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

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Dear Mr Mellis,

CP 17/20 Staff incentives, remuneration and performance management in consumer credit

This is the Financial Services Consumer Panel's response to CP17/20 on staff incentives, remuneration and performance management in consumer credit.

The Panel welcomes the FCA's thematic review into this area. The findings are shocking. The figures suggest that, across the sector, as many as 14,000 firms pose a high or very high risk of causing consumer detriment. The prevalence and level of commission paid, the lack of management controls, and the poor governance this implies all pose major risks to customers. Such shortcomings should have been identified and addressed when consumer credit firms applied for FCA authorisation. The findings from the thematic review suggest otherwise.

That such practices took place in the customer-facing activities of consumer credit firms where many customers are likely to be more vulnerable and more easily manipulated (e.g. high-cost short term credit, guarantor lending, home collected credit, and debt collection) is particularly worrying.

In light of these findings, the FCA's proposals to introduce a new rule and guidance on staff incentives and remuneration for consumer credit firms do not go far enough. Instead, the FCA should take more decisive action and ban commission-based reward for customer-facing staff in consumer credit firms.

Commission creates conflicts of interest which can all too easily encourage staff to sell products that maximise their commission. These may not meet customers' needs. The FCA Consultation Paper acknowledges this, stating "*risks arising from incentive schemes arose primarily where staff earned bonus or commission payments based on the volume or value of sales or collections*"[1]. The FCA's predecessor banned commission in its Retail Distribution Review (RDR). A similar approach would benefit consumers in the consumer credit sector, and should help prevent mis-selling.

The proposals will place additional pressure on the FCA. It will need to conduct robust supervision, and undertake enforcement action across the whole sector to ensure firms apply the new rule and guidance. This will need to apply to both existing and new consumer credit firms, and involve a thorough assessment of the firm's business model, including how it incentivises frontline staff. It is simply not possible to do this effectively, even with the 14,000 'high risk' firms, let alone the whole market. We note the FCA's

[1] *CP17/20 - Staff incentives, remuneration and performance management in consumer credit*, FCA, Para 2.11

increased focus on business models, and how these align staff incentives with the needs of the consumers they serve[2]. In the absence of the ability to closely supervise the new rules and guidance, it will become even more important that firms' Boards take account of conduct risks such as those posed by staff incentives.

The Panel recognises that the proposals do not exist in isolation. There are crossovers with the extension of the Senior Managers Certification Regime (SMCR) to all firms, the FCA work on High Cost Short Term Credit (HCSTC), and the FCA's consultation on 'Assessing creditworthiness in consumer credit'. We urge the FCA to take a holistic view across these related areas to minimise harm to consumers.

Although we do not believe the FCA has gone far enough, we welcome the fact that the new rule and guidance will bring approximately 35,000 consumer credit firms in line with those mainly dual-regulated firms that are subject to SYSC19D.

We also welcome the proposal to publish GC17/6 Draft non-handbook guidance relating to staff incentives, remuneration and performance management in consumer credit. The Panel is supportive of the FCA's plans to publish examples of good practice (as well as poor practice) as part of this document. This is a welcome development, which gives consumer credit firms tangible instances of how other firms have successfully addressed potential areas of concern.

Answers to the questions posed in the Consultation Paper are provided in Annex 1.

Yours sincerely

Sue Lewis
Chair, Financial Services Consumer Panel

[2] *Keeping Up With The Credit Sector: The FCA's View on the Market Today*, 30 March 2017, Jonathan Davidson, Director Of Supervision – Retail & Authorisations, FCA, speech at Credit Summit – available at: https://cpa.co.uk/keeping-credit-sector-fcas-view-market-today/

Annex 1

Responses to questions

Q1: Do you have any comments on our proposed additional rule and guidance in CONC to require firms to have adequate policies and procedures designed to detect and manage risks arising from their remuneration or performance management policies as set out in Appendix 1 of this document?

No.

However, the Panel has concerns about the FCA's findings. The proposed guidance highlights at least eleven different ways that staff can be inappropriately incentivised, and these can occur in combination. Given the impossibility of adequately supervising compliance with the new rule and guidance, the FCA should take more decisive action and ban commission-based reward for customer-facing staff in consumer credit firms.

Q2: Do you have any comments on our proposed non-Handbook guidance as set out in Appendix 2 of this document?

The Panel supports the list of good practice examples which feature in the proposed non-Handbook guidance. This gives consumer credit firms tangible instances of how other firms have successfully addressed potential areas of concern.

Q3: Do you have any comments on our analysis of the costs and benefits of our proposals as set out in Annex 2 of this document?

While the FCA must be mindful of the costs of regulation, we do not see any issue with high risk firms and those with significant control weaknesses incurring costs to correct their policies and processes, given that they (and their shareholders) have profited from poor practice related to their staff incentives and remuneration.

Q4: Do you have any comments on the compatibility statement in Annex 3 of this document?

No.