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Dear Jivan

GC12/04 – Payment protection insurance customer contact letters (PPI CCLs) – fairness, clarity and potential consequences

This is the Financial Services Consumer Panel's response to GC12/04: Payment protection insurance customer contact letters.

The Panel strongly believes that any consumer who has been mis-sold a Payment Protection Insurance (PPI) policy should receive redress. We therefore agree that firms should contact their customers where they have identified a risk of mis-selling to ensure the customers are aware of their right to complain. This is particularly important as some customers may be unaware they hold a PPI policy.

The Panel is broadly supportive of the proposed content of the Customer Contact Letters (CCLs) although, as we have outlined in our response, we do have a number of suggestions to ensure the letters encourage and empower consumers to take action where they have been victims of mis-selling. In particular, we believe firms should be required to send more than one CCL and should ensure the letter is not unnecessarily long. We also believe any customer that may have been a mis-sold a policy should receive a CCL, irrespective of whether their policy is still active.

Process of contacting customers

The Panel strongly supports the requirement for firms to contact any customer who may have been mis-sold a PPI policy to ensure they are aware of their right to seek redress. We believe the guidance should clearly set out the expectation for firms to contact all customers that hold or have held a PPI policy and have not yet complained about mis-selling. This should include customers who have made a claim on their policy; those that have cancelled their contract; and those whose policies are no longer live (perhaps because the loan which it was linked to has now been paid off). All these customers could have been victims of PPI mis-selling and have an equal right to seek redress.

The Panel is extremely disappointed that the guidance does not require firms to send more than one CCL to their customers. We strongly believe firms should be required to send a series of CCLs, particularly where firms rely on these to set a time limit for

customers to make a complaint. We advocate requiring firms to send a minimum of three letters to customers that have not responded to a CCL. The first letter should make the customer aware that they may have been mis-sold a PPI policy; the second should prompt the customer to act on the letter; and a final letter should be sent six months before a time bar could apply to ensure the customer has every opportunity to make a complaint. To complement these letters, we also believe the FSA should require firms to raise awareness of the CCL exercise on their website's homepage.

Content of the CCL

The Panel is pleased to see that the proposed content and structure of the CCLs takes on board many of the suggestions previously put forward by the Panel, such as ensuring the letter is sent separately from any marketing material. However, we are concerned there is a significant risk that firms will opt to send lengthy letters to their customers in an attempt to discourage them from making a complaint. We consider this unacceptable as we believe the letters should encourage customers to take action. We therefore believe there should be an overriding requirement on firms to ensure the letters are not unnecessarily long, with firms encouraged to restrict their letters to just two-sides of A4 paper.

The Panel also believes firms should do more to ensure it is easy for customers to respond to this letter. We suggest that a pro-forma should be provided to help customers take forward their complaint. This should help ensure customers are able to easily register a complaint without relying on a Complaints Management Company (CMC) who would take a significant proportion of any mis-selling compensation they receive. We also imagine this would help firms manage any complaints generated by the CCL exercise by ensuring information received from customers is in a consistent format.

Given the levels of mis-trust towards financial firms, we anticipate that some consumers that receive a CCL may be suspicious of the firms' motivation for sending the letter. It is possible that some consumers will assume that their provider is trying to sell another financial product. To avoid this, the Panel advocates requiring an independent party to endorse the messages include in the CCL. The Panel therefore firmly believes the FSA should set up a webpage which provides generic information about PPI; explains why the consumer has received a CCL; and how to act on the letter. The Money Advice Service should also be encouraged to make similar information available to consumers. Firms would then be able to provide a link to these webpages in their CCLs.

Time limit for complaining

The Panel welcomes the clarity provided on whether a CCL constitutes the start of the three year time limit within which customers would need to register a complaint about the way their PPI policy was sold. This should help avoid future confusion for both consumers and firms.

The Panel agrees that firms should judge any complaints received on a case-by-case basis, only rejecting a complaint on the grounds of being time barred after it has considered whether:

- the customer received the CCL;
- the content of the CCL was complete and sufficient; and
- there were extenuating circumstances which prevented the customer from making a complaint earlier.

However, we believe the guidance should set out clearly that if the customer complained about a problem with their PPI policy which was not covered by the CCL, such as the way a claim was handled, these complaints should not be time barred on the basis that a CCL was sent to the customer.

As we outlined earlier in our response, the Panel also believes that, where a customer has not responded to earlier CCLs, firms should be required to send a further letter six months before a time bar will apply. This will help ensure customers are fully aware that they will soon lose their right to complain about the way their PPI policy was sold and the need to take urgent action if they have concerns.

Monitoring the success of the CCL exercise

The Panel believes the FSA should require firms to provide data on the proportion of their customers that respond to the CCLs. Given firms will have some flexibility over the design of their CCL, this will enable the FSA to monitor whether some firms have response rates below their industry peers. This could indicate inadequacies in the firms' letters which warrant further FSA investigation. Aggregated industry data on response rates could also help shape any future guidance the regulator issues on wider customer contact exercises.

The Panel also believes the FSA should undertake separate research to monitor consumer engagement with the CCL process. This should focus on whether:

- the CCLs achieved the desired outcome of encouraging and empowering consumers to take action where they have been victims of mis-selling;
- consumers would have preferred to receive the CCL from the regulator or another third party, rather than the firm which may have mis-sold the policy; and
- there were other forms of communication which would have encouraged the consumer to respond.

We consider this to be vital intelligence which could be used to shape any future industry customer contact exercises.

Yours sincerely,

Adam Phillips
Panel Chair