

Financial Services Consumer Panel

AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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1st April 2009

Dear Sian,

CP 09/3 Financial Services Compensation Scheme Reform: Fast payout for depositors and raising consumer awareness

Effective and functional compensation arrangements are clearly of great interest to the Panel. We believe that the costs of the compensation scheme should be shared amongst firms; the scheme must be easily accessible to consumers; claims must be dealt with swiftly and fairly; and the scheme must be sustainable.

The Consumer Panel welcomes the desire expressed by the tripartite authorities and the FSCS to make changes to the FSCS regime in order to ensure that it can provide the depositors of a deposit-taker in default with access to at least a proportion of their funds within seven days. We support measures which will speed up the process of honouring claims. We would also commend the FSCS for the speed with which they have dealt with recent events.

We have been exercised by the process of reforms of the existing compensation arrangements. We still do not believe that the guarantee for deposits up to £50,000 is sufficient. We maintain that the protection should be limitless. If however, the limit is to continue, we believe that protection must be given by brand rather than by regulated entity.

We also welcome the desire to raise awareness of the FSCS compensation arrangements. We noted during the Northern Rock episode that lack of awareness of the scheme contributed to the run on the bank as depositors looked to protect their assets. There is a clear case for raising awareness in order to reassure savers that any monies they have on deposit will be protected. We agree with the authorities that awareness and understanding of the FSCS needs to be raised in order that public confidence in the existence of the compensation scheme and in the market will also be raised. To this end we support the introduction of disclosure requirements. We would add though that in the event of a bank failure, there should

be a clear expectation that FSA and FSCS take steps to communicate with consumers and reassure them that their savings are protected.

Whilst the case for a robust compensation scheme is without question, there is of course moral hazard – the industry is being faced with a large bill to meet the cost of the Bradford and Bingley bail out – the taxpayer is faced with a large bill for the banking bailout. Consumers cannot see any accountability for the business decisions which precipitated these events. We believe that ultimately the responsibility for what has happened to these banks rest with the senior management and we would ask the FSA to consider whether further action should be taken.

Nick Lord

For Adam Phillips,
Acting Chairman of the Consumer Panel

Response to key questions

Should the eligibility criteria for deposit claims be simplified as proposed?

The current eligibility criteria for deposit claims, which are designed to prioritise assistance to those most in need, are detailed and inevitably add to the time required to arrange compensation. Since we place significant importance on arranging a fast payout, we support the proposals to widen eligibility to include all natural persons and smaller entities.

Widening the scope in this way will extend protection to firm's management and shareholders who arguably do not merit protection under the scheme. We do not believe that such considerations should prevent the introduction of an efficient way of managing the scheme. Rather we would like to see the FSA use its regulatory tools where individuals might be judged to shoulder some responsibility for the failure of a deposit-taker. We believe that the FSA should consider taking action under principles for business and the code of practice for approved persons where the senior management of a firm has been negligent and contributed to the failure of the business.

Do you agree that FSCS compensation on deposits should be paid on a gross basis?

Do you agree that offset mortgages should be treated as proposed?

We support the proposal that payout should take place on a gross basis. In the case of offset mortgages, where the mortgage operates as one large overdraft we accept that this means that the consumer will receive no compensation. So long as this is properly communicated to the consumer we believe this would be entirely appropriate. However we do acknowledge that this would leave them no access to liquid funds and we welcome the suggestion that a fixed payment of £2000 could be issued which could be added to the mortgage debt.

Do you agree that we should keep payout by authorised entity? Would you favour protection by trading name? If so, why?

It is proposed that protection should continue to be by authorised entity. It is our position that protection should be allocated by brand. The FSA suggests that such protection is not possible under the Deposit Guarantee schemes directive as amended in 2008. We are not satisfied that this is the case and wish that the FSA explore further how they might arrange protection on a brand basis.

The current situation is very confused. Consumers with accounts in different banks have had them thrust together under combined ownership, while the original independent brand names persist. For example, how many customers who have savings products bought through Marks and Spencer understand that ultimately it is HSBC that is holding their money? Similarly how many customers of Sainsbury's bank understand that it is part owned by HBOS? In these circumstances

customers with multiple accounts in different institutions might consider that they are spreading their risk, but in practice could find that they have failed to do so.

There is further confusion in that some mergers appear to offer separate FSCS cover while some do not. For example, customers holding accounts with the Nationwide and the Cheshire Building society will still be protected for both accounts despite the fact that the building societies have merged. At the same time, some savings accounts are covered by foreign schemes with limits other than those of FSCS, for example savers with ING are covered by the Netherlands scheme with a 100,000 euros ceiling. Post office account holders are covered by the Irish government's 100 per cent no-limit guarantee.

Given the amount of further consolidation which has occurred as a result of the financial crisis, this will affect many more consumers. There may yet be further consolidation. Unless there is clarity, consumers cannot be expected to act in order to spread their risk. The inconsistencies make clear communication with consumers impossible. We strongly believe therefore that the FSA should make every effort to enable protection on a brand basis and should consider what needs to be done to accommodate this under the regime of the Deposit scheme guarantee directive and FSA rules.

Do you agree that our proposals on the single customer view and associated systems requirements would facilitate achieving the target payout of 7 days?

FSCS has found that the data firms hold is not always accurate or complete enough to facilitate fast payout. There are therefore very sensible reasons why the FSCS have come up with proposals for a single customer view and for data requirements to facilitate prompt payout.

We therefore support the intention behind this proposal, but ultimately the cost of the system will be borne by the consumer. We note that the figure of £891.8m amounts to around £20 per head of the adult population and we question whether this is a proportionate cost to particularly when there are already regulatory obligations which require firms to manage customer data effectively. We ought to be able to expect firms to hold reliable and appropriate data without recourse to establishing the single customer view.

Moreover, were payout to be allocated by brand rather than authorised entity we see no reason why the single customer view should be considered necessary and we repeat our call for protection on the basis of brand.

Do you agree that the FSCS should be allowed to settle deposit claims without investigation?

It is proposed that FSCS will be able to settle claims without a claim form. FSCS argue that following the introduction of the single customer view, it will have access to customer records and can determine who qualifies for compensation.

We do not believe that this relies on the single customer view. We note the approach the FSCS employed when handling customers of Icesave, when they used the bank's own internet banking systems to directly contact the customers of the bank and arrange their compensation. We commend the FSCS for their success on this occasion and we see no reason why that approach should not be repeated in future.

Do you have any comments on the proposed generic disclosure requirements?

Surveys undertaken in January and April 2008 showed only 20% of people were aware of the FSCS and knowledge of how the scheme worked was low. We welcome the proposal for improved communications on the part of the FSCS, the FSA and the Industry to raise awareness of the scheme. This will include new rules to oblige firms to explain the position to their customers. We welcome the new rules which will require firms to carry information on the compensation arrangements on their printed material, including on bank statements. This information needs to be highly visible.

Clearly lack of knowledge of the scheme contributed to the run on Northern Rock. However it was not the only reason for the run. Mervyn King told the Treasury committee that 'The system of administration for banks which means that retail depositors find their deposits frozen for months on end is a system which is a direct inducement for retail depositors to take their money out at the sign of any trouble'.

However we note that the difficulties faced by some firms over the last few months did not see a run on the bank in the same way. It would therefore appear that customers have been reassured by the Northern Rock experience that their assets are safe, whether or not they know about the FSCS and how the scheme operates.

The Consultation Paper proposes to undertake a campaign to raise awareness of the FSCS using advertising and brand promotion. Whilst we would not wish to stand in the way of anything which promoted awareness of the scheme we note that an effective TV advertising campaign will be very expensive and may not add substantial benefit over and above the disclosure regime, particularly since the public is reassured.

We would however like to see clear expectations on the FSA and the FSCS to actively communicate with the public in the event of a failure. We expect the Chairman of the FSA to act in way that reassures the public that their savings are protected and that does not contribute to a run on the bank. In the era of 24 hour news, this requires swift action and engagement with the media and the deployment of simple clear messages in plain english.