Our response to key comments from the independent panels' annual reports for 2017/18

October 2018

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1 Introduction

We are required to consult on the impact of our work with 4 independent statutory panels. These panels represent the interests of consumers and practitioners, including smaller regulated firms and financial market participants.

They play a vital role in advising and challenging us, and bring a depth of experience. They provide scrutiny, challenge and insight from key audiences and we consider their views when developing our policies and implementing our regulatory interventions. Their support and expertise helps us to identify and remedy potential harms to service users and markets.

Over the past year, we have continued to work with each of the panels on a broad range of issues and this is reflected in their Annual Reports. Those reports detail the panels' activities for the year and comment on the FCA's work. We respond to the panels' comments on FCA work below.

Our responses to the panels' reports are grouped into 2 sections. Firstly, we look at themes that are common across all or most of the panels. For example, all of the panels highlighted: Brexit; Operational Resilience; Regulatory Burden and Culture, both in the industry and within FCA.

Secondly, this document looks at more specific issues raised by individual panels.

We encourage readers to also look at our Business Plan 2018/19 for further details on our current and planned work.

The FCA panels

The Financial Services Consumer Panel
Represents the interests of consumers, monitors how far we fulfil our statutory objectives with regard to consumers when developing rules or policy and provides us with advice and challenge.

The FCA Practitioner Panel
Represents the interests of practitioners and provides us with external input from the industry as a whole.

The FCA Smaller Business Practitioner Panel
Represents smaller regulated firms, that may otherwise not have a strong voice in policy making.

The FCA Markets Practitioner Panel
Reflects the interests of practitioners which are likely to be affected by our market-facing functions.

2 Key themes across the Panels

The panels raised a number of common issues, both throughout the financial year and within their Annual Reports. This section summarises and responds to some of those issues. Not every panel has raised every issue covered here, nor have we included every area of our work discussed in the panels' reports. Instead, this report focuses on the key issues raised, and highlights where we need to complete further work.

Evaluation - Our Mission

Comments from the panels

Some of the panels commented on our decision-making framework and our focus on outcomes.

The Consumer Panel reiterated that they had long argued for the FCA to find better ways to measure its effectiveness and the impact of its interventions, and worked with the team to progress this through the year. They encouraged us to consider 'real world' impact on consumers, such as time taken to shop around.

The Practitioner Panel called for a sustainable, appropriate and proportionate approach to regulation using our decision-making framework, as described in the Mission. An approach that focuses on outcomes rather than processes was encouraged, along with a communication strategy that highlights good as well as bad practice.

Our response

Evaluation is a key part of our Mission's decision-making framework. The work we have done to apply its principles seeks to ensure our decision-making becomes more accountable and transparent. We have listened to feedback from the panels, and other areas, and completed projects to improve our approach this year. For example:

- In April, we published our ex-post Impact Evaluation Framework (DP18/3). This outlines how we intend to use ex-post impact evaluation to assess the impact our interventions have had on consumers, firms and markets. It explains why we do ex-post evaluation, how we choose specific interventions to study, and how we ensure that our evaluations are robust and impartial.

- In July, we published 'How we analyse the costs and benefits of our policies'. This focuses on cost benefit analysis, including costs and benefits to consumers. We identify that some interventions may create additional costs to consumers, e.g. if new rules may limit some consumers' access to credit, or when we mandate that consumers should receive additional services (e.g. advice) which, while creating benefits, may also result in higher prices. There may also be time costs, for example, the time it takes to read additional disclosure, or the additional time taken in shopping around. This issue is also assessed specifically in our Cost Benefit Analyses on Packaged bank accounts (paragraph 16).

- In July, we published Evaluation Paper 18/1. This used data collection and descriptive statistics, econometric analysis, and a consumer survey and qualitative insights to analyse the effectiveness of our interventions in the Guaranteed Auto Protection (GAP) insurance market.

- We published our 2017/18 Annual Report in July. For the first time, this included 'outcome indicators' for every sector. These tell us something about the direction of travel for key harms; whether they are increasing or decreasing. This year's report established a baseline for outcome indicators and we will develop further indicators in the future. For example, where we use biennial data sources such as Financial Lives 2017, we now use additional sources to build a more detailed picture of outcomes over time.

We have also listened to feedback on applying the decision-making framework to how we communicate. For example, following our Thematic Review of interest-only mortgage customers, we expressly identified areas of good practice and highlighted these clearly as well as areas of poor practice.

Brexit

Comments from the panels

The panels identified Brexit as a major issue for financial services providers and service users. They noted the importance of the FCA communicating with stakeholders clearly to ensure they are prepared for any changes.

The Smaller Business Practitioner Panel identified that the issue of EU withdrawal is one which will affect all sectors and said that their key goal was to encourage us to communicate regularly with smaller firms so that they can prepare for change.

The Practitioner Panel's key message has been to encourage us to maintain lines of communication and continue our efforts to work with the EU, as well as the PRA and HM Treasury, to agree on a pragmatic approach to regulation of financial services. They also stressed the need to communicate with all firms on a regular basis as the process unfolds.

The Consumer Panel voiced its main concern that there should be effective consumer representation 'at all stages of financial services development post-Brexit'.

Our response

We recognise the challenges firms are facing in this area. Our aim is to provide stakeholders with as much clarity as we can throughout the withdrawal process.

We have a dedicated area of our website focusing on issues around EU withdrawal. Specifically, we have a 'Preparing your firm for Brexit' page with information for firms on how they may be affected and steps they may need to take. In addition to this we are providing regular updates in our Regulation Roundup.

In June, the FCA together with the Treasury, set out its approach to ensuring the UK continues to have a functioning financial services regulatory regime once the UK leaves the EU. This ensures continuity as far as possible. In July, we set out a note for firms to consider if, or how, they will be affected by Brexit and what action they may need to take. This includes firms considering how they communicate with their customers who might be affected by their Brexit plans. They should ensure that they do this in a way which is clear, fair and not misleading.

The Consumer Panel noted the importance of effective consumer representation in the development of regulation post-exit. We will continue to engage with the panels on the detail of the future legislative framework throughout the year as the Treasury publishes and lays the relevant Statutory Instruments (SIs) under the EU Withdrawal Act. Post-exit, it will be a matter for Parliament to decide the scrutiny and development process of financial services legislation.

We are consulting on how we propose to amend binding technical standards and the Handbook and we will continue to engage with the panels on the detail of the post-exit legislative framework throughout the year as the Treasury publishes and lays the relevant Statutory Instruments under the EU Withdrawal Act.

We recognise the significance of EU withdrawal for consumers and industry. As we said in our June statement on Brexit, we recognise that industry has limited capacity to absorb change. We will therefore focus our rule-making on high priority work where harm has been identified.

Along with the Government, we have sought to manage aspects of the impact of EU withdrawal. For example, for incoming passporting EEA firms and funds, the Government has announced that, if necessary, it will introduce a temporary permissions regime to enable relevant firms and funds which passport into the UK to continue operating in the UK if the passporting regime falls away abruptly. The Treasury laid legislation in Parliament setting this out and we published information on how the regime will work, ahead of the formal consultation, which is now underway.

Competition

Comments from the panels

Both the Practitioner Panel and the Smaller Business Practitioner Panel expressed support for our Approach to Competition, which was published in December 2017.

The joint FCA and Practitioner Panel survey of firms' views of the regulator found the direction of travel for all the key indicators to be positive, with both the satisfaction and effectiveness scores increasing slightly and confidence significantly improved. In particular, they saw a significant increase in the industry's confidence in the FCA's ability to meet its competition objective, which has in the past scored consistently lower than its other objectives.

The Practitioner Panel raised the key point that the FCA should be mindful of the fundamental changes the industry is facing, such as the introduction of open banking, the rise of Distributed Ledger Technology (DLT) and Big Data.

The Consumer Panel reiterated that our competition remit focuses on competition in the interests of consumers; not for its own sake, or to boost competitiveness.

They also expressed scepticism about the effectiveness of demand-side remedies. Consumers cannot 'drive' competition in financial services markets if they cannot determine whether they could get a better deal by switching. The Panel suggested that in many markets, price signals are either missing (many bank accounts) or too prominent (comparison websites) to aid good decision-making, and market conditions can make it almost impossible for consumers to assess product quality.

Research carried out on behalf of the Consumer Panel in 2016-17 suggested that financial services firms capitalise on retail consumers' behavioural biases. In its Position Paper (Consumers and Competition- July 2017) the Panel called for us to be tough on firms that 'penalise' loyal and trusting customers. In particular, they called on us to develop robust measures of consumer outcomes, and require firms to make these widely available, and incorporate them in digital comparison tools. They also cautioned that we, and other competition authorities, should make sure the new generation of automated shopping around and switching services do not repeat the problems of the past by weakening rather than strengthening consumers' position in the market.

Our response

In our Approach to Competition, we reiterated that we seek to promote competition in the interests of consumers, not simply as an end in itself. While the FCA does not have a competitiveness objective, we have been asked by the Treasury to consider aspects of the government's economic policy when deciding how to advance our objectives and discharge our duties. One of these aspects is competitiveness.

We welcome the panels' feedback on our Approach to Competition and ongoing work to advance our competition objective. We are aware of the changes faced by industry and mindful of the need for proportionate regulation.

When considering possible interventions, we seek to understand the impact of such changes to ensure our interventions are relevant and proportionate. For example, earlier this year we published documents outlining our approach to cost benefit analysis and evaluations. This approach helps ensure we assess the impact of our interventions on both firms and consumers in an even-handed way. Our Innovation Hub actively assists firms using new technologies like DLT and Big Data to help promote competition in the interests of consumers.

In reference to consumers' behavioural biases, we recognise the limitations of consumers' market power to drive competition and good outcomes on its own. When designing remedies, we consider which remedies best suit the market in question. The outcome is often a combination of demand and supply-side remedies designed to address different competition dynamics. For example, our Credit Card Market Study, implemented demand-side remedies to help consumers shop around, such as facilitating easier access for consumers to their credit card usage data to allow more accurate comparisons. But, we also proposed and implemented rules stating firms must offer customers in persistent debt help to repay the debt more quickly.

Culture

Comments from the panels

Some of the panels recognised the innovative work that the FCA has begun examining culture within the firms we regulate. The Practitioner Panel also pointed out that diversity among decision makers within firms should be seen as an important mitigation against potential harm, for example because it reduces the probability of group-think. This was seen as part of a wider effort to prevent harm by addressing its fundamental drivers, rather than seeking resolution after it has happened.

The panels also called on us to build the right culture within our own activities, and consider how this could encourage progress within the firms we regulate.

Our response

Culture in financial services is widely accepted as a key root cause of the major conduct failings that have occurred within the industry in recent history. We believe that changes could lead to measurable improvement in consumer outcomes. We expect firms to foster cultures which support the spirit of regulation in preventing harm to consumers and markets.

Improving culture and governance was outlined in our Business Plan as a cross-cutting priority for the FCA and we have a strong focus on the role of the individual as well as the firm. The introduction of the Senior Managers and Certification Regime (SM&CR) is an example. It sets minimum standards for the behaviour of financial services staff and aims to promote a culture where Senior Managers take responsibility for identifying where harm might occur, and act to prevent it. The SM&CR creates a formal link between the behaviour of individuals and the conduct of the firm.

We remain committed to understanding ways to improve culture in financial services. In March this year, we published a discussion paper on transforming culture in financial services. This presented views from academics and industry thought leaders intended to stimulate further debate. We intend to continue engagement with the financial services community to gather practical examples of how to apply insights from this paper in practice.

In terms of our own culture, our continuing aim is to create a diverse and inclusive place to work. We recognise that our industry and stakeholders also benefit when we take an innovative approach to solving problems – leading to better decisions.

For example, in the past year, we signed the Women in Finance Charter and committed to challenging targets: by 2020 we aim for 45% of our senior leadership team to identify as female, and 50% by 2025.

We have also set targets around ethnicity, aiming for 8% of our senior leadership team to identify as Black, Asian and Minority Ethnic (BAME) by 2020, and 13% by 2025. We were also pleased to maintain our place in the Stonewall Workplace Equality Index top 100, this year placing 58. To support our work going forward we have created a Diversity and Inclusion Advisory Group (DIAG) to advise our Executive Diversity Committee on these issues.

Operational resilience

Comments from the panels

The Markets Practitioner Panel and the Practitioner Panel noted that, given the interconnectedness of firms operating in financial services and markets, the FCA should promote greater sharing across firms of information and examples of good practice, to help strengthen cyber and operational resilience. The Markets Practitioner Panel noted that smaller firms often lack the expertise and resources to achieve high levels of cyber resilience. We welcome the panels' positive feedback on the infographics that we have issued to industry, which have been well received.

Our response

The FCA is supportive of industry initiatives to improve information sharing about cyber and operational resilience. We meet regularly with firm representatives across the sectors that we supervise.

We published a Discussion Paper (DP 18/04) on operational resilience in July 2018 jointly with the Bank of England and PRA. In our engagement with firms since we published DP 18/04 we have discussed the potential benefits of greater levels of co-operation between firms, of information sharing and of mutual assistance. Although this DP falls outside the reporting period for the panel's comments, we agree that more can and should be done in this area, by us and by firms, including how smaller firms are supported by the larger firms with which they do business. Greater co-operation in this area could help the financial services sector absorb shocks from disruptive events and maintain continuity of the business services that matter most.

FCA Register

Comments from the panels

Changes to the Register were highlighted by both the Smaller Business Practitioner Panel and the Consumer Panel.

The Smaller Business Practitioner Panel cautioned that proposed changes could cause problems for firms that use the current Register for recruitment and compliance purposes. It strongly encouraged us to ensure the information remains available to firms and the public, while bearing in mind scope for cost savings in data collection.

The Consumer Panel commented that the Register should be more accessible to consumers, and avoid complex terminology and jargon. Panel members reiterated that the register does not perform one of its stated purposes (providing consumers with relevant and useful information to help them decide whether they should do business with a firm).

Our response

We have listened to feedback carefully while developing proposals in this area. For example, our consultations to extend the SM&CR to all FSMA authorised firms, received substantial feedback focusing on the value of the FCA maintaining a central, public record of certification employees and other important individuals in firms regulated by us. This includes, for example, retail investment advisers. We listened to these views and are currently consulting on proposals to introduce a Directory as a public record of these important roles. This consultation has run with a view to introducing the Directory in a phased approach from mid-2019.

We have proposed to include a broader range of individuals than currently appear on the Directory, including: Senior Managers, Certified Persons, Directors that are not Senior Managers, sole traders and Appointed Representatives that undertake client facing roles that require a qualification. While developing our proposals for the Directory, we sought to minimise costs to firms and the FCA by, for example, using our existing Connect system to allow firms to provide data to us. We will also consider ways to integrate firms' IT systems with the new Directory database. As we review feedback to the consultation, we will consider whether there are additional ways to ensure the costs of establishing this Directory remain proportionate.

We accept that the Register can be improved. Some of its short-comings are due to it being created for a specific purpose that did not initially cater for consumers.

We have started work to improve the Register, making it easier to use and understand including changes in July 2018 that make it clearer when requirements, including suspensions, apply to an entry.

In early 2019, we will provide a free Application Programme Interface from the Register. This will allow developers to provide services to integrate Register data with other data used by consumers. Also in 2019, as part of the SM&CR, we will introduce a new public register for certified individuals. This will link to the FS Register to provide a more intuitive resource for consumers to use.

3 Key specific issues raised by the Panels

This section identifies and responds to some of the issues raised by individual panels. We have not attempted to respond to every issue but to some of those we see as key to the panels and those they represent.

Financial Services Consumer Panel

Approach to consumers

The panel called for a more nuanced definition of consumer vulnerability which recognises that the market environment itself causes consumers to become vulnerable.

Following feedback received from Our Approach to Consumers we decided to define a vulnerable customer as 'someone who, due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care.' This definition was used in Occasional Paper 8 (February 2015).

We aim to make markets work in the interests of consumers. We therefore need to ensure that we oversee markets in which firms compete vigorously for consumers' business, and where consumers are well-informed and empowered to make decisions; this in turn increases competitive pressure on firms. We know however that in some circumstances, competition alone may not be sufficient to make markets work well. When this happens we will intervene, including if necessary, by taking appropriate supervisory or enforcement action.

A key element of vulnerability that needs to be recognised is the part that market practices play in contributing to vulnerability. The role of providers and the way markets work can contribute to, or even cause vulnerability.

In terms of market environment, we expect firms to pay attention to indicators of potential vulnerability and have policies to deal with consumers who may be at greater risk of harm. We also expect firms to ensure that the design and implementation of products and services take account of any potential negative impact to vulnerable consumers and to make changes that reduce that harm. We will intervene where vulnerable consumers are deliberately exploited, including if necessary, by taking appropriate supervisory or enforcement action.

We will be consulting on guidance for firms on the identification and treatment of vulnerable consumers in early 2019. Our discussion paper on a Duty of Care and what that might look like responds to specific feedback from the panels and other stakeholders. More detail is provided below.

Duty of Care

The Consumer Panel identified the Duty of Care of firms to their customers as a key theme. The Consumer Panel has consistently called for legislation to require us to make rules specifying what constitutes a reasonable Duty of Care for financial services providers to exercise towards their customers.

Question 11 in the consultation on Our Mission asked for views on whether a Duty of Care would 'help ensure that financial markets function well'. We listened carefully to responses to that question and committed to publishing a Discussion Paper to analyse them in more detail. That Paper (DP18/5) was published in July 2018. The paper explores whether a new Duty of Care could enhance good conduct and culture and provide additional protections for consumers.

If changes are required, the paper asks what those changes could look like and what the impact would be for consumers, firms and the FCA. It also explores possible alternative approaches to a new duty.

We have engaged with the Practitioner, Small Business and Consumer Panels on the Duty of Care, and will continue to work with them on this issue

Consumer Credit

The Consumer Panel commented that we should have a clear vision of what a good consumer credit market looks like for consumers. We should not only focus on 'traditional' high-cost products (such as payday loans, rent to own, home credit, logbook loans) but also on credit cards, unauthorised overdrafts, guarantor loans and other forms of higher-cost credit such as instalment loans.

They argued that we have been reluctant to act decisively on financial products that contribute most to over-indebtedness (credit cards, overdrafts) and suggested that we have adopted a 'piecemeal' approach to high-cost credit, rather than looking at the market as a whole. Doing so has missed some products that cause considerable harm (guarantor loans). The Panel also argued that we consider the impact of debt products on consumers too narrowly.

Since taking responsibility for regulating consumer credit, we have sought to reduce consumer harm where it is greatest, and have worked towards achieving a consumer credit market that works well for consumers, some of whom can be vulnerable. We have set out our requirements for these firms, assessed them at the authorisation gateway, and have taken supervisory and enforcement action against non-compliance across all credit markets.

One of our cross-sector priorities in 2018-19 is high-cost credit, where there is particular concern of consumer harm. We undertook a systematic assessment of the whole of the high-cost sector, including guarantor loans and other high-cost instalment loans, to prioritise our focus on issues where we saw the most harm to consumers. This was set out in the Feedback Statement in July 2017, which identified overdrafts, rent to own services, home-collected credit and catalogue credit as the areas of focus.

Subsequent work has led to a range of proposals we are currently consulting on, targeted at addressing potential harm across these areas, and other proposals we are developing on which we intend to consult before the end of 2018.

The rent to own sector has been a significant area of concern. While we remain open to other options, we believe the case is made, in principle, to consider the introduction of a price cap due to the high prices and the vulnerability of the customers. In addition to this, we have recognised that we have an important role to play, alongside other stakeholders, in improving the availability and awareness of alternatives to high-cost credit. We are working with government, industry and elsewhere to take forward a broad agenda in this regard.

We have also intervened where there is a risk that markets may not be working well for all consumers. In February 2018 we published our policy statement and final rules and guidance requiring firms to help customers in persistent credit card debt and intervene earlier to identify customers at risk of financial difficulties. This followed our Credit Card Market Study which found that although the market was working fairly well for the majority of consumers, we had particular concerns about customers in long-term debt. We estimate savings to those in persistent debt as a result of our new rules to be up to £1.3bn per annum depending on how firms and consumers react.

Further to this, in July 2018 we published the results of our behavioural research to look at ways to encourage customers who are making low repayments to repay more when they can afford to do so. We are considering consulting on rules in light of this research.

In July 2018, we also published a policy statement clarifying our rules and requirements on creditworthiness assessments. This aims to ensure consumers are protected from the harm that can arise when they are granted credit that is predictably unaffordable at the point it is taken out, and at the same time, enable consumers to access credit where it is affordable.

The FCA Practitioner Panel

Approach to regulation

The Practitioner Panel argued that the FCA needs to be a more forward-looking regulator. It suggested that we should adapt to a rapidly changing political and technological environment to ensure the UK maintains a strong reputation for regulation.

We agree that adaptability is essential to managing the depth and breadth of developments that we see today in financial services.

We need to respond to factors that are not always under our control. This includes developments in international affairs and the arrival of new technologies. On the former, our 2018/19 business plan explains that we will continue to devote a considerable part of our resources to Brexit. In total, we have identified that we need an EU withdrawal budget of up to £30m. This covers work to achieve operational readiness for the UK's exit, and has required us to take difficult decisions elsewhere.

We regularly explore how technology can make our regulation more efficient, including through 'TechSprints'. These bring together financial services providers, technology companies and subject matter experts to explore technological innovations. For example, the FCA and the Bank of England, held a 2 week TechSprint in November 2017 to examine how technology can make the current system of regulatory reporting more accurate, efficient and consistent.

At the TechSprint, participants developed a 'proof of concept' which could make regulatory reporting requirements machine-readable and executable. This means that firms could map reporting requirements directly to the data that they hold, creating the potential for automated, straight-through processing of regulatory returns.

We developed this proposal earlier this year by publishing a Call for Input which outlined the technical steps related to this proof of concept, and invited further views.

Vulnerable consumers

Like the Consumer Panel, the Practitioner Panel also highlighted the issue of vulnerability. They believe that we have an important role in influencing and monitoring the work of the Money Advice Service (MAS) and in due course the Single Financial Guidance Body (SFGB). They highlighted that more information and greater transparency alone are not necessarily the solution to improving consumer outcomes. The Panel also encouraged further work to improve consumers' decision-making by building financial capability.

The new SFGB will launch in January 2019. This will combine services currently provided by The Pensions Advisory Service, Pensionwise, and the MAS. Under the current arrangements we are responsible for approving the budget and business plan for the MAS. The FCA subcommittee to the board for oversight receives updates from the MAS and examines the business plan alongside the proposed budget.

We have worked closely with HMT and The Department for Work and Pensions (DWP) throughout the programme to introduce legislation and build readiness for day one of the new organisation. We ensured that a legal gateway to exchange confidential information between the FCA and the SFGB was included in the Act.

We are now working with DWP, HMT, and the recently appointed CEO and Chair for the SFGB to develop a Memorandum of Understanding which will provide detail on how the SFGB and the FCA will work together and to ensure that as far as possible work is aligned to each organisation's strategic priorities.

The MAS has collected evidence to support its corporate strategy, and prioritised financial capability, focusing on three working age cohorts:

Young adults aged 18 to 24 - 4.34 million who are in the 'financially struggling or squeezed' segments;

- Young couples and families aged 25 to 34 - 3.03 million from the 'financially struggling' and 'financially squeezed' segments;
- Middle aged couples and families aged 35 to 54 – 5.57 million from the same segments.
- This work aims to help people in these groups to become more resilient to financial shocks by improving budgeting and building savings.

The MAS has run a 'what works' programme to gather evidence on successful financial capability interventions already happening across the UK. The MAS is funding 60 projects across the UK and will be able to provide evidence of the impact in late 2018.

Pensions Strategy

The Practitioner Panel strongly believed that a holistic approach to pension policy is urgently needed following an extended period of 'piecemeal legislation' and subsequent regulation. The panel recommended that a framework should work at a cross-party level, and take a long- term perspective.

We are working with The Pensions Regulator (TPR) on a strategic approach to the pensions and retirement income sector.

During the reporting period, we published a call for input for this work. We carefully considered the responses and in October 2018 we launched a joint regulatory strategy. This is aimed at strengthening our relationship, and taking joint action to deliver better outcomes for pension savers and those entering retirement.

The strategy identifies key issues which contribute to the prospect of people not having adequate income, or the income they expected in retirement.

To tackle the main drivers of this harm, the FCA and TPR have set out a vision for the pensions sector over the next 5 to 10 years. This includes making clear our areas of priority and how to address fundamental changes in the sector.

Following the Retirement Outcomes Review, we are developing a package of remedies to protect non-advised consumers, including 'investment pathways' to help consumers who access the pension freedoms make decisions about how to invest their pot.

It is important to recognise however that significant risks will remain despite this work. These may be influenced by factors outside our control, including: legislation and policy changes outside our remit; economic conditions; and lack of financial awareness and engagement. A number of other organisations also have an important role in seeking improvements to consumers' financial lives in retirement. The FCA will continue to work with them to deliver improvements.

Strategic Review of Retail Banking

The Practitioner Panel encouraged the use of the decision-making framework outlined in the Mission to 'firm up' the terms of reference and the scope of this work. It warned that too wide a scope could involve extensive data requests with little actionable output. A subgroup of the Panel has been advising the FCA on the review as it progresses.

We welcome their input and will continue to work with them closely over the coming year. Following discussions with the Panel we published a document in October 2017 setting out the strategic review's key areas of focus. This helped to frame our first information request, which reduced the burden on firms by requesting readily available management information. Understanding how firms hold data allowed us to make a more targeted and effective second information request in July 2018 following our update report in June 2018.

High Cost Credit Review

The Practitioner Panel acknowledged that we have done significant work to understand and analyse whether the price cap was achieving its objectives, and agreed with our decision to leave the price cap unchanged. Furthermore, it was encouraged that we are seeking to intervene only where systemic consumer detriment is identified, and in a way that is tailored to specific situations and products, considering financial inclusion issues.

We have continued to tackle the harms that we have found in parts of the consumer credit market, notably high-cost credit. For the past 4 years the FCA has been dealing with issues across a population of 30,000 consumer credit firms. This is the largest single task the FCA has undertaken in its history. Following our review of the high-cost credit market, in May we consulted on a package of measures that we expect to save consumers over £200m. We have committed to consider a cap on rent-to-own prices and fundamental changes to the way banks charge for overdrafts. We are also working with the Government and others to encourage the availability and consumer awareness of reasonably priced alternatives to high-cost credit.

Retirement Interest Only Mortgages

The Practitioner Panel recommended that advice should be required in all cases unless customers confirmed they were expert in this area. They also recommended that further checks should be put in place at the point of sale and later in the process due to the potential vulnerability of customers as their circumstances change. The Practitioner Panel suggested further measures may be needed to protect potentially vulnerable retirement interest-only mortgage customers.

We strongly agree that it is important to recognise and respond to potential consumer vulnerability. However, we do not consider that every retirement interest-only customer should be considered potentially vulnerable.

Our Occasional Paper on the Ageing Population showed that older consumers are not necessarily vulnerable, although they are more likely than other groups to experience transient or permanent vulnerability. The Occasional Paper also showed that many older consumers have considerable assets like sizeable pension funds and housing equity, which can make lending to them less risky than to younger borrowers.

In making changes to facilitate the offering of retirement interest-only mortgages we gave particular consideration to any potential conduct risks. The Practitioner Panel was not alone in responding to our consultation with the suggestion that we should require advice to be given in most sales. However, our assessment is that compulsory advice would not mitigate what respondents saw as the chief risks of harm, and more appropriate measures are available. For example, the risk of harm associated with repossession is mitigated by our responsible lending rules and our rules on how to treat consumers in payment difficulty.

The FCA Smaller Business Practitioner Panel

Regulatory Burden

The Smaller Business Practitioner Panel continued to raise the cumulative burden of regulatory change on firms in general, and smaller firms in particular. It reiterated that the FCA should consider the total effect of regulation on smaller firms when making decisions, as well as the impact of particular interventions.

We agree with the Panel that we need to understand the costs our interventions create for businesses in order to assess their public value (ability to reduce harm in cost effective way). One way that we measure the costs of our regulation is through the reporting requirements in the Small Business, Enterprise and Employment Act 2015 as amended by the Enterprise Act 2016. We publish these in our Enterprise Act Annual Report. Costs to businesses are also considered through the Cost Benefit Analyses (CBAs) published alongside particular policy changes.

We acknowledge that when we act to reduce or prevent harm this often also creates costs to firms. We recognise that it is important that we use the tools given to us by Parliament in a cost-effective way and that regulatory change can have a significant impact on firms' resources. We prioritise work according to where we can create the most public value (reducing harm in cost effective ways), and publish a summary of prioritised work in our annual Business Plan.

We met with the Smaller Business Practitioner Panel in May to discuss their concerns around the cumulative burden of regulation and to propose a small piece of work to diagnose the issues better. We proposed an FCA survey of smaller firms' regulatory costs designed to improve our understanding of how and why these costs arise, and what are the major areas of concern. They were positive about our planned approach.

FCA communications

The Smaller Business Practitioner Panel also challenged the tone of some of our communications, including the nature of the Payment Protection Insurance (PPI) campaign. Specifically, they questioned whether the tone of the campaign was consistent with an image of the FCA as a professional organisation.

Our PPI campaign was designed to create awareness of the deadline to make a complaint about PPI. Our campaign was designed to cut through the noise on PPI and features an animatronic model of Arnold Schwarzenegger's head, urging people to make a decision. In developing our campaign, we carefully considered how to deliver a campaign that would allow us to both engage as well as deliver information consumers could trust.

We wanted to encourage people to decide whether to find out if they had PPI and whether to complain or not. Our message, and Arnie's, is 'do it now', before the deadline on 29 August 2019.

In designing the campaign, we rigorously tested four creative advertising routes with a nationally representative sample of consumers. The research showed that the 'Do it Now' creative idea featuring Arnold Schwarzenegger's animatronic head was most effective in its ability to engage and deliver a series of messages over the course of the campaign. Further, we have been careful to monitor this sentiment through our quantitative national tracking survey for the PPI campaign and can confirm that the majority of consumers trust the information in these ads and vast majority understand that these ads are from the FCA.

Retirement Interest-only Mortgages

The Smaller Business Practitioner Panel also expressed disappointment that the Thematic Review of interest-only mortgage customers focussed mainly on the risks and areas of potential improvement rather than highlighting the substantial areas of good practice uncovered by the work.

Regarding the Thematic Review of interest only mortgage customers, we took on board their comments in this area and our final Report identified good practice as well as poor practice. We listened to and took on board previous comments made on this issue and agree that it's important to bring out areas of good practice for other firms to follow.

In this instance, we specifically identified the practices of customer segmentation (to enable personalised communications), policy exceptions, forbearance and early engagement as examples of good practice. We believe that this was a balanced and fair report.

FCA Markets Practitioner Panel

Cyber, middleware and technological resilience

The Markets Practitioner Panel noted the importance of many third-party service providers to the smooth functioning of financial markets. It raised concern about the current supervisory approach under which there is indirect oversight of these unregulated third parties, which it believes to be ineffective and impractical. Under existing requirements our regulated firms are held responsible for overseeing and managing their relationships with their third-party service providers. We also expect them to have identified credible contingency plans – a "plan B" for when these important third-party providers fail to deliver the services on which regulated firms rely.

Our joint work with the Bank of England and PRA on operational resilience provides an opportunity to review these current arrangements; however, additional rule-making and bringing such firms across the perimeter into regulation will not necessarily be as effective as industry-led solutions. We are therefore cautious about intervening heavily in these dynamic and complex commercial relationships.

MIFID II

The Markets Practitioner Panel raised concerns as to divergence in regulatory interpretations of MiFID in different jurisdictions. Generally, the FCA is regarded as pragmatic and reasonable in its supervisory and enforcement approach where firms are making every reasonable effort to comply but firms have to have processes that work in all jurisdictions in which they operate.

The Markets Practitioner Panel has also raised concerns about the impact of MiFID on the market for research. It is possible an adequate market may develop following the MiFID changes, but there is a risk of short-term disruption and the loss of provision of research on SME companies. This may make UK markets less attractive and mean capital raising works less well.

We are pleased to hear the Panel's view that we are regarded as pragmatic and reasonable. We recognise that dealing with different supervisory approaches across the EU can be a challenge for firms. The FCA works proactively through ESMA and bilaterally with other EU authorities to promote a consistent approach. Although our ability to influence these discussions will be significantly affected by the UK's departure from the EU, we expect ESMA's own supervisory convergence work to continue.

Regarding MiFID II more generally, we have worked hard to facilitate a smooth implementation process. As set out in our Business Plan, we continue to work to ensure that MiFID II delivers intended benefits for markets, including by clarifying our approach to market integrity and by using the expanded scope of transaction reporting to monitor, detect and investigate potential abuse in these markets and enforce against unlawful behaviour where appropriate

As our Business Plan highlighted, addressing conflicts of interest in the industry is an FCA priority. MiFID II introduced new rules around research unbundling. A broad multi-firm supervisory review has commenced to assess whether firms are complying with the MiFID II requirements, assess if the rules are working as intended and determine the impact across the buy and sell side as well as the independent research providers community. In parallel, we continue to contribute to a number of initiatives intended to improve SME access to finance, including at European level. We are supportive of the European Commission's planned review of the impact of MiFID II on the availability of SME research and its exploration of avenues to promote the supply of SME research.

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