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Dear Mr Watts

Payment Protection Insurance

This is the Financial Services Consumer Panel's response to the FSA CP 10/6: the assessment and redress of Payment Protection Insurance (PPI) Complaints.

The Consumer Panel continues to support the FSA's proposals, believing they will improve firms' handling of PPI complaints and therefore ensure consumers receive a fairer outcome if they make a complaint. We would like to see these proposals come into force at the earliest opportunity.

For far too long, firms have been letting down their PPI customers by not handling their complaints fairly. Now the PPI industry seem determined to fight against the FSA introducing new rules and guidance which would ensure consumers receive a fairer outcome if they make a complaint. The industry's criticism, as outlined in the consultation paper, is extremely disappointing and the resulting delay is exacerbating consumer detriment. The PPI industry is reported to argue that there is no evidence of a problem around PPI sales or around PPI complaint handling, with the FSA's proposals being inappropriate and disproportionate. This flies in the face of evidence from the FSA's thematic reviews over the past four years, the 23 published enforcement cases, the large number of PPI complaints the firms themselves receive, and the high number of upheld complaints for those consumers who persist on to the Financial Ombudsman Service (FOS). The Panel welcomed the FSA's

accompanying press release to the consultation paper in March, clearly showing that the FSA remains convinced that changes were needed in the PPI market.

The Consumer Panel has reviewed this consultation paper but has decided not to comment on the detailed questions. The Panel set out its detailed views towards the proposals in its response to CP 09/23 and also in our letter to the Director of Retail Conduct Risk (Mr Daniel Waters) and these views have not changed in the light of the evidence provided by industry in criticism of the FSA's proposals. The Panel would, however, like to draw the FSA's attention to four salient issues:

1) The use of redress to pay off any arrears:

The Panel was concerned to read in the consultation (paragraph 3.35 page 56) that the industry was arguing that firms should be able to deduct redress from the outstanding balance owed by the borrower on the credit product the PPI covers, or at least from any arrears in the scheduled repayment of that balance. We wholly reject their assertion that this is 'beneficial' to the customer.

The Panel feels very strongly that firms should pay redress in full to their customers, rather than using any of the funds to repay outstanding arrears on their own loans. Allowing a firm to use redress funds in this way would provide a preference in debt repayment, and this is inappropriate; it is also unacceptable given that the firm has been found at fault for mis-selling the PPI that accompanied the loan. The redress belongs to the customer, and it is for them to decide what they use it for. The customer may, for example, have more pressing debts that need to be paid off and should be free to do so.

Even if the customer's contract stated somewhere in the small print that the firm could use any redress to pay off arrears, as reported in the consultation paper, the Consumer Panel would question whether this term was adequately disclosed during the sale process. In addition, we would argue that the extent of mis-selling in the PPI market and firms' poor performance in complaint-handling is justification to over-ride this clause.

The Panel would like to suggest that the FSA takes forward the Panel's suggestion to produce a factsheet to accompany redress payment letters. This factsheet would offer the customer information on how to best use the redress. Specialist debt agencies such as the Money Advice Trust and Citizens Advice would be best placed to help draft this FSA branded document, but the Panel would welcome the opportunity to comment on any draft document.

2) The application of an 8% simple interest rate:

The Panel supports the FSA's proposed approach to use the rate of 8% simple interest in its guidance. The calculation of redress should ensure that a mis-sold customer is placed back in the financial position they would have been in if they had not been mis-sold. We agree with the FSA that there are no reasons to depart from the rate the FOS uses.

3) FSA communication with PPI customers:

The Panel welcomes the FSA's statement (on page 79) that it will consider how it might distribute messages about PPI and the new complaints process. We would encourage the FSA to be bold and innovative in its approach to communicating with PPI customers. This would mean using a range of channels to communicate with customers, beyond the usual approach of using moneymadeclear, consumer publications and working with consumer groups to disseminate information.

4) Requiring firms to reopen past rejected complaints

In the consultation paper, the FSA wrote that it was waiting for clarification of its powers under the Financial Services Bill before deciding how to proceed with issues around past rejected PPI complaints. The Bill has since received Royal Assent, but the relevant clause in the Act requires a commencement order before it can come into force. The Consumer Panel is very concerned that this will mean another delay and calls on the FSA to take action as soon as possible to ensure those PPI customers who had previously complained and had their complaint rejected, are treated fairly.

The Panel would like to take this opportunity to reiterate, again, its support for the proposals and the FSA's open letter, which outlines the common elements of PPI mis-selling.

We look forward to seeing these proposed rules and guidance implemented at the earliest opportunity.

Yours sincerely

Adam Phillips
Chair, Financial Services Consumer Panel