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Dear Robert,

CP17/23 Insurance Distribution Directive Implementation – Consultation Paper 2

This is the Financial Services Consumer Panel's response to CP17/23 on the FCA's second consultation relating to the implementation of the Insurance Distribution Directive (IDD).

We note that the FCA seeks to align the requirements of insurance based investments products (IBIPs) under the IDD with MiFID II. The Panel supports this approach. From a consumer perspective, all products sold in the retail market should be subject to similar requirements for product feature disclosures, suitability assessments, management and disclosure of conflicts of interests and inducements.

We also agree with the FCA's proposals to maintain the higher standards in the existing IMD framework instead of adopting the minimum requirements of the IDD, and the retention of current COBS requirements where there are no equivalent measures within the IDD.

Below are our responses to the specific consultation questions.

Q1: Do you agree with our proposals to amend COBS to implement the conduct of business requirements in Chapter V of the IDD?

No comment.

Q2: Do you agree with our proposals to implement the IDD information disclosure obligations? Where possible, please distinguish between the minimum directive requirements and areas where we have exercised discretion.

Yes. This should mean a single set of standard disclosures which can be understood by stakeholders in retail and professional markets, and by regulators. Those who rely on specialist markets for products do not necessarily have the technical knowledge to understand anything other than clear and jargon free disclosures with prominent risks and warnings, rather than impenetrable small print.

Q3: Do you agree with our proposals to implement the inducements-related requirements of the IDD? Where possible, please distinguish between the minimum directive requirements and areas where we have exercised discretion.

Yes. However, we believe the MiFID II test, that inducements must enhance the quality of the service, is more likely to deliver better consumer outcomes than the IDD requirement that inducements must not have a detrimental impact on the quality of the service.

We think the proposal to retain the existing FCA wording along with the MiFID II requirements may lead to confusion. We are concerned that consumers will not receive the benefits of such arrangements and that the arrangements also increase the likelihood for conflicts of interests between the commercial players. In any case, again, the Panel supports an alignment of requirements for all retail investment products.

Q4: Do you agree with our proposals to implement the suitability and record-keeping-related requirements of the IDD? Where possible, please distinguish between the minimum directive requirements and areas where we have exercised discretion.

Yes.

Q5: Do you agree with our approach to exercising the Member State derogation for professional clients in order to align information disclosure requirements for the suitability statement with MiFID II?

No comment.

Q6: Do you agree with our proposals about how to implement the appropriateness-related requirements of the IDD? Where possible, please distinguish between the minimum directive requirements and areas where we have exercised discretion.

Yes, we agree that an appropriateness test is not necessary for execution only sales if the provider clearly alerts the consumer to what they are doing, and the consequences.

We urge the FCA to consider providing guidance so that there is greater transparency on what product features must be present to qualify for non-advised and execution only sales.

Q7: Do you agree with our proposal to exercise the Member State derogation related to execution-only sales in order to maximise the scope for this type of IBIP sale?

Up to a point. The exemption from the appropriateness test for execution only sales should not be used too broadly. Consumers who buy complex products without advice won't always have the knowledge and expertise to understand the product features.

Q8: Do you agree with our proposals to implement the conflicts of interest-related requirements of the IDD? Where possible, please distinguish between our proposals in respect of the minimum directive requirements and areas where we have exercised discretion.

Yes, we believe a lot of customer harm arises when firms do not review, acknowledge and appropriately disclose conflicts.

Q9: Do you agree with our proposed approach to the implementation of product oversight and governance rules for insurance products?

Yes. It is also important that the rules apply to insurers whether they distribute products directly or via intermediaries.

The FCA supervision team should also check that the governance requirements lead to improved products and services to consumers. Firms' systems and controls should show effective governance in design, approval, marketing and management of products throughout their lifecycle. We hope that the MiFID II delegated acts will provide uniform understanding for what is covered by the concept of 'product manufacturing.'

We think the requirement for firms to review products regularly to ensure they are fit for purpose is a key protection for consumers.

Q10: Do you agree with our proposal to change the application of CASS 5 to make it mandatory instead of optional for reinsurance mediation? If not please provide reasons.

Yes.

Q11: Do you agree with our proposals for implementing the IDD good reputation requirements?

Yes.

Q12: Do you agree with our proposed changes to the product information rules of ICOBS 6, including retaining the current policy summary document in relation to pure protection contracts?

No, we think that it is confusing to have varying levels of information for different products and types of customer. Standardisation should force firms to communicate without jargon.

Q13: Do you agree with our proposed rules implementing the IPID?

No, see response to question 12.

Q14: Do you agree with our proposed amendment to the disclosure requirements for third-party processors? If not, please explain why.

Yes.

Q15: Do you agree with our proposed consequential changes to these Handbook modules?

No comment.

Yours sincerely

Sue Lewis
Chair, Financial Services Consumer Panel

