

Annual Report

2022/23



FCA

Practitioner Panel

Practitioner Panel Annual Report 2022-23

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Chair's foreword

This report covers the period from April 2022 to March 2023. Penny James stepped down as Panel Chair on 27 January 2023, and I have been coordinating the Panel in my role as Deputy Chair since then, including supporting the production of this Annual Report on behalf of the Panel. I would like to thank Penny for the energy, focus and spirit with which she led the Panel. We were a better Panel for it.

Last year, Penny used this foreword to look forward, setting out five areas of focus for the Panel for this year, recognising some particular challenges for the FCA and the Panel. These are set out in the Introduction to this Annual Report. The report that follows highlights how the Panel's work reflected each of those over the past year.

The year that was did not turn out how any of us expected, so while the Panel agenda concentrated on those focus areas, it was also responsive to the volatility in the external environment – consistent with our first area of focus. In particular, the Panel set aside time in every meeting over the past year to check-in on the cost-of-living situation in the UK and how that was impacting consumers, businesses and the overall environment. That open dialogue amongst the Panel and with the FCA allowed us to raise issues in near real-time and reshape our future agenda, where appropriate, in response to that.

The UK regulatory environment continues to evolve rapidly to reflect the impact of technological advances, the secondary implications of the change in relationship between the UK and the EU and the ongoing work to ensure the financial services industry is appropriately supporting the transition to 'net zero'. These were key areas of policy development for the FCA over the past year in which the Panel actively engaged.

For the industry, the single biggest development over the past year was the implementation of the new Consumer Duty. The Panel invested considerable time supporting the FCA in its efforts to ensure that this implementation not only achieved its intended objectives, but also begins to have the broader impact on firms' cultures that the FCA intends, including through Board engagement (especially the FCA's Duty 'champion' expectation) and the support of supervisory teams. The Consumer Duty featured on our agenda in every meeting over the past year, which enabled a regular, open and constructive two-way dialogue about how the FCA's approach to implementation was working across the sectors represented on the Panel and what could make that more effective.

The Panel also actively applied the 'outcomes' focus at the heart of the new Consumer Duty in our support of FCA policy development – challenging each element of proposed new or changed policy to make clear what outcome would change as a result

and how that change would be both monitored and factored into the associated cost-benefit analysis.

That focus on outcomes was also at the heart of the Panel's engagement with the FCA on its own transformation and delivery of its performance objectives. The FCA's agenda remains understandably busy, and there have been pockets of resource challenges across that programme of work over the year. The Panel found its focus on outcomes helpful in testing whether the prioritisation process within the FCA was working as well as it could as those arose. This is an approach that the Panel expects to continue to refine and amplify looking forward.

As I reflect on our expectations for the year ahead, the areas of focus from the past year remain highly relevant.

I would like to thank all the Panel members for their time, expertise and flexibility over the past year. Finally, I would like to express my thanks to Richard Lloyd, who became Interim Chair of the FCA on 4 February 2022 and remained in that role until 20 February 2023, when Ashley Alder's appointment as the new FCA Chair formally began. Richard ensured great continuity in the FCA's active engagement with the Panel. We look forward to working with Ashley to ensure the same going forward.

Matt Hammerstein
Acting 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 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 Panel supports the FCA in its work to improve diversity, and in its objective of seeking diversity in all its forms to be represented across the Practitioner Panel itself.

The Panel believes that a well-functioning market considers elements including care, trust, innovation and sustainability. Within this framework the Panel had five areas of focus:

1. Challenge the FCA on areas of risk – A more agile approach to risk, working with the FCA to maintain a live view of macro risks and to maintain a list of 'hot spots' through the lens of potential consumer harm. This could be a result of policy challenges, perimeter issues, external circumstances and could be used to help with prioritisation calls (eg the advice gap, cladding, flood etc);
2. Challenge how new policy relates to FCA objectives – A continuing focus on helping ensure that policy is designed well and will challenge how FCA policy relates to its objectives;
3. Provide guidance on practical implementation of policy (eg Consumer Duty);
4. Support the FCA with its transformation agenda – The Panel will aim to offer insight from its experience of leading transformations across financial services where this is of help, and bringing to life what we are seeing on the ground with supervision to give the FCA teams a window on progress;
5. Review performance relative to FCA objectives – The Panel will review FCA performance relative to its objectives by reviewing its metrics and use of data as they evolve so that it can steer focus areas for the future.

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Challenging the FCA on key areas of risk

In July the Panel agreed its annual risk report which it then reviewed at regular intervals during the year. The three broad risk areas identified by the Panel were: the cost-of-living crisis and impact on the consumer; supporting competition and a growth economy as part of the work on the Future Regulatory Framework; and the operational capability of firms in the context of the breadth and volume of regulatory change under way.

Cost-of-living crisis

In its approach to the cost-of-living crisis the FCA has been employing supervisory and communications tools and working with consumer organisations, debt advice and key stakeholders to prepare for possible interventions and provide communications and guidance to support consumers to make good decisions. 'Dear CEO' letters issued to industry have also set out the FCA's expectations of the lending and payments sectors including the need for forbearance.

The cost-of-living crisis has been a focus of the Panel's discussions with the FCA throughout the year. The Panel provided regular feedback on developments, noted emerging trends from an industry perspective and sought updates from the FCA on what measures it was taking in response to the escalating crisis.

The Panel stressed that close working between the regulatory family and industry is vital in making sure consumers are supported effectively during the crisis and identified areas where the FCA might usefully intervene. In the short to medium-term the focus should be on debt advice and signposting for consumers in vulnerable circumstances. Alongside this, the Panel emphasised the importance of removing barriers, such as the ability of firms to use the data they hold, to enable advice firms to provide targeted nudges to point people to free advice and guidance from sources such as The Money and Pensions Service and Pension Wise. Other areas of attention included how to take faster collective action, employing creative thinking to communicate with consumers on the risks associated with buying crypto and how to avoid scams, and monitoring trends in consumer spending patterns where decisions are being made to adjust to increases in inflation which may not be appropriate over the medium to longer-term.

In parallel, the Panel highlighted the operational challenges firms were facing as a result of economic conditions, including a tighter labour market, increased staff attrition and rising energy costs. There is potential for pressures on firms to escalate if consumers' need for support increases through the cost-of-living crisis, which could require a sudden shift in resources.

Future regulatory framework and the approach to regulatory change

In December the FCA set out its proposed approach to implementing the Future Regulatory Framework (FRF) Review which post-Brexit aims to develop a financial services sector that has tailored rules to best suit UK markets. The outcomes of the FRF Review are set out in the Financial Services and Markets Bill¹. The Bill outlines changes that add to FCA objectives and principles, build on existing accountability arrangements enhancing scrutiny and stakeholder engagement and give greater powers to the financial services regulators for setting regulatory requirements that apply to firms.

The Panel has received regular updates from the FCA on the regulator's proposed approach to implementation of the FRF. Key aspects of this work include new requirements related to cost benefit analyses and the repeal of firm-facing provisions in retained EU law, which will require further work over the next year as part of a phased approach. The Panel has highlighted that reducing complexity in the FCA guidance and Handbook should also be an objective. The volume and pace of regulatory change represents huge challenge, particularly in the context of timescales for implementation of the Consumer Duty and wider resource pressures on industry. In this context the Panel has emphasised the importance of prioritising and streamlining the approach to regulatory

change, focussing on progressing what is essential and achievable to enable the FCA and industry to jointly meet this challenge.

Supporting competition and a growth economy – the vision for UK financial services

A key component of the FRF work is the proposed secondary objective for the FCA and the Prudential Regulation Authority to facilitate the international competitiveness of the UK economy and its growth in the medium to long-term. The Panel is keen to help shape what this objective means in practice and has highlighted the importance of articulating a cohesive strategic vision to align direction for both financial services and the regulators. From the Panel's perspective it is crucial to recognise the value of existing regulation and the UK's high standards and it has stressed that the strengths of the current system need to be maintained. There is opportunity to tidy up legacy rules in light of the FRF and Consumer Duty, however, making wholesale changes, especially those which leave too much to interpretation, risks leading to more uncertainty and a perception of lower market standards. Equally the creation of overly prescriptive rules could create unwanted complexity and deter investment. In the Panel's view there is need for discussion on what competitiveness (a focus on strengths and unique selling points for advantageous position), as distinct from competition (a focus on avoiding disadvantage from rivals), means in practice. It looks forward to working with the FCA in finding the right balance

¹ On 29 June 2023 the Financial Services and Markets Bill became law (it is now the Financial Services and Markets Act 2023).

to provide certainty for investors and foster an environment for innovation and growth. Setting out the vision and what 'good' looks like will be a vital first step in this process.

Operational capability

The Panel identified that increasing operational strains on firms could risk impacting the ability of businesses and the FCA to meet its strategic objectives. There is operational impact to re-skilling employees to ensure there is readiness to respond to the introduction of new initiatives to mitigate the impact of the cost-of-living crisis, such as policy and guidance around forbearance and payment holidays. Ongoing work to embed the new Consumer Duty will also require a significant realignment in resources and focus within firms. Labour shortages, particularly in specialist areas, are exacerbating the situation, and alongside this there is pressure on firms to make necessary changes and investment required to drive growth. Maintaining a view of those balances and being prepared to bend and adapt will be critical for both firms and regulators to successfully navigate the challenges ahead.

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Challenging how
new policy relates to
FCA objectives

Shaping the asset management regime

In February 2023 the FCA published a discussion paper on updating and improving the UK regime for asset management seeking views on how to improve asset management regulation with a more modern and tailored regime, better meeting the needs of UK markets and consumers.

The Panel supports identifying opportunities to make changes which address inconsistencies in the asset management rules and help foster innovation. The Panel's primary concern is that any deviation from EU rules has clear rationale. Coherence and inter-operability with the EU are of central importance and there needs to be focus on ensuring interventions do not jeopardise the UK's existing position as a lead destination for asset management. Change also needs to be proportionate and at a pace that is consistent with what the industry can absorb, particularly noting other priority work the FCA is developing such as Environmental, Social and Governance (ESG) labelling and implementation of the Consumer Duty.

The Panel has highlighted that a strategy for asset management will be key to enhancing the UK's competitiveness. First and foremost, there is need to set out a clear vision and defined objectives for asset management within the FRF and articulate how cost benefit analysis will support the vision. The development of clear principles should help guide

the approach and inform prioritisation and sequencing.

Environmental, Social and Governance (ESG) issues

The Panel welcomed the progress the FCA is making on its ESG Strategy, including the publication of final rules promoting transparency on the diversity of listed companies' boards and executive management and progress on initiatives forming part of the climate change agenda. On Environmental matters, at a broad level the Panel communicated the importance of consistency with national and international bodies.

Sustainability Disclosure Requirements and investment labels

In October 2022 the FCA published a consultation paper seeking views on a package of measures aimed at clamping down on greenwashing, including sustainable investment labels, disclosure requirements and restrictions on the use of sustainability-related terms in product naming and marketing.

The Panel expressed its support for the intentions of the FCA's work in this area recognising the difficulty consumers have in interpreting descriptions as set out today. The Panel's main concern has been to stress the importance of ensuring there is coherence and alignment to enable smooth operations with the EU and other international markets. It expressed concerns that the complexity and cost of the prospective product labelling regime, and the

difficulties of interpreting the proposed labels could limit possible benefits and highlighted the need for clarity around definitions. The Panel recognises that tackling the complexities in this area and achieving international alignment in a way that makes the system workable for different asset classes and multijurisdictional investment houses will be challenging and resource intensive. It has emphasised the importance of the FCA continuing to engage with industry to further refine the proposals.

Future Disclosure Framework

In December 2022 the FCA published a discussion paper which set out ideas for the future framework for retail disclosure regulations.

In its response to the discussion paper the Panel encouraged the FCA to build on proposals which support the development of a UK distribution framework which is outcomes-led. It also emphasised the importance of ensuring changes are fully aligned with other proposals set out in related consultations on asset management and sustainability disclosure requirements, avoiding multiple sets of rules.

Successful implementation of the rules under the new regime will require continued close working between the FCA and industry to clearly set out expectations and provide feedback on good and bad practice. It will be important to build a common understanding between manufacturers, distributors and the FCA of what is key data, being clear on any format

requirements, and engaging with industry to reach consensus on how and when data should be shared.

Critical third parties

In February the FCA and PRA issued a joint discussion paper seeking views on potential ways to manage systemic risks to their objectives posed by critical third parties (CTPs), including how the supervisory authorities could use their proposed powers in the Financial Services and Markets Bill to assess and strengthen the resilience of services provided by critical third parties.

In its response to the Discussion Paper the Panel welcomed the recognition no single firm or financial market infrastructure can adequately monitor and manage risks stemming from concentration in the provision of services to multiple firms by the same third party. It also highlighted the need to ensure Information and Communications Technology (ICT) companies provide critical services on a fair and equal basis, so as not to inhibit competition. Further, there is risk that over-regulation in this area could have the unintended consequence of driving CTPs, many of which are global organisations, away leading to poor outcomes for firms. A balance needs to be struck where CTPs are held responsible, while also recognising the regulatory framework needs to apply to CTPs in a different way to financial services firms. It would be beneficial to explore ways of improving international and cross-sectoral coordination in this area.

Big tech entry into financial services

In October the FCA published a discussion paper inviting views on the potential competition impacts of Big Tech entry into UK financial services.

The Panel expressed its support for the opportunities offered by Big Tech entry into financial services, including the potential to develop more innovative products and services, lower prices and wider choice for consumers and a more streamlined consumer journey. The Panel underlined the importance of ensuring that equal opportunity for incumbent providers and other new entrants alongside Big Tech firms is maintained. It also suggested further thought is given to the rationale for regulatory intervention and whether a different supervisory approach may be needed, with the focus on continued high standards in the provision of products and services. The Panel encouraged the FCA to take a holistic look at the implications of Big Tech entry, to be vigilant to emerging trends and unintended consequences, and to be ready to proactively intervene if needed.

Reform of the Consumer Credit Act 1974

In December 2022 the government published a consultation on the modernisation of consumer credit legislation, including proposals to move much of the statute to FCA rules. It sought feedback on proposals aimed at facilitating innovation in the credit sector, increasing accessibility of credit products, and bolstering existing consumer protections.

The Panel expressed its strong support for the objectives and principles of the reform of the Consumer Credit Act (CCA), highlighting there was real opportunity to refine and align the CCA provisions with the FCA rules so that consumers are provided with clear information, at the appropriate level and at the right time, to enable them to make informed decisions. It emphasised that the reform should be forward thinking and ambitious while also ensuring that care is taken to align changes with the FRF and the Consumer Duty. It also made the point that this reform should not be a cut and paste of existing rules. Given the historic nature of the CCA and the volume of material, time and care will be needed to unpick the rationale of existing provisions, address overlap or potential gaps, and identify which of the FCA's existing rules may need modifying.

3



Providing guidance
on practical
implementation
of policy

Consumer Duty

In July 2022 the FCA published its final rules and guidance for a new Consumer Duty setting higher and clearer standards for consumer protection across financial services and requiring financial services to put their customers' needs first.

Supporting implementation of the Consumer Duty has been a principal area of focus for the Panel throughout the year, recognising that the desired reset of the entire financial services sector requires close collaboration between industry and the FCA. The scope and pace of this work continues to place significant pressure on the operational resources of industry, and also poses challenge for FCA front line regulatory resources. The Panel has maintained focus on gathering industry feedback on areas that are problematic or not clear such as the role of the Consumer Duty Board Champion and challenged the FCA on expectations relating to the completion of implementation plans. The Panel welcomed regular updates from the FCA on both external-facing work, and internal preparations to transform the supervision team and embed understanding of the Duty across the FCA. It emphasised to the FCA the importance of issuing clear and timely communications, feedback, guidance and examples to support firms in their efforts as the Duty is embedded. This will be an iterative process, engaging with firms to enable adjustments to be made as they improve their understanding of good practice.

The Panel discussed concerns, and sought assurances, regarding the potential for retrospective application of the Duty by the Financial Ombudsman Service (FOS), highlighting the importance of close working between the regulatory family to ensure alignment. It noted that the joint work between the FOS and the FCA on the Wider Implications Framework should help in protecting against unintentional application of the Duty to historical activities.

While the immediate focus is on meeting the 31 July 2023 deadline for implementation of the Duty applying to existing products and services, the Panel has highlighted that beyond implementation further dialogue is needed between industry and the regulator about the medium and longer-term strategy in terms of shaping the market and making the UK more competitive.

InvestSmart

In October 2022 the FCA published a 1-year update on progress against the Consumer Investments Strategy highlighting the impact of consumer-facing work such as the InvestSmart Campaign

The Panel noted the data collected from this pathfinder project will be of great use in helping to map consumer behaviours and assist thinking about the advice/guidance boundary. As consumers, particularly those of lower age groups, become more likely to

consult with 'FinTok' or 'Finfluencers' rather than financial advisers when they make investment decisions, the Panel has encouraged the FCA to explore extending the InvestSmart campaign further to advice rules, if possible. The Panel will continue to engage with this topic and the thematic questions it raises regarding the FCA's role in financial education.

4



Supporting the FCA
with its transformation
agenda

The FCA has continued to progress transforming how it can operate to respond to existing and future challenges focussing on investing in its people, evolving its culture, and transforming its approach to data and technology, to enable it to deliver its commitments.

SPC transformation

The Panel received regular updates on progress transforming Supervision within the FCA. This included senior appointments made to the new Supervision Policy and Competition (SPC) directorate, a refreshed governance structure, and essential work to embed a new mindset within supervisory teams at all levels. The Panel has highlighted cultural transformation as being integral to implementation of the Consumer Duty, with the need for supervisory mindsets and interactions to be focussed on outcomes and supported by data, rather than being process-driven.

Data and technology

The Panel welcomed updates on progress with growing the Data, Technology and Innovation division and work to implement the Data Strategy including progress with data analytics work, implementing innovation hub services, establishing new tools and platforms and exploring opportunities for innovation including the use of Artificial Intelligence. A key development has been the implementation of the 'single view' analytics tool allowing FCA staff in Authorisation, Supervision and Enforcement to access a 'one stop shop' of key data and indicators about each firm, providing context for decisions on risks and where to intervene.

5



Reviewing performance
relative to FCA objectives

FCA business planning and prioritisation

The Panel agreed with the FCA's assessment of key focus areas as set out in its 3-year Strategy of reducing and preventing serious harm, setting and testing higher standards and promoting competition and positive change. It encouraged the FCA to continue to prioritise its work through the lenses of what is important, the ability to impact and urgency. Given the breadth of regulatory work under way it will be particularly important to maintain focus on what is essential and achievable and reflect on what will make a difference to achieve the vision.

Metrics and outcomes

Developing meaningful metrics to evidence progress against the outcomes set out in the FCA's 3-year strategy is an iterative process which needs to happen alongside cultural transformation. The Panel emphasised that it is important that the FCA is measuring what it needs to measure rather than what it can. At a macro level, the Panel encouraged the FCA to maintain focus on how much resource industry is expending on regulation and measuring the impact of this effort on consumer wellbeing and on the economy.

It will be important to assess the direct and indirect cost of new rules or policy changes against the value gained.

The Panel recommended the FCA explore metrics in this area as policy is developed and be alive to the need for proportionality. It also highlighted there are opportunities to reduce regulation in some areas where there is excessive cost without increasing risk.

Joint FCA and Practitioner Panel survey

In January the FCA and Practitioner Panel launched a joint survey to gather feedback from UK financial services firms on how the FCA is doing in regulating the industry, and current issues. The survey was sent to all of the UK's larger 'fixed portfolio' firms and a sample of 12,000 smaller firms and asked a wide range of questions seeking views on FCA performance, communications, risk, enforcement, staff and processes, as well as questions on topical matters including the cost-of-living crisis and the Consumer Duty. This year, for the first time the survey results will be a key source of data to support the metrics that the FCA uses to monitor its progress towards the outcomes identified for the 13 cross-cutting commitments set out in the FCA's Strategy and Business Plan.

List of Practitioner Panel members

Matt Hammerstein

Chief Executive Officer
Barclays Bank UK
Deputy Panel Chair

Penny James

Chief Executive Officer
Direct Line Group
Panel Chair and member until 27.1.23

Amanda Blanc

Group Chief Executive
Aviva plc

Debbie Crosbie

Chief Executive
Nationwide Building Society
Member from 27.6.22

Suvro Dutta

Partner, Financial Services
KPMG LLP (UK)

Joe Garner

Chief Executive
Nationwide Building Society
Member until 30.4.22

Sean Hagerty

Managing Director
Vanguard Europe

Alasdair Haynes

Chief Executive
Aquis Exchange plc

Christopher Hill

Chief Executive
Hargreaves Lansdown

Barbara-Ann King

Chief Executive
Investec Wealth and Investment UK
Member from 1.11.22 until 2.3.23

David Lindberg

Chief Executive, Retail Banking
NatWest Bank Group
Member from 26.5.23

Vim Maru

Group Director, Retail Bank
Lloyds Banking Group
Member until 31.7.22

Andy Mielczarek

Chief Executive
Chetwood Financial Limited
Member and Chair of Smaller Business
Practitioner Panel from 1.6.22

Cristina Nestares

Chief Executive
Admiral UK
Member from 26.5.23

Julie Page

Chief Executive
AON UK Limited

Michelle Scrimgeour

Chief Executive
Legal & General
Investment Management

Marlene Shiels

Chief Executive
Capital Credit Union
Member and Chair of Smaller Business
Practitioner Panel until 31.5.22

Paul Stockton

Chief Executive
Rathbones Group Plc
Member from 1.7.23

Steve Treloar

Chief Executive
Allianz Personal
Member until 1.6.23

Practitioner Panel

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FCA

Practitioner Panel

Panel diversity statement

The FCA has agreed to adopt diversity targets for all the FCA's Independent Panels. These targets reflect those introduced by the FCA in April 2022 for the board and executive management of listed companies:

- At least 40% of each Panel are women
- At least one of the senior positions (Chair, Deputy Chair or equivalent) across the Panels is held by a woman
- At least one member of each Panel is from an ethnic minority background

Against these targets, we can report that as of 31 March 2023¹:

- 20% of the Practitioner Panel are women.
- Across all the Independent Panels, the target for at least one senior position to be held by a woman is exceeded.
- 4 out of 5 Independent Panels meet the target that at least one member is from an ethnic minority background

The Panel supports the FCA in its objective of improving diversity in the appointments it makes to all the independent Panels.

¹ These figures are based on the data disclosed. Disclosure of diversity information is voluntary. Data is reported across all Panels where disclosure on an individual Panel basis would lead to the release of personally identifiable information.

Practitioner Panel

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