

Extracts from the Report on the Financial Systems in the United Kingdom and the United States of America based on the findings of the overseas duty visit paid by the delegation of the Panel on Financial Affairs and the Bills Committee on Securities and Futures Bill and Banking (Amendment) Bill 2000 in April 2001

7.4 Under the FSM Act, the protection of consumers is an objective written into the legislation to secure the appropriate degree of protection for consumer. In considering what degree of protection may be appropriate, the FSA must have regard to¹ --

- (a) the differing degrees of risk involved in different kinds of investment or other transactions;
- (b) the differing degrees of experience and expertise that different consumers may have in relation to different kinds of regulated activity;
- (c) the needs that consumers may have for advice and accurate information; and
- (d) the general principle that consumers should take responsibility for their decisions.

7.5 The FSM Act provides the ante facto duty of the FSA to consult a ~~Consumer Panel, and the post facto redress through an ombudsman scheme.~~

Consumer Panel

7.6 A consumer panel was at first established voluntarily by the FSA in 1998 as a consultative body to gauge the consumer reaction to the proposed Financial Services and Markets Bill. In the course of the scrutiny of the Bill, it was felt that the consumer panel should be given a statutory basis and the FSA should have a duty to consult the panel. The FSA is now by statute required to consult consumers on the extent to which its general policies and practices are consistent with its general duties under the Act². It is also under a duty to establish and maintain a panel of persons to represent the interests of consumers³. The panel so established is called the Financial Services Consumer Panel.

¹ Section 5 of FSM Act.

² Section 8 of FSM Act.

³ Section 10 of FSM Act.

7.7 The current Consumer Panel has 13 members including the chairman. They have been appointed by an open recruitment process based on the principles recommended by the Nolan Committee. The appointees are on contract terms for a fixed period. The remuneration for an ordinary member is £ 8,000 per annum, not enough for a full time job. One is expected to work about 25 days a year, but the actual workload demands much more time. The Panel meets formally about 10 times a year. It has its own budget and is supported by a secretariat of four full time staff. The Panel has to issue annual reports which would be laid before the Parliament.

7.8 During the past two and half years, the Consumer Panel has responded to 86 consultation papers and 20 other major papers on the new regime in addition to the FSM Bill itself. We are advised that as members of the Panel are basically part-time, there is not much chance for them to be proactive, but with the opportunity to respond to proposals, members have become broader in outlook when looking at the regulatory framework. Although they are appointed by the FSA and the four full-time staff come from the FSA, the experience they had in the past two and half years shows that they could be entirely independent in operation. The Panel is completely transparent in its operation although its meetings are closed. All proposals put to the Panel for views are published and put on the Internet, so that views from the public could be channeled to the members before they formulate their views on the proposals. The Panel also has close working relationship with the Financial Ombudsman Service, the Consumer Help-line and consumer associations. The fact that the FSA needs to explain to the public why the Panel's representations are not accepted has compelled the FSA to be more aware of the interests of consumers⁴.

The Ombudsman system

7.9 The delegation had the benefit of visiting the Financial Ombudsman Service (FOS) in the midst of a major organizational change in the ombudsman system of the financial sector of the UK. The FSM Act, which may come into effect in November 2001, provides for the creation of a single, compulsory ombudsman scheme for the resolution of disputes between authorized firms.

⁴ Meeting with FSA on 6 April 2001.