Annual Report
2015/16

FCA
Markets
Practitioner Panel

Chairman’s foreword

I am pleased to introduce the third FCA Markets Practitioner Panel Annual Report. This my first Annual Report in capacity as Panel Chair. It is my aim that the Panel continues to provide support and constructive challenge to the FCA, ensuring the City of London remains a premiere market with a positive conduct culture and proportionate regulation. I believe that we as a Panel have made significant progress against this objective and that we continue to represent the views of wholesale markets participants.

In previous years the focus of the Panel has been the pace and complexity of regulatory developments in both the UK, Europe and globally. Following the outcome of the EU Referendum vote on 23 June 2016, we recognise that our priorities as well as the FCA's will need to change as we all adapt to the new political landscape. We are keen to work closely with the FCA in the coming year as the United Kingdom negotiates its future relationship with the European Union.

Finally, I wish to express my gratitude and thanks to the Panel members for their valuable contributions in volunteering their time and their experience. The membership of the Panel continues to evolve, and I am grateful to those whose terms have ended and welcome new members. I am very pleased to welcome the appointment of John Trundle as deputy Chair in February of this year. All of this promotes the successful operation of the Panel, resulting in constructive, informed and honest discussion with the FCA on important markets issues.

Robert Mass
Chairman, FCA Markets Practitioner Panel

1 Introduction

The FCA Markets Practitioner Panel is a Statutory Panel for the Financial Conduct Authority (FCA). It is one of a number of Panels that the FCA is required to establish and maintain under the Financial Services and Markets Act 2000 (as amended), to represent the interests of practitioners who are likely to be affected by the exercise of the FCA's functions relating to the financial markets.

The Panel now meets six times each year, an increase from the quarterly meetings it used to hold. Thus far, this has proved effective and provides an opportunity for the Panel to discuss and consider a greater variety of issues. This has been further supported by holding subgroups on specific topics and working breakfasts.

In addition to this, the Markets Panel benefits from some of its members belonging to other Panels; this broadens our understanding and encourages a closer working relationship with them. I was able to attend a Practitioner Panel and a Listings Authority Advisory Panel, which provided valuable insights into each Panel's working practices. I also welcomed the opportunity to attend the FCA's June Board meeting. The attendance of Board members at our Panel meetings enables us to better understand the Board's strategy and give appropriate advice. I also welcome the constructive relationship the Panel has established with the Chairman and acting Chief Executive.

Previously, as part of the Panel's aim to provide early and effective industry input into important strategic regulatory issues, the Panel established a number of strategic priorities. Over the past year, we have reviewed and revised our priorities, which are currently as follows:

The Capital Markets Union and its implementation

MiFID II – its execution, consequences and market preparedness

Liquidity

Fair and Effective Markets Review

Enhancing the efficiency of the Panel

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THE CAPITAL MARKETS UNION AND ITS IMPLEMENTATION

The Capital Markets Union (CMU) is a plan of the European Commission (EC) that aims to create deeper and more integrated capital markets across the 28 Member States of the EU. The Commission's objective is to establish a Capital Markets Union, to explore ways of reducing fragmentation in financial markets, diversify sources of finance, strengthen cross-border capital flows and improve access to finance for businesses, particularly SMEs; ultimately creating a single market for capital.

The Panel continues to support the aim of the CMU to maintain an effective and efficient single market across countries in the EU to ensure that the resulting legislation is fit for purpose and is implemented consistently across member states.

We have continued to work with the FCA to help develop its thinking on the practicality of the Commission's CMU proposals. The Panel has followed the CMU Action Plan, including its various proposals and work streams, and welcome what appears to be a pragmatic approach to regulation within the CMU work, and broadly support the FCA's position. We believe that a successful CMU must acknowledge the regulation and practices currently in place; consider investor protection whilst trying to encourage deeper and wider markets; and recognise that there may be no single solution to a particular problem.

The Panel welcomed the Call for Evidence regarding the impact of post-crisis regulation, and reiterates the potential for increasing amounts of regulation inadvertently to impact other aspects of the industry. This is most evident in the impact of prudential requirements on liquidity.

Panel members also suggested areas on which the FCA may wish to focus its resources within the broader Action Plan. These included recognising that a larger percentage of investment comes from wholesale participation, the introduction of a single harmonised rulebook, supervisory convergence, smarter disclosures for consumers, and the removal of tax advantages which create an uneven playing field and better education of consumers. We look forward to engaging closely with the FCA on its work on CMU.

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MIFID II – ITS EXECUTION, CONSEQUENCES AND MARKET PREPAREDNESS

The MiFID II Directive (Markets in Financial Instruments Directive) and the MiFIR (Markets in Financial Instruments Regulation) will come into effect on 3 January 2018. Together, the new regulations will form the legal framework governing the requirements applicable to investment firms, trading venues, data reporting service providers and third-country firms providing investment services or activities in the EU. A delay to the original date of application was announced in February 2016.

MiFID II remains a key challenge to both the FCA and industry and the impact of its requirements on firms, the industry and the liquidity of trading in certain securities and financial instruments will be substantial.

We welcomed the European Commission's announcement that the date of application will move back by one year to 3 January 2018. This delay must not be used as an excuse by the regulatory community or the industry to slow down their efforts towards implementation. There is still a lack of clarity on rules relating to commodity derivatives, the treatment of illiquid instruments and new transparency requirements. We also note the potential for the position limit regime to impact the UK's global prominence in the trading of commodity derivatives.

Practical challenges to implementation remain. Even with the delay that has been announced, we are concerned that a number of firms may not be in a position to be in compliance by 3 January 2018, particularly if agreement and finalisation of the outstanding standards compromises the timetable further. We would encourage the FCA to engage with the industry closely on how it is preparing, including a realistic sense of when firms will be ready. This includes early, proactive engagement with firms currently outside the regulatory perimeter that will be brought in under the regime, such as certain commodity and high frequency trading (HFT) firms.

The challenging timetable, coupled with the breadth and depth of the requirements, ensure that implementation of the Directive remains a key concern and priority for the Panel and we will continue to engage closely and regularly with the FCA in the lead up to the implementation deadline.

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LIQUIDITY

Liquidity across all markets is a topic that remains of considerable interest and importance to the Panel.

Panel members believe it must not be regarded only as a prudential issue, as liquidity is so important to the healthy operation of markets. We discussed the role of a conduct regulator in facilitating liquidity. We also discussed the fact that the lack of liquidity in the market has already made trading of corporate bonds more difficult and that, without further action, that problem is likely to get worse. This decline in liquidity has resulted from prudential rules, which have caused banks to take on less risk and hold less on their balance sheets to provide liquidity. The Panel believes that there are a number of small technical changes that can be made to existing rules – for example netting rules – that would make a positive impact on improving the liquidity of the market. Furthermore, the Panel would strongly recommend all further relevant policy initiatives should undertake liquidity impact assessments, not dissimilar to the cost benefit analyses currently undertaken. In particular, the Panel noted that mark up and transparency rules could have such an impact.

We will continue focus on and challenge the FCA on liquidity in the coming year.

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FAIR AND EFFECTIVE MARKETS REVIEW

This was a joint exercise by the three authorities – Chaired by Bank of England, and co-chaired by the FCA and HMT. The Fair and Effective Markets Review (FEMR) published a report of its findings on 10 June 2015.

The Panel welcomed the Report and was fully engaged with the FEMR team throughout the process. The Panel met the FCA and Bank of England and FEMR Markets Practitioner Panel representatives and provided views and comments on a number of issues. The Panel welcomed the Review's recommendations and notes that that the proposals are balanced and effective.

A key recommendation was to establish a Fixed Income, Currency and Commodities Markets Standards Board (FICC Standards Board). This has participation from a broad cross-section of global and domestic firms and end-users at the most senior levels, and involves regular dialogue with the authorities. The Panel will engage with the FICC Standards Board.

Another significant recommendation of the Report is to ensure proper market conduct in FICC markets through monitoring compliance with all standards, formal and voluntary, under the Senior Managers and Certification Regime.

In light of their importance the Panel will continue to engage with the FICC Standards Board and the FEMR as required going forwards.

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EMERGING RISKS

The Panel has previously identified to the FCA's Risk Committee several high level risks to the FCA's external objectives. These continue to be areas where FCA should continue to focus its attention.

They include the following:

the impact on markets of a potential British exit from the EU:

the lack of a retail debt market in the UK compared to other European jurisdictions;

negative interest rates, and the potential misallocation of capital if they persist,

the impact of the end of quantitative easing and rising interest rates on firms and markets, particularly on fixed income markets;

greater transparency in unit trusts and mutual funds disclosure;

developments in technology and the costs and complexity associated with cyber resilience, and the need to ensure middleware providers work with and for markets;

the impact of increasing regulation on limiting new entrants to the market (and – more broadly – the indirect effects of regulation);

the pace and burden of the extent of regulatory change and its effect on the efficient functioning of markets;

the impact of Basel III on the provision of clearing services, and

liquidity in UK markets.

The Panel will continue to identify and provide input to the FCA on how to address emerging and existing risks.

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ENHANCING THE EFFICIENCY OF THE PANEL

In April, the Panel undertook its first effectiveness review. This included feedback from Panel members, the FCA Chairman, the acting CEO and other members of FCA staff and proved to be a valuable exercise. Overall, the Panel was considered to be working well and was regarded as effective in its present form. We did however identify some areas for improvement and as a result will be making a few changes to how we work to further improve the quality of discussions at our Panel meetings.

Members of FCA Markets Practitioner Panel
1 April 2015 – 31 March 2016

Robert Mass
Head of International Compliance and Global Head of Securities Division Compliance, Goldman Sachs International
Chairman

John Trundle
CEO, Euroclear UK & Ireland
Deputy Chairman

Simon Bragg
CEO and Chairman, Stifel

Scott Cowling
Managing Director and Head of EMEA Equity Trade, Blackrock Investment Management (UK) Limited

Suvro Dutta
Partner, Financial Services KPMG

Duncan Ford
Chief Operating Officer; Marshall Wace LLP

Mark Ibbotson
Group CEO, G.H. Financials

Jim Kandunias
Partner and COO, Immersion Capital LLP

Bernard Mensah
Co-Head of Global Fixed Income, Currencies and Commodities (FICC) Trading; Bank of America Merrill Lynch

Abdallah Nauphal
CEO, Insight Investment Management

James Palmer
Senior Partner, Herbert Smith Freehills;

Nikhil Rathi
Chief Executive Officer, London Stock Exchange

Paul Swann
President and Managing Director, ICE Clear Europe

Alan Trotter
Group CFO, Alliance Trust

Former members who have now left the Panel:

Alexander Justham
Chief Executive Officer, London Stock Exchange

Julian Palfreyman
Chief Executive Officer, Winterflood Securities

Daniel Pinto
CEO Corporate & Investment Bank and CEO EMEA, JP Morgan Securities Plc

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