

Annual Report

2020/21



FCA

Practitioner Panel



Chair's foreword

This is my first annual report since taking over as Chair from Tulsī Naidu in January 2021. I would like to take the opportunity to thank Tulsī for all her work with the Panel, and in particular for leading it as it supported the FCA over the last difficult year, including the shift to remote working and the many global challenges of the coronavirus pandemic.

This annual report covers the period from April 2020 to March 2021. Throughout this period the industry and the regulator have had to deal with the effects of the pandemic, which are by no means over and which will reverberate for many years to come. The Panel has overall welcomed the FCA's approach since the crisis began and particularly appreciated its efforts to move at pace to resolve the immediate issues. One of the Panel's messages throughout the year has been to encourage the regulator to take a holistic view of the issues facing the industry, taking into account not only the immediate effects of coronavirus, but also how the economy will emerge from the crisis, and also the effects of the UK's departure from the EU, as they all interact.

The Panel has been consulted on the FCA's ongoing and ambitious transformation programme. We have encouraged the FCA to articulate explicitly what its role is, in terms of the outcomes it wishes to achieve, in order to be clear to internal and external stakeholders what it stands for.

Considering the future of regulation more broadly, in the Panel's response to the Treasury Committee's Future of Financial Services inquiry, we stated that any inquiry into the future of financial services, if it is to be effective, must also seek to answer the question of "What is our vision for the future of UK financial services?". If we fail to envisage it then we can have no hope of creating it. No set of tactical initiatives and improvements will compensate for such a strategic deficiency. The vision should be bold but achievable. It should build on the strengths of the UK and our financial services industry, understanding our challenges (both domestic and international), identify the biggest opportunities and also the threats to achieving them, and it must also be rooted in an understanding that UK financial services provides and must provide a social good.

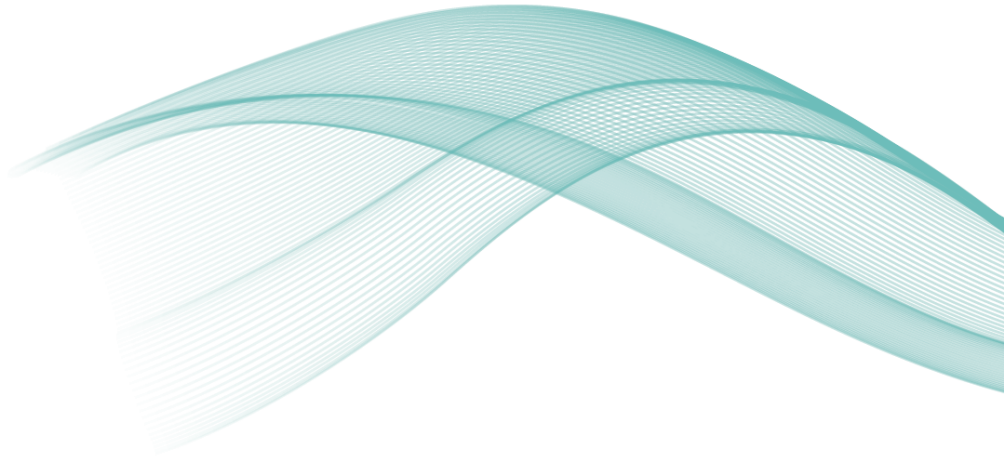
Within the framework of regulation, the FCA's proposals for a new consumer duty would reset the parameters of consumer and firm responsibility. The Panel will be responding to the FCA's public consultation and will be stressing the need to consider the potential impact of behavioural changes on the wider economy, and that the work needs to be aligned with the outcomes the FCA wishes to achieve more broadly from its regulatory approach. This is an area where words matter and the words chosen to convey the principle need to be fundamentally aligned with the intent thereof, if potentially significant unintended consequences are to be avoided.

Smart use of data will be key to ensuring the FCA focuses on and addresses the right harms. When collecting data from firms, focusing on its key priorities (clearly articulated) and being rigorous in identifying what information it really needs to collect, and what it will be used for, will be enormously helpful.

Looking to the next year the Panel's objective is to help the regulator build a strong ship and set a course where the lessons learned from the pandemic, and the work to shape the future of regulation, result in increasing trust in a diverse industry which continues to work well for consumers, firms and the regulator.

Paul Feeney

Chair, FCA Practitioner Panel



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Introduction

The FCA Practitioner Panel is a statutory panel for the Financial Conduct Authority (FCA). It is one of a number of panels which the FCA is required to establish by the Financial Services and Markets Act. Alongside the Smaller Business and Markets Practitioner Panels it represents the interests of practitioners and provides advice to the FCA on the extent to which its policies and practices are consistent with its general duties.

The Panel meets on a regular basis, remotely via videoconference during the pandemic, to provide senior-level industry input into the FCA's policy and regulatory development, with membership selected to reflect the major sectors of the UK financial services industry. It focuses predominantly on issues with a strategic cross-sectoral impact and provides advice and feedback directly to the FCA Board and Executive.

The FCA's strategic statutory objective is ensuring that relevant markets function well. The Panel's view is that a well-functioning market considers elements including care, trust, innovation and sustainability and last year set the objective of working together with the FCA to build public confidence in financial services combined with a need to foster active consumer engagement.

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Panel priorities

Each year the Panel sets its priorities for the subjects on which it wishes to focus. For this year the priorities have been:

1. Navigating the short to medium term
2. Future of regulation
3. Balance of responsibilities
4. Data and technology

1. Navigating the short to medium term

Managing the off ramp of crisis measures and the likely conjunction of coronavirus-related challenges, hard Brexit and recession.

During the last year the FCA has been working closely with the Government, the Bank of England, the Payment Systems Regulator and firms to make sure customers are protected and markets continue to function well. It has significant resources focused on its response to the coronavirus pandemic, both for the firms it regulates, its colleagues and consumers. In response to the coronavirus pandemic it continues to review its work plans to delay or postpone activity that is not critical to protecting consumers and market integrity in the short term. This allows firms to focus on supporting their customers during this period. The FCA is continuing with a number of regulatory changes, particularly those that support consumers, or where major long-term programmes would be disrupted.

1.1 Coronavirus (Covid-19)

The Panel continued to operate throughout the past year, holding its meetings remotely via teleconference from April 2020 onwards. During the early days of the pandemic its agenda was focused specifically around the crisis situation, and the meetings were attended by then acting CEO Chris Woolard. The Panel took the opportunity to share the experience from their firms and sectors, provided weekly updates to the FCA Executive on issues of concern, and provided a sounding board for consultations which were necessarily carried out to unusually short timescales.

Overall, the Panel has been very supportive of the FCA's approach across its range of interventions since the crisis began, and particularly appreciated the efforts the FCA made, and the pace at which it operated, especially in the early days of the crisis. The focus on stabilising the markets and protecting customers was especially welcome, along with the continued dialogue with the industry as it moved from putting emergency measures in place to considering how they should be unwound.

The Panel advised the FCA to take a coordinated approach across the industry to identifying vulnerable customers and stressed the importance of support from the regulator and other public bodies about the importance of financial services in order to support firms which required staff to be present in the workplace during lockdown.

In discussions with the FCA the Panel encouraged it to consider how it would approach the aftermath of the immediate crisis, during which everyone involved had been working to unreasonable timescales, on complex issues, in a situation no one had experienced before. The Panel has stressed that it will be important that future regulatory decisions are based not only on actual evidence of how firms have responded but also take into account the circumstances and information available to everyone at the time to avoid falling into the potential trap of regulating by hindsight.

1.2 Government crisis loans

The Bounce Back Loan Scheme (BBLS) and the Coronavirus Business Interruption Loan Scheme (CBILS) were set up to help businesses access finance during the coronavirus crisis. While the FCA is not responsible for these schemes, it worked with the Government to make sure that borrowers under the schemes were treated fairly.

An example of a specific issue raised by the Panel was the process of debt recovery for crisis loans to small businesses, with particular concerns about firms which default on the loans, given the safeguards in place to protect, for example, principal private residences and the cap on recoveries. The Panel encouraged the FCA and the Government to provide guidance on how this should be addressed and the measures that the industry

should expect to take before calling on government guarantees.

1.3 Price interventions in the banking market

The pandemic brought into focus the FCA's use of pricing powers and its need to take prompt action in an unprecedented situation. The Panel encouraged the FCA to be mindful that even before the coronavirus crisis arose the industry was operating in an unprecedented low-interest rate environment and that in the long-term interests of customers it was necessary for the regulator to ensure it focuses on an analysis of the cumulative impact of its pricing initiatives on firms' profitability, and the sustainability of the industry, before considering further use of its price levers.

1.4 Financial futures

One of the key issues the Panel discussed with the FCA was the need, when addressing the next phase of the coronavirus crisis, to help consumers make good financial decisions in highly uncertain times. The Panel stressed that decisions made in times of financial turmoil, and in some cases in haste, such as those relating to pensions and investments, may have significant ramifications for the financial futures of consumers and their families. It encouraged the FCA, as it considered how to unwind the emergency measures and considered the future financial landscape, to focus on mechanisms which support good decision making, including financial and debt advice and guidance, and working

with other agencies such as the Money and Pensions Service, to put in place structures now to prevent hardship in future.

1.5 Business Interruption Insurance (BII) test case

The FCA's approach to coronavirus-related issues in the Business Interruption Insurance market was generally welcomed by the Panel, due to the need to create clarity, for consumers and for firms, and the proposed approach to expediting this was sensible.

However, despite the efforts of the FCA to communicate the use of the civil procedure rules as a constructive way forward, the Panel raised concerns that the process was wrongly being perceived in the media as 'taking the industry to court' to address poor practice, with the potential to undermine the market. Most BI products worked well to provide the cover intended in the policies taken out, even though the circumstances of the pandemic placed a strain on the interpretation of the wording of some policies. The Panel's concern was that if it is perceived that BI insurance is unnecessary or unsuitable and as a result firms become discouraged from using it there will be a gap in coverage which in turn has long term consequences for the resilience of the economy. The Panel stressed that although the FCA is not responsible for how it is covered in the press, it saw the need for a continued focus on messaging and tone recognising the stresses the industry, and the economy, were under at the time.

1.6 Crystallisation of risks, including Brexit

Each year the Panel shares its views of what it believes are the key risks to the FCA's ability to achieve its objectives. The key point which was raised this year was that the FCA should include in its future planning the potential for multiple risks crystallising around the same time, such as Brexit-related issues combining with further waves of the virus and withdrawal of government support schemes.

1.7 Economic environment

In July the Panel discussed the economic environment with the FCA, and in particular its view that the crisis would add 'rocket fuel' to the market dynamics, in particular accelerating social change, climate-related disruption with the emphasis on a green recovery, growth in digitisation in financial services and the related rise in use of data as a public and private good.

2. Future of regulation

Considering how the FCA and industry can work together on the future of regulation

Throughout the year a recurring theme for the Panel has been the need for the FCA to be clear about its vision and anticipated strategic outcomes in relation to a particular sector on a holistic basis, rather than addressing individual topics through discrete regulatory action. The next few years will be busy and see transformational change across the financial services landscape. The view of the Panel is that ensuring this change agenda is based on an aligned view of development, between industry participants and the regulator, is critical to the best use of scarce resource at a time of economic pressure and for confidence in improved outcomes for customers.

As an example, the Panel drew to the attention of the FCA the fact that there were a number of workstreams operating in parallel in a similar area, for example the long-term assets fund proposals, the HM Treasury review of the UK funds regime and additional tax-related consultations. These could all result in potentially different outcomes at different points in time and the Panel urged the FCA to work together with the other bodies on articulating what overall outcome they wish to achieve.

2.1 FCA Transformation

During 2020 the FCA announced a wide-ranging transformation agenda to equip it better for the challenges of the future. Following a restructuring to bring together the Supervision divisions and merge them with Policy and Competition functions, it made a number of appointments to the senior team with a diverse range of private and public sector experience. A key area is how the FCA can properly set (or reset) people's expectations so that they better understand the outcomes it is working towards.

The emphasis the FCA is placing on internal transformation has been welcomed by the Panel. It has encouraged the regulator to focus most closely on what really 'moves the needle on the dial' in terms of consumer harm in order to calibrate the FCA's risk-based approach to prioritisation. It is keen that the FCA should be very clear on the strategic outcomes for each sector that it is seeking to achieve with its interventions so industry could work with it to achieve improved customer outcomes in an efficient way.

2.2 The Future of Financial Services and Future Regulatory Framework

During 2020/21 both HM Treasury and the House of Commons Treasury Committee consulted on the future of financial services regulation. HM Treasury considered how the regulatory framework for financial services needs to adapt to be fit for the future, in particular to reflect the UK's new position outside the EU. The Treasury Committee published a wide-ranging call for evidence on what changes should be made to the UK's financial services regulations and regulatory framework.

The Panel responded formally to the consultations, which both looked at how the regulation of the financial services sector should take into account the UK's exit from the EU and the other drivers for change in the industry.

Responding to the Treasury Committee, the Panel's view was that any inquiry into the future of financial services, if it is to be effective, must also seek to answer the question at the highest level of "What is our vision for the future of UK financial services?". Its view is that if the UK fails to envisage what it wants, then it can have no hope of creating it and that no set of tactical initiatives and improvements will compensate for such a strategic deficiency. The Panel argued that the vision should be bold but achievable, building on the strengths of the UK and its financial services industry, understanding the challenges (both domestic and international),

identifying the biggest opportunities and also the threats to achieving them, and also be rooted in an understanding that UK financial services provides and must provide a social good. The Panel's response highlighted that a lack of overall perspective on legislation and regulation has in the past led to contradictions that the industry has struggled to resolve.

In responding to the Treasury Review, the Panel stated that at the broadest level, it strongly believes that consideration should be given to the overall framework, in particular regarding the regulatory perimeter and the role of individual regulators, with the objective of taking a truly holistic approach to regulation. This would help to address any gaps and overlaps and ensure that all regulators are aligned in their delivery of a regulatory framework that actively contributes to the success and the reputation of the UK financial services industry.

The Treasury consultation contained a specific question about whether there are ways of further improving the regulators' policymaking processes, and in particular, ensuring that stakeholders are sufficiently involved in those processes. The Panel commented on its own current role in the process, stressing that it is important to preserve its role as a 'critical friend' to the FCA, working on a confidential basis, although this does not mean that the status and operation of the Panel system could not be adjusted, or its effectiveness improved, especially given the current changing circumstances and the changed role

of the FCA post Brexit. The Panel made some further observations about its operation, including the value of transparency versus confidentiality, the importance of early engagement and the importance of recruitment to ensure the membership is appropriate.

2.3 General Insurance (GI) Pricing Practices

In October 2018 the FCA launched its market study to understand whether pricing practices in home and motor insurance support effective competition and lead to good consumer outcomes. The interim report, which was published in October 2019, identified significant consumer detriment. The FCA confirmed the key findings set out in the interim report as final and published the final report in September 2020, consulting on proposed remedies, particularly to address pricing practices that allow firms to raise prices for consumers that renew with them year on year.

The Panel responded to the public consultation in January. Its view was that overall, it was an ambitious change to the pricing environment for motor and home insurance, which had at its core a very straightforward aim and that the interventions that the FCA proposed will substantially address an area of concern that the industry has recognised and been tackling. It also pointed out that the intervention is far reaching, affecting every policyholder's price, not just those in the pricing tails. Rather than tempering the specific

issue of price walking, it will potentially transform how the market operates. In its response the Panel explained how the proposed remedies would substantially address differential pricing in motor and home insurance and improve product governance and oversight across the market but would also create 'winners' and 'losers' amongst different groups of customers. The Panel was particularly concerned about the initial timescales proposed for implementation, which were subsequently revised by the FCA.

2.4 Review into Change and Innovation in the Unsecured Credit Market (The Woolard Review)

In September 2020, the FCA Board asked Christopher Woolard CBE, former Interim Chief Executive, to review change and innovation in the unsecured credit market. The review concentrated on how regulation can better support a healthy unsecured lending market. It took into account the impact of coronavirus on employment security and credit scores, changes in business models and new developments in unsecured lending, including the growth of unregulated products in retail and the workplace.

The Panel was represented on the review's own advisory panel, and responded formally to the review, emphasising that a healthy unsecured credit market requires credit that is affordable, safe access to credit for consumers, transparency, fair value, choice and effective competition, support

for customers to help them avoid financial difficulty and support once they enter financial difficulty, and a holistic regulatory framework.

2.5 Non-workplace Pensions

In 2020 the FCA brought forward proposals designed to promote value for money for the members of workplace personal pension schemes, aiming to make it easier for Independent Governance Committees (IGCs) and Governance Advisory Arrangements (GAAs) to compare the value for money of pension products and services, enabling them to be more effective in assessing value for pension scheme members.

The Panel was supportive of the general direction of the work, but stressed that overly prescriptive rules that complicate the choice architecture may be counterproductive, and advised the FCA to look at the US use of defaults and nudges in order to build on best practice in this market. It warned that the use of IGCs and GAAs, while appropriate in the workplace pension environment, would be counterproductive in this area, suggested a de minimis level for communication of cost disclosure, in order to avoid unnecessary communication with customers, and encouraged caution in guiding people out of cash and into investments during periods of market volatility.

3. Balance of responsibilities

Consumer engagement and the boundaries of firm responsibility

3.1 Consumer Investments

Reducing harm in the Consumer Investment market was identified as a business priority in the FCA's 2020/21 Business Plan. Some areas of the market were identified as not working well enough for consumers and a call for input was published in 2020 to look across the whole market and consider whether there were systemic issues that needed to be fixed.

The Panel was very supportive of the Consumer Investments Call for Input, especially its holistic rather than piecemeal approach. In its formal response it highlighted that there are a number of issues to resolve. The current model for compensating customers for poor advice is broken, a fragmented market does not necessarily lead to better customer outcomes and firms should be expected to hold capital commensurate with the risk they are undertaking. In addition, those designing and distributing unregulated and often high-risk investment products or those conducting scams, are a blight on the UK financial services industry and significantly erode public confidence. There are, however, opportunities to embrace. The Panel stressed that regulation must encourage, not discourage, customers from engaging

in their finances and allow firms to build relationships of trust, both of which could be facilitated by better access to and use of consumer data. There are also opportunities to further simplify fee types and disclosures, and additional data sources could also be used by regulators to further inform the prevention of customer harm and target risk-based supervision. The digital revolution, that has provided benefits to consumers in many industries, has yet to firmly embed itself in the provisioning of guidance and advice for consumers and there is an opportunity to create a digitally connected investment industry.

3.2 New Consumer Duty

The FCA is proposing to introduce a new Consumer Duty, which would include a new Principle for Businesses, which are firms' fundamental obligations as set out in the FCA's Handbook. In July 2018, the FCA published a Discussion Paper on 'A duty of care and potential alternative approaches' and, in May 2021 a consultation on the form such a duty might take. The Financial Services Act 2021 included requirements for the FCA in this area, including a provision to make general rules by August 2022.

The Panel continues to engage in the FCA's work about the level of care that must be provided to consumers and is encouraging the FCA to take into account the economic impact of its proposals on firms and consumers. Supporting firms to do the right thing will continue to be a priority, without

undermining the concept of an outcomes-based regime.

4. Data and technology

Harnessing data for the benefit of consumers and focusing on operational resilience

4.1 Open Finance

The FCA issued a call for input to consider the potentially transformative benefits that could come from 'Open Finance' – an extension of open banking-like data sharing and third-party access to a wider range of financial sectors and products.

The Panel can see many opportunities in the development of Open Finance work, but that in a current environment where resources are very stretched, and likely to remain so, firms are only likely to be able to address proposals where there is a clear use case. It has also recommended that the lessons of Open Banking are reflected upon, and that any work should start by demonstrating the public value by grounding it in small, pilot test cases that deliver tangible benefits for consumers.

4.2 Data collection

As the FCA plans for the longer term and the road out of the coronavirus crisis, the Panel has stressed that focusing on its key priorities (clearly articulated) and being rigorous in identifying what information it really needs to collect, and what it will be used for, will be enormously helpful. It has highlighted that industry is currently under enormous pressure, and focusing on supplying only the data which is key to achieving the FCA's objectives would help to relieve the demand on stretched resources.

List of Practitioner Panel members

Paul Feeney

Chief Executive Officer
Quilter plc
Panel Chair from 1.1.21

Tulsi Naidu

Chief Executive Officer
Zurich UK
Panel Chair until 31.12.20

Amanda Blanc

Group CEO
Aviva plc
From 1.4.21

Juan Colombás

Chief Operating Officer
Lloyds Banking Group
Until 30.9.2020

Suvro Dutta

Partner, Financial Services
KPMG LLP
From 1.4.21

Joe Garner

Chief Executive Officer
Nationwide Building Society

Sean Hagerty

Managing Director
Vanguard Europe

Matt Hammerstein

Chief Executive Officer
Barclays UK
From 1.9.20

Alasdair Haynes

Chief Executive Officer
Aquis Exchange plc
From 29.3.21

Christopher Hill

Chief Executive Officer
Hargreaves Lansdown

Penny James

Chief Executive Officer
Direct Line Group
Member from 1.9.20 and Deputy Chair
from 1.3.21

Susan McInnes

Chief Executive Officer
Standard Life Assurance until October
2020 and Non-Executive Director of LV=

Vim Maru

Group Director
Retail Bank, Lloyds Banking Group
From 1.9.20

Les Matheson

Chief Executive Officer
Personal Banking RBS
Panel Deputy Chair and Member until
30.9.20

Julie Page

Chief Executive Officer
Aon UK Ltd

Nikhil Rathi

Chief Executive Officer, LSE plc
and Director of International
Development, LSEG
Member and Chair of FCA Markets
Panel until 30.6.20

Michelle Scrimgeour

Chief Executive Officer
Legal and General Investment Management

Marlene Shiels

Chief Executive
Capital Credit Union
Smaller Business Practitioner Panel Chair

Steve Treloar

Chief Executive Officer
LV= General Insurance Group

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