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Dear Samuel

Improving complaints handling (CP14/30)

The Investment Association represents UK investment managers. We have over 200 members who manage more than £5 trillion for clients around the world. Our aim is to make investment better for clients so that they achieve their financial goals, better for companies so that they get the capital they need to grow, and better for the economy so that everyone prospers.

The Investment Association supports the FCA in its efforts to ensure that the process of complaining is straightforward, transparent and fair to consumers, and in compliance with the Alternative Dispute Resolution Directive. However, we are concerned that proposed extra data requirements are not justified by the FCA's own cost benefit analysis (CBA).

We set out below our responses to the particular questions raised in the consultation. Please contact me if I can provide any further detail.

Yours sincerely



Michael Gould

Retail Markets Specialist



Q1: Do you agree that the time period for firms to resolve complaints informally should be extended from the close of the next business day to three business days (following receipt)?

Yes. We believe that, on balance, the proposed extension of the next business day rule to three days following receipt is likely to benefit most consumers through encouraging swift non-formal resolution of more complaints.

Q2: Do you agree that firms should report to us, and publish, all complaints that they receive?

Although the paper makes the point that many complaints are unreported under the current process, and that this will likely increase because of firms' own efforts and because of the proposed extension of the next business day rule, it is not made clear why the FCA wants more data, or what it would do with it. It is entirely reasonable for the FCA to collect data to enable it to undertake proper supervision so that it can meet its statutory objectives, but, given the increased costs that will fall to firms to meet the extra reporting requirements, and to avoid the charge that it is asking for more data just for the sake of it, the FCA should set out clearly how the extra data will help it to do its job properly. It is accepted that additional reporting will provide the FCA with more accurate data, reflecting a fuller picture of the complaints received (as stated in the CBA section of the paper, at paragraph 17), but what is not adequately explained is how the FCA will use the extra data in a way that justifies the extra cost involved. On a more technical level, it is not clear to us whether complaints handled within the proposed new three business day informal period are to be included when calculating the number of complaints under the existing threshold for firms to report or not.

Q3: Do you have any comments on our proposals to improve consumer awareness by requiring firms to send a summary resolution communication in respect of complaints handled within three business days?

If firms are able to resolve complaints within three business days and without written communication, we believe a requirement for a written follow up would be unnecessary and bureaucratic. In addition, a less formal approach that introduces any concept of FOS referral is at odds with the formal eight week obligation. Any rule change to require firms to send a written response under these circumstances should allow for complainants to be invited to re-engage with the firm in the first instance, not the FOS, as this would at least allow firms to address any additional issues or misunderstandings. Overall, a better approach would be for the FCA to ensure that proper records of oral communications are maintained, rather than accepting that they may be "circumvented or inadequately provided" (paragraph 2.28).

Q4: Do you have any comments on the proposed new complaints return?

The proposed changes in this area, as in other areas, seem to rest on scant justification. Indications from the FCA's own CBA suggest that additional costs could be considerable, with set-up costs of up to £500,000 per firm and up to 400 extra staff to implement and maintain a new system (paragraph 24). The CBA states that "a significant proportion of consumers find the information we publish on complaints useful, and information we require firms to publish" (paragraph 23). This is useful feedback, but it is about the current data, it does not seem to us to present any evidence about benefits of the proposed additions. As in the comments above, we believe the FCA needs to explain the benefits of increased regulation in terms of consumer benefit in order to justify the increased costs it has identified.



Q5: Do you agree with our proposed approach to data contextualisation?

In principle, we believe there is merit in framing complaints data within the context of the relevant business. Table 6 in the draft rules seems clear enough, but we do not understand the references in the CP to “the number of sales for intermediation” (paragraph 3.25). Table 6 seems to require investment managers to record the number of sales of different investments during a period, whether the sales are intermediated or not. For example, we presume that the FCA would want to include direct sales as well as sales through financial advisers or platforms. In this context, the references to ‘intermediation’ in paragraphs 3.24 and 3.25 are confusing.

Q6: Do you have any comments on the new complaints publication report?

Please see our comments above about extra data and whether it is justified by the CBA.

Q7: Do you have any comments on these changes (reporting form and guidance)?

We support the earlier proposals to change the complaints return form.

Q8: Do you agree that all post-contract telephone calls to financial services firms should be charged at no more than a ‘basic rate’?

We do.

Q9: Do you agree with our proposed amendments to DISP 2.8.1?

We agree with the proposed amendments to DISP 2.8.1, but suggest in addition that DISP 1 should be amended to remove the requirement on firms to respond to the complainant under DISP 1.6.2 where the firm and the customer have consented to the ombudsman service considering a complaint.

Q10: Do you agree with our proposal to retain the existing six month and six and three year time limits for complaints made to the ombudsman service?

We agree.

Q11: Do you agree that once a firm has consented to the ombudsman service considering a complaint it should not be permitted to withdraw consent?

We agree.

Q12: Do you have any comments on the proposed wording firms will be required to include in final response letters?

We believe the proposed wording is clear and adequate.

Q13: Do you agree with our proposal to extend the definition of eligible complaint so it is consistent with the ADR Directive?

As this extension appears to be necessary to meet the requirements of the Directive, we agree.

Q14: Do you have any comments on the new rules in DISP 5 that apply to the ombudsman service’s annual reports?

No.

Q15: Do you agree with our proposed revision of the dismissal grounds in order to bring them in line with the Directive?

As this revision appears to be necessary to meet the requirements of the Directive, we agree.

Q16: Do you agree with the proposal to amend the test case rules in this way?

As this revision appears to be necessary to meet the requirements of the Directive, we agree.

Q17: Do you have any comments on the proposed wording for this rule (treatment as withdrawn)?

We agree with the proposed wording.

Q18: Do you agree with our proposed amendment to DISP on the timing of complaints procedure disclosure for intermediaries within the scope of the MCD?

We have no comment as this is not relevant to our members.

Q19: Do you have any comments on the possible impact of this proposal on vulnerable consumers?

It seems that the call charges proposal will be beneficial for all consumers.

Q20: Do you have any comments on our cost benefit analysis?

In the areas covered by reporting and publishing complaints, summary resolution communications and additional complaints return data, we believe the CBA is weak. It indicates considerable cost increases for firms without proper justification in terms of consumer benefit. Our answers to questions 2 to 4 set out more detail regarding our concerns. We urge the FCA to undertake more comprehensive CBA before taking these proposals forward.