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

Dear Sir / Madam,

**Financial Services Consumer Panel response to FCA's approach to Future Regulatory Framework (FRF) implementation**

The Panel welcomes the opportunity to provide feedback on the FCA's proposed approach to the implementation of the FRF. At a time when consumers are facing challenges of a cost of living crisis and confidence in the FCA is likely to have diminished following consumer losses associated with high-profile regulatory shortcomings, the FCA's approach to implementing FRF provides an opportunity to reset and refocus the regulatory framework.

We have set out our comments below on different aspects of the FCA's proposed approach. Paramount, however, is our over-riding concern about the lack of explicit consumer direction in the paper. We believe it is crucial that the FCA put first and foremost the consumer voice in implementing these changes, to ensure that it remains focused on regulating the financial services market and protecting consumers. The implementation of the FRF should not distract from or dilute the FCA's attention to this most important task.

We also wish to make clear from the outset that throughout this letter, when we refer to consumers, we are including SMEs.

**The international competitiveness objective**

One of the key parts of the FRF is that the FCA will have a secondary objective on the international competitiveness of the UK economy and its growth in the medium to long term. We wish to note and welcome HM Treasury's assurance that this 'will not require or authorise the FCA to take any action inconsistent with [its] general, strategic and operational objectives'<sup>1</sup>, which of course include the consumer protection objective. We often hear of a 'balance to be struck' between the international competitiveness and consumer protection objectives but we wish to be clear that this should not be an equal balance: when implementing reform, the consumer protection objective, as a primary objective, takes precedence over the international competitiveness objective and there must not be a 'trade off' here nor a cost benefit analysis pitting benefits to businesses against benefits or harms to consumers. We would like to see the FCA publish further detail on how the FCA will analyse specific policy options against its revised objectives.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1122734/Building\\_a\\_smarter\\_financial\\_services\\_framework\\_for\\_the\\_UK\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1122734/Building_a_smarter_financial_services_framework_for_the_UK_.pdf) para 2.13

The FCA must ensure and deliver the appropriate level of protection for consumers. We believe it should hold itself to the wording of the consumer principle as part of the new Consumer Duty: that is to say it should act to deliver good outcomes for retail consumers (which includes SMEs).

Finally, we note that, as initially drafted, the competitiveness objective did not include specific reference to the competitiveness *of the financial services sector*. Whilst we had reservations about the original wording, we are especially concerned by the addition of this reference to financial services as we feel it shifts the focus of the objective away from the overall economic health of the UK towards the interests of one sector, and specifically the sector the FCA exists to regulate<sup>2</sup>.

### **Rule review framework**

In our view the rule review framework must include a dedicated framework and processes for the FCA to actively capture, incorporate and reflect consumers' views, experiences and needs, as well as the outcomes delivered to consumers.

In delivering this the FCA needs to go above and beyond engagement with the Consumer Panel. We recognise that we have an important role to play within our statutory remit to represent the interests of consumers, and we will continue to provide insight derived from our wide-ranging experience and expertise. That said, engaging with the Panel is not a substitute for engaging with consumers directly and the advocates and organisations that represent them. As we have said in our responses to HM Treasury on the FRF<sup>3</sup>, this could be done via research, focus groups, forums and ad hoc advisory panels. The FCA could also consider making use of behavioural research to identify what really works in practice to help consumers make effective choices.

With this in mind, we believe the FCA should publicly set out a plan and process for engaging effectively with consumers and consumer representatives. It 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, although the FCA's Consumer Network is a welcome initiative, we note it tends to function more as a means to share information rather than as a vehicle for two-way engagement. Finally, the plan will also need to show how all such consumer engagement will happen where timelines are shortened in urgent situations (such as the shorter consultation periods on guidance issued during the Covid-19 pandemic).

### **Accountability and scrutiny**

We welcome the FRF measures on increased transparency around Panel processes and engagement with the FCA. This includes the FCA's commitment to build on its existing arrangements for providing information about how it has engaged with the Panels and

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<sup>2</sup> [https://www.fs-cp.org.uk/sites/default/files/final\\_fscp\\_response\\_to\\_pbc\\_fsm\\_bill\\_call\\_for\\_evidence\\_20221024.pdf](https://www.fs-cp.org.uk/sites/default/files/final_fscp_response_to_pbc_fsm_bill_call_for_evidence_20221024.pdf) p4

<sup>3</sup> [https://www.fs-cp.org.uk/sites/default/files/final\\_fscp\\_response\\_hmt\\_frf\\_proposals\\_for\\_reform\\_20220209.pdf](https://www.fs-cp.org.uk/sites/default/files/final_fscp_response_hmt_frf_proposals_for_reform_20220209.pdf) p6

the requirement to publish a statement of policy for the appointment processes of the Panels. We fully agree on the need to ensure diverse representation on the Panel to make sure a broad range of consumer perspectives is heard.

We stand ready to respond and work constructively with the FCA on the implementation of the FRF, mindful of the resource challenges for both the FCA and us as a Panel. We would welcome discussions with the FCA on these challenges to make sure we are able to fulfil our role in relation to the FRF in addition to our existing roles and responsibilities.

As the FCA's proposed implementation approach and HM Treasury's Policy Statement acknowledge, close cooperation between the FCA and HM Treasury will be needed to implement the FRF. For this reason, we have copied this feedback letter to John Owen, Director of Financial Services at HM Treasury. We have also enclosed our letter to HM Treasury regarding their Policy Statement.

Yours sincerely,

Helen Charlton  
Chair, Financial Services Consumer Panel