

James Crump
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25 The North Colonnade
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By email: cp12_35@fsa.gov.uk

Dear James,

CP12/35: The FCA's use of temporary product intervention rules

I am writing on behalf of members of the Joint Associations Committee on Retail Structured Products (JAC)¹ regarding CP12/35 on the FCA's use of temporary product intervention rules ("the Consultation Paper").

Whilst the JAC will not be submitting a formal response to the Consultation Paper, I am forwarding to you copies of previous JAC submissions that are of relevance to the issues covered in the Consultation Paper:

- JAC Response to FSA Consultation: Retail Product Development and Governance – Structured Products Review (January 2012)
- JAC Response to FSA Discussion Paper DP11/1: Product Intervention (April 2011)

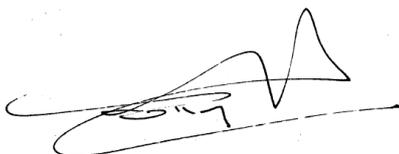
In these responses, we explore the key elements of the regulatory framework for retail structured products, notably (i) point of sale regulation, (ii) disclosure and transparency standards and (iii) product intervention. We consider that the focus of such framework for a properly functioning market should be (i) and (ii) and that product intervention, whilst it can be an appropriate tool in the regulatory framework, should be used cautiously for the regulation of retail structured products.

Regulatory developments at European level are also of relevance to the FCA's future product intervention powers, including both the PRIPs and MiFID2/MiFIR proposals; JAC position papers on these topics are enclosed with this letter and can also be found on the ISDA website at www2.isda.org/asset-classes/structured-products. International work should likewise be taken into account, and we note the on-going work of the IOSCO Task Force on Unregulated Markets and Products ("TFUMP"): Working Group on Retail Structured Products. Our March 2011 submission to IOSCO is attached and also available via the link above.

I also highlight the fact that JAC financial institution members are signatories to the JAC Principles on Retail Structured Products: Principles for managing the provider-distributor relationship ("JAC Principles"). The JAC Principles seek to address issues that firms have in practice found helpful to consider to ensure good consumer outcomes when performing the function of either provider or distributor in connection with the process of delivering structured products to retail investors. The JAC has also developed principles that apply to the distributor-individual investor relationship, i.e. the Principles for Managing the Distributor-Individual Investor Relationship ("JAC Distributor Principles"). These are both highly relevant to the subject matter of the Consultation Paper.

Finally, members of the JAC would be very happy to discuss the Consultation Paper further with you and your colleagues; if this would be useful, then ISDA would be happy to set up a meeting of the JAC at a date and time that would suit you.

Yours sincerely,



Timothy R Hailes
Chairman, Joint Associations Committee on Retail Structured Products

¹ The JAC is sponsored by multiple associations with an interest in structured products. In the first instance, queries may be addressed to bgourisse@isda.org.