

European Life Settlement Association Response to the Financial Conduct Authority Consultation Paper CP16/12: Secondary Annuity Market – proposed rules and guidance

June 2016

Dear Sirs,

We are writing to you in response to Consultation Paper CP16/12, seeking views on the Financial Conduct Authority (FCA) proposed rules and guidance in relation to the Secondary Annuity Market.

The European Life Settlement Association (ELSA) was founded in 2009 to set standards for the European involvement in the US Life Settlement industry. We represent European funding sources, service providers and intermediaries in the US Life Settlement market who are looking to promote transparency by providing accurate, authoritative information to investors, regulators and the media.

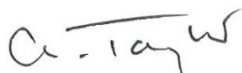
We also have members who have had involvement in similar markets such as the UK Traded Endowment Policy (TEP) market.

As such, we believe that our experiences within these markets are highly relevant to the creation of a new UK secondary annuity market, and will be useful in providing insight into how the major challenges and risks can be effectively addressed.

Please find enclosed a full and detailed response from ELSA to the questions raised in the consultation paper.

We trust that you find this feedback both useful and insightful, and would welcome the opportunity to engage with you further in the consultation process. If you have any further questions or points of clarification, please do not hesitate to contact me direct and I would be very happy to support.

Yours faithfully,



Alec Taylor, Chair

Q1: Do you agree with our proposal to require specific risk warnings to be given to consumers at first contact? Would you suggest any changes to the format and content of the risk warnings?

We agree that risk warnings should be given to consumers in the format and content as suggested. However, we also believe that the regulated buying and/or broking entity should be required to check whether the consumer has been presented with the risk warnings prior to offering bids.

This may mean that the consumer receives risk warnings multiple times but puts the responsibility on the regulated broking/buying entity rather than the issuing provider, advisor or pension wise. The assumption should NOT be made that the issuing provider has provided the risk warning at ‘first contact’ when the consumer begins their process of engaging in the secondary annuity market. However we do believe it should be best practice for the issuing provider to do so. If the consumer takes advice or guidance, those providing the advice or guidance should be obligated to present the risk warnings. However, the final burden of proof that risk warnings have been given at least once should settle with the regulated broker or buying entity.

Q2: Do you agree:

- that at first contact all sellers should be:
 - o informed about the compulsory advice requirement;
Yes, this should be communicated to the policy holder by the regulated broker/buyer before offering bids.
 - o given a recommendation to take advice and/or Pension Wise guidance
Yes, this should be communicated to the policy holder by the regulated broker/buyer before offering bids.
 - o given a recommendation to shop around; and
Yes.
- that annuity providers should check that legally required ‘appropriate advice’ has been taken, by receiving confirmation in a durable medium, prior to proceeding with annuity income sale?
No, this should be legally required of the broker and/or buying entity.

Q3: Do you agree with our proposals that at first contact all sellers should be informed about the possible need for contingent beneficiary consent, and that FCA should make rules in relation to contingent beneficiary consent?

Yes, it should be best practice that at first contact all sellers should be informed about the need for contingent beneficiary consent. However, it should be a requirement of the broker/buyer in the closing due diligence process to check that consent has been given.

Q4: Do you agree that, at first contact, all sellers should be informed about:

- **the ancillary costs the relevant firm reasonably believes it may charge for**
Yes. Anticipated costs should be based upon the information presented by the policy holder at point of first contact, and assume the policy acquisition follows a typical settlement process.
- **the possibility that the relevant annuity provider may cover its costs, directly or indirectly, from the seller?**
Yes. We would also like to add that annuity providers should publish standardised pricing for their administrative role in completing a sale.

In the UK TEP market, Life Offices have levied fixed charges ranging from nothing up to £100 to facilitate individual policy trades. The weighted average Life Office charge on a typical TEP portfolio is estimated to be £26 per transaction. We would expect a similar magnitude of charging to apply to the secondary annuity market.

Life Offices must also have a responsibility for the accuracy of the information they supply, and should accept liability for any losses resulting from erroneous information they supply – this has not always been the case in the UK TEP market.

Q5: Do you agree with our proposals on panel disclosure rules?

Yes we agree that panel disclosure would include the number of buyers on the panel and if they have any commercial relationships with any of the buyers. However to further transparency we would also suggest that brokers are required to name the buyers on their platform.

In addition we would agree with disclosing all bids and the names of the bidders rather than only the winning bid. This would promote transparency and make the process more similar to current consumer platforms such as price comparison websites. We also propose that significant differences in terms and conditions between bidders be highlighted at this stage too.

Q6: Do you agree that firms providing quotes should be required to:

- **present quotes for annuity income in certain prescribed ways; and**

Yes. Though we believe partial term payments should be considered as an additional way to allow consumers to be protected from longevity risk. A term payment is where a consumer sells a fixed number of payments allowing them to keep the longevity protection an annuity contract provides. This would be relatively easy to compare value as it would be worth the lump sum plus the cost of a deferred annuity contract.

- **provide the price comparator alongside their quotes for annuity income?**

Yes. Though more guidance should be given to help standardise this process so that price comparisons between different firms do not mislead with different outcomes. Also we believe that all 'winning' bids provided on platforms or by direct buyers are presented alongside a price comparator, not only those that are accepted. If staged payments are offered then a capitalised value of those payments should be used, and the FCA should determine a basis for doing this.

Q7: Do you agree that the 14 day stop period requirement should be extended to all secondary annuity market interactions?

Yes. We agree with the proposal that the 14 day stop period commences when the policy holder contracts to sell their policy.

Q8: Do you agree with our proposals on broker incentives and charging?

Yes.

Q9: Do you agree that the FCA should make rules requiring that an annuity provider can only cover reasonable costs when charging to help facilitate or execute an annuity income sale?

Yes.

Q10: Do you agree with our proposals to continue to provide access to the ombudsman service in relation to the sale of annuity income on the secondary market?

Yes.

Q11: Do you agree with our proposal to continue to provide access to the FSCS in relation to the sale of annuity income on the secondary market?

Yes

Q12: Do you agree with our proposal to continue to apply IPRU (INV) Chapter 13 to firms when these new regulated activities are their principal business?

Yes

Q13: Do you agree that we should provide guidance reminding firms active in this market about their existing legal responsibilities in respect of sellers who may lack full mental capacity?

Yes.

Q14: Do you have any comments on our proposed amendments to FEES?

No.

Additional Comments

Regulated role as Servicer

We believe there should be an additional regulated role that covers the role of Servicer. It would be the Servicer's responsibility broadly to;

- provide death tracking services
 - o this may also include ongoing contact with the annuitant on behalf of the owner, such as re-underwriting.
- provide payment reconciliation services
 - o that would include contact with the life companies on the owner's behalf.

The role of Servicer may be conducted by the regulated sourcing broker, or the regulated buyer as the secondary market holder. However, we believe it is important that a regulated Servicer role continues to be a requirement even in the event that annuities are sold on from a secondary market holder onto a tertiary investor, who could in theory be unregulated. The Servicer would have the responsibility of ensuring valuable policy holder data and medical information relating to the original annuitants is protected.