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By email: cp18-31@fca.org.uk

19 December 2018

Dear James,

Financial Services Consumer Panel (FSCP) response to CP 18/31: Increasing the award limit for the Financial Ombudsman Service (FOS)

The Panel welcomes the opportunity to respond to this consultation. The award limit has not been increased since 2012, so these proposals are long overdue.

The new £350,000 limit will give many SMEs and individuals the protection they need. The FCA found that compensation from a sample of high value SIPP complaints ranged from £155,000 to £400,000,¹ so an increase in the award limit for individual consumers will mean that they too, are not losing out, as we said in our response to the SME Access to the FOS consultation.²

We would like to see a review, two years after implementation, of the volume, type and compensation value of the SME complaints brought to the FOS, and the effect of the increased limit on individual consumers. This will help identify any particular areas of consumer harm.

We would suggest periodic reviews thereafter to ensure that both SMEs and individuals are getting the intended level of protection, and to help with the FOS's future planning.

There will, however, still be SMEs that will have a claim greater than the new limit, but who cannot afford to go to Court.

¹Page 14, <https://www.fca.org.uk/publication/consultation/cp18-31.pdf>

²[https://www.fs-cp.org.uk/sites/default/files/fscp_response_to_smes_access_to_fos.docx .pdf](https://www.fs-cp.org.uk/sites/default/files/fscp_response_to_smes_access_to_fos.docx.pdf)

We support calls for an independent financial services tribunal to ensure that SMEs who cannot get protection from the FOS, or have claims higher than the proposed award limit, have access to a low-cost alternative to the Courts.

Yours sincerely

Sue Lewis

Chair, Financial Services Consumer Panel

FCA Questions

Q1. Do you agree with our estimate of the volume of high value complaints, including the assumptions we have made? If not, are you able to provide any data to support your view?

Q2. Do you agree with our estimate of the value of high value complaints, including the assumptions we have made? If not, are you able to provide any data to support your view?

Q3. Do you agree with our assumptions about the volume and value of high value complaints that might be referred to the ombudsman service by newly-eligible SMEs? If not, are you able to provide any data to support your view?

Q4. Do you agree with us that, for the reasons given, the number of high value complaints that are not currently made to the ombudsman service because of the award limit is unlikely to be significant? If not, are you able to provide any data to support your view?

We agree with the estimates and assumptions on all of the above.

Q5. Do you agree with our proposal to increase the ombudsman service's award limit to £350,000 for complaints about acts or omissions by firms on or after 1 April 2019?

Yes. We agree the limit should be increased for *all* claimants, not just SMEs. Pension freedoms mean that more consumers are opting to transfer out of their defined benefit pension schemes, often with significant sums of money. They should have access to compensation for unsuitable advice.

Q6. Do you agree with our proposal to automatically adjust, in line with general price inflation, the ombudsman service's award limit for complaints about acts or omissions on or after 1 April 2019 every year from 2020 onwards?

Yes, but the FCA should review this periodically to ensure the limit is still working as intended.

Q7. Do you agree that the measure of general price inflation used to automatically adjust the ombudsman service's award limit for complaints about acts or omissions on or after 1 April 2019 should be the CPI?

Yes.

Q8. Do you agree with our proposal for a one-off adjustment, reflecting general price inflation between 2015 and 2019, to the ombudsman service's award for complaints about acts or omissions by firms before 1 April 2019?

Yes.

Q9. Do you agree with our proposal to automatically adjust every year from 2020 onwards, in line with general price inflation, the ombudsman service's award limit for complaints about acts or omissions before 1 April 2019?

Yes – but see our answer to question 6.

Q10. Do you agree that the measure of general price inflation used for both the proposed one-off and automatic adjustments to the ombudsman service's award limit for complaints about acts or omissions on or after 1 April 2019 should be the CPI?

Yes.

Q11. Do you agree with our assessment of the impact of our award limit proposals on the ombudsman service?

Yes.

Q12. Do you agree with our assessment of the impact of our award limit proposals on the professional indemnity insurance market?

Yes.

Q13. Do you have any analysis or evidence to present in relation to how the costs of professional indemnity insurance (PII) might change if the ombudsman service's award limit is raised to £350,000?

No comment.

Q14. Do you agree with our assessment of the impact of our award limit proposals on individual firms?

Yes

Q15. Do you agree with our assessment of the impact of our award limit proposals on the Financial Services Compensation Scheme?

Yes.

Q16. Do you agree with our decision to rule out having different award limits for different types of complaint or complainant? If not, why do you think there should be different limits?

Yes

Q17. Do you agree with our view that there should be a limit to the amount of compensation the ombudsman service can require firms to pay to complainants? If not, how – if at all – would the ombudsman service's approach to dispute resolution need to change for it to be able to require firms to pay any amount of compensation?

Yes.

Q18. Do you agree with our view that the award limits for the ombudsman service and the FSCS should not be aligned?

Whilst we agree with the reasoning for the award limits of the two schemes not being aligned, we have previously called for the FSCS award limit to be reviewed given the rise in pension transfer advice complaints. The FSCS award limit should also be reviewed periodically to ensure that consumers are adequately protected in light of market and policy changes e.g. pension freedoms.

Q19. Do you agree with the costs, benefits and transfers we have identified? If not, please explain why.

No comment.