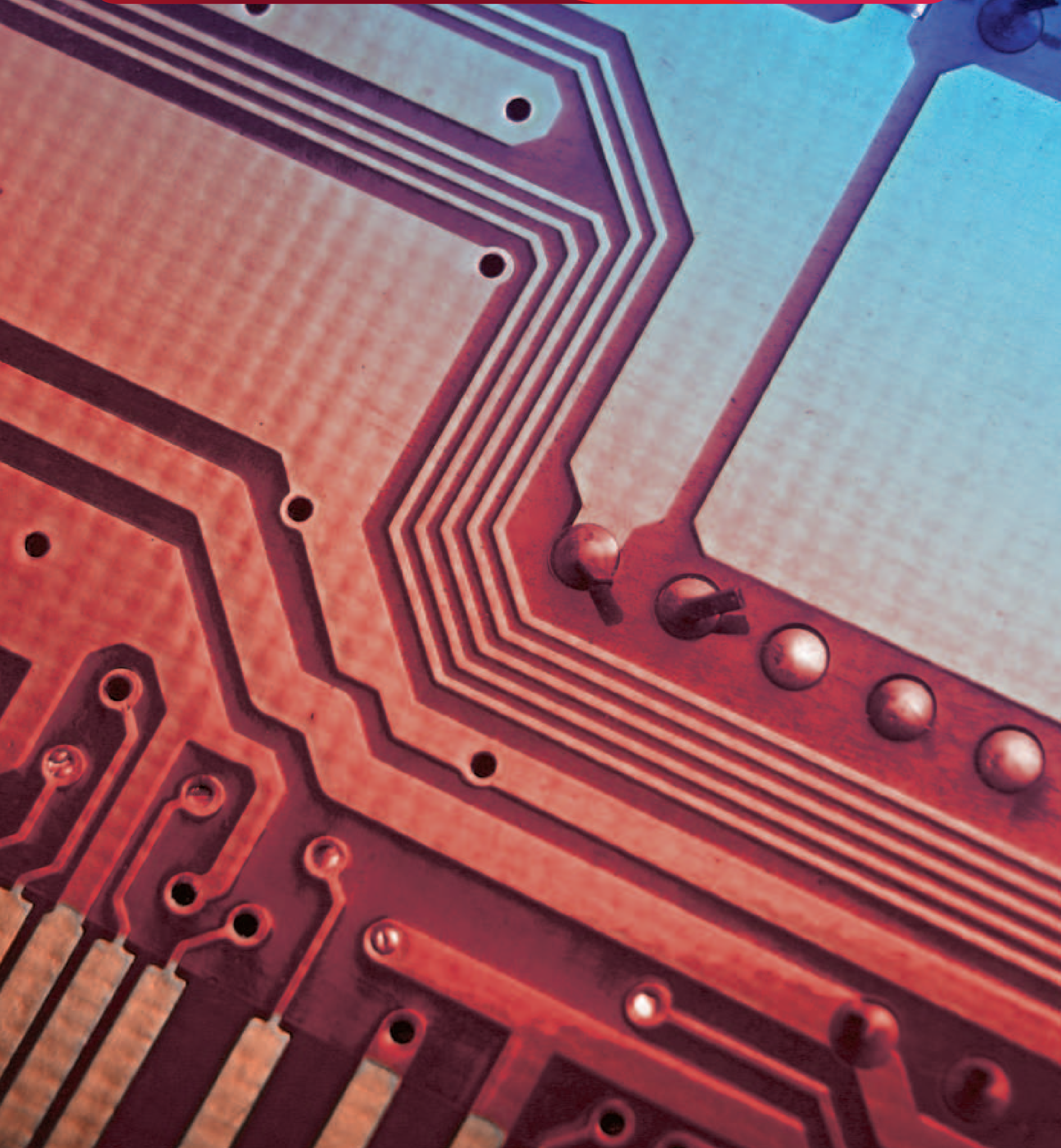
- continue to work with the Treasury and others to make the case for the development of straightforward outcome products;
- continue to press for the RDR principles to be applied to the regulation of platforms, addressing bias and helping empower consumers;
- monitor the implementation of the RDR and ensure it works for consumers; and
- continue to develop and promote our established position on simplified advice.

Other retail sectors are much better about identifying their customer needs and providing cost-effective solutions. We would like to see key stakeholders in financial services working together more effectively to fill the advice gap.

Adam Phillips, March 2012

Our Objective:

To ensure that the FCA adopts and continues to build on the FSA's new more intensive conduct regime.



The effective regulation of business conduct

Our actions and outcomes

The Consumer Panel has long believed that effective regulation of business conduct will lead to better outcomes for consumers. However, achieving this has proved one of the more intractable challenges to confront the UK's conduct regulator. It was the FSA's first Chief Executive, Howard Davies, who said on 11 December 2000 at the launch of the FSA's progress report on building a new regulator:

"And most of all, consumers supported the idea of a proactive regulator, one which tried to anticipate and head off consumer problems in advance, rather than has been sadly the case too often in the ancient regime, coming along afterwards to clear up the mess. Being cast permanently as the man who followed the Lord Mayor's show with a shovel and a bucket is not an attractive role."

The Panel has been reassured this year by the more robust approach of the FSA and a number of the proposals in the FCA approach document, including:

- the clarity over the limits to the FCA's remit as well as the detail concerning what it would seek to undertake;
- a concrete commitment to identifying the root causes of problems, rather than merely the symptoms and consequences;
- the clear statement that the FCA's culture will be based on a presumption of transparency;
- the view that the FCA will need a sound economic understanding of the way relevant markets operate;
- a drive towards frequent information sharing between the FCA, the Financial Ombudsman Service (FOS), the Financial Services Compensation Scheme (FSCS) and the Money Advice Service (MAS);
- the commitment to greater and more effective engagement with consumers and to a better understanding of consumer behaviour; and
- the acknowledgement that the FCA has a mandate to address financial inclusion under its efficiency and choice objective.

However, the Panel called for further action in the following areas:

- specific examples of actions to be included under the transparency objectives and on how the new ethos of 'openness' would be implemented;
- more detail on the likely risk appetite or risk tolerance of the new regime;
- further detail on how the FCA would ensure it has sufficient and appropriate expertise not only in the financial industry but also economic, consumer and policy areas;
- we were concerned that there was an over-reliance on disclosure instead of programmes to address poor consumer understanding and financial capability;
- immediate action to develop an improved programme of direct engagement with consumers;
- restrictions on the FCA's regulatory toolkit needed to be addressed; and
- warning notices issued by the Regulatory Decisions Committee (RDC) should be published without the need for further consultation with the firm or individual concerned.

While there has been evidence of policy development in the intervening months, such as the approach to early product intervention, further information is still needed about the FCA's forward programme with sensible timelines, milestones and objectives for the implementation of the new regime.

During the year we began working on three separate case studies covering the work undertaken by the FSA in three areas: replacement payment protection products; packaged bank accounts; and reward strategies. Our objective is to assess, so far as possible, the effectiveness of FSA conduct regulation based on these different and discrete policy strands and we will be commenting on the implications of the action taken for the future development of FCA policy and whether the FCA's approach should be different. Once completed we will be discussing the findings of the case studies with the FSA and then will make them available on our website.

Emerging risks

We have continued our programme of liaison and discussion with consumer groups and the FSA on emerging risks to consumers and the action that the FSA has taken in response to risks already identified. We work very closely with the FSA and pass on details of risks that we become aware of through our work and contact with consumer and industry groups. While it is helpful to see the FSA's 'snapshot' of risks in the *Retail Conduct Risk Outlook*, the FSA feels constrained by the confidentiality provisions of FSMA in responding more fully and openly to reports from external stakeholders. This lack of feedback about any regulatory action taken to mitigate the risks that have been reported can be a source of frustration. Consequently, it is difficult to comment on the effectiveness of the emerging risks process itself in terms of direct FSA action in response to specific risks, although the dialogue continues to be an important source of intelligence gathering for the FSA and for the Panel.

This highlights, again, the need for greater transparency in future. We do not expect the FSA to reveal details of all its regulatory activity, but we would like the FCA in future to engage with consumer groups on emerging risks, rather than the predominately one-way exchange of information at present.

Future key priorities

We will:

- work with the FSA to establish the FCA as an effective conduct regulator that is fully focussed on consumer protection, faster to act and intervenes earlier;
- continue to press the case for tougher and more frequent enforcement action against firms which misbehave;
- encourage the development of thinking on how the FCA will supervise firms and develop its supervisory tools; and
- work with the FSA to improve the FCA's intelligence and data gathering, and risk analysis.

Over the last few years the FSA has undergone a sea-change in behaviour. However, if we are to see the new more effective regulation the Panel has advocated, a quantum leap is now needed. It will be critical for the success of the FCA that it moves quickly and decisively to signal a fresh approach to regulation.

Kay Blair, 28 June 2011

The Panel's ongoing work

The Panel takes its duty to represent all consumers seriously and many issues arose outside of our priorities in 2011/12 either from the FSA's agenda or the wider financial services market.

Banking

Of all areas of financial services regulation, banking has continued to be at the zenith of public consciousness. Consequently, there has been a great deal of regulatory and legislative activity in this area and the Panel has been active in engaging in this discourse.

The Panel has also been proactive in setting out its agenda on banking regulation. In March 2012 we published a position paper on banking. The paper set out the Panel's belief that the new FCA should use its powers to:

- remove opaque charging by requiring transparency on the true cost of the different parts of banking services;
- empower consumers to shop around much more by switching their current account provider without any hurdles or delays;
- tackle cross-subsidisation within retail banking at the expense of financially vulnerable consumers;
- insist banks act honestly, fairly and professionally by bringing an end to the inappropriate incentive structures which reward one-off sales rather than developing long-term customer relationships; and
- make it easier for new competitors to enter the retail banking market in order to increase consumer choice.

In January 2012 the Panel responded to the FSA's consultation on the ICOBS rules regarding packaged bank accounts. Although generally supportive of the proposals, we urged the FSA to ensure consumers can fully understand their eligibility to claim under the different insurance policies included with a packaged bank account. We also encouraged the FSA to increase the transparency surrounding the price of these accounts and conduct research to consider whether they offer value for money.

Separately, the Panel has met with prospective new entrants to the banking market to better understand the challenges they face when seeking authorisation. We have also discussed these issues with Parliamentarians and other stakeholders. The Panel is concerned that barriers to entry in this market are restricting competition to the detriment of consumers. We have outlined our concerns to the FSA and stressed the need to take steps, where appropriate, to remove these barriers.

The Panel has also been active in relation to the European Commission's work on banking as described in the EU section. We will continue to press the case for better banking as articulated in our position paper.

Transparency

We believe that greater disclosure of information by industry and regulators alike can lead to improved behaviour across a range of different areas in financial services. The Panel has strongly supported the Government's aim to deliver greater regulatory transparency. However, we continue to believe there is further scope to increase the level of transparency by allowing, and requiring, the FCA and PRA to publicly disclose information collected in pursuit of their objectives. This will help to inform consumers and promote good behaviour among firms. At present FSMA imposes very strict legal constraints on the information the FSA is allowed to publish without permission from the organisation or individual involved.

The Panel has addressed this issue at European as well as national level. The revision of MiFID provides an opportunity to increase regulatory transparency, in particular the requirement to systematically publish sanctions. Speaking at QED's Brussels conference on MiFID in January, Lindsey Rogerson highlighted the importance of the investor protection aspects of MiFID II, emphasised that transparency is not 'job done' in terms of delivering investor protection, and that improving it is a vital part of ensuring better outcomes for investors.

Payment protection insurance

The Panel has continued to press for a solution to the payment protection insurance (PPI) scandal and has been vocal in support for the FSA's work in ensuring any consumer that was mis-sold a PPI policy receives redress. As part of this, we have also led calls for firms that have identified a risk that they mis-sold PPI policies to proactively contact all their customers to ensure they are aware of their right to seek compensation. We are pleased that the FSA has issued guidance in this area and firms have started contacting their customers.

At the end of December 2011 we responded to the FSA's guidance consultation on payment protection products.

We welcomed the guidance as an important aid not only for firms that produce and distribute payment protection products, but also on a broader level as demonstrating a new more proactive and interventionist approach of the FCA. The Panel was also supportive of the joint approach by the OFT and FSA, given the clear overlap between products and regulatory responsibility in this sector of the market.

We did however feel that the FSA needed to be more robust when it came to enforcement, by making it clear to firms that further failure to comply with the guidance once it came into force would be pursued vigorously. The Panel also supported the FSA's targeted communications strategy proposed aimed at informing consumers both of the benefits and pitfalls of PPI insurance. A continuing thread of our work on PPI revolves around encouraging greater regulatory action around reward strategies which influence the products staff prioritise in their sales.

Improving the regulation of Claims Management Companies

Claims Management Companies (CMCs) have undoubtedly helped some consumers get access to redress where they have been mis-sold a financial product, as demonstrated by the PPI debacle. However, it is increasingly obvious that there are still rogue operators in the market who are charging large, non-refundable upfront fees and misleading consumers despite the action taken by the Ministry of Justice to close down rogue operators. The Panel has campaigned for stronger regulation of this sector and has advocated transferring responsibility for regulating this sector to the new FCA. We have argued, and will continue to argue, that the regulation of CMCs should be strengthened to ensure consumers are protected against the poor practices of some firms.

Complaints

Some financial services providers persist in finding ways to elongate the complaints process to ensure that as many consumers as possible give up before they get the redress they seek. So we have supported the work of the FSA in introducing a one-step complaints process and urged the FOS to institute higher fees for firms with a poor record of complaint handling.

Enforcement and redress

The Panel has maintained regular contact with the Financial Ombudsman Service (FOS) and the Financial Services Compensation Scheme (FSCS) to keep abreast of their work in ensuring consumers secure the redress they deserve.

The Panel responded to the FOS business plan in February 2012 emphasising our strong support for its work. We welcomed the move towards "polluter pays" funding and the introduction of a supplementary PPI levy. The Panel also suggested that the FOS could go further and link payments to the effectiveness of firms in resolving complaints especially as this is a significant driver in terms of the cost of the service, alongside the volume of complaints. We did raise concerns that the business plan might underestimate the future numbers of complaints, given past experience, and that a greater contingency should be provided to ensure the FOS is able to manage complaints in a timely and effective manner.

The Panel also responded to the FOS's December 2011 consultation on publication of ombudsman's decisions. We strongly supported the publication of final decisions as we believe it will educate both the industry and consumers by explaining key decisions. We also supported the publication of the name of the firm involved in each individual case.

The Panel also welcomes the FOS's intention to undertake research to monitor what impact, if any, the publication of decisions has on a complainant. The Panel has emphasised the importance of ensuring the publications of decisions does not discourage consumers from pursuing a complaint. We encouraged the FOS to share the conclusions of this research and work with consumer groups and the industry to resolve any issues identified.

At EU level, we responded to the Department for Business Industry and Skills (BIS) call for evidence on European Commission proposals for alternative dispute resolution.

We were generally supportive of the Commission's proposals, but we did state to BIS that we would be concerned if any of the protections already available to consumers in the UK were to be eroded, particularly through the operation of the FOS, which is more rigorous in its operation than would be required by the draft Directive and Regulation.

With profits

With-profits policies continue to be an issue of concern to the Panel, despite the length of time since the problems surrounding with-profits funds became evident. We responded to the FSA's most recent proposals in CP11/5 on protecting with-profits policyholders. We supported much of the FSA's approach, although we urged it to go further to ensure that there was greater transparency in the operation of with-profits committees and we called for more prescriptive rules on significant reductions in levels of new business. On governance issues, we were concerned by the proposal to not to require with profits committees for funds of less than £500m. We also raised the issue of the provision of advice to policyholders, with a call for an organisation such as the Money Advice Service to fill the advice gap with funding from the with-profits funds. We also recommended a post-implementation review in 2015 after the arrangements come into place and following the likely implementation of Solvency II. We were disappointed that the FSA subsequently appeared to pull back from some key aspects of its initial approach, although the reasons were well documented in the relevant Policy Statement. However, several issues still need to be resolved, including the debate on the ownership of funds.

A new dimension to the debate has been the decision that responsibility for the regulation of insurance businesses, with the exception of areas such as communications with policyholders, will rest with the PRA. In reality, there are likely to be inherent conflicts between solvency considerations and ownership/distribution decisions based on fairness that could have significant consequences for policyholders. Unfortunately, we will not have a relationship based in statute with the PRA that will enable us to represent policyholder views and interests. This is a real risk to consumer protection, given the history of this sector.

Saving for retirement

Although the Panel's main focus is FSA regulation, the introduction of NEST, auto enrolment and policy proposals aimed at facilitating pensions saving all have a significant impact on consumer interests and related FSA-regulated financial services business. We think the workplace could become a far more important point for the delivery of financial advice to consumers – to whom, of course, the division of regulatory responsibility is of no real relevance – and Panel members are actively involved in continuing debate in this area.

Kay Blair accepted the invitation to join the CityUK's Steering Group looking at the future effectiveness of Defined Contribution pensions in the UK. Panel member Teresa Fritz also attended their breakfast roundtable to discuss consumers' attitudes, priorities and needs.

In March 2012 the Panel expressed its concerns to the European Commission, along with many other groups from industry and occupational pension interests, that a straight read-across from Solvency II (for insurance business) to the IORP Directive[16] covering Institutions for Occupational Retirement Provision could damage pension provision within the UK.

The Panel has responded to proposals from the DWP on ways to encourage employees to keep control of their pensions savings when they move employment. The cost of moving small pension pots as a percentage of the amount saved is high and can be prohibitive, creating additional problems for those who change jobs frequently or low earners. More has to be saved to make up the cost of the transfer. The Panel favours the development of a pensions 'log book', a simple mechanism for recording basic details about each individual's pensions savings that would move with them throughout their working lives – portable information is far cheaper and easier to manage than portable savings. This could be used by scheme members to keep track of their pension pots and could also help to cut the time spent (and cost of) securing retirement income, assuming firms do not increase the charges to non-contributing members unfairly. In addition the log book could be a useful component of the kind of 'defined aspiration' pension scheme supported by the Pensions Minister.

The Panel has noted the European Courts of Justice decision in the Test Achats case relating to the use of gender in pricing for insurance, and in particular its likely effect on the annuity market, which will require contracts entered into after December 2012 to be entered into on a unisex basis. We remain concerned that extending restrictions on underwriting factors could reduce the availability of insurance products, or restrict the features offered within products or increase the cost. We will continue to engage on the subject.

16 IORP II Proposal

Insurance

The Panel responded to the Law Commission and Scottish Law Commission's consultation on reforming insurance contract law. We were broadly supportive of the proposals, which ensured insurance law better reflects modern family structures, by updating the insurance interest requirements. We also supported proposals to allow policyholders to seek damages for late payment of insurance claims, which better reflects the wider position in contract law and the reliance consumers and businesses place on the timely payment of insurance claims.

Money advice

Major challenges persist in the area of financial capability. Too many people lack sufficient knowledge, skills and understanding to manage their finances and to make adequate provision for their future needs. The Panel has continued to call for regulators to do more in this arena. Some years ago, the FSA conducted a baseline survey on Financial Capability.[17] Depressingly, it found that 15% of people surveyed were unable to correctly determine whether, by looking at a typical bank statement, there was enough money in the account to pay a direct debit. One quarter of those surveyed were unable to use a graph to identify the best return on three separate investments.

The Panel has long been an advocate of generic financial advice and fully supported the creation of the Money Advice Service. We believe it can deliver significant long-term consumer benefits, by helping people manage their money more effectively and by leading work to deliver financial education to young people.

The Panel believes the Money Advice Service has a very wide and challenging remit, particularly since it now also has responsibility for debt advice. The Panel has argued strongly that it should nevertheless aim to prioritise work to deliver and coordinate financial education projects, particularly those aimed at young people.

In December 2011 the Panel responded to the Treasury consultation on the Money Advice Service and debt advice. We expressed concern that the funding for debt advice was being reduced and urged the continuance of the exchequer subsidies for debt advice, particularly in view of the current economic climate and the pressure on household finances. The Panel believes it is essential for the individual and the economy that people should have access to free-to-client, independent debt advice and has welcomed progress towards the objective of achieving this across the UK.

In its work the Money Advice Service needs to include an appropriate focus on face-to-face and telephone services where those channels have been demonstrated to meet the needs of customers more effectively, as well as the promotion of online services to reach higher volumes of consumers at lower cost.

17 www.fsa.gov.uk/pubs/other/fincap_baseline.pdf

Future key priorities

It should come as no surprise that in 2012/13 the Panel will continue to focus on better consumer outcomes across the financial services sector. This period will be marked by the transition of the FSA into the FCA and PRA and the passage of legislation empowering the FCA to regulate credit as well as changing banking regulation. There will undoubtedly be considerable challenges ahead for consumer representation.

The Consumer Panel's key priorities for 2012/13 will be:

- The shape of future regulation;
- Effective consumer representation at EU Level;
- Consumer credit regulation;
- Poor practices in general insurance;
- Decumulation; and
- The future effectiveness of the FCA as a conduct regulator.

Shaping the FCA, consumer credit regulation and consumer representation at an EU level are topics which move on from our 2011/12 priorities and are therefore detailed in the appropriate sections above. Decumulation and general insurance are entirely new priority areas.

We have chosen decumulation as the UK's rapidly ageing population coupled with the shrinking role of the state have significant implications for funding living costs in later life. Issues in this area include:

- regulation of insurance moving to the PRA and ensuing challenges;
- the complex regulatory landscape, both at EU and UK level;
- possible concerns around access, product choice, competition and pricing; and
- access to affordable advice that may be more limited post-RDR.

Poor sales practices around general insurance builds on the Panel's work on payment protection insurance. However, there are new challenges emerging for consumers in this area given that there is growing concern over the quality of products and access to suitable, affordable cover. In this area, amongst other actions we will:

- select key areas of potential detriment such as sales practices linked to the hollowing out of products and propose solutions for delivering better consumer outcomes; and
- examine value for money and scope of cover offered by add-on insurance policies that are typically sold alongside another product or service.

As in previous years we will continue to review our priorities at key intervals throughout the year. This enables the Panel to ensure that it is taking into account any significant issue which may arise and also to reprioritise in the light of legislation being enacted.

We anticipate that 2012/13 will be a very busy period in financial services regulation and in the work of the Panel. We feel confident that we have the focus, resources and commitment to ensure the voice of the consumer is heard and that the interests of consumers are recognised and pursued effectively. We relish the challenge.

Appendix 1 – Consumer Panel Members

Adam Phillips – Chair

Adam has extensive experience of market research, including research into consumer financial products. He is Managing Director of Real Research, his own market research consultancy, and is chair of the Professional Standards and Legal Committees of ESOMAR (the world association of market research professionals). He is a member of the European Investor Protection and Intermediaries Standing Committee (IPISC) consultative work group and the Financial Reporting Council's Actuarial User Committee. He was appointed to the Panel in March 2004, became Vice-Chairman in November 2005, and was appointed Chairman of the Panel in July 2009.

Attendance at Full Panel meetings – 10/11 eligible to attend.

Kay Blair – Vice Chair

A former business journalist who began her career with the Financial Times, Kay now owns and manages the Edinburgh-based marketing and communications consultancy, Business Perceptions. She is also Chair of the Scottish Housing Regulator, Vice Chair of the Insurance Stakeholder Group of EIOPA, a member of CityUK's steering group on Defined Contribution pensions and a non-executive director of NHS24. A Fellow of the Chartered Institute of Marketing, Kay is also a former member of the Scottish Consumer Council and a past non-executive director of the Scottish Ambulance Service and the Scottish Legal Aid Board. Kay was appointed Vice-Chairman of the Panel in October 2009.

Attendance at Full Panel meetings – 11/11 eligible to attend.

Stephen Crampton

Stephen is an independent EU and consumer affairs consultant with over 25 years of knowledge of consumer and regulatory issues at EU and UK level. Previously he was EU Advisor at Which? and was responsible for developing their European strategy and for policy research on EU issues. Previous to that he was director of the Consumers in Europe Group and also held various roles at the National Council for Voluntary Organisations.

Attendance at Full Panel meetings – 10/11 eligible to attend.

Mike Dailly

Mike is Principal Solicitor and Director of Govan Law Centre, Glasgow, one of the largest community-based law centres in the UK. He is a Member of Glasgow University's Law School Advisory Panel. Mike was a Member of the Secretary of State for Scotland's Poverty Advisory Group until 2010. He is a past Chairman of the Active Learning Centre, a small international human rights charity, Legal Advisor to the UK Sustainable Home Ownership Partnership, and a Member of the Child Poverty Action Group in Scotland's Advisory Panel.

Attendance at Full Panel meetings – 10/11 eligible to attend.

Teresa Fritz (Appointed to Panel 1 April 2011)
Teresa is Head of Proposition Development at MoneyVista.com, a new financial website which helps consumers manage and take control of their finances. Before joining MoneyVista Teresa was a Principal Researcher at the consumer organisation Which?, where she worked for 15 years researching and writing consumer reports on all areas of personal finance. In 2009 Teresa set up the Which? Money Helpline which offers money guidance to approximately 600,000 Which? subscribers in all areas of personal finance.

Attendance at Full Panel meetings – 11/11 eligible to attend.

Fiona Fry (Appointed to Panel 1 March 2012)
Fiona Fry is a senior Partner in KPMG's Financial Services practice. Fiona has been involved in consumer related regulation for over 20 years, including a role as Head of Investigations at IMRO and then the FSA, before joining KPMG in 1999. During her time as a regulator, Fiona led many reviews and investigations of misselling and other customer related matters, such as client money and assets. Fiona leads KPMG's Financial Sector Regulatory Risk Consulting practice and, since taking up Partnership at KPMG, she has played an integral part in KPMG's Retail Financial Services work.

Attendance at Full Panel meetings – 1/1 eligible to attend.

David Harker (Appointed to Panel 1 January 2011)
David Harker is a non-executive director of the Gas and Electricity Markets Authority, the gas and electricity regulator, and a member of the Council of the Advertising Standards Authority, which regulates advertising in the UK. For 13 years he was the Chief Executive of Citizens Advice, the national body for Citizens Advice Bureaux. Previously he spent eight years as the Managing Director of Sense, the national disability charity. David has an MBA from the London Business School and a masters in social policy. His earlier career included management consultancy and working as a policy analyst for a local authority. David received an OBE in 2003 and a CBE in 2011. In 2009 he was made a Companion of the Chartered Management Institute.

Attendance at Full Panel meetings – 11/11 eligible to attend.

Frances Harrison
Frances Harrison is a voluntary Policy Consultant to the Prince's Trust and a trustee of the Brighton and Hove Citizens Advice Bureau. She is also a member of the Finance and Leasing Association's Lending Code Group and of the Registry Trust Consumer Panel. Previously, she was Manager of Fairbridge West; spent nine years with the National Consumer Council as Head of Policy Research and Development and Senior Policy Officer, High Street Law and Practice.

Prior to this, Frances worked for the National Association of Citizens Advice Bureaux. She is a former Chair of Consumer Congress and the Institute of Consumer Affairs.

Attendance at Full Panel meetings – 11/11 eligible to attend.

Bill Martin

Bill is an experienced macroeconomist and a Senior Research Associate of the Centre for Business Research at the University of Cambridge. He was a Specialist Adviser in the UK Cabinet Office Central Policy Review Staff (1981 – 1983) and a Specialist Adviser to the House of Commons Treasury Committee (1986 - 1997). Between 1983 and 2004, he held senior roles, including that of chief economist at the investment banking and fund management arms of the Swiss bank UBS.

Attendance at Full Panel meetings – 11/11 eligible to attend.

Jonathan May (Appointed to Panel 1 March 2012)

Jonathan has had a wide-ranging career in the civil service and is currently working in the competition field. Since leaving the Office of Fair Trading in 2010, Jonathan has become a Member of the Competition Appeal Tribunal and a Special Advisor on consumer, competition and regulatory issues for Finsbury International Policy and Regulatory Advisors. Jonathan was closely involved in the development of competition and regulatory policy, first at the Treasury then the Department of Trade and Industry and, since 2001, the Office of Fair Trading.

Attendance at Full Panel meetings – 1/1 eligible to attend.

Pamela Meadows (Appointed to the Panel 1 April 2011)

Pamela Meadows is an economist who specialises in the labour market and social policy issues. She has a particular interest in the experiences and life chances of disadvantaged groups. She is currently a visiting Fellow at the National Institute of Economic and Social Research and a Director of Synergy Research and Consulting. Previously, she was Director of the Policy Studies Institute, and before that spent nearly 20 years as a government economist in both the Home Office and the Department of Employment, where she was Chief Economist and Head of Economics, Research and Evaluation.

Attendance at Full Panel meetings 10/11 eligible to attend.

Niamh Moloney (Appointed to Panel 1 March 2012)

Niamh Moloney is Professor of Financial Markets Law at the London School of Economics and Political Science (LSE). She specialises in EU financial market regulation and in particular in EU investor and consumer protection law. Niamh has published widely in this field in leading international journals. In May 2011 Niamh was appointed by the Board of Supervisors of the new European Securities and Markets Authority (ESMA) to its advisory Securities and Markets Stakeholder Group as an academic representative.

Attendance at Full Panel meetings – 1/1 eligible to attend.

Dan Plant
Dan Plant is Head of Editorial at MoneySavingExpert.com. His seven years at MSE have involved major input and oversight of campaigns including reclaiming mis-sold payment protection insurance, unfair bank charges and improving financial education in the UK. The core part of his role is creating and managing the consumer-focused content in all areas of personal finance, helping the website's ten million monthly users save money in almost all areas of life, as well as developing innovative new tools to bring financial information to new audiences.

Attendance at Full Panel meetings – 10/11 eligible to attend.

Faith Reynolds
Faith Reynolds is an inaugural Clore Social Fellow, with a keen interest in furthering social leadership across public, private and voluntary sectors. Over the past two years Faith has been pursuing the Clore Social Leadership Programme. She undertook research into Big Society while based at the Institute for Government and a short secondment at Prudential.

Previously, Faith was Development Manager at Toynbee Hall, East London, where she led strategic development for Financial Inclusion. She established Services Against Financial Exclusion in 2002, which helped over 10,000 people manage their money more effectively. In 2004 Faith founded Transact, the national forum for financial inclusion which continues today.

Attendance at Full Panel meetings – 10/11 eligible to attend.

Lindsey Rogerson
Lindsey is a freelance financial journalist, and currently writes for The Herald and Sunday Herald, as well as contributing to numerous other publications and websites, including her column in Aurora. She was chosen as European Private Equity Journalist of the Year 2005/6. Previously she has been Personal Finance Editor of The Scotsman and editor of Private Banker International.

Attendance at Full Panel meetings – 10/11 eligible to attend.

Claire Whyley
Claire is a professional researcher, policy analyst, and consumer champion. She is currently a freelance consultant helping organisations develop their capacity to understand and respond to consumer needs, and undertaking specialist research and policy development in the fields of consumer disadvantage, poverty, debt, credit regulation, financial and social exclusion. Claire is a member of the Finance and Leasing Association Lending Code Group, the Advertising Advisory Committee, the Board of Lenders Compared and a former member of the Financial Inclusion Taskforce. Previously, Claire was Head of Consumer Futures and Deputy Director of Policy at the National Consumer Council until the end of 2008.

Attendance at Full Panel meetings – 9/11 eligible to attend.

Caroline Gardner (Retired from the Panel in December 2011)
Caroline is a Director of Deloitte's Financial Services Strategy Team, leading strategic, marketing and consumer projects across a wide range of financial services markets but particularly focusing on insurance and investment markets. She has provided advice to the government, trade and consumer bodies and to financial services providers, investors and distributors. Caroline has more than 20 years experience of understanding consumer dynamics in the financial services arena. Caroline chaired one of the Panel's working groups.

Attendance at Full Panel meetings – 5/8 eligible to attend.

David Metz (Retired from the Panel in December 2011)
David Metz had a career first as a research scientist and then as a senior civil servant in a number of Whitehall departments where his responsibilities included regulation and consumer protection. He is currently a visiting professor at University College London and is co-author of the book *Older, Richer, Fitter: identifying the customer needs of Britain's ageing population* published by Age Concern Books.

Attendance at Full Panel meetings – 8/8 eligible to attend.

Appendix 2 – Budget and expenditure

The FSA's Board agrees a budget for Panel Members' fees, expenses and any work we commission; and we are supported by a Secretariat of FSA staff.

Actual expenditure in 2010/2011 was £865K. This overspend on budget relates to the fact that the work of the Panel increased significantly during the period due mainly to the restructuring of the regulatory framework, as a result of the change of Government, and the new policy initiatives being developed by the FSA and EU as a result of the crisis. The increase in the Panel's workload was recognised by the FSA, which approved an expansion in Panel membership from 12 to 15.

	Budget April 2011–March 2012 (£000)	**Actual April 2011–March 2012** (£000)	**Actual April 2010–March 2011** (£000)
Panel members' fees[1] and expenses	349	372	372
Professional fees[2]	159	95	163
Sundries[3]	103	279	330
Total	611	745	865

1. The fees are exclusive of employers' National Insurance contributions paid by the FSA. The fees payable to Panel members during the year from 1 April 2011 to 31 March 2012 were as follows:

Panel Chairman	£52,000 per annum
Panel Vice Chairman	£30,000 per annum
WG Chairs	£22,000 per annum
Members whose minimum commitment is 45 days a year	£18,000 per annum
Members whose minimum commitment is 32.5 days a year	£13,000 per annum

2. Professional fees includes research expenditure.
3. Includes costs of recruitment which changed substantially during 2011/12 with the recruitment of five additional members in anticipation of future demand, non-FSA meeting facilities and other miscellaneous expenditure.

Appendix 3 – Meetings with external bodies

Association of British Insurers

Age UK

All Party Parliamentary Group on Debt and Personal Finance

Association of Independent Financial Advisers

Association of Mortgage Intermediaries

Bank of England

Barclays

British Bankers' Association

British Insurance Brokers Association

Bureau Européen des Unions de Consommateurs

CapGemini

Centre for the Study of Financial Innovation

Citizens Advice Bureau

City UK

Consumer Credit Counselling Service

Consumer Focus

Council of Mortgage Lenders

David Hume Institute

DeHavilland

Department for Communities and Local Government (DCLG)

Department for Business Innovation and Skills (BIS)

Department for Work and Pensions (DWP)

European Insurance and Occupational Pensions Authority

European Commission

European Parliament

Fabian Society

FAIR Canada

Financial Ombudsman Service

Financial Services Compensation Scheme

Financial Services Practitioner Panel

Government Equalities Office

Her Majesty's Treasury (HMT)

HSBC

Inside Government

International Longevity Centre – UK

Investment Management Association

JP Morgan

Kadence International

Lloyds Banking Group

London School of Economics

Money Advice Scotland

Money Advice Service

Money Advice Trust

National Audit Office

National Employment Savings Trust

Office of Fair Trading

Payments Council

Personal Finance Education Group

Resolution Foundation

Scottish Widows

Smaller Businesses Practitioner Panel

Standard Life

Toynbee Hall

University College London

West Midlands Finance Forum

Which?

Appendix 4 – Events at which the Chair, Vice Chair or Members of the Financial Services Consumer Panel have spoken

ABI Conference on Simplified Advice

ABI Conference on Simple Products

ABI Conference on redress

BBA Complaints Handling Seminar

BBA FCA Seminar

EIOPA Annual Conference

EIOPA Consumer Strategy Day

FAIR Canada Investor Advisory Panel Symposium

The FCA Approach to Regulation Conference

The FSA Annual Public Meeting

QED Conference on MiFID

Resolution Foundation conference on simplified advice

Appendix 5 – Panel publications, research and responses to consultations

A full list of our publications for this and previous years is available on our website: www.fs-cp.org.uk

Panel position papers

- Six Point Plan for a Sustainable Mortgage Market
  June 2011
- Position Paper on Regulation of Consumer Credit
  January 2012
- Position Paper on Fiduciary Duty
  February 2012
- Position Paper on Consumer Responsibility
  February 2012
- Better banking position paper
  March 2012

Research:

- Defining Straightforward Outcome Products
  August 2011
- Report 1; Comparative Analysis of CCA and FSMA with annexes
  January 2012
- Report 2; Assessment of CCA and FSMA
  January 2012
- Researching the Advice Gap Final Report
  March 2012
- Mortgage Market Review – Welfare Analysis Peer Review – Report by Jon Stern
  March 2012
- Peer Review of Part of Cost-Benefit Analysis in Mortgage Market Review – A Report from Europe Economics
  March 2012

Responses to Consultations

Retail Distribution Review – Independent and Restricted Advice
Response to the Guidance Consultation
5 April

A new approach to financial regulation: Building a stronger system
Response to the HMT consultation
14 April

Product Intervention
Response to FSA DP11/1:
21 April

European Commission consultation on collective redress
27 April

Protecting with-profits policyholders
Response to the CP11/5 Protecting with-profits policyholders
2 May

Product disclosure
Response to FSA CP11/3
3 May

Equality Act 2010
Response to consultation
25 May

Quarterly Consultation
Response to Consumer redress: S404
31 May

Department for Business, Innovation and Skills competition regime consultation
31 May

Response to Guidance Consultation GC 11/10 Forbearance and Impairment Provisions – 'Mortgages'
31 May

Response to the Review of the UK's regulatory framework for covered bonds
1 July

Response to the Independent Commission on Banking Interim Report
4 July

Retail Mediation Activities Return and complaints data
Response to CP11/8** data collection
4 July

Ombudsman award limit and changes to the complaints-handling rules
Response to FSA CP11/10* Consumer complaints: The ombudsman award limit and changes to complaints-handling rules
20 July

Quarterly Consultation no 29, Chapter 5, 6, 7
Response to FSA CP11/11*
5 August

Client Assets sourcebook: custody liens and title transfer collateral arrangements
Response to FSA CP11/15**
25 August

Evidence to the Work and Pensions Select Committee Inquiry into automatic enrolment in workplace pensions and the National Employment Savings Trust (NEST)
26 August

Response to the Financial Conduct Authority approach document
1 September

Evidence for the Joint Committee on the draft Financial Services Bill
2 September

A new approach to financial regulation: a blueprint for reform
Response to Cm8083
8 September

BIS consultation on Empowering and Protecting Consumers
27 September

FSA regulation of credit unions in Northern Ireland
Response to FSA CP11/17**
7 October

Proposed amendments to the Perimeter Guidance Manual, Chapter 8
Response to CP11/18*
8 November

Response to Simplified Advice Guidance Consultation
9 November

Payments Council consultation: Governance review and assessment of performance
30 November

Financial Ombudsman Service consultation - Publishing ombudsman decisions: Next steps
9 December

Response to FSB principles for sound residential mortgage underwriting practices
9 December

Response to the FSA's guidance consultation on retail product development and governance for structured products
19 December

Response to consultation on the Money Advice Service and the coordination of debt advice
22 December

Response to guidance consultation on payment protection products
28 December

Response to EIOPA report on practices for disclosure and selling of variable annuities
29 December

RDR adviser charging and Solvency II disclosures
Response to CP11/25 on Distribution of retail investments
30 December

RDR adviser charging and treatment of legacy assets
Response to CP11/26 on Distribution of retail investments
9 January

Response to MiFID- MiFIR proposals
13 January

Response to CP11 20 Packaged Bank Accounts
25 January

Response to OFT Annual Plan
25 January

Response to BIS consultation on Alternative Dispute
Resolution
31 January

Response to ABI Consumers in the retirement income market
3 February

Solvency II and linked long-term insurance business
Response to CP11/23
13 February

Response to FOS business plan
16 February

Response to CP further comments to BIS on ADR
21 February

Deposit protection; Raising consumer awareness
Response to CP11/29**
9 March

Response to CII Measuring professional standards
13 March

Insurance contract law: Post contract duties and other issues
20 March

Guidance consultation: FSA sale and rent back review 2011
29 March

Consumer Panel Response to CP11/31* Mortgage Market Review (MMR)**
30 March

Panel terms of reference

The Financial Services Consumer Panel ('the Panel') is established by the Financial Services Authority (FSA) under the Financial Services and Markets Act to represent the interests of consumers. The Panel is independent of the FSA and can speak out publicly on issues where it considers this appropriate.

Panel Members are appointed by the FSA in accordance with Nolan principles, in order to represent consumers, with HM Treasury's approval in the case of the Chairman. The FSA Board approves the Panel's annual budget and provides a dedicated Secretariat to support the Panel.

Scope

The main purpose of the Panel is to provide advice to the FSA. As such it does not carry out responsibilities on behalf of the FSA. For example, the Panel does not undertake consumer education, nor does the Panel take up individual consumer complaints.

The emphasis of the Panel's work is on activities that are regulated by the FSA, although it may also look at the impact on consumers of activities outside but related to the FSA's remit.

The Panel will have regard to the interests of all groups of consumers including those who are particularly disadvantaged in the context of financial services, including consumers who have little or no access to financial services.

Purpose

The Panel will:

a. represent the interests of consumers by advising, commenting and making recommendations on existing and developing FSA policy and practices as appropriate;
b. speak on behalf of consumers by reviewing, monitoring and reporting to the FSA on the effectiveness of the FSA's policies and practices in pursuing its duties; and
c. keep under review and influence actual and potential developments in financial services to enable it to fulfil (a) and (b) effectively.

In addition, it can advise the government on the scope of financial services regulation.

The Panel can consider other matters that assist it in carrying out its primary functions.

Accountability

The Panel shall publish an Annual Report on its work and expenditure.

The Panel can speak out publicly when it wishes to draw attention to matters in the public interest and when it disagrees with the FSA.

Financial Services Consumer Panel

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