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Questions concerning 'whether and how, and if required, by whom, third party funding should be regulated' and the relationship between third party funding and litigation costs.

1. To what extent, if any, does third party funding currently secure effective access to justice?

   In enabling claimants to bring meritorious claims that would not otherwise have been brought, it enables access to justice. Whether that access is "effective" for claimants at present is debatable, given the high cost of litigation funding that impacts the level of compensation that successful claimants ultimately receive and the lack of effective industry wide regulation.

2. To what extent does third party funding promote equality of arms between parties to litigation?

   This is of less relevance in the context of complex group litigation. However, more generally it enables claimants to access experienced legal counsel and expert witnesses.

3. Are there other benefits of third-party funding? If so, what are they?

   Nil response.

4. Does the current regulatory framework surrounding third party funding operate sufficiently to regulate third party funding? If not, what improvements could be made to it?

   It does not. The majority of litigation funders have not subjected themselves to the current self-regulation framework. For those that have, that framework is limited in scope. Whilst commercial imperatives are gradually changing the market for litigation funding for sophisticated claimants, the pace of that change is glacial and there continues to be a material imbalance in outcomes between funders and claimants.

   We would welcome increased regulatory oversight of the promotion of "pre-packaged" litigation-based shareholder compensation claims by

third party funders ("TPFs") and law firms and a mandatory code of conduct for TPFs that promotes integrity, transparency and the disclosure of conflicts of interest, among other things. We refer to PRIN 2.1 of the FCA Handbook as an example of what could be included in the code of conduct.

5. Please state the major risks or harms that you consider may arise or have arisen with third party funding, and in relation to each state:
    a. The nature and seriousness of the risk and harm that occurs or might occur;

There is often a misalignment of interests between TPFs and claimants. The funding terms are often structured such that any "reasonable" settlement offer must be accepted. However, this often results in an outcome that achieves a return on investment to the TPF, the ATE insurance provider and the law firms, but leaves very little for claimants at the bottom of the contractual distribution of proceeds waterfall in the funding documentation. In group litigation, the lack of any restriction on TPF returns is actively discouraging potential claimants from participating in otherwise meritorious claims. We would, of course, expect TPFs to make returns on their investment. However, the current levels of return they are demanding are excessive, the terms are overly complicated and lack transparency. When the third-party funding terms are applied to the commercial realities of litigation, the result is often no return or a negligible return to claimants. This potential outcome is generally not made clear to claimants at the outset.

As mentioned above, legal representatives and other stakeholders (e.g. ATE insurers) can also benefit significantly from group litigation whilst claimants/their clients make no return or negligible returns, even in circumstances where the settlement received, as a proportion of claim value, would be considered to be a successful outcome (i.e. a significant, or even market leading, settlement in terms of proportion of claim value).

We have also experienced, and continue to experience, excessively optimistic and misleading marketing of group litigation claims, with suggested settlement recoveries as a proportion of claim value that exceed anything that could reasonably be expected in the market. If realistic settlement recoveries were disclosed, potential claimants would understand that the current fee structures for third-party funding mean the chance of any or a meaningful return for participating claimants is low, whilst all other stakeholders can expect to recover not just their "basic" fees but significant "success" uplifts and multiples in preference to the claimants.

In our experience, TPFs are able to exert undue influence on settlement discussions as funding terms effectively compel claimants to accept a "reasonable" settlement offer even where claimants will ultimately

receive no compensation. The pre-packaged nature of some claims means that there is often no opportunity for potential claimants to negotiate the funding terms and thereby mitigate these issues.

b. The extent to which identified risks and harm are addressed or mitigated by the current self- regulatory framework and how such risks or harm might be prevented, controlled, or rectified;

We do not consider that the current self-regulatory framework mitigates these risks and harms in any meaningful way. It is clear that self-regulation is not working. Market forces are not creating rapid enough change, as even sophisticated claimants (and their legal advisers) are still getting to grips with a fast-developing sector and extremely (and unnecessarily) complex funding terms. We believe that formal regulation of the sector is required to achieve fair outcomes for claimants who are reliant on third-party funding when seeking access to justice. We discuss possible mechanisms to address current risks and harms in question 7 below.

c. For each of the possible mechanisms you have identified at (b) above, what are the advantages and disadvantages compared to other regulatory options/tools that might be applied? In answering this question, please consider how each of the possible mechanisms may affect the third-party funding market.

We believe that formal regulation of the sector is required, as described in question 7 below. Although regulation may increase compliance costs for TPFs and thereby potentially reduce the reduce the number of TPFs in the industry, we believe that this could have a positive effect for claimants by discouraging TPFs from approaching third-party funded litigation as an investment opportunity that can be designed to maximise TPF returns. Introducing greater rigor and minimum standards for third-party funding arrangements will also create greater transparency and confidence in that industry.

6. Should the same regulatory mechanism apply to: (i) all types of litigation; and (ii) English-seated arbitration?
    a. If not, why not?
    b. If so, which types of dispute and/or form of proceedings should be subject to a different regulatory approaches, and which approach should be applied to which type of dispute and/or form of proceedings?
    c. Are different approaches required where cases: (i) involve different types of funding relationship between the third party funder and the funded party, and if so to what extent and why; and (ii) involve different types of funded party, e.g., individual litigants, small and medium-sized businesses; sophisticated commercial litigants, and if so, why?

Whilst stronger protections may be warranted for some types of litigation (e.g. retail or consumer litigation), we believe that regulatory mechanisms capping TPF returns should be available to all claimants in third-party funded claims.

7. What do you consider to be the best practices or principles that should underpin regulation, including self-regulation?

Regulation should be binding and enforceable as against the regulated party. Consequences for breach should be meaningful.

A regulatory code of conduct for TPF and ATE insurance providers that promotes integrity, transparency, fair outcomes, and the management of conflicts of interest should be included. We believe, in the context of third-party funded claims, consideration of the basis on which legal representatives are remunerated is merited to help mitigate (and give legal providers the scope to protect themselves from) the conflicts inherent in the commercial relationships between legal providers and TPFs that could operate to the detriment of claimants.

Minimum standard terms for funding agreements that include all relevant parties, creates a fairer alignment of interests between those parties, provides for transparency of costs and transparency of potential outcomes, and a requirement to disclose and manage conflicts of interest.

Minimum standards for funding agreements should also include delivery of detailed financial models making it clear, by specific reference to each element of the funding waterfall/allocation of settlement proceeds to stakeholders, what the financial returns would be to each claimant in various scenarios. The impact of the size of the "claimant book" should be made clear. The scenarios used should (without breaching any confidentiality obligations) be justified by reference to "actual" settlements achieved (as a proportion of claim value and relevant to stage in litigation proceeds) to mitigate against misrepresentation in the claimant book-building process.

Consideration should also be given to whether TPFs should be prohibited from directly soliciting claimant participation in group litigation opportunities.

8. What is the relationship, if any, between third party funding and litigation costs? Further in this context:
    a. What impact, if any, have the level of litigation costs had on the development of third party funding?

    The level of litigation costs are the reason third-party funding exists.

    b. What impact, if any, does third party funding have on the level of litigation costs?

    The current structuring of third-party funding fails to encourage prudence in the incurring of litigation costs but it is difficult to say whether it is increasing the cost of litigation.

    c. To what extent, if any, does the current self-regulatory regime impact on the relationship between litigation funding and litigation costs?

The current self-regulatory regime does not appear to have any impact. Appropriate and binding caps on the proportion of settlement proceeds available to non-claimant stakeholders in group litigation could encourage prudence in the incurring of litigation costs.

d. How might the introduction of a different regulatory mechanism or mechanisms affect that relationship?

See answers above.

e. Should the costs of litigation funding be recoverable as a litigation cost in court proceedings?
    1. If so, why?
    2. If not, why not?

Nil response.

9. What impact, if any, does the recoverability of adverse costs and/or security of costs have on access to justice? What impact if, any, do they have on the availability third party funding and/or other forms of litigation funding.

Nil response.

10. Should third party funders remain exposed to paying the costs of proceedings they have funded, and if so to what extent?

TPFs that originate claims by actively approaching potential claimants to build a claimant group should be responsible for paying the costs of proceedings (including any ATE insurance costs incurred, which, ultimately, are to the benefit of TPFs in backstopping the indemnities against adverse costs which they give to claimant groups). TPFs argue strongly that multiples of return reflect the risk they adopt in funding these actions. In reality, the terms they insist upon impose mitigation for a significant proportion of their financial risk on claimants.

Questions concerning 'whether and, if so to what extent a funder's return on any third party funding agreement should be subject to a cap.'

11. How do the courts and how does the third party funding market currently control the pricing of third party funding arrangements?

To our knowledge, the courts play no role in third-party funding of group litigation. The third party funding market is responding very slowly to claimant concerns and the recent PACCAR ruling, but this is very fragmented and we see no market-wide approach being adopted.

12. Should a funder's return on any third-party funding arrangement be subject to controls, such as a cap?
    a. If so, why?
    b. If not, why not?

Yes. This is important to protect against the existing misalignment of interests between TPFs and claimants. (As noted above, we also think

the current regulations on legal adviser returns should be considered in the context of third-party funded agreements.)

13. If a cap should be applied to a funder's return:
    a. What level should it be set at and why?

This is a complex question. In terms of principles:

No stakeholder in a group litigation (and that includes legal representatives) should receive a "success" fee in circumstances where the claimants do not also share substantively in the settlement proceeds of a claim.

The base fees charged by third party funders should appropriately reflect the actual risk inherent in the funding, as judged objectively against other scenarios in which investment is typically made with a view to generating profit. Ideally this would be a fixed amount, rather than a multiple of actual or committed out of pocket costs.

An overall cap on returns to third party stakeholders should be set. In our view this should be a specified percentage of settlement proceeds so that claimants are guaranteed some share of proceeds.

    b. Should it be set by legislation? Should the court be given a power to set the cap and, if so, a power to revise the cap during the course of proceedings?

We are agnostic as to the mechanism providing it is binding and enforceable.

    c. At which stage in proceedings should the cap be set?

The terms on which a claimant is participating in third-party funded litigation should be transparent at the point at which they become legally committed to that participation or cannot terminate their participation without incurring cost.

    d. Are there factors which should be taken into account in determining the appropriate level of cap; and if so, what should be the effect of the presence of each such factor?

See answers above.

    e. Should there be differential caps and, if so, in what context and on what basis?

Nil response.

Questions concerning how third-party funding 'should best be deployed relative to other sources of funding, including but not limited to: legal expenses insurance; and crowd funding.'

14. What are the advantages or drawbacks of third party funding?

Please provide answers with reference to: claimants; defendants; the nature and/or type of litigation, e.g., consumer claims, commercial claims, group litigation, collective or representative proceedings; the legal profession; the operation of the civil courts.

The advantage of third-party funding is clear. It enables individuals and businesses who would otherwise (a) not be able to fund the claim at all or (b) would be unwilling or unable to risk their own capital due to the high cost and uncertain outcome of litigation and other business demands for that capital, to bring meritorious claims. Legislators and the courts give parties a route to seek redress if the actions of others cause them harm. The creation of these routes is meaningless if claimants cannot access them due to the litigation (and third-party funding) costs involved in doing so.

The drawbacks are the incredibly high cost of third-party funding, the unnecessary complexity of third-party funding agreements and lack of transparency in the marketing and delivery of that funding. At present, there seems to be a fundamental commercial imbalance between third party funders and claimants. There appears to be a prevailing attitude that the funders are doing claimants "a favour" in providing funding to them, which is reflected in the magnitude of proportion of claimant returns the funders target. It appears to us that many TPFs are operating as shadow hedge funds where litigation is seen as an investment opportunity and claimants are seen as the means by which they access this investment opportunity. These dynamics mean that funding arrangements are heavily weighted in favour of the TPF with success being determined (sometimes expressly but often less transparently) by reference to the TPFs return on investment.

In the absence of regulation, whilst the experience and understanding of potential claimants is still developing, market forces do not seem to be operating effectively to control this imbalance.

15. What are the alternatives to third party funding?
    a. How do the alternatives compare to each other? How do they compare to third party funding? What advantages or drawbacks do they have?

Nil response.

    b. Can other forms of litigation funding complement third party funding?

Nil response.

    c. If so, when and how?

Nil response.

16. Are any of the alternatives to be encouraged in preference to third party funding? If so, which ones and why are they to be preferred? If so, what reforms might be necessary and why?

Nil response.

17. Are there any reforms to conditional fee agreements or damages-based agreements that you consider are necessary to promote more certain and effective litigation funding? If so, what reforms might be necessary and why? Should the separate regulatory regimes for CFAs and DBAs be replaced by a single, regulatory regime applicable to all forms of contingent funding agreement?

    Simplification of regulatory provision is always welcome to help ensure end users can understand fully the framework that applies to the services they are accessing.

18. Are there any reforms to legal expenses insurance, whether before-the-event or after-the-event insurance, that you consider are necessary to promote effective litigation funding? Should, for instance, the promotion of a public mandatory legal expenses insurance scheme be considered?

    See response to question 19 re ATE insurance.

19. What is the relationship between after-the-event insurance and conditional fee agreements and the relationship between after-the-event insurance and third-party funding? Is there a need for reform in either regard? If so, what reforms might be necessary and why?

    In our experience, ATE insurance is the element of third-party funding structures that is least well understood by both legal representatives and funded claimants.

    ATE premiums are amongst the most significant costs in third-party funded group litigation claims; directly but also as a result of the multiples applied by funders to payment of premiums that the TPF funds. In circumstances where they are subject to funder multiples, they can play a significant role in reducing/eliminating settlement returns to claimants.

    As a result, to the extent a premium payment attracts a TPF funder multiple, the timing of premium payments can create a point of leverage to the detriment of claimants. I.e. any settlement agreed immediately after the premium payment will be worth significantly less to claimants, as the premium/the multiple on the premium can reduce or eliminate any return the claimants might otherwise have received.

    ATE insurers typically only have a relationship (legal or otherwise) with the TPF. The terms of those arrangements, i.e. the structuring of the premia payments (including the extent to which they will be subject to TPF multiples) and how those payments might impact the returns to claimants at various stages in the litigation are determined bilaterally without claimant input. In our experience, the ATE arrangements are not explained transparently (or at all) to claimants at the point at which they contractually bind themselves to participate. Further, in TPF-law firm and counsel packaged deals, the legal advisers to the claimant group are not involved in the negotiation of those terms, and do not fully understand the structures involved, to enable them to provide effective advice to their clients.

ATE insurers have a significant interest in settlement discussions as settlement of a claim not only expunges their future exposure but, given the fee structures that typically apply, ensures their premiums are immediately paid in full. The possibility for a misalignment between the interests of the claimants and the ATE insurers needs careful consideration.

These issues could be eliminated if, as we suggest above, TPFs were prohibited from recharging ATE insurance premiums to claimant groups.

At a minimum, there should be a regulatory requirement for full and transparent disclosure to the funded claimants, prior to committing to participate in the litigation, of all ATE arrangements, including clarity about any circumstances in which the ATE insurer can withdraw its cover. The structure and timing of premium payments should also be fully and transparently explained, including as part of the provision of detailed financial modelling we propose in our response to question 7.

20. Are there any reforms to crowdfunding that you consider necessary? If so, what are they and why?

Nil response

21. Are there any reforms to portfolio that you consider necessary? If so, what are they and why?

Nil response

22. Are there any reforms to other funding mechanisms (apart from civil legal aid) that you consider are necessary to promote effective litigation funding? How might the use of those mechanisms be encouraged?

Questions concerning the role that should be played by 'rules of court, and the court itself . . . in controlling the conduct of litigation supported by third party funding or similar funding arrangements.'

23. Is there a need to amend the Civil Procedure Rules or Competition Appeal Tribunal rules, including the rules relating to representative and/or collective proceedings, to cater for the role that litigation funding plays in the conduct of litigation? If so in what respects are rule changes required and why?

    Nil response.

24. Is there a need to amend the Civil Procedure Rules or Competition Appeal Tribunal Rules to cater for other forms of funding such as pure funding, crowd funding or any of the alternative forms of funding you have referred to in answering question 16? If so in what respects are rule changes required and why?

    Nil response.

25. Is there a need to amend the Civil Procedure Rules in the light of the Rowe case? If so in what respects are rule changes required and why?

    Nil response.

26. What role, if any, should the court play in controlling the pre-action conduct of litigation and/or conduct of litigation after proceedings have commenced where it is supported by third party funding?

    Nil response.

27. To what extent, if any, should the existence of funding arrangements or the terms of such funding be disclosed to the court and/or to the funded party's opponents in proceedings? What effect might disclosure have on parties' approaches to the conduct of litigation?

    The terms of funding should not be disclosed to the funded party's opponents. As a claimant, our experience is that this would significantly erode the litigation strength of the funded party. Defendants and their counsel already use the threat of security for costs to obtain knowledge of funding arrangements that they then use against claimants in settlement negotiations.

Questions concerning provision to protect claimants.

28. To what extent, if at all, do third party funders or other providers of litigation funding exercise control over litigation? To what extent should they do so?

    In the context of group litigation, the degree of input a funder has in the day-to-day operation of the claim seems to vary depending on the funder, the legal representatives and the extent of involvement of the claimants themselves. Whilst we were initially reluctant to participate in claimant committees, having experienced group litigations with and without them we would now strongly advocate in favour of participation to mitigate the influence of TPFs. Indeed, we would be reluctant to

participate in any group litigation which could not stand up a functional claimant committee. Without a committee, our experience is that the funder is more likely to step into the void and attempt to "direct" the litigation. This should be discouraged; any regulatory reform should reinforce the principle that litigation funders should not be involved in direction of litigation and encourage functional claimant participation in the direction of litigation.

During settlement negotiations, our experience is that third-party funders have a greater tendency to look to exercise control. Whilst it is entirely reasonable for funders to provide significant input at this point given the commercial imperatives, it would be helpful to claimants (and to smooth operation of settlement discussion) to more transparently delineate the circumstances in which funders (and ATE insurers) can terminate their funding arrangements.

Our experience has been that the contractual provisions in litigation funding agreements are carefully worded to afford the third-party funders as much scope as possible to leverage the threat of withdrawal of funding to control the decision making of the claimant group during settlement negotiations. This is particularly challenging in the context of time constrained settlement discussions where claimants can feel they are being "bounced" into settlements that are significant in terms of market value but result in negligible returns to claimants. Under the funding arrangements a reasonable settlement is deemed a "success" that triggers payouts to TPFs, ATE insurers and legal services providers but can still leave very little for claimants. The "reasonableness" of any such settlement often fails to take into account the financial outcome for claimants.

29. What effect do different funding mechanisms have on the settlement of proceedings?

Any funding mechanism which can give rise to the elimination or near elimination of claimant returns will discourage claimants from accepting settlement offers they might otherwise have been minded to take. TPF funding arrangements may also compel claimants to accept a settlement that benefits TPFs as any legal costs incurred in challenging the reasonableness of a settlement are often recoverable by the TPF from claimants. Third-party funding should not, in and of itself, discourage settlement of proceedings. Setting a cap on TPF returns would mitigate against this.

30. Should the court be required to approve the settlement of proceedings where they are funded by third party funders or other providers of litigation funding? If so, should this be required for all or for specific types of proceedings, and why?

The primary goal should be robust regulation of litigation funding that ensures a fair and enforceable framework for operation of the litigation funding market and protection of its participants.

The current mechanisms for resolution of disputes between TPFs and funded claimants are not fit for purpose in the context of fast-moving and contentious settlement negotiations. Whilst recourse to a King's Counsel opinion in the event of a dispute (or lack of agreement on the

reasonableness of a settlement offer) might seem an appropriate mechanism on paper, in circumstances where a settlement offer is time constrained, it is of little practical use. When this lack of timely recourse is combined with the other points of leverage available to TPFs we have described above, claimants may have little choice but to accept settlements without reference to the dispute mechanism, or risk the settlement process collapsing entirely along with the funding.

Resolution of disputes in these circumstances may be an area in which the courts could play a role to protect claimants. However, regulating third party stakeholder returns to rebalance the relationship between TPFs and claimants and ensure a reasonable element of recovery for claimants would be a better mitigation against these issues.

31. If the court is to approve the settlement of proceedings, what criteria should the court apply to determine whether to approve the settlement or not?

Nil response

32. What provision (including provision for professional legal services regulation), if any, needs to be made for the protection of claimants whose litigation is funded by third party funding?

See our previous answers regarding provision that could be put in place to protect claimants as regards third party funders and legal service providers.

As group litigation claims are often marketed/presented jointly as a pre-agreed package, claimants only become clients of the legal representative for the claimant group at the same time as they execute and commit to litigation funding agreements. Law firms are not advising their potential clients of the merits of, or specifically negotiating, the funding terms on behalf of the client/potential client. It is therefore left to the claimants to assess the terms of the litigation funding agreement themselves, or to engage independent legal representation to separately review and advise on those terms.

Third-party funding terms can be extremely complex and, even for sophisticated claimants, their implications can be extremely difficult to grasp.

At a minimum, where packaging of terms occurs, we believe legal professionals should be obliged to explain to potential clients that they have not negotiated the packaged third-party funding terms on behalf of the client, cannot advise them on those terms. This is a suboptimal situation however, and we recommend the Working Party give further consideration to how the "packaging" of third-party funding terms and legal representative engagement terms could be severed.

As previously discussed, in the context of packaged TPF-law firm marketing of claims, we believe the regulations on recovery by legal service providers should be revisited.

The potential conflicts inherent in circumstances where TPFs pay certain elements of legal service provider fees upfront (thereby attracting multiples for the funder) should be of particular focus. In these circumstances, there is a clear risk of TPFs exerting pressure (if not influence) on legal service providers.

33. To what extent does the third-party funding market enable claimants to compare funding options different funders provide effectively?

Even for claimants with access to internal or independent professional advice and analysis, the variety and complexity of TPF arrangements make comparison challenging. We would advocate, as part of transparent marketing disclosure, a requirement for TPFs and/or legal advisers engaged in participant marketing to provide modelling which illustrates, by each element of the proposed funding terms, the claimant outcomes which would arise in various settlement scenarios. TPFs/legal advisers should also be required to justify any claims made as regards likely settlement scenarios. We regularly see marketing which anticipates settlement scenarios, in terms of percentage recovery, that are (at best) optimistic.

34. To what extent, if any, do conflicts of interest arise between funded claimants, their legal representatives and/or third-party funders where third party funding is provided?

Conflicts of interest are most apparent in the course of settlement discussions where the quantum of the settlement is not sufficient to result in a meaningful return to claimants (or any return at all), whilst all other stakeholders are entitled to receive "success" uplifts and/or multiples of outlay under the funding terms.

In addition to the direct commercial conflicts of interest that arise at this stage, the potential for conflicts arising from the wider commercial interests of the stakeholders (i.e. any relationships between funders and law firms or funders and ATE insurers as litigation funding market participants) can also become apparent in these circumstances.

Referring to our response to question 19, we believe the Working Party should also consider conflicts of interests between ATE insurers and funded claimants.

35. Is there a need to reform the current approach to conflicts of interest that may arise where litigation is funded via third party funding? If so, what reforms are necessary and why.

Yes. There is a need to introduce reforms that rebalance the structural commercial conflicts inherent in litigation funding arrangements. These need to include increased transparency by TPFs and protections for claimants. We have set out our suggestions for rebalancing this relationship above.

Questions concerning the encouragement of litigation.

36. (When answering this question please specify which form of litigation funding mechanism your submission and evidence refers to.) To what extent, if any, does the

availability of third-party funding or other forms of litigation funding encourage specific forms of litigation? For instance:

a. Do they encourage individuals or businesses to litigate meritorious claims? If so, to what extent do they do so?

Even for businesses of significant size, the availability of third-party funding do/should encourage litigation of meritorious claims.

However, as we have explained above, the excessive multiples and subordination of the interests of claimants in settlement "waterfalls" we have seen proposed in the market have resulted in us choosing not to bring meritorious s90/s90A FSMA claims. This is because, other than in the most optimistic settlement scenarios, the funding terms would likely only result in returns for TPFs, ATE insurers and legal representatives.

b. Do they encourage an increase in vexatious litigation or litigation that is without merit? Do they discourage such litigation? If so, to what extent do they do so?

All third-party funded group litigation we have participated in has required a substantive time investment. As a result, notwithstanding that the out-of-pocket financial risks of litigation are mitigated by third-party funding, it would not be in the best interests of our business or our clients to pursue (a) vexatious litigation or litigation that is without merit or (b) litigation where the third-party funding terms will more than likely result in little or no financial return for claimants notwithstanding a settlement or judgement in favour of the claimant group.

c. Do they encourage group litigation, collective and/or representative actions? If so, to what extent do they do so?

Nil response.

37. To the extent that third party funding or other forms of litigation funding encourage specific forms of litigation, what reforms, if any, are necessary? You may refer back to answers to earlier questions.

Nil response beyond answers to earlier questions.

38. What steps, if any, could be taken to improve access to information concerning available options for litigation funding for individuals who may need it to pursue or defend claims?

Nil response.

General Issues

39. Are there any other matters you wish to raise concerning litigation funding that have not been covered by the previous questions?

As a potentially significant claimant in terms of claim value, we have been offered preferential funding terms to those agreed to between the

TPF and other members of claimant groups to try and induce our participation in group litigation. We have not accepted such terms. We believe any regulatory reforms should ensure all members of a TPF claimant group are treated fairly and transparently. (We would draw an analogy with the FCAs requirement for financial service providers to treat customers fairly.) Variance in funding terms within TPF claimant groups has the potential to create further commercial conflicts which could operate to the detriment of less significant group claimants, particularly in the context of settlement negotiations.