

Corporate & Financial Weekly Digest

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FSA Issues Discussion Paper on Product Intervention

On January 25, the UK Financial Services Authority (FSA) published DP11/1, a discussion paper on Product Intervention. DP11/1 considers how the FSA and its successor (the planned Consumer Protection and Markets Authority (CPMA)) should pursue consumer protection and sets out initial proposals for comment.

As part of its new consumer protection strategy introduced in 2010, the FSA has adopted a more interventionist approach with the aim of anticipating consumer detriment where possible and thereby preventing it. This approach aims to scrutinize the whole of the product life cycle from start to finish rather than just focusing on issues arising at the point-of-sale.

As part of this strategy, the key proposals set out in DP11/1 suggest:

- **More prescriptive rules**—The FSA is minded to introduce greater prescription in the current regulatory framework to help improve customer outcomes and strengthen its ability to hold firms to account for product governance failings. This may include changing some of the FSA's regulatory guide on the responsibilities of providers and structures into rules.
- **Product intervention**—When the FSA identifies products with features that it considers have the potential to cause detriment to consumers, it suggests that it should have the power to require, for example, product pre-approval, mandatory product features, price intervention, increasing prudential requirements on providers, consumer and industry warnings, preventing non-advised sales, imposing additional competence requirements for advisers or even giving the FSA the power to ban the product at issue.

In the foreword to the discussion paper, FSA Chairman Lord Turner, said: "The crucial issue is how far along this spectrum of earlier and more intense interventions we should progress. This debate comes at a critical time as the scope and powers of the CPMA are being discussed by the government, parliament and stakeholders. It is fundamental to shaping the regulatory philosophy of the new organization."

The deadline for responses to DP11/1 is April 21. The responses will be taken into account in the consultation papers that the FSA intends to publish during the first half of 2011 on its approach to the transition to regulation by the CPMA.

To read the discussion paper, click [here](#).