

Telephone: 020 7066 9346

Email: [enquiries@fs-cp.org.uk](mailto:enquiries@fs-cp.org.uk)

19 September 2023

By email: [forregulatoryframeworkpolicy@fca.org.uk](mailto:forregulatoryframeworkpolicy@fca.org.uk)

Dear Sir / Madam,

### **Financial Services Consumer Panel feedback on the FCA's Rule Review Framework**

We welcome the opportunity to comment on the FCA's Rule Review Framework. The FCA's rules have a significant impact on the outcomes firms deliver for individual and SME consumers in financial services and so it is right that the FCA sets a robust and transparent framework for how it will assess rules' effectiveness and amend rules accordingly. Reviewing rules' effectiveness will ensure that the FCA continues to meet its statutory objective of protecting consumers, even in the face of ever-changing market conditions and new product types.

This letter sets out our overarching feedback on the Framework. We detail how the FCA can ensure the evidence base that influences which rules are reviewed under the Framework is sufficiently robust and inclusive of consumer views. We also recommend a more transparent approach to the proportionality aspect built into the FCA's framework and reiterate our ongoing concerns about government-directed rule reviews. As the contents of this letter answer the broad questions posed by the FCA, we have not answered the questions specifically.

#### **Ensuring a robust and balanced evidence base**

We note that almost all types of rule review set out in the Framework rely heavily on evidence and stakeholder feedback. We welcome this approach and would urge the FCA to ensure that:

- **It is proactive in seeking that evidence and feedback, as well as maintaining an open approach to receiving feedback.** We support the FCA's approach in the Framework to increasing the number of channels stakeholders will have to give feedback by, for example, adding a feedback tool in the Handbook and on the

website. However, the FCA must be mindful that many stakeholders, especially consumers themselves, are unlikely to access FCA channels directly and so alternative arrangements must be put in place. Channels should be available and accessible to all types of consumers, including those who are vulnerable or digitally excluded.

- **The imbalance in the voice of consumers compared to industry is addressed.** We have consistently raised, with the FCA and with HM Treasury, our concerns about the voice of consumers being difficult to hear amongst the dominant industry voices<sup>1</sup>. Consumer input is critical to the effectiveness of rules: without consumer input, the rules simply won't work for them, putting at risk trust in the financial services sector. We have observed that industry stakeholders have much more resource available to make their voice heard – both as individual firms and when they come together via trade bodies – than consumer stakeholders. Particular attention will need to be paid to this in terms of feedback which is intended to prompt a rule review, the FCA should be transparent about the nature and extent of feedback received from non-industry stakeholders compared with industry in relation to policy proposals and rule reviews, and it should explain how it overcomes such imbalance. It must not be that industry have undue influence on which rules are reviewed by virtue of being better able to input into the process. We make further suggestions and recommendations below.
- **The full range of evidence is considered.** We recognise the FCA's ambition to become a 'data-led' regulator and acknowledge that the sheer scale of data received by the FCA allow it to build rich insights into a broad range of issues. However, we know that an approach which is geared predominantly towards quantitative data will never tell the whole story. We therefore welcome the steps set out in the Framework to 'design in' qualitative feedback to rule reviews and would encourage them to ensure that this approach is applied consistently across all areas of policy. This will allow the FCA to understand the real-world experiences of consumers impacted by its rules and, crucially, the 'why' behind the data that may indicate rules aren't working as intended.

In order to address each of these 3 points, we repeat our call made in [previous responses to consultations about the Future Regulatory](#)

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<sup>1</sup> See, for example, [https://www.fsc.org.uk/sites/default/files/final\\_fscp\\_response\\_hmt\\_frf\\_proposals\\_for\\_reform\\_20220209.pdf](https://www.fsc.org.uk/sites/default/files/final_fscp_response_hmt_frf_proposals_for_reform_20220209.pdf)

[Framework](#) for the FCA to publicly set out a plan and process for engaging effectively with consumers and consumer representatives. The plan should set out how the FCA will gather evidence - including deploying a range of research techniques - to garner and incorporate consumer views, needs, behaviour and experiences in relation to the various FRF measures that are in train or will follow. This should be from the full spectrum of the consumer voice: from individual consumers, to small local or niche consumer groups that represent a subset of consumers, to national consumer organisations.

The FCA's plan should ensure the methods it outlines allow for meaningful consumer engagement. For example, we welcome the steps the FCA has taken recently to improve engagement through its Consumer Network, but issues remain about the resource-constraints on consumer and civil society organisations sitting on this Network, which make them less likely to be able to devote the time and/or funds necessary to gather the evidence the FCA will need. The plan will also need to show how all such consumer engagement will happen and be effective where timelines are shortened in urgent situations (such as shorter consultation periods used in some Future Regulatory Framework changes and where there is rapid market change).

- Finally, we note the Framework describes using roundtables, focus groups, sprints and surveys as a way to gather stakeholder feedback. Given the issues outlined above regarding the imbalance in consumer input and the relative lack of resources of consumer stakeholders, we question whether these are an effective way to incorporate the consumer voice. We suggest the FCA strengthens these proposals by considering: Being strategic about the sort of research it conducts. It could, for example, prioritise behavioural research which will show a direct link between policy options and consumer outcomes.
- Establishing a research panel(s) for rapid testing of consumer views, especially where timetables are constrained.
- Exploring innovative ways to facilitate engagement with consumer groups, charities and organisations, such as providing financial or other support, and/or engaging in co-creation and inclusive design studies<sup>2</sup>.

## **Embedding an outcomes-focussed approach**

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<sup>2</sup> For an example, see the work Fair By Design did for Ofgem on how inclusive design can make the transition to net zero fair for low income consumers:  
<https://fairbydesign.com/news/inclusive-design-can-make-the-transition-to-net-zero-fair-for-low-income-consumers/>

The effective operation of the Framework also hinges on the correct setting of outcomes at the outset of policy making. We observe that the FCA has made significant steps forward in better articulating the outcomes it looks to achieve in recent years, especially in the publication of its [outcomes and metrics webpage](#). Each consultation paper also includes a welcome section on what the FCA is trying to achieve with its policy proposals. We would like to see this rigorous focus on outcomes maintained throughout the operation of the Framework. The Consumer Duty provides a useful narrative for the FCA to use to describe the outcomes it is looking to see.

### **Balancing proportionality with transparency**

There is a strong message throughout the FCA's Rule Review Framework that a proportionate approach will be taken to reviews. The FCA states it will not be possible to review all rules and gives an indication of the types of situations where rules will not be reviewed. It also states that it will only publish the outcome of reviews in certain circumstances.

We would like to see the FCA commit to a greater level of transparency around its proportionate approach. Given the importance of these reviews to consumer outcomes, we would support the publication of all review outcomes. Indeed, we think that on the 'landing page' for each piece of FCA policy there should be a 'review status' so that consumers and firms can see whether a rule review is planned, underway, overdue, completed or not required. Where a review is not required, a clear justification should be given. This information should also be included on the Regulatory Initiatives Grid so that it is all in one place.

It is also worth noting that the Rule Review Framework only applies to rules and the FCA also issues a vast amount of Handbook guidance. This guidance, like rules, impacts firm behaviour and therefore consumer outcomes. Whilst we recognise the resource constraints on the FCA, we would encourage them to consider how the effectiveness of guidance may also be reviewed to ensure it remains relevant, focussed and up to date. The FCA should also explain clearly where changes are made to guidance as a result of rule reviews (e.g. where a piece of guidance that supports a rule must be amended to support a rule amendment).

### **Government-directed reviews**

The Framework also briefly covers government directed reviews. Here we would refer the FCA to our concerns about the impact of these reviews on regulatory independence, as expressed in our responses to previous

consultations on the Future Regulatory Framework<sup>3</sup>. We recognise that the FCA has less control over these directed reviews but we would expect the FCA to have the same approach and to publish a plan for meaningful consumer engagement as for those reviews which are initiated by the FCA, and to take account of the issues the Panel has raised here. We will also raise these concerns with HM Treasury in our engagement with them.

In our previous responses we said that there must be appropriate safeguards around the proposed power for HM Treasury to direct rule reviews. For example:

- New FCA rules must be allowed sufficient time to embed before they are reviewed.
- Directed rule reviews should come only after the FCA has undertaken an evaluation of the new rules and the outcome of this evaluation has been published.
- Controls should be put in place to prevent regulation becoming volatile and unpredictable at points of political change.

### **Assessing the effectiveness of the Framework**

Just as the FCA needs to know the rules themselves are working effectively, it also needs to know whether the Rule Review Framework is working effectively. We would expect to see the FCA comment on this in its future Business Plans and Strategy documents, once the Framework has been operational for 1 year. We suggest that one way to test the effectiveness of the Framework is to periodically review rules that ordinarily would not meet the threshold for review (but still on an evidence basis). This will ensure the threshold remains set in the correct place.

### **Our engagement with rule reviews**

Finally, we note the FCA's reference to our role as a Panel in inputting into Rule Reviews and that they expect such Reviews would become part of regular discussions with us. We regularly offer our views and evidence on how well FCA rules are working for consumers, including small and micro businesses and look forward to continuing to so do as part of constructive discussions about Rule Reviews.

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<sup>3</sup> See [https://www.fsc.org.uk/sites/default/files/final\\_fscp\\_response\\_hmt\\_frf\\_proposals\\_for\\_reform\\_20220209.pdf](https://www.fsc.org.uk/sites/default/files/final_fscp_response_hmt_frf_proposals_for_reform_20220209.pdf) and [https://www.fsc.org.uk/sites/default/files/final\\_fscp\\_response\\_to\\_pbc\\_fsm\\_bill\\_call\\_for\\_evidence\\_2021024.pdf](https://www.fsc.org.uk/sites/default/files/final_fscp_response_to_pbc_fsm_bill_call_for_evidence_2021024.pdf)

Yours sincerely,

Helen Charlton  
Chair, Financial Services Consumer Panel