

Mr Julian Watts  
Financial Services Authority  
25 The North Colonnade  
London E14 5HS

29 October 2009

Dear Mr Watts

## **CP 09/23 – The assessment and redress of payment protection insurance complaints**

The Financial Services Consumer Panel has considered the proposals for new rules and guidance for the handling of Payment Protection Insurance (PPI) complaints. We believe the new rules and guidance will help improve firms' handling of complaints about the sale of PPI, and therefore will ensure consumers receive a fairer outcome if they make a complaint.

We have set out our response to the questions posed in the consultation paper overleaf, but we would like to raise some other relevant points:

- We welcome the FSA's strong warning to firms considering 'gaming' the system by offering ex-gratia payments between now and 1 January 2010, so they do not add to the number of rejected complaints they will have to reopen. We hope the FSA has been closely monitoring firms' complaint decisions;
- We have concerns about the behaviour by some claim management companies (CMCs). We have welcomed your statement, paragraphs 3.28 to 3.32, that consumers do not need third party assistance to make complaints. We would expect the FSA to raise awareness of the straightforward nature of making a complaint, to counter any undue or potentially misleading promotion by CMCs and we strongly urge the FSA to report any inappropriate tactics used by such firms to the Ministry of Justice's Claims Management Regulation Team; and
- These proposals, although very much welcomed, help the minority of PPI customers who actually make a complaint: the new rules and guidance are not seeking to address widespread PPI mis-selling. With that in mind, we support the FSA's other tranche of work tackling mis-selling and ensuring proactive and effective past business reviews are conducted where concerns are uncovered. We hope the FSA continues its robust approach, seen recently in its review of sales of single premium PPI with unsecured personal loans, especially in its current investigations into PPI sold with credit cards and secured loans.

Yours sincerely

**Adam Phillips**  
Chairman

**Financial Services Consumer Panel's response to CP 09/23:  
'The assessment and redress of payment protection insurance complaints'**

***Question One: Do you agree the proposed approach to the assessment and redress of PPI complaints is fair and balanced and will provide fairer outcomes for more consumers?***

The concerns set out in the consultation paper regarding firms' failure to fairly assess and appropriately redress PPI sale complaints makes for worrying reading.

It is very disappointing to read how firms seem unable to understand how they should handle complaints fairly. The past two years have seen a marked increase in PPI complaints to firms, and the Financial Ombudsman Service has been deluged with unhappy customers whose complaints have not been handled in a fair and balanced way. In light of these concerns, we think it is vital that the PPI industry is given detailed guidance on their obligations.

The Panel believes the draft guidance, as set out, should deliver fairer handling of PPI complaints by firms, but the FSA must take steps to ensure firms comply with these new rules and guidance. The Panel's strong view is that the FSA should take a zero tolerance approach if problems continue - firms have had plenty of warnings.

We welcome paragraphs 4.4 to 4.9 in the consultation paper reminding firms that they should look at the root cause of complaints so if systemic problems are uncovered, the firm conducts proactive reviews of relevant sales and takes appropriate action as a result. We expect the FSA's supervisory teams to be reminding firms of this obligation. If systematic failures are identified, a complaints-led approach to resolve consumer detriment is not an acceptable response. Leaving it up to individual consumers to make a complaint to resolve systemic mis-selling is unacceptable.

***Question Two: Do you agree that the regular premium referent price we propose to stipulate is a reasonable one?***

The Consumer Panel will not make a judgement on the price set out; however the Panel believes the approach taken to establish this referent price appears rational, reasonable and appropriate.

We also support the FSA's assertion that guidance on the referent price will be helpful to consumers. The guidance will particularly help those consumers who, although they were mis-sold a single premium policy, still need the protection of PPI insurance. We see this outcome as being of benefit to both consumers and firms.

We would point out that in light of recent increases in PPI premiums, as evidenced by the mortgage PPI market, we would be concerned if prices were calculated at higher rates than the average market price from when the PPI policy was sold. It is not acceptable that a mis-sold customer now must pay a higher price for cover.

With regards to how firms communicate how they have worked out the redress for this specific situation, we suggest the FSA provides firms with text. There is already

great distrust of the PPI sector by consumers and so this innovative approach must be explained in a clear and understandable way.

The Consumer Panel would be happy to work with the FSA in developing the agreed wording for firms to use when communicating the final amount of redress.

***Question Three: Do you consider that this alternative approach to paying for future regular premium cover would be fair to relevant consumers and practical?***

The Panel is concerned that when a review determines a single premium policy was inappropriate, the consumer will be left in what may appear to them as an identical situation - they will effectively pay a lump-sum for future PPI premiums. If a firm mis-sold a lump-sum (single premium) policy and does not have a suitable regular premium product, then the Panel believes arrangements should be made, by the firm, for the consumer to take on another regular PPI policy provided by another company.

***Question Four: Do you agree that the proposed guidance on the fair assessment of complaints and the evidence about them is relevant to consumers and practicable?***

It is disappointing that firms appear not to have learnt any lessons from mortgage endowments mis-selling reviews and are not reviewing complaints in the round.

We welcome the draft DISP handbook text, particularly the details set out in Section 2 that clearly explain to firms how they should assess, review and calculate redress for PPI complaints. We believe these are relevant and practical and set out the requirements firms should be following anyway to ensure customers are treated fairly.

Ultimately, the success of the FSA's aim that complaints will be dealt with more fairly will depend on whether firms follow the proposed guidance. It will be important that the FSA effectively monitors and supervises this area.

We also question whether proposed DISP 2.1.3 provides a disproportionately easy escape route for firms. If the FSA does expect that firms will follow the detailed approach and standards set out in section 2, it seems strange to also provide that firms may take an alternative approach. We suggest that the guidance clarifies that any alternative approach would be exceptional and would need to be justified to the FSA supervisor.

***Question Five: Do you agree that requiring the re-assessment of rejected complaints against the proposed guidance is a fair and proportionate requirement?***

The Consumer Panel agrees that the reassessment proposal is a fair and proportionate requirement. The evidence set out in paragraph 1.2, along with the need for the FSA to publish an open letter setting out the appropriate standards for

the sale of PPI, demonstrates there is strong enough concern that firms have not been assessing PPI complaints fairly and to the right sale standards.

Whilst recognising the one-off administrative cost of £37m to firms, they are only facing this additional cost because they failed in their regulatory duties to handle these complaints fairly in the first place. The Consumer Panel strongly believes that firms should not 'pass on' this cost to future customers, especially as the Competition Commission identified the PPI sector as making £1.4bn in excess profits annually, representing a return on equity of 490 per cent.

***Question Six: Do you agree with the scope of the review rule?***

The Consumer Panel suggests the FSA extends the scope of the review rule to include all PPI complaints that were made under the DISP jurisdiction. As paragraph 3.19 states, "[c]omplaints about banks' and insurers' general insurance activity, including complaints about their sales of general insurance, have been covered by DISP since N2 (1 December 2001)." This leads the Panel to believe that all PPI sale complaints made to regulated banks and general insurers since 1 December 2001 should be included within the scope of the review rule.

We recognise that the number of PPI complaints increased in more recent years, but the Panel believes the date of 14 January 2005, as proposed, appears arbitrary. The FSA should extend the scope of the review rule to include all PPI sale complaints received by N2 firms since 1 December 2001. This would both ensure fairer consumer outcomes and this would line the new rules up with N2.

We would like to bring the FSA's attention to the possibility that the scope of the review rule may cause confusion for some customers (i.e. how do you know if your complaint is covered within this rule?). Under the FSA's proposals, only complaints received since 14 January 2005 will be reviewed, but how will a customer know if their complaint about a pre-14 January 2005 sale fits within the scope, especially as not all pre-2005 sales will be included? We would encourage the FSA to publish clear information on its MoneyMadeClear website to help consumers find this out. We would also recommend that the FSA considers other communication channels/avenues to help raise awareness amongst those most likely to have been affected.

We recognise that there will be a number of firms who sold PPI that are no longer authorised by the FSA. Some will be covered by the Financial Services Compensation Scheme because they are insolvent, but are there other firms that fall between the gaps? For example a firm may still be trading but no longer authorised. We would like reassurance that the FSA is taking steps to identify them and ensure they carry out reviews.

***Question Seven: Do you agree that the immediate implementation of our proposals would be reasonable?***

We think it is imperative that these rules and guidance come into force immediately. PPI complaints are still being handled unfairly, and any rejected complaints between now and then will be added to the pile to be re-reviewed.

[ends]