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Our ref: CP10/12

Dear Ms Donaldson

CP10/12 Competence and Ethics**

This is the Financial Services Consumer Panel's response to CP10/12** Competence and Ethics.

The Panel strongly supports the FSA's work on professionalism and in the important area of competence and ethics. We would, however, like to see some strengthening of the examples of non-compliant behaviour for the APER Statement of Principles proposed in the Consultation Paper.

The Panel is not in a position to respond to all the questions within the Paper, but our comments on the issues most relevant to consumer interests are set out below.

Strengthening and refocusing competence requirements

Q1: Do you agree with our proposals to introduce an overall time limit of thirty months, within which individuals must be qualified?

Yes, we agree with this proposal.

Q2: Do you agree that no Transitional Provision is required to accommodate the new thirty month time limit for attaining qualifications?

Yes. We see no justification for any transitional provision.

Q3: Do you agree that these [existing] Transitional Provisions should now be removed on the basis that individuals relying on them will have thirty months (noting that activities that involve 'overseeing on a day to day basis' will not be subject to a time limit), provided through a further Transitional Provision, in which to attain a qualification?

We agree that the existing transitional provisions should be removed and the thirty month limit applied for those individuals affected – with the exception of those overseeing on a day to day basis – to obtain the necessary qualifications. We note from the CP that applications for waivers will be considered by the FSA. We find it

difficult to envisage circumstances in which a waiver would be necessary, but no doubt the FSA will be applying the waiver criteria strictly and also monitoring closely the need for waivers to be continued for any significant length of time.

Q4: Do you agree that we should amend APER to clarify our expectations of competence governance within firms as suggested in the draft Handbook text?

Yes, we support the proposed amendment which should help to clarify the governance of competence arrangements within individual firms.

Q6: Do you agree that we should add guidance to our Handbook suggesting that firms may wish to implement a TC scheme?

Yes, we think this guidance could be useful.

Ethical behaviour

Q10: Do you agree that we should add additional descriptions of behaviour to APER as outlined in paragraph 5.7?

We support the inclusion of additional descriptions, but would like to see the proposed wording in paragraph 5.7 strengthened. For principle 1 (act with integrity) we recommend that the description of non-compliant behaviour should be “deliberately not acting in the best interests of a customer.” We would also like to see specific reference within the Statement of Principle descriptions to the FSA’s Treating Customers Fairly outcomes.

Yours sincerely

Kay Blair
Vice Chair
Financial Services Consumer Panel