

CP21/4: Funeral Plans: Proposed Approach to Regulation

BSA Response

Restricted
13 April 2021

Background

The BSA supports the FCA's regulation of the funeral plan market.

We entirely agree with the FCA's stated objective to improve outcomes for customers, with better value products, better sales practices and better controls in place. There is clear evidence of harm to consumers, which needs to be addressed, and certain market participants have adopted practices leading to poor outcomes for some consumers.

As the FCA is aware, a number of UK building societies have relationships with funeral plan providers that allow those building societies' members to access funeral plan products. Aspects of the proposals have the potential to adversely impact our members and their customers, and our response deals with those points of principle. In particular, the proposed blanket ban on commission risks building societies choosing to exit the market, which seems misaligned to the FCA's objectives. Building societies are already subject to FCA regulation and are very well placed to continue to offer their members access to good value products which have been sold responsibly.

High Level Standards

We see no reason why the high level standards set out in Chapter 3 of the CP should not be applied to funeral plan firms (both providers and intermediaries). We expect that the application of these standards should also go some way to addressing the concerns that the FCA has expressed and which have contributed to the proposal to ban commission entirely.

Conduct Standards

It makes sense to apply conduct of business rules in this market, which should act to raise standards overall. It will be important for the FCA to ensure that it has viable mechanisms to measure how successful this has been over time.

See our comments below, however, in relation to the proposal that funeral plan distributors should not receive commission or any other remuneration for their distribution services, other than fees paid directly to them by customers.

Commission & Other Remuneration

We acknowledge that all remuneration (including commission) has the potential to influence firms' behaviour and to cause harm to consumers.

The plans to address this by way of a ban on commission paid to intermediaries is concerning. It appears to have been designed to deal with a more egregious part of the market than that occupied by building societies and other intermediaries which are already subject to FCA regulation and very aware of the need to ensure good outcomes for their customers.

There is a high risk that introducing a ban of this nature means that there is little/no incentive for such firms to continue to distribute funeral plans, and so it has the potential to reduce competition. Building societies are already subject to FCA regulation. They understand and can identify vulnerability. They already invest time and resource in ensuring their staff are sufficiently trained to deal with the products they offer as well as ensuring that there is a strong level of oversight, reporting and risk management. We consider that this investment, coupled with the robust due diligence that they perform before entering into an agreement with a plan provider, means that the likelihood of the harms that the FCA has identified coming to fruition is significantly reduced when a plan is distributed through a building society.

We believe that a commission-based remuneration model that recognises the investment that the firm has put in to ensuring that its customers are receiving a product that is appropriate for them should not be banned outright. The options that the FCA has considered and discounted in relation to commission (disclosure of commission, fair value assessments) should be explored further.

We do not agree with the assertions that:

1. Commissions are leading to customer paying prices which are too high relative to the benefits that the funeral plan provides, and

2. Intermediaries receiving commission are providing little or no benefit to consumers.

This may of course be true in some (or even many) cases, but it does not recognise nor take account of the cost and investment that firms such as building societies make in order to distribute plans responsibly. Further, once regulated, we consider that this type of product is similar to insurances, which are offered by intermediaries and with commission being paid.

While there is much to be commended in the proposals, the unintended consequences of an outright ban on commission for both consumers and competition in this market need to be considered further. For example, an upfront fee would clearly be a financial and psychological blocker to funeral planning discussions for many consumers, particularly for vulnerable individuals. The FCA has previously communicated concerns that upfront fees for investment advice are a blocker for people with lower value pensions for example, and continues to take action to address that. Complete removal of the option for commission increases the risk that vulnerable people will not engage in funeral planning discussions until the point of bereavement, thus vulnerability will be increased. Whilst funeral directors may be in a position to offer 'free' advice due to their ability to recoup costs later in the process, we question whether consumers are unlikely to engage with funeral directors unless recently bereaved, which is contrary to the one of FCA's stated intentions of the proposed rules. Firms such as building societies which have longer relationships with customers, are well placed to discuss funeral planning as one component of wider financial conversations, at financial rather than emotive life stages.

A more proportionate response/set of proposals from the FCA which properly recognises existing good practice would significantly reduce the risks posed by the current proposals.

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Our members have total assets of over £435 billion, and account for 23% of the UK mortgage market and 17% of the UK savings market.