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Dear Jenny

CP12/27* Quarterly consultation No 34

This is the Financial Services Consumer Panel's response to the proposals in Chapter 6 of CP12/27*.

We strongly support the FSA's proposals to clarify that adviser firms should not be remunerated by, or receive any kind of benefit from, discretionary investment managers for referrals to the firm, or for any other activity the adviser firm may perform for a client in relation to their investments being managed on a discretionary basis. Payments or the provision of other benefits by discretionary investment managers can potentially bias advisers towards discretionary services, or towards a particular investment advisory firm. The policy and approach set out in CP12/27* are entirely consistent with the principles of the Retail Distribution Review.

Our responses to the specific questions within the Paper are set out below.

Q6.1: Do you agree with the proposed new rule banning referral payments by a discretionary investment manager to an adviser who provides personal recommendations to a client?

We agree with this approach. Given the uncertainty that seems to exist within some firms on this issue, the replacement of the existing guidance with the proposed new rule seems appropriate.

Q6.2: Do you consider that the banning of referral payments by discretionary investment managers should be extended to cases where the adviser does not make personal recommendations to the client but has an ongoing relationship with them?

Given that the underlying objective is to remove potential bias from the service offered to clients we agree that the ban should be extended as suggested. The ban will of course impact on advisers who focus on the provision of an advice service that does not necessarily include specific product recommendations, but there is no reason why this cannot be paid for by way of adviser charging. We are mindful that

there are other Handbook requirements that cover the payment and acceptance of monies between discretionary investment managers and advisers, but urge the FSA to maintain the principles of the RDR and to extend the ban as proposed.

Q6.3: Do you have any comments on our proposed approach to transitional arrangements?

Currently we do not see any workable alternative to treating existing referral payments in the same way as trail commission for the time being, subject to further specific consultation. We are aware that the cost of new arrangements is likely to be met ultimately by consumers, but nevertheless we do not see industry costs as the only significant issue here. There has to be transparency around these payments and mitigation of the risk that referral payments could be exploited by some parts of the industry as a means of paying inducements that would not otherwise be permitted under the RDR.

Q6.4: Do you agree with our proposal to clarify 'managing a relationship'?

Yes, we agree. The proposal is clear and consistent with RDR requirements.

Q6.5: Do you agree with our proposed amendments to COBS 6.1A.6 on referrals to discretionary investment managers?

Yes, this is the right approach.

Q6.6: Do you agree that the clarifications in this chapter do not entail costs or benefits other than those already captured in PS10/6?

We are not in a position to comment on costs incurred by firms in relation to these proposals. As the Paper points out however, the clarification is being provided at the request of firms and should therefore be of benefit both to firms and to their clients.

Yours sincerely

Adam Phillips
Chair
Financial Services Consumer Panel