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30 December 2011

Dear Jenny

**CP11/25\*\* Distribution of retail investments:  
RDR adviser charging and Solvency II disclosures**

This is the Financial Services Consumer Panel's response to CP11/25\*\* Distribution of retail investments: RDR charging and Solvency II disclosures.

We have set out below our detailed comments on the questions within the Paper which fall within the Panel's remit. Our overriding concern is that the proposed guidance and rules will enable firms to communicate clearly with their clients important information such as refunds of facilitated adviser charges in the event of cancellation. We acknowledge that these changes might be seen by both regulator and industry as a relatively small part of the overall changes arising from Solvency II, but such issues are of real importance to individual consumers. We have called for the use of standardised wording in communications with clients about cancellation and in due course we would like to see the FSA/FCA undertaking mystery shopping to establish whether the proposed disclosure regime is effective and, if necessary, taking steps to remedy any failing.

***Q1: Do you have any comments on the guidance on facilitation of payment of adviser and consultancy charges we are proposing to add to COBS 6.1B and COBS 6.1D?***

We are pleased that the FSA proposes to clarify the position on the different forms that facilitation can take; and also that the guidance applies to vertically integrated firms as well as to independent firms. The draft guidance appears comprehensive.

***Q2: Do you have any comments on the proposed amendment to COBS 15.2.5R, on the effects of cancellation?***

Although the proposed amendment to COBS 15.2.5R is concise, we are concerned that this is a complex area – particularly where HMRC and DWP rules could apply – and one where firms will have to take particular care to explain to consumers exactly how refunds will be made in their particular circumstances. We think it would be helpful to both consumers and industry if the FSA provided a standard form of words

for firms to use that would ensure both clear communication and compliance. As we have indicated, we would also like the regulator to conduct mystery shopping to ensure that the new arrangements are effective and that no further rules or guidance (or further amendment) are required.

**Q6: Do you have any general comments on the way in which we propose to transpose the relevant requirements of Solvency II?**

The proposed approach seems sensible and appropriate.

**Q7: Do you agree with our proposed approach to implementing these provisions of the Directive in COBS 13 and COBS 13 Annex 1? If not, please explain why.**

We agree with the proposed approach, but suggest that the FSA consider adding guidance on how firms could provide “easy access” for policyholders to the solvency and financial condition report.

**Q8: Do you agree with our proposed approach to implementing these provisions of Article 185 of the Directive in COBS 13 Annex 2 paragraph 1.7R? If not, please explain why.**

and

**Q9: Do you agree with our proposed approach to implementing these provisions of the Directive in COBS 16.6.3R and COBS 16.6.3AR? If not, please explain why.**

We support the FSA’s proposed approach.

Yours sincerely

Adam Phillips  
Chair  
Financial Services Consumer Panel