Financial Services Consumer Panel
AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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Somia Shafiq
Capital Policy
Financial Services Authority
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31st March 2009
Our ref:CP08-20

Dear Ms Shafiq,

CP08-20 Review of the Prudential Rules for Personal Investment Firms

The Financial Services Consumer Panel agrees that a review of the Prudential Rules for Personal Investment firms is timely and appropriate.

We support moves to require Personal Investment firms to bear more of the cost of redress claims. It is desirable that firms responsible for unsuitable advice meet the cost rather than by other firms through the FSCS.

It is important that consumers continue to have access to small independent advisers and that the costs of such a service are reasonable and affordable. Small advisory firms have an important role to play and we are concerned that any changes do not price some firms out of the market. We understand that some firms will exit as a result of higher capital requirements. However, we understand that many firms were holding capital in excess of the minimum in any case. On that basis we believe that the increased capital requirements are better for consumers despite the fact that some firms will exit the industry.

We are concerned that a regulatory dividend does not allow individual firms to operate under the regulatory radar, given the importance of personal investment firms to individual consumers and the collective risks posed by this sector of the advisory market.

Capital Resources and Requirements
As the proposals are intended to increase the capital resources, and in so doing the funds available for redress, we are generally supportive of them, as they will increase the level of protection available to consumers.

Paragraph 2.13 says that 'If firms incur additional costs, they may increase the price they charge consumers for advice, or, leave the market. Either response will have a negative impact on consumers'. We note that the current limits were set in 1994 and have been eroded by inflation. The FSA propose a doubling of the minimum level from £10,000 to £20,000. Uprating to account for inflation would in any case take the minimum level to £15,337 and we understand that most firms maintain higher capital requirements in any case. We therefore support the increase.

Professional Indemnity Insurance
As a broad principle we believe that full PII should be mandatory. However, we note that PII insurers are using exclusions to limit their exposure, whilst firms are using exclusion clauses to reduce their premiums. We support measures by the FSA to ensure that consumers have adequate protection. We therefore welcome the higher capital requirement for those firms without full PII cover.

We do ask that the FSA continue to monitor the provision of PII. We note that in 2003 the FSA issued nearly 1000 waivers to firms to allow for PII exclusions when PII providers were restricting their cover. This raises concern that insurers can decide that they are no longer prepared to insure the risk but that consumers know nothing about this absence of cover when they are dealing with the firm. If more exclusions become commonplace then there may be a case for revisiting the capital rules again in order that consumers are adequately protected.

Leaving Resources Behind
We note that there was strong support for leaving resources behind, which we support, as where possible redress should be made by the offending firms. However, our primary concern is that customers have access to redress. Our concern is that this may bring confusion and lead to worse outcomes for consumers. We would have to be satisfied that appropriate relationships were made with the FOS and the FSCS so that consumers are able to receive redress.

Nick Lord

For Adam Phillips
Acting Chairman, Consumer Panel