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Dear Andrea

CP12/22 Clients assets regime: EMIR, multiple pools and the wider review

This is the Financial Services Consumer Panel's response to CP12/22.

Although we are not in a position to provide detailed replies to the specific questions raised in the Paper, there are a few general comments we would like to make in response to Parts II and III.

Part II

We have no objection to the introduction of multiple client money pools as proposed in the Paper. Given the generally poor history of compliance with CASS however, we would urge the FSA to be as prescriptive as it can – such as providing template sub pools – and to take a robust approach to notifications from firms that propose to establish sub-pools, taking into account their record to date on CASS compliance. We would also like the FSA to take a close interest in how sub-pools work in practice in the early stages of the new regime.

We agree that the sub-pool disclosure document must be concise and to the point, and preferably prescribed by the FSA. We would also like to the FSA to research the effectiveness of disclosure to clients within six months of the new rules being made.

Part III

The Panel strongly supports the FSA's continuing work to improve levels of compliance with the Client Assets Regime and this should lead to better protection for investors, fewer disputes and speedier repatriation of assets in the event of insolvency.

From a retail investor perspective it is probably true that the return of assets is less urgent than in the return of cash in the event of a bank insolvency, although there

can always be exceptions to the rule. We do not think that it should be necessary for any client to be prepared to accept a loss in return for the swifter return of their assets, assuming this is within a reasonable period, especially given the low probability that the funds would be required to meet day-to-day living expenses. The situation could be greatly improved, as suggested in the Paper, by the introduction of – and firms' compliance with – requirements for better and more accurate record keeping, such as regular client statements.

We look forward to seeing specific proposals from the FSA in 2013.

Yours sincerely

Adam Phillips
Chair
Financial Services Consumer Panel