

AMS Insurance – Written evidence (SCG0073)

Questions

The Committee is seeking evidence on the following questions:

1. What opportunities or changes should be prioritised in order for the regulators to meet their secondary growth and competitiveness objectives effectively?

Without risking harm to consumers, the FCA can reduce regulatory burden, by simplifying compliance requirements and providing clearer guidance of expectations rather than the current status where many areas are vague and open to interpretation.

Where vagueness leads to a need for clarity, the FCA should not interpret and force incorrect conclusions. We have experienced this first hand with ICOBS 6A.1.1 which clearly states "This section applies to a firm which *sells* a GAP contract to a customer in connection with the sale of a vehicle by (1) the firm; or (2) a person connected to the firm.

We have a GAP Insurance product that is free to the consumer with no obligations, giving the consumer immediate protection; however, a representative of the FCA has stated that ICOBS 6A.1.1 applies, even though the product is not being sold to the consumer. This prevents the consumer from having access to this valuable cover free of charge at the time of purchase of their vehicle and puts the consumers asset at unnecessary risk, leaving them vulnerable to debt should the vehicle be written off; we are sure this is not the intent of ICOBS 6A.1.1

The FCA would benefit from reading their own 'FG22/5 Final non-Handbook Guidance for firms on the Consumer Duty' This being the bench mark we are expected to attain. However, their own communication, rules and guidance are not aligned to their expectations of our sector. Their communication, rules, and guidance are far from clear and certainly not easy to understand or follow, in fact it is quite intimidating and seemingly easy to be tripped up on.

Nukula Limited, trading as InsureThat. This organisation harnessed the opportunity to work within the guidelines of the regulator and built a consumer-focused business providing easy access to GAP Insurance products including a 30 day free no obligation cover, through a number of Appointed Representatives (all FCA approved). An innovative organisation employing c70 members of staff. This organisation through the irresponsible behaviour of the FCA

suspending all distribution models for GAP insurance (starving them of income) unfortunately went into administration, this in itself creating potential for consumer harm and scaring off international investors and growth opportunity.

The FCA are not mandated to regulate price however they are doing this under the guise of the Consumer Duty. Fair value is about more than price, they are oppressing innovation and forcing reductions in services by focusing on commission levels. In our area of expertise (GAP Insurance), they are forcing commission levels to unmanageable levels. They seem to be overlooking the fact that the costs associated with providing services, administration, regulatory compliance and accessibility to GAP insurance products that have terms of up to 5 years, can exceed the risk premium charged by the insurer. They appear to treat commission as pure profit of which it most certainly is not.

Despite a year of efforts to lift the suspension on dealership and broker distribution models, the FCA continues to engage in protracted and inefficient practices, which can be likened to 'sludge practice.' This lengthy approval process risks discouraging firms from developing and introducing new, potentially growth-enhancing financial products. The suspension has also limited consumer access to the product, leaving them vulnerable to future debt in the event their vehicles are written off

2. To what extent are the regulators focused on the objective to promote international competitiveness and growth? Are there areas where the ability of the regulators to fulfil their secondary objectives might be constrained by having to fulfil their primary objectives?

The actions of the Financial Conduct Authority (FCA) concerning GAP insurance have caused significant concern among insurers. There is uncertainty about their future actions, potential product targets, and whether further product suspensions will occur during potentially lengthy and unnecessary investigations. The FCA suspended all GAP distribution channels, alleging that the products *might* not offer fair value. While it is possible that a minority of distributors may not have been providing fair value according to the FCA's interpretation, the suspension has affected all parties involved with GAP insurance.

This situation has had a profound impact on the mental health of business leaders and their employees. Furthermore, some businesses have not survived this ordeal.

3. What are some of the barriers in the current regulatory framework (including the role and responsibilities of other regulators and bodies such as the Payment Systems Regulator, The Pensions Regulator and the Financial Ombudsman Service) that could hinder efforts to drive economic growth and international competitiveness in (a) the UK economy and (b) the financial services sector?

The Financial Conduct Authority (FCA) should adopt a more transparent approach regarding their requirements. Despite multiple submissions on GAP distribution for dealers and brokers that demonstrably provide fair value to consumers, the FCA employs a "sludge process" by consistently demanding increasingly granular details. This suggests an underlying intention to regulate prices, margins, and profits, making it exceedingly challenging to advance without pinpointing their precise expectations or hitting the magic number (of which they do not divulge). As a result, businesses are forced to reduce margins leading to scaling back growth plans, service levels, and investments in IT, among other areas.

Proportionality - tailor regulations to the size and complexity of businesses to help ensure that smaller firms, including startups and scaleups, are not disproportionately burdened by compliance costs. Smaller businesses and startups cannot afford a compliance officer to continually monitor and adjust to regulatory changes, this is usually done by someone already filling a role within a business.

4. Do the regulators have the right capability and capacity to fulfil their regulatory objectives on growth and competitiveness? To what extent might the culture of the FCA and PRA influence their ability to fulfil their growth and competitiveness objectives?

The culture of the FCA needs urgent attention, they take no ownership of their errors. They wanted to flex muscle with their approach to GAP Insurance, however they clearly selected the wrong product based on their own data collection not being fit for purpose. The General Insurance value measures report they publish is not fit for products with terms longer than 12 months however they used this report as a reason for targeting GAP (data is available). They did not consider GAP was meeting the expectations of consumers with low complaints at 1.5% and claim acceptance of 98.4% when other insurance products on the same report were at complaints 15.8% and claim acceptance of 56.5%.

The FCA's public statements have been misleading. A spokesman claimed that 'only 6% of consumer premiums are paid out in claims'

and highlighted concerns over high commissions—instances of ‘up to 70% of premiums going to commissions’. Our data, and that of many competitors, show that 35-45% of premiums are paid out in claims, a far higher figure than the FCA suggested in their statement. Furthermore, under the Financial Services and Markets Act 2000, the FCA is not mandated to regulate prices or commissions. Yet, through the Consumer Duty "Fair Value" Assessments, they are effectively dictating price, exceeding their authority, and undermining the principles of a free-market economy. This unchecked regulatory power not only threatens firms like ours but distorts market competition.

The mental health of some individuals has significantly deteriorated. This situation has caused substantial reputational damage to the industry, resulting in job losses and the liquidation of otherwise viable companies.

- 5. How effectively have the FCA and PRA consulted or engaged with industry in relation to the new secondary growth and competitiveness objective?**
- 6. In delivering their secondary objective on growth and competitiveness, what opportunities are there for the regulators to help to promote and support innovation in the financial services sector? How effective has the FCA’s regulatory sandbox been for supporting greater innovation in the financial services industry?**
- 7. How should the regulators ensure that any measures introduced to meet the secondary growth and competitiveness objectives work for businesses of all sizes across the sector, including startups, scaleups, and incumbents?**

Refine rules and regulations make them understandable to the average person, without having to engage the services of a lawyer to interpret the meaning.

- 8. Are there any additional metrics over and above those already agreed by the regulators that would better enable stakeholders to track progress and support scrutiny of their work against the secondary growth and competitiveness objective? How should a measure of growth be included in these metrics?**
- 9. Does the requirement within the secondary growth and competitiveness objectives to align with international standards create any constraints to fulfilling those objectives?**
- 10. Are the existing accountability measures around the secondary growth and competitiveness objective adequate?**

11. Are there examples of regulatory policies in other jurisdictions that should be considered by UK regulators to help facilitate the new secondary objective? What might the FCA and PRA be able to learn and apply from comparable supervisors in other markets in terms of applying secondary objectives on growth and competitiveness?

We are a family business operating for over 30 years specialising in providing our unique full cover Asset Secure® GAP Insurance products (see www.ams-gap.com), to general brokers, dealerships, finance companies and manufacturers throughout the UK. We also provide brokerage and underwriting facilities for US GAP Insurance Companies into the London Market.

From our US GAP experience, the FCA could learn from the very different approach of US Regulators, who apply very clearly defined regulations, working very closely (not against) the insurers and their agents, to ensure the best results for all parties.

We have always put consumers at the heart of what we do. Implementing the consumer duty was straight forward for us, as we continually morphed our products and services to remain current and meet the demands and needs of consumers ensuring we worked within regulatory requirements. Having ensured we had done all that was required for the new consumer duty, we were stunned by the actions of the regulator. On the 5th February 2024 we received only 24 hours' notice to suspend sales of our GAP products, essentially starving us of income.

The lack of open market for consumers to access GAP Insurance products is taking away the consumers right of choice and creating consumer harm, especially so for those who are financially vulnerable and those who do not engage well with technology.

Lessons must be learnt from the behaviour and handling of this process by the FCA. Through our experience their treatment of businesses and people has been deplorable. We have spoken at several forums about the process we have been through, and it has brought tears to eyes, some have likened it to the post office scandal.

We would be happy to further engage on this.

22 January 2025