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

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Dear Jenny

CP13/4 Distribution of retail investments:** referrals to discretionary investment managers and adviser complaints reporting

This is the Financial Services Consumer Panel's response to the proposals in Chapter 2 and 3 of CP12/27*.

The Consumer Panel welcomes the opportunity to comment on how the FCA should treat legacy referral fees, as well as the proposed amendment to the rules requiring complaints against individual advisers to be reported.

It is important to restate a significant mischief which the RDR sought to address; the removal of inherent bias or conflicts of interest caused by the existence of referral fees between advisor firms and providers/distributors. The consequences of which were advice bias, and a culture which often worked against the needs and interest of consumers. The Panel welcomed the introduction of the RDR. We supported the proposals that firms should not be remunerated by, or receive any kind of benefit from, discretionary investment managers for referrals to the firm. This included any other activity the adviser firm may perform for a client in relation to their investments being managed on a discretionary basis.

Our response below gives significant weight to the fundamental principle that the existence of referral fees, in any guise, will continue to have a negative effect on the much needed cultural change in the financial sector.

Q1: Do you agree that referral payment for pre-RDR referrals to discretionary investment managers should continue, with new payments on top ups being banned?

We disagree with this approach. Given that the underlying objective is to remove potential bias from the service offered to clients, we believe that the continuation of referral fees in this guise could act as a perverse incentive; it may for instance encourage the retention of business when it might be in the consumer's interest for the said business to move. We are also concerned that the retention of referral fees sends a wrong message to the industry and leaves room for bad and corruptible practices to exist in the market.

The Panel would prefer to see all referral payments switched off following a transitional period. This option would require advisers to negotiate a fee with the clients if they wished to replace the lost income, and justify the fee to the clients. This option also has the merit of simplicity for both firms and consumers. Moreover, it offers certainty because there will be a definite cut-off date by which all existing arrangements must cease. We believe this option adequately balances the interest of consumers and advisers, as advisers get some time to work through the impending changes, and consumers get a definite cut off period after which referral fees will no longer continue to apply.

Q2: Do you agree with our proposals to ban advisers firms from receiving referral payments if they do not make personal recommendation to particular clients but provide other services to them?

Yes, this is the right approach. In light of the FCA's recent thematic review, which highlighted the many ways in which life insurance and advisory firms are circumventing the principle and objective of the RDR, the Panel agrees with the proposal to prohibit referral fees coming in via the back door.

Q3: Do you have any comments on the referral payments rules in Appendix 1?

No.

Q4: Do you have any comments on our analysis of the costs and benefits in relation to our proposals on payments for referrals to discretionary investment managers?

The FCA's analysis of costs states that for those advisors receiving legacy referral fees, the average of these payments accounted for 0.8% of their firm's annual income. For DIMs paying out referral fees, this accounted for 3.5% of their annual expenditure. The FCA's analysis further asserts that even for the small number of firms affected by the proposed rule change, their legacy referral arrangements are a relatively small part of their overall business. It is the Panel's view that when the small income (for advisers) and expenditure (for DIMs) is weighed against the overarching principle of banning referral fees, including the potential for consumer detriment and bias to continue to exist, we believe that the balance tilts towards banning legacy referral fees altogether .

Q5: Do you have any comments on our analysis of the costs and benefits in relation to the adjustments to the rules on adviser complaints

No.

Q6: **Do you agree with our proposal to adjust the adviser complaints rules as described in Appendix 1 Annex B?**

Yes we agree and support the FCA's proposal.

Yours sincerely

Sue Lewis

Chair

Financial Services Consumer Panel