

# Financial Services Consumer Panel



## Annual Report 2019/2020



An independent voice for consumers  
of financial services

### **Who we are**

The Financial Services Consumer Panel (the Panel) is a statutory body set up under the Financial Services and Markets Act. It:

- Is independent of the Financial Conduct Authority (FCA);
- Advises the FCA on how its strategy and policies affect UK consumers of financial services<sup>1</sup>;
- Helps the FCA to improve its effectiveness in meeting its consumer protection and competition objectives;
- Looks at the impact of the wider regulatory landscape on consumers, including at EU level; and
- Commissions research to support its own independent projects.

Panel members are recruited through open competition. Areas of members' expertise include: consumer advocacy, law, economics, market research, financial services, public policy, communications, competition and retirement planning.

### **What we do**

Our main job is to advise the FCA. We also consider wider issues of financial services policy and legislation when they are directly or indirectly related to areas within the FCA's remit, whether this is generated by UK government departments or, decreasingly, the EU. These are our 'Business as Usual' activities, described in Chapter One. We also carry out some pro-active work, which is set out at the beginning of Chapter One. Our aim with these topics is to stimulate debate and influence policy in areas where there are risks for consumers that are not being addressed, or gaps in understanding of how financial services affect consumers.

### **How we do it**

Panel Members meet twice a month – once in full Panel meetings and once in one of two Working Groups (except for the month of August). FCA staff regularly present to Panel and Working Group meetings and the Panel reports monthly to the FCA Board. We have responded to the FCA's request for more informal meetings, so that we can more easily inform the FCA's work at the earliest stages of project development. The Panel also works with a diverse range of stakeholders, is represented on various ad hoc bodies in the UK and works with EU and international institutions and consumer groups. We use our small research budget to gather evidence to support our work.

More details of Panel members' activities during the year are at the end of this report.

### **How we measure our impact**

Most of our impact is 'behind closed doors' – we are most useful to the FCA when the regulator involves us early in the development of policy. Sometimes we can trace a clear line from a Panel position to a new or changed policy, but the exercise is essentially subjective. Every two years we survey our stakeholders to understand what they think about the way we work and our influence.

[www.fs-cp.org.uk](http://www.fs-cp.org.uk)

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## Foreword by the Chair

Our role is to make the consumer heard at the FCA. Looking through the lens of the consumer, we question the pros and cons of everything the FCA does.

As the FCA's 'critical friend', we support and encourage them when we think they've got it right. But we don't hesitate to challenge them where we think they've got it wrong, missed a point or taken a wrong turn. As a robust, constructive and independent group of experts we aim – above all else – to ensure better outcomes for consumers, including small and medium sized businesses.

Information is key to financial decision-making. That is why, throughout this year, we have looked at how the FCA can make sure firms give consumers the information they need – whether that's savers looking for retail investments, retirees seeking advice on what to do with their pension pots, or businesses and families trying to find the right insurance. We of course know that better disclosure won't solve everything, which is why we have also been supportive of the FCA's moves to use rules and principles to set and enforce high standards of firm conduct.

This year we also continued to work hard to ensure that financial firms' duty to treat customers fairly really is agreed, understood and carried through in the way firms behave. We pursued our discussions on a new 'duty of care' principle with the FCA and our fellow FCA panels throughout the year, and we will continue to press for this principle until it is realised.

We have been similarly persistent in working to address the 'loyalty penalty' that so many consumers lose out from. In June, we published the findings of our research on automatic upgrades and we have been particularly pleased to see the FCA consider it as a potential way forward.

As well as advising and challenging the FCA, we have got out and about; we have kept a close ear to the 'consumer ground', and we have talked to the industry to advance the Panel's priorities. In July, for instance, I was able to explain some of the Panel's biggest concerns to the Chartered Institute for Securities and Investments. We have also participated at conferences, events and roundtables, both to listen and to make the consumer's case.

The intricacies, technicalities and sheer breadth of financial services have to be matched by an equally detailed understanding on the Panel's side for us to succeed in our mission. The Panel needs to understand the products and services on offer; to interpret how the FCA's rules will be implemented by firms; and to translate all this into consumer outcomes.

Thankfully the Panel is comprised of an astounding line-up of experts without whose technical knowledge, industry experience and dedicated commitment our work would be impossible. I would like to thank all the members for their time and expertise, particularly those members who left the Panel this year: Jeff Salway, Doug Taylor, Caroline Barr, Angela Roberts, Faith Reynolds, Teresa Fritz and Dharshini David. And I would like to welcome three new members to the Panel, Erik Porter – an expert in consumer debt, credit and financial inclusion; Jonathan Hewitt a seasoned savings and investments professional; and Julia Mundy an authority on regulation, accountability and governance. Together with the rest of the Panel, I look forward to working with them on the challenges ahead of us.

Looking ahead, we have agreed a further three new priorities. We will look at how small and medium sized businesses are being served as users of financial services; we will examine equity release and later life lending; and we will work hard to raise consumer understanding of regulation and protection.

These priorities were set before the coronavirus pandemic was upon us but have an added urgency as a result of it. With consumers and SMEs under increased stress – not only financially, but also socially and emotionally – there is a real risk of firms exploiting these vulnerabilities. Any existing weaknesses in regulation and protection will suddenly become very acute; we will look for out for these, and we will address them.

We know that the Panel and the FCA will need to work differently in these unparalleled circumstances, but this will not alter our core purpose. We will continue to champion consumers' needs and to challenge the FCA to consider consumers in all that they do. Financial services are called "services" for a reason: they need to serve us and serve us *all*.

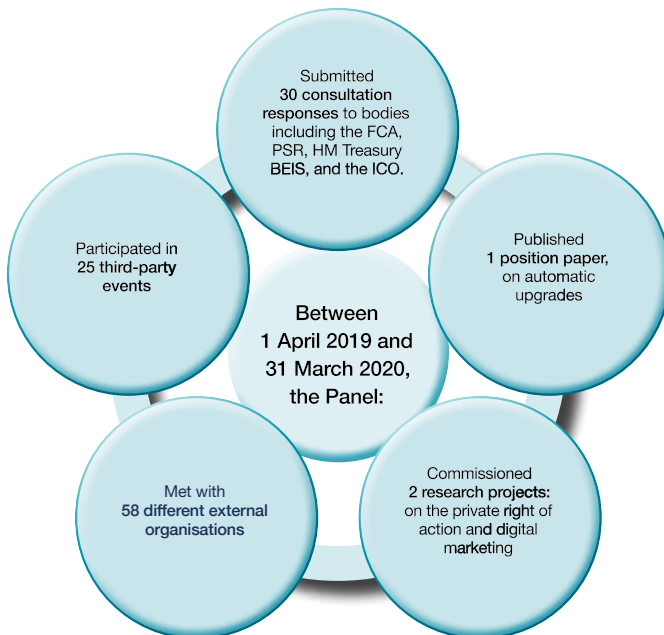


**Wanda Goldwag**

July 2020

# Executive Summary

In 2019/20 the Consumer Panel has continued to advise the FCA on the impact regulation has on consumers of financial services, including small businesses. We have done this through a variety of different activities, including consultation responses, meeting with external partners and doing our own research. Our activity in 2019/20 is summarised in the diagram below:



Our work has been focused on four key themes which represented the main areas of interest and concern amongst the Panel. These themes were:

- Access to financial services products
- Fair treatment of consumers
- Innovation and technology
- Regulatory effectiveness

Using these four themes to guide our activities, we met with over 50 external organisations and submitted 30 consultation responses. We advised the FCA on their proposals to improve outcomes for vulnerable customers and supported their proposed bans on contingent charging, discretionary commission models and the promotion of mini-bonds to retail consumers. We also encouraged the FCA to be bolder in its approach to regulation, including by being clearer on both its expectations of firms and its assessment of its own interventions. A non-exhaustive summary of Panel activities by theme is shown in the diagram below:

### Access to financial services

- Advocated continued access to cash for those who rely on it.
- Continued to promote the interests of SMEs as users of financial services.
- Supported measures to help vulnerable consumers access financial services.

### Fair treatment of consumers

- Continued to campaign for a duty of care.
- Published our research on automatic upgrades.
- Supported bans on unfair conduct, including contingent charging models and discretionary commission.

### Innovation & technology

- Conducted research on digital marketing.
- Highlighted the risks involved in increased data sharing.
- Supported bans on unfair promotions of innovative products to retail consumers, including mini-bonds and products containing cryptoassets.

### Regulatory effectiveness

- Challenged the FCA to be clearer on its expectations of firms and to use the full range of tools available to effectively combat misconduct.
- Encouraged the FCA to monitor the impact of its interventions and publish cost benefit analyses.



These themes guided us in selecting our four priorities for 2019/20: pensions and savings, duty of care, consumer debt and data ethics. These priorities were key in driving our proactive work throughout the year, including publishing a position paper on automatic upgrades and commissioning two pieces of research on digital marketing and a private right of action to accompany a new duty of care.

### Panel Priorities 2019/20

#### **Pensions & Savings**

To ensure the pensions freedoms are delivering good outcomes

#### **Duty of care**

To bring about a new statutory duty or strengthened principles to similar effect

#### **Consumer debt**

To ensure a holistic view is taken across all types of consumer debt

#### **Data & data ethics**

To ensure transparent and ethical use of consumer data

# The Panel's work in 2019–2020

## 1.1 Pro-active work

### Duty of Care

In 2019, the FCA published its feedback statement following its 2018 discussion paper on duty of care and potential alternative approaches. The Panel has long been an advocate of financial services firms owing a duty of care to consumers and has continued its extensive engagement with the FCA and other statutory panels on this issue.

There has been a shift in terminology this year from 'duty of care' to 'consumer principle'. We supported a consumer principle, but said it must be stronger than the current requirement to treat customers fairly and have teeth so it can be effectively enforced by the FCA. The Panel considers that any new consumer principle must have at its heart a requirement for firms to act in the best interests of consumers.

We continue to believe that a new consumer principle should be accompanied by giving consumers a private right of action where firms have failed to meet their obligations. We commissioned research on this at the end of March 2020 and hope to publish this later in the year.

By the end of March 2020, the impact of the coronavirus was starting to be felt and it will clearly affect the FCA's ability to progress its work on the consumer principle and a number of other workstreams in the coming year. We recognise that the FCA will therefore need to reprioritise. However, once it is possible, we would like to see the debate around a new duty of care continue with the publication of the FCA's consultation.

### Automatic upgrades

In 2019-20 the Panel continued the work it started in 2018-19 on whether automatic upgrades would address the loyalty penalty in financial services markets. The results of [research](#) by Europe Economics showed that the costs of remaining in poorly performing or poor value products can represent a notable proportion of a consumer's annual income. Some consumers could be incurring loyalty penalties in excess of 5% of annual income, and it is not impossible to imagine that for others these costs may be as high as 10% of annual income.

In our position paper, we recommended that the FCA:

Consider introducing a new automatic-upgrade rule across all of the sectors identified in the research report.

Expand its work on fair pricing beyond insurance, mortgages and investments to all product sectors.

Calculate the total detriment to consumers from failing to automatically-upgrade across all product areas and use this as a key indicator of where it should prioritise its resources.

The FCA referenced our research in its interim report on fair pricing in the general insurance market<sup>2</sup>. We were especially pleased to see the FCA making use of our research and considering automatic upgrades as a possible way forward to remedy the identified harms. We remain supportive of Citizens Advice's 'super-complaint' on the loyalty penalty and look forward to the FCA's proposed solutions.

### Digital marketing

The Panel was concerned about potential consumer harm linked to firms advertising financial products and services on digital platforms; and how firms use data to target particular consumer segments with online promotions. To inform our thinking in this area, we commissioned research to understand the online customer journey in relation to financial promotions, including how online financial promotions may shape consumer behavior and potentially exploit consumer biases. Our research focused on two product types: short-term consumer lending and pension-to-cash products.

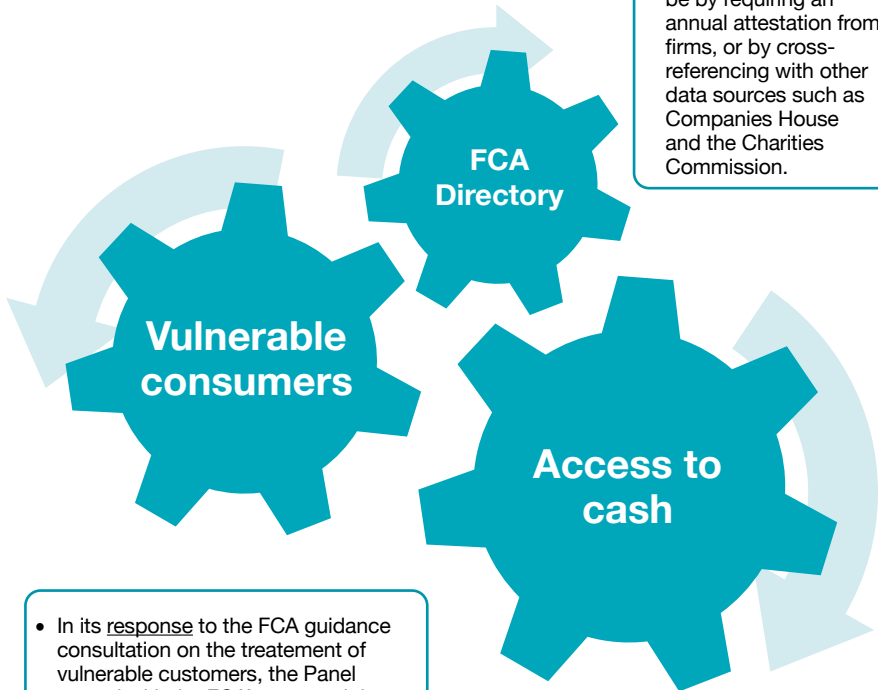
We aim to publish a discussion paper based on this research later in 2020.

<sup>2</sup> <https://www.fca.org.uk/publication/market-studies/ms18-1-2-interim-report.pdf>

## 1.2 'Business as usual' activities

### Cross-cutting issues

#### Access and transparency



- The Panel encouraged the FCA to take steps to improve the accuracy of the information within the Directory. This could be by requiring an annual attestation from firms, or by cross-referencing with other data sources such as Companies House and the Charities Commission.

- In its response to the FCA guidance consultation on the treatment of vulnerable customers, the Panel agreed with the FCA's proposal that vulnerable consumers should get outcomes at least as good as other consumers.
- The Panel suggested the FCA provide further guidance on how firms can achieve this outcome, for example, by meeting diverse communication needs of UK consumers, managing conflicts of interests between consumer groups and avoiding excluding vulnerable groups from accessing or continuing to use their services.

- The Panel said that whilst use of cash is generally declining, access to it must be maintained for those who do use it, particularly as the groups who find it hardest to access are the least able to access alternatives.

### Advice and Guidance

Sound financial advice can be of immense value to consumers, especially at a time when more people than ever have freedom over what to do with their pension pots. The Panel was keen to see better access to advice and a fair cost to be charged. We therefore supported the FCA's approach to reviewing the impact of the Financial Advice Market Review (FAMR) and Retail Distributions Review (RDR) on the market and welcomed participation in the FCA's stakeholder events.

In our [response](#) to the FCA's call for input, we suggested the FCA consider introducing a 'menu of costs'. The simple, upfront menu would be available to consumers before they receive advice and make it easier for them to compare fees and charges across a range of providers and decide what they can afford.

Much attention has been given to the use of 'robo-advice' to improve consumer access to and reduce the cost of advice in the future. Whilst the Panel was generally supportive of innovation that improves consumer outcomes, we urged caution against over-relying on robo-advice to achieve this, especially in the immediate future. The first reason for this is consumer attitudes: FCA research found substantial resistance to robo-advice amongst UK consumers, with those most likely to benefit from it least likely to trust it<sup>3</sup>. This is likely to take some time to change. Secondly, we were disappointed to see a lack of product offerings in this market, meaning that it will likely be some years before robo-advice will be in mainstream usage. We supported the FCA 'Regulatory Sandbox' initiative to speed up innovation in this space, but in the meantime the FCA should explore alternative remedies such as the 'menu of costs'.



3 <https://www.fca.org.uk/insight/robo-advice-%E2%80%93-will-consumers-get-programme>

### Assessing Adequate Financial Resources

The level of financial resources a firm needs should be proportionate to its risk profile in order to minimise detriment to consumers. This is especially important to help put things right when they go wrong, either through misconduct or when a firm fails. In our response to the FCA's consultation, we highlighted that firms tend to underestimate their liabilities relating to misconduct and so the FCA should require firms to understand the misconduct costs it could incur in stressed conditions. This can be achieved through effective governance, strong internal financial controls, effective audit functions and a healthy firm culture.

### Brexit

The Panel continued to stress that there should be no weakening or narrowing of consumer protections post-Brexit. In our response to the Treasury's call for evidence on the future regulatory framework, we called for better integration of consumer interests, including SMEs, into policy development and decision making across financial services. This included regulators, industry and policy makers increasing consumer representation in their respective governance processes and remaining focused on the outcomes delivered to consumers as the UK transitions into its post-Brexit state.

We also called for regulators to be more transparent on what they expect from firms during the period of transition and once the UK has left the EU. Regulators should be clearer on what good and bad looks like and be bolder in intervening early where there is evidence of bad practice. There is more regulators can do in raising public policy issues that arise in financial services as a result of Brexit.

### Intergenerational Differences

The FCA published a discussion paper on the differences between the financial lives of three generations: so-called 'baby boomers', 'generation X' and 'millennials'. Panel members attended the Intergenerational Differences Conference in July 2019 to discuss these differences. Many of the intergenerational differences overlap into social policy issues which will require policy makers other than the FCA to adapt, and for all stakeholders to work together. In our response to the discussion paper, we identified three key considerations for policy makers and regulators to consider:

The overarching structure of consumer rights needs to be adapted for a digital and data-driven world. The FCA can advise and apply this in financial services.

There should be a supporting structure of equalities and similar protections to ensure no age group becomes disenfranchised or disadvantaged, and access and vulnerability issues are considered.

There should be a rigorous and future-proof standard for products and conduct in financial services.

The FCA's discussion paper talks of accumulation and decumulation of individual wealth. However, it is likely that for some consumers individual wealth consumption will be secondary to broader environmental, social and governance (ESG) issues, such as the current climate emergency. As these consumers seek ethical investments, we have called on the FCA to define the term 'sustainable investments' and provide guidance for Independent Governance Committees (IGCs) and trustees on what ESG means and how it factors into investment decision making<sup>4</sup>. This will help to ensure the fair treatment of consumers by preventing inconsistency, misleading marketing and potential mis-selling.



<sup>4</sup> [https://fs-cp.org.uk/sites/default/files/fscp\\_response\\_to\\_fca\\_frc\\_stewardship\\_consultation\\_final\\_20190430.pdf](https://fs-cp.org.uk/sites/default/files/fscp_response_to_fca_frc_stewardship_consultation_final_20190430.pdf)

### Redress and compensation

Redress and compensation are vital to help put things right for consumers where harm has been caused by regulated firms. The FCA, the Financial Ombudsman Service (FOS) and Financial Services Compensation Scheme (FSCS) all have a role to play in awarding redress to consumers. We were pleased to see a move towards increased coordination amongst these different bodies recently and are keen for this to continue.

The Panel suggested improvements in the following areas:

#### Financial Ombudsman Service (FOS)

- The 8 weeks consumers have to wait for a firm to resolve a complaint before they can take it to the FOS is too long. The Panel would like to see this reduced to 15 working days, or 35 working days in exceptional circumstances.

#### Financial Services Compensation Scheme (FSCS)

- More should be done to promote consumer awareness of the FSCS and the availability of protection to consumers
- The award limit of the FSCS should be increased to reflect the losses suffered in pensions advice cases.

#### FCA

- The FCA should be bolder in its approach to enforcement, using the full range of tools available and intervening earlier to secure redress for consumers more quickly.

### Small businesses as users of financial services

The experience of SMEs as users of financial services has been a priority for the Panel throughout 2019/20 and will remain so during the year ahead. The Panel would like to see SMEs get improved access to financial services, better service and more suitable products. The lack of progress towards these outcomes so far has been disappointing. We were therefore pleased to have been engaged with several FCA projects launched in the last year aimed at gaining a more accurate picture of SME's



banking needs and usage. The impact of the coronavirus pandemic is making the issues faced by SMEs all the more acute, and we therefore hope the FCA continues this important work and is prepared to intervene where it identifies poor outcomes.



### Technology and data

Open Finance, Big Data and other technological advances grant much greater access to consumer data than ever before. We conducted [research](#) in this area in 2018 and continued to use this research to highlight some of the issues faced by consumers in this regard. Whilst there are many potential benefits for consumers, increased data sharing also increases the risk of misuse and discrimination. Complex disclosures mean consumers might not understand the consequences of sharing their personal and financial data. We therefore said in our [response](#) to BEIS' consultation on Smart Data<sup>5</sup> that use of data should be limited to a clearly stated purpose and the chain of use from a single consumer consent should be limited.

Given the complexity of these issues, we also said that a new body should be established to own the regulatory regime around data sharing. That said, data governance and security should be a top priority for all regulators and the FCA has an important role to play. It can, for example, hold individuals to account for ethical use of consumer data through the Senior Managers & Certification Regime. We also encouraged the FCA to use data innovation to improve regulatory effectiveness and have therefore been supportive of the FCA's data strategy. Expanding its use of data analytics will allow the FCA to improve its operational efficiency and increase its ability to identify harms more quickly.

<sup>5</sup> <https://www.gov.uk/government/consultations/smart-data-putting-consumers-in-control-of-their-data-and-enabling-innovation>

The Panel also responded to the FCA's consultation on the proposed ban on the sale of investment products that contain cryptoassets to retail consumers. The Panel welcomed the FCA's proposals, agreeing that they would work to protect consumers from sudden and unexpected losses.

### **Operational Resilience**

The Panel has always been clear that firms should focus on the impact of operational failures on consumers, not just the likelihood of such failures occurring. In our response to the FCA's discussion paper, we encouraged regulators to look beyond individual firms and apply this impact-based approach to systemic and market risk. We identified an opportunity for firms to collaborate to achieve optimal outcomes for consumers and said the FCA should encourage this where possible.

We also stressed the importance of firms having clear plans and adequate resources to mobilise in the event of an operational incident. In terms of resources, the focus should not solely be on adequate IT systems, though these are of course important; now so more than ever as the coronavirus pandemic means many products and services are only available online. Firms must also consider whether they have adequate human resources to manage transparent, timely and effective communications with consumers and enough financial resources to pay redress where detriment has been caused. With regard to human resources, the Panel suggested firms use 'human stress testing' to test their human resources not only in terms of number, but also relevant expertise, in any given crisis.

### **FCA Effectiveness**

The Panel welcomed the FCA's move towards outcomes-based regulation<sup>6</sup>. We hope that this will move firms away from a tick-box 'compliance culture' in favour of a renewed focus on delivering the right outcomes for consumers. To ensure it achieves the intended outcomes, we recommended the FCA set out what good looks like whenever it makes new policy proposals. This would set reporting requirements at the outset and allow the FCA to measure policy outcomes much more quickly than it currently does.

The Panel would also like the FCA to use the full range of its regulatory tools. The last year has seen the FCA make greater use of product bans and propose more supply-side remedies. We welcomed this and encouraged the FCA to continue using these tools where appropriate. If the FCA feels it does not have the necessary tools or remit to tackle an identified harm, it should address this with HM Treasury.

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6 <https://www.fca.org.uk/news/speeches/regulation-changing-world>

## Panel activities by sector

### Consumer credit

The Panel remained concerned about potential harm in the consumer credit sector. We were particularly concerned about affordability, over-indebtedness and business models that rely on relending. We were therefore pleased to see the FCA continuing to intervene in this market, though would urge it to do so more quickly. We strongly encouraged the FCA to monitor the cumulative impact of its interventions, especially where these may prompt firms to offer, or consumers to take up, other forms of high-cost borrowing.

The Panel remained interested in the implementation of the persistent debt rules that arose from the FCA's Credit Card Market Study. It has now been over 18 months since the rules became binding which means the first tranche of consumer communications required under the new regime will have been issued. As the FCA did not mandate specific wording to be used in the communications, we were concerned that consumers who had cards with more than one provider would receive confusing, or even conflicting, messages from different firms. We asked the FCA to actively monitor emerging results of the new rules and, if necessary, adjust its action. Whilst the full impact of the remedies will not be felt until 2022/23, we felt it would be unacceptable to wait until this time before conducting any evaluation.

The Panel welcomed early engagement with the FCA on its project to assess the business model drivers of unaffordable lending. We look forward to continuing this engagement, since it is vital that firms' business models have consumers' best interests at their heart.

In the following areas, the Panel said:

### Motor Finance

- We supported the banning of discretionary commission models, but the FCA should implement the ban much sooner. In the meantime, the FCA should make clear to firms that this practice is unacceptable.
- The FCA should make more use of mystery shopping in its other work and routinely quantify the detriment suffered by consumers.

### Overdrafts

- The Panel supported the FCA's interventions in the overdrafts market.
- The FCA should carefully monitor how firms might re-price overdraft rates once a consumer has entered into an overdraft.

### Credit information market study

- The FCA's work has helpfully illuminated a difficult and opaque area.
- The FCA should now investigate to what extent the existence of multiple Credit Reference Agencies (CRAs) and any competition between them benefits/harms consumers.
- The FCA should investigate the degree of ease with which consumer can engage with CRA services and the value this adds.

### Regulation of insolvency practitioners

- In response to the Insolvency Service's consultation, we said that current regulation of insolvency practitioners is not sufficiently effective to promote good customer outcomes. A wider review was required to determine how they are best regulated in future, including consideration of the role that the FCA should play.

### General insurance

The Panel welcomed the FCA's extensive work in this sector. The approach taken by the FCA was a good example of a move towards outcomes-based regulation and we encouraged the FCA to extend this approach to other sectors.

We were concerned by the significant harm identified in the interim findings of the General Insurance (GI) Market Study and the FCA must intervene if we are to see

better consumer outcomes. In our response to the interim findings, we encouraged the FCA to focus on supply-side remedies. The FCA should avoid relying on consumer switching and Open Finance to drive price competition, but instead should strongly consider automatic upgrades as a remedy to prevent price walking and stimulate change by removing first-mover disadvantage. We were particularly pleased to see the FCA referencing the Panel's research on automatic upgrades in the findings report.

Whilst the price of insurance is immensely important, it is not the only factor consumers should consider when selecting a policy. We remained concerned that over-reliance on price comparison websites is focusing consumer attention on headline price alone. The FCA's proposals to get firms to consider GI value measures data in their product governance were therefore especially welcome. We noted in our response to these proposals that this represents a material shift in the FCA's approach and we hope it is the beginning of a shift in firms' focus away from price alone in favour of product quality and performance and, in turn, overall value for the consumer. We expressed similar thoughts in our response to the guidance consultation on the GI distribution chain. Both pieces of work were good examples of the FCA proposing a supply-side remedy that will lead to consumers getting better products, value and choice in the GI market.

The Panel also welcomed the FCA's proposed intervention in the travel insurance market to signpost consumers with pre-existing medical conditions (PEMCs) to specialist providers who will be able to provide the cover required. We noted in our response that signposting did not address the complex issues with pricing and access to insurance, but it would usefully promote awareness of insurers that cover consumers with PEMCs and therefore improve access to financial services for these consumers. The FCA should remain mindful of consumers who may be digitally excluded and so may seek insurance via more traditional routes.



## Mortgages

The FCA consulted on proposals to change the responsible lending rules to remove regulatory barriers preventing so-called 'mortgage prisoners' from switching. The Panel welcomed the proposals, but encouraged the FCA to implement them far sooner than the 13 months it had planned.

The Panel was concerned about the number of mortgage prisoners excluded from the FCA's proposed assistance and, in our [response](#), called for the scope of the proposals to be extended to include consumers in arrears. We highlighted that to exclude such consumers was deeply unfair, as some may only be in arrears because they were trapped on an excessive rate. Others might be technically in arrears because they negotiated a forbearance measure, such as temporary reduced payments or a payment holiday. The number of consumers in this category will likely increase significantly in the near future as people take advantage of the payment holidays offered as a result of the coronavirus pandemic<sup>7</sup>.

There are a further group of up to 190,000 mortgage prisoners that are excluded from the FCA's proposals because their mortgage has been transferred to an unregulated entity. We urged the FCA to continue to make representations to HM Treasury for an extension to its remit to enable their proposals to help these consumers.

The FCA also consulted on mortgage advice and selling standards. We were supportive of the FCA's proposals in this area. In our [response](#), we expressed particularly strong support for the proposal to require intermediaries to explain why they have not recommended a cheaper mortgage. This will force intermediaries to justify their recommendation, meaning consumers are better informed and are given the opportunity to challenge.



<sup>7</sup> <https://www.fca.org.uk/news/press-releases/new-guidance-mortgage-providers-lenders-coronavirus>

## Payments

The Payment Systems Regulator (PSR) published a further consultation on the implementation of confirmation of payee (CoP). We supported the introduction of CoP and recognised the role it can play in preventing Authorised Push Payment (APP) fraud. However, CoP is not a panacea and victims of APP fraud should not be presumed to be at fault just because they ticked the box. In our [response](#), we recommended that the PSR:

Task payment services providers with providing consumers with clear guidance, information and tools to take the necessary steps to protect themselves from APP fraud.

Consider introducing some form of additional payment confirmation to apply to companies which process large financial amounts e.g. solicitors and regulated investment firms

The Panel was concerned by the cumulative impacts of changes relating to access to cash. In [response](#) to the PSR's consultation on this issue, we noted that whilst use of cash is generally declining, access to it must be maintained for those who are the least able to access alternatives. We were concerned that too much focus is being placed on helping consumers manage the transition away from cash, rather than ensuring continued access. It was also unclear which body is taking responsibility for this transition.

## Pensions and retirement products

This was another sector where the FCA had been very active over the past year. Now that consumers have more freedom than ever over what to do with their pension pots, the effective function of pensions and advice markets has become critical.

The Panel strongly believes that payment for advice that is dependent on whether a 'product' – in this case, the transfer of the pension pot - is sold or not, is commission. This creates an incentive for advisers to recommend a Defined Benefit pension transfer regardless of what is best for the consumer. We therefore expressed strong support in our [response](#) to the FCA's proposed ban on contingent charging. A ban was the only way to reduce unsuitable advice in this area.

Regardless of whether consumers take regulated advice on what do with their pension, they need sufficient information to allow them to compare products and make informed decisions. Language and terminology must be clear and consistent for consumers to be able to do this. We therefore encouraged the FCA to take a more prescriptive approach to common terminology around costs and charges in our [response](#) to the FCA's feedback statement on effective competition in non-workplace pensions.

We highlighted the need for disclosures to be user tested on consumers, including vulnerable consumers, to ensure they are fit for purpose and not overly complex.

This year, the FCA consulted on extending the remit of Independent Governance Committees (IGCs) to include value for money assessments and environmental, social and governance (ESG) policies. The Panel responded expressing support for the proposals and encouraging the FCA to press on with its planned review of the effectiveness of IGCs. In our view, diversity of thought is an absolutely crucial element of IGC effectiveness and so should form an important part of the FCA's review. We look forward to the outcome and have encouraged the FCA to take bold action where the findings indicate this is necessary.

The Panel welcomed the opportunity to respond to the FCA's consultation on investment pathways. This is one of the most significant proposals to come out of the Retirement Outcomes Review.

In our response, we said:

The FCA should be prescriptive when it comes to the information firms must provide to consumers when communicating the investment pathways. The FCA should establish a Working Group to ensure consistent, jargon-free language in consumer communications across the sector.

The FCA must address access to affordable and impartial advice options so that non-advised consumers become advised.

The FCA should ensure its proposals relating to transaction cost disclosure are consistent across workplace pensions and personal and stakeholder pension products.



## Savings and Investments

The Panel remained interested in disclosure around savings and investments. It was pleasing to see the FCA begin a project to look at how disclosure, including terms and conditions, can be more effective. We were encouraged by the FCA's approach to this issue, which included a focus on consumer outcomes and a link with the new consumer principle.

The events of 2019 relating to mini-bonds drew our attention to the financial promotions regime. We have long questioned the effectiveness of this regime and the length of time it can take to remove misleading promotions. We were therefore particularly pleased with the FCA's intervention to ban the mass marketing of speculative mini-bonds to retail consumers and the FCA's collaborative and efficient approach to implementing the ban.

Looking more widely than mini-bonds, we would like to see the FCA do more to ensure regulated firms take greater responsibility for approving the financial promotions of non-regulated firms. There must be serious consequences for firms who approve promotions that are misleading or otherwise unfair.

Having been a member of the Institutional Disclosure Working Group (IDWG), following the FCA's Asset Management Market Review, the Panel continued its conversations with the Cost Transparency Initiative (CTI). The CTI was set up in November 2018 to help implement costs templates for investors to receive full, standardised disclosure of the costs and charges associated with institutional investment and pension scheme funds from their asset managers/trustees. We were pleased to see these templates come to fruition this year and met with the Chair of the CTI to ensure widespread take up so that value for money could be better assessed in the future. There is still work to do across the industry, however, on improving the clarity of communication of pensions costs and charges to members.

The Panel continued to question the suitability of illiquid products being marketed to consumers in open-ended vehicles offering daily dealing, but which in practice faced many challenges in delivering a daily redemption model. A fund's dealing arrangement should closely reflect the time needed to sell the underlying assets. Nevertheless, we supported the FCA proposals for introducing much needed regulatory structure around liquidity management of these products which is part of the investment strategy. It was especially timely given the uncertainty introduced by Brexit. The FCA's proposed one year period for the rules to kick in seemed very long in light of the likelihood of further disruption to dealing during a potential Brexit implementation. The framework of robust governance and independent valuation is needed urgently to protect consumers' interests in these products.

# The Panel's work in 2020-2021

Some of the Panel's work concluded in 2019/20, whereas other pieces will continue into 2020/21.

In particular, the Panel will continue to work with the FCA to explore the duty of care, or 'consumer principle'. There has been considerable delay to this work, which has been unfortunate. We will continue to urge the FCA to progress at pace, especially with publishing its paper initially planned for early 2020.

The Panel will also continue to explore potential consumer harm caused by firms' digital marketing. We aim to publish a discussion paper based on this research later in 2020.

The Panel has three areas of focus for 2020/21:

## SMEs

The Panel will continue its work on SMEs to ensure the FCA takes full account of the interests of all relevant small businesses when regulating financial services. There are five priority areas we will focus on:

1. Consumer protection for SMEs
2. Access to finance
3. Suitable products
4. Fair treatment
5. Provision of business support

## Equity release

There has been much greater uptake of equity release products in recent years and so we think now is the time to assess how well the market is working for consumers. We will consult with the FCA and other stakeholders to define what good consumer outcomes look like and explore the key sources of risk and harm in this market such as:

1. The relationship between lenders and intermediaries, especially commission
2. Unfair fees and charges
3. Poor competition
4. Unsuitable advice
5. Unclear product terms

### Consumer awareness of regulation and protection

It is important that consumers understand the regulation and protection associated with financial services providers and products. This helps consumers recognise when things have gone wrong and where they can go to get help if they need it. The Panel will prompt the FCA to take action to ensure that products and services are promoted in such a way that makes it clear and easy for the consumer to understand:

1. What regulatory oversight exists
2. What protections (e.g. FSCS protection) apply
3. Who they can contact if things go wrong
4. What remedies they can reasonably expect

At the end of March 2020, it was clear that the coronavirus pandemic was having, and will continue to have, a profound impact on all areas of financial services. In turn, this has a significant impact on the work of the FCA. We know that priorities are likely to change and that some important work will need to be postponed. The Panel will work quickly and flexibly to advise and challenge the FCA as necessary in these challenging circumstances. This includes sharing our insights into the risks and harms to consumers arising specifically as a result of the coronavirus pandemic.

# Appendix I:

## Panel members



### **Wanda Goldwag – Chair**

Attendance at full Panel meetings: 11/11  
Attendance at Working Group meetings: 19/22

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### **Mark Chidley**

Attendance at full Panel meetings: 10/11  
Attendance at Working Group meetings: 10/11

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### **Sharon Collard**

Attendance at full Panel meetings: 10/11  
Attendance at Working Group meetings: 10/11

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### **Jennifer Genevieve**

Attendance at full Panel meetings: 10/11  
Attendance at Working Group meetings: 11/11

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## **Dominic Lindley**

Attendance at full Panel meetings: 8/11

Attendance at Working Group meetings: 8/11

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## **Pamela Meadows**

Attendance at full Panel meetings: 11/11

Attendance at Working Group meetings: 10/11

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## **Francis McGee**

Attendance at full Panel meetings: 11/11

Attendance at Working Group Meetings: 11/11

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## **Keith Richards**

Attendance at full Panel meetings: 9/11

Attendance at Working Group meetings: 8/11

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## **Jonathan Hewitt**

**Joined the Panel in December 2019**

Attendance at full Panel meetings: 4/4

Attendance at Working Group meetings: 4/4

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**Julia Mundy**

**Joined the Panel in December 2019**

Attendance at full Panel meetings: 4/4

Attendance at Working Group meetings: 4/4

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**Erik Porter**

**Joined the Panel in December 2019**

Attendance at full Panel meetings: 4/4

Attendance at Working Group meetings: 3/4

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# Appendix 2: Expenditure

The FCA Board agrees a Budget for Panel members' fees, expenses and any consultancy or research work it commissions. The Panel is supported by a Secretariat of 5 FTE staff.

Actual expenditure in 2019-2020 was £335,719.

	<b>Actual April 2017 – March 2018 (£000)</b>	<b>Actual April 2018 – March 2019 (£000)</b>	<b>Actual April 2019 – March 2020 (£000)</b>
<b>Panel Members' fees and expenses<sup>1</sup></b>	307	289	143
<b>Other Expenditure<sup>2</sup></b>	126	150	193
<b>Total</b>	<b>433</b>	<b>439</b>	<b>336</b>

1. The fees exclude employers' National Insurance Contributions paid by the FCA. The fees payable to Panel Members during the year from 1 April 2019 to 31 March 2020 were as follows:

Panel Chair	£60,000
Working Group Chairs (55 days)	£26,000
Members whose minimum commitment is 45 days a year	£18,000
Members whose minimum commitment is 32.5 days a year	£13,000

2. Other expenditure includes recruitment and research.

# Appendix 3:

## Meetings with external stakeholders

Between 1 April 2019 and 31 March 2020, members of the Financial Services Consumer Panel met with the following external bodies:

Age UK

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All Party Parliamentary Group on Wholesale Financial Markets & Services

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All Party Parliamentary Group on Debt & Personal Finance

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Amigo

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Association of British Insurers

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Association of Mortgage Intermediaries

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Australian Securities & Investments Commission

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Aviva

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Barclays

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Bureau Européen des Unions de Consommateurs (BEUC)

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Building Societies Association

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Cabinet Office

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Cashplus

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Cicero Group

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Current Account Switching Service

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Chartered Institute for Securities & Investment

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Citizens Advice

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City UK

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Civil Aviation Authority

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Communications Consumer Panel

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Competition & Markets Authority

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Complaints Commissioner

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Department for Business Energy & Industrial Strategy

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Department for Work and Pensions

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ESA Consumer Day

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Europe Economics

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European Commission – European Consumer Summit

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Fair By Design

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Financial Data Technology Association

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Finance & Leasing Association

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Financial Ombudsman Service

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Financial Services Compensation Scheme

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Financial Times

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HM Treasury

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Institute & Faculty of Actuaries

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Insuring Women's Futures

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Money and Mental Health Policy Institute

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Money & Pensions Advisory Service

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Nationwide

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Information Commissioner's Officer

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Investment Association

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J P Morgan

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Just

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Legal Services Consumer Panel

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MacMillan Cancer Support

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Nat West

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Open Banking Implementation Entity

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Organisation for Economic Co-operation and Development

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Oxera

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Payments Systems Regulator

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Pay UK

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Single Financial Guidance Body

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Tax Incentivised Savings Association

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UK Finance

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UK Regulators Network (UKRN)

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University of Derby

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Westminster Business Forum

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Which?

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# Appendix 4:

## Panel Members' participation in events

### **April 2019**

Investment Association: Sustainable & Responsible Investment Conference  
Insurtech Event on General Insurance & Technology  
UKRN Annual Conference: Innovation & Role of Regulation

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### **June 2019**

Association of British Insurers Event: Transitions to Retirement  
Investment Association: Harnessing Disruption – How can Technology & Innovation  
Deliver Better Outcomes for Consumers

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### **July 2019**

Chartered Institute for Securities & Investment Interview

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### **September 2019**

J P Morgan - Gleneagles Symposium

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### **October 2019**

Payments Systems Regulator Roundtable: Access to Cash  
Money and Mental Health Policy Institute: launch of report on Using Data to identify  
and support vulnerable consumers

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### **November 2019**

Department of Work & Pensions Roundtable: DC Occupational Pensions  
Current Account Switching Service Event: Millennials Money  
Insuring Women's Futures Event

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### **December 2019**

Financial Data Technology Association Event on Global Open Finance

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### **January 2020**

Behavioural Insights Lecture  
IRSG Architecture for Regulatory Finance Event  
Financial Inclusion Summit  
European Commission: European Consumer Summit

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### **February 2020**

Just Retirement Leaders Annual Summit

International Longevity Centre: 100 Year Family  
UK Regulators Network Event on Driving Fairer Outcomes for Vulnerable Consumers  
Across UK Markets  
ABI Annual Conference  
Mortgages in Later Life Event

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**March 2020**

Equity Release Summit

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# Appendix 5:

## Publications, research and responses to consultations

### Position Papers

June 2019 The Case for Automatic Upgrades

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### Discussion Papers

June 2019 Automatic Upgrades Research Paper

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### Consultation responses

April 2019 CP 19/05 Retirement Outcomes Review: Investment Pathways and other proposed changes to rules and guidance

April 2019 CP 19/08 General Insurance (GI) Value Measures reporting

April 2019 DP 19/01 Building a Regulatory Framework for Effective Stewardship

June 2019 FCA Review of RDR and FAMR Call for Input

June 2019 PSR CP 19/4 Confirmation of Payee

June 2019 CP 19/12 Investment Platforms Market Study (IPMS) Remedies

June 2019 CP 19/14 Mortgage customers – proposed changes to responsible lending rules and guidance

July 2019 CP 19/17 Mortgage advice and selling standards

July 2019 GC 19/2 General Insurance Distribution Chain (GIDC) guidance

July 2019 CP 19/15 Independent Governance Committees – Extension of Remit

July 2019 MS 19/1.1 Credit Information Market Study – Terms of Reference

August 2019 CP 19/18 Overdraft Pricing Remedies and Competition Remedies

August 2019 Department for Business, Energy and Industrial Strategy consultation on Smart Data

August 2019 DP 19/2 Intergenerational Differences

August 2019 Financial Ombudsman Service (FOS) Funding

September 2019 PSR CP 19/6 Call for views on insights from research into cash access, use and acceptance

September 2019 CP 19/23 Signposting to travel insurance for consumers with medical conditions

September 2019 CP 19/20 Assessing Adequate Financial Resources

October 2019 Insolvency Service Call for Evidence: Regulation of insolvency practitioners – review of current regulatory landscape

October 2019 CP 19/22 Prohibiting the sale to retail clients of investment products that reference cryptoassets

October 2019	GC 19/3 Guidance for firms on the fair treatment of vulnerable customers
October 2019	FS 19/5 Effective Competition in Non-Workplace Pensions
October 2019	Quarterly Consultation No 25 CP 19/27 Chapter 8 Lending Standards Board – FCA code recognition
October 2019	HMT Financial Services Future Regulatory Framework Review Call for Evidence: Regulatory Coordination
October 2019	CP 19/25 Pension Transfer Advice: Contingent Charging
November 2019	MS 18/1.2 General Insurance Market Study Interim Report
December 2019	CP 19/23 Motor finance discretionary commission models and consumer credit commission disclosure
January 2020	Information Commissioner’s Office and the Alan Turing Institute’s co-badged guidance ‘Explaining decisions made with AI draft guidance’
January 2020	Financial Ombudsman Service (FOS) plans and budget for 2020/21
February 2020	CP 19/32 Building operational resilience: impact tolerances for important business services

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# Appendix 6: Panel Members on Other Bodies

**FCA Consumer Network**

Francis McGee

**FCA Currency & Principles Engagement Group**

Mark Chidley

**FCA Purpose Working Group**

Wanda Goldwag

**FCA Strong Customer Authentication Monitoring Forum**

Pam Meadows

**Financial Ombudsman Consumer Liaison Group**

Jennifer Genevieve

**Money & Pensions Advisory Service – Challenge Groups**

Jonathan Hewitt

Julia Mundy

**Money & Pensions Advisory Service – Mortgage Adviser Directory Steering Group**

Pam Meadows

**Open Banking Entity Steering Group**

Mark Chidley

**Payment Systems Regulator Panel**

Pam Meadows

**UK Finance: Consumer Advisory Group**

Wanda Goldwag

# Terms of Reference

1. The Financial Services Consumer Panel ('the Panel') was established by the Financial Conduct Authority ('FCA') under the Financial Services and Markets Act 2000 to represent the interests of consumers.

## Scope

2. The Panel represents the interests of all groups of financial services consumers.
3. The Panel provides advice and challenge to the FCA on the extent to which the FCA's general policies and practices are consistent with its general duties, as required under the Financial Services and Markets Act 2000.
4. The Panel focuses on the FCA's strategic and operational objectives, together with the expectations on the FCA to discharge its general functions in a way which promotes competition in the interests of consumers and to have regard to the regulatory principles.
5. The Panel operates independently of the FCA. The emphasis of its work is on activities that are regulated by the FCA, although it may also look at the impact on consumers of activities that are not regulated but are related to the FCA's general duties.

## Membership

6. The FCA Board appoints Panel members, with HM Treasury's approval required for the appointment or dismissal of the Chair.
7. The FCA may appoint to the Panel such consumers, or persons representing the interests of consumers, as it considers appropriate.
8. The FCA must secure that membership of the Panel is such as to give a fair degree of representation to those who are using, or are or may be contemplating using, services other than in connection with business carried on by them. Members of the Panel are recruited through a process of open competition and encompass a broad range of relevant expertise and experience. Panel members will normally serve a maximum of two three-year terms.

**The Panel's Duties**

## 9. The Panel will:

- 9.1 Meet regularly and be available for consultation by the FCA on specific high-level issues.
- 9.2 Be active in bringing to the attention of the FCA issues which are likely to be of significance to consumers.
- 9.3 Commission such research as it considers necessary in order to help it to fulfil its duties under these terms of reference.
- 9.4 Request access to information from the FCA which it reasonably requires to carry out its work.
- 9.5 Request regular access to the FCA Chairman, Board, Chief Executive and senior executives of the FCA.
- 9.6 Give the FCA sufficient prior warning of new consumer issues that the Panel is putting in the public domain ("no surprises").
- 9.7 Maintain the confidentiality of information provided to the Panel by the FCA

**FCA Duties**

## 10. The FCA will:

- 10.1 Consult the Panel throughout its deliberations on policies and practices that have a consumer impact.
- 10.2 Consider representations made to it by the Consumer Panel, and must from time to time publish in such a manner as it thinks fit, responses to the representations.
- 10.3 Provide a secretariat to support the Panel to enable it to operate effectively.
- 10.4 Agree with the Panel an annual budget sufficient for the Panel to fulfil its duties under these terms of reference.
- 10.5 Provide the Panel with prompt access to all information which the Panel reasonably requires in order to fulfil its duties.
- 10.6 Give the Panel reasonable access to the FCA Chairman, Board, Chief Executive and senior executives of the FCA.



10.7 Give sufficient prior notice of new consumer issues that the FCA is putting in the public domain (“no surprises”).

### **Accountability**

11. The Panel will publish an annual report on its work, which will be presented to the FCA Board.
12. The Panel may speak out publicly when it wishes to draw attention to matters in the public interest.
13. The Panel will report informally on its work to HM Treasury and other stakeholders.

## Financial Services Consumer Panel

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