

Annual Report

2016/17



FCA

Practitioner Panel



Chair's foreword

In my foreword last year I acknowledged the result of the EU referendum and the challenging and uncertain environment faced by the financial services industry. During this year we have supported the regulator in its objective of making markets function well, despite the increasing uncertainty. We have focused on cross-cutting issues such as Brexit and cyber resilience, as well as our key themes of the effectiveness of the FCA as a regulator, the strategic impact of regulation and the Panel's relationship with the FCA. One area of welcome stability has been the arrival of Andrew Bailey in July 2016 as Chief Executive. He has been a regular visitor to the Panel and we have been actively involved in the work he started on communicating the FCA's Mission to the industry.

1. Work over the last year

Our priorities for the last year have been:

- Evaluating the FCA as an effective regulator
- Considering the strategic impact of regulation
- Building on the Panel relationship with the FCA

Evaluating the FCA as an effective regulator

In previous years we have carried out a Survey of regulated firms on their views of the regulator. This year we combined our Survey with a similar project by the FCA to produce a piece of joint research. We are working with the FCA to identify what it will do differently as a result of this year's findings.

Overall, the industry's satisfaction with its relationship with the FCA and its rating of the FCA's effectiveness have continued to increase. Confidence in the FCA's ability to meet its competition objective, although still lower than its other objectives, has increased. The views of the long-term savings and pensions sector, which were more negative across the board last year, are significantly more positive. There are, however, some areas which require further improvement, such as clarity of the FCA's engagement with the firms it regulates, including communications about Brexit, and the predictability of its regulation.

The detailed findings of the Joint Panel and FCA Survey will be available in a separate report on both the Panel and FCA websites.

We also engaged with the FCA's consultation on its Mission. Our principal focus was on ensuring that in carrying out its work the regulator focuses on building trust and considering culture within its own organisation and others. We highlighted the importance of the FCA's role in maintaining the competitiveness of the industry as well as its competition remit. And we have highlighted the need to consider consumer financial capability and financial education. In the broader context we urged the FCA to be aware of technology as a driver redefining the nature of the relationship between the consumer and the financial services industry.

Considering the strategic impact of regulation

We looked at many key projects which the FCA has undertaken this year. We have emphasised the need for proportionality and careful use of resources at a time when both the regulator and the industry have been fully stretched. As an example, we have urged that the extension of the Senior Managers and Certification Regime should draw on the experience of the first phase of implementation. This demonstrated that it is neither efficient nor necessary to impose new governance structures on the industry in order to implement effectively. We have questioned the need for further work in the mortgage market when there have already been several initiatives over the last year.

A continuing theme is the need for the FCA to be mindful of the interaction of individual initiatives with broader changes in the regulatory environment, for example in the asset management sector which faces changes in disclosure and governance not only from the asset management market study but projects such as MIFID and the Senior Managers Regime.

Building on the Panel relationship with the FCA

Our joint work on the Panel and FCA Survey this year has enabled us to work more closely with the FCA to ensure that the work is asking the most relevant questions and providing the regulator with the input it needs. We continue to enjoy a close working relationship with both the senior management and the Board, which enables us to clearly put forward the views of the industry in a constructive way.

2. Looking forward – Panel themes

We have a number of cross-cutting themes which we use to drive forward active debate with the FCA and to utilise the expertise of Panel members. This year our themes are:

- Consumer vulnerability, consumer and firm responsibility. We are considering a position paper to articulate how the issue of trust, which we highlighted in our Mission response, vulnerability and responsibility interact, and how this should influence the FCA's work.
- Sustainability of regulation. We look at disruptive market volatility to cover events such as Brexit, as well as the overall resourcing requirement for regulation, and the impact of changes in technology, data and cyber security.
- Ageing population. Within this topic we are considering changes to the pension environment and taking forward the recommendations of the Financial Advice Market Review. This also connects to the work on consumer vulnerability.
- Competition. The joint Survey continues to highlight that the industry has less confidence in the FCA's ability to deliver on this objective. We encourage the FCA to explain more clearly what it is trying to achieve in this area, building on the Mission work.

Last year I said the greatest uncertainty faced by financial services was the future shape of the regulatory environment following the EU referendum result. This remains a significant challenge, but it is apparent that there will not be a quick resolution and therefore business must continue as usual. We see the FCA as

having a significant role in encouraging firms to stand ready to reassure customers that day to day financial transactions will continue as usual throughout the negotiation period.

In conclusion

This will be my last annual report as Panel Chair. I would like to take the opportunity to thank all the Panel members, including those who have joined and left, for their hard work and enthusiasm over the last two years. I believe the Panel continues to make a significant contribution to the work of the FCA and that it will continue to be a key resource for adapting to the changes to come.

António Simões

Chair, FCA Practitioner Panel

1

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 and maintain under the Financial Services and Markets Act.

The FCA Practitioner Panel is set up to represent the interests of practitioners and provides advice to the FCA on the extent to which its general policies and practices are consistent with its general duties.

The Panel meets on a monthly basis to provide senior industry level input into the FCA, with membership selected to reflect the major sectors of the UK financial services industry. We focus predominantly on issues with a strategic cross-sectoral impact, and provide advice and feedback directly to the FCA Board and Executive.

This year we have again chosen to address several high level themes. Our intention in doing this continues to be that we consider these areas in detail, and to bring an industry perspective to the FCA's work on these topics. Last year we looked at the themes of consumer responsibility and duty of care, sustainability of regulation, customer vulnerability and links to the ageing population, and risk pooling and big data. For the year ahead we have updated these to look at consumer vulnerability combined with consumer and firm responsibility, the ageing population as a theme on its own, and competition. We will continue to look at sustainability of regulation. We focus on each theme in turn with members of the FCA Executive to share our combined views.

There are some topics which cut across several of the Panel's priorities.

Brexit

Following the referendum on leaving the EU, the Panel provided its views on the risks to the financial services industry as a result of the decision and specifically how the FCA's priorities and work plan should change in light of the referendum outcome. We recommended that the FCA should be focusing on engagement with the process, competitiveness of the UK (in as far as its remit allows this) and stability. The resilience of the UK financial system immediately following the vote was a sign that the relevant regulatory and supervisory bodies were successful in this area. The Panel continues to engage on Brexit-related topics on an ongoing basis.

Cyber resilience

We consider the risk to the industry from cyber attacks to be growing in importance and we support the FCA's efforts in the area of cyber resilience. We have stressed that risks are not restricted to the financial services industry, that the number of attacks has been increasing and that new products and technologies bring new cyber risks. In particular, we have highlighted the implementation of the second Payment Services Directive and the development of open architecture in creating new risks relating to the movement of data, where responsibility for ownership is not clear where things go wrong. We have encouraged the regulatory bodies to look at this as a priority. We suggested the creation of a rapid insights group drawing on the expertise of the industry and the knowledge of the FCA and this project has now been taken forward.

2

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The FCA as an effective regulator

Industry Feedback

The Panel has in previous years carried out an annual survey of regulated firms in order to support its work in representing the views of the industry. This year we worked with the FCA and combined our survey with the FCA's own Firm Feedback Questionnaire, which has similar goals. Our objective was to reduce the administrative burden on firms while still providing a valid and comprehensive view of the industry's thoughts.

The survey was conducted by Kantar Public on behalf of the FCA and the Panel. Fieldwork took place between March and April 2017. In total 2,020 firms completed the survey, a response rate of 21%. This response rate, while still representing a substantial number of firms, is lower than in previous years. Work is being done to establish the causes of a low response rate, which may include other regulatory pressures and the recent consultation on the FCA Mission which also gave firms an opportunity to express their views.

Overall, firms' view of the effectiveness of the FCA continues to be increasingly positive. Out of a possible 10, firms now score it as 7.0 for effectiveness, up from 6.7 last year and 6.5 in 2014, the first survey of the FCA. Firms' satisfaction scores have also increased steadily, up from 6.9 out of a possible 10 in 2014 to 7.5 this year. As with last year's figures, flexible portfolio firms remain slightly more positive in their satisfaction and effectiveness scores than fixed portfolio firms.

Confidence in all three of the FCA's objectives has risen. The proportion of positive responses to the FCA's work were:

- The overall strategic objective of ensuring financial markets function well up from 74% to 80%
- The consumer protection objective up from 78% to 80%
- Protecting the integrity of the financial system up from 75% to 79%
- Promoting effective competition up from 56% to 62%.

Last year, the views of the long-term savings and pensions industry were overall more negative than other sectors. This was a finding the FCA has addressed and the views of this sector have been more positive this year, particularly in its satisfaction scores.

There is more work to be done on transparency of regulation and predictability, with fewer than half of firms agreeing that FCA regulation is predictable and only 53% agreeing that it is transparent.

Overall, satisfaction with communication from the FCA remains steady, scoring 7 out of 10, but the FCA must remain mindful of the need to communicate clearly with firms around Brexit, even when the message is that business continues as usual. Only 14% of firms are satisfied with current Brexit communications, although this may reflect general uncertainty in the wider environment. There is also room for improvement on the industry's view of the quality of policy and technical staff, with flexible portfolio firms having a

noticeably more negative view of the skills and knowledge of FCA staff than fixed portfolio firms.

FCA Communications strategy

The Panel has consistently encouraged the FCA to focus on positive messages as well as negative when communicating with the industry, as it continues to implement the recommendations of the Davis Review. This year, as well as its business as usual activities it faced the additional challenge of communicating with firms of all sizes on the impact of the referendum on leaving the EU on the financial services industry.

The Panel has continued to encourage the FCA to use positive messaging as well as negative when communicating with the industry. We have raised concerns that the tone of FCA communications has been one of 'protecting consumers from the industry', although over the past year we have noted an active move towards language which is more balanced and an acknowledgement that effort should be made to act with greater sensitivity to the external environment. We have encouraged the FCA to publish selected information from the sector views and were therefore pleased that this was done alongside the Business Plan in 2017. We have, however, cautioned that there should not be an overt focus on risk. The nature of a discussion of risks is that it focuses on the negative aspects of the industry. The FCA's communication needs to be carefully calibrated, including a balanced view

across all sectors, if the message is to be about good regulation by the FCA rather than what might go wrong. There is also scope to reflect further the collaborative work that is being done by the industry.

The Panel has been asked to contribute to the Supervision Division's choice of communication tools and communication channels at an early stage, and has been happy to provide suggestions.

We have encouraged the FCA to use its position to communicate specific messages on topics such as ring-fencing and Brexit. On ring-fencing, we acknowledge that effective communication of the changes caused by ring-fencing is still primarily the responsibility of the banks concerned, but a common language amongst the banks, the regulators, and any other agencies involved in the project will help to reduce fraud and maintain consumer confidence during the implementation period. We see the FCA as having a role to play in facilitating this common language. On Brexit, we supported the FCA, in order to encourage stability, to encourage firms to stand ready to reassure customers that day to day financial transactions will continue as usual throughout the negotiation period.

FCA Business Plan and Mission

In 2017 the FCA published a consultation on its Mission, designed to provide a guiding set of principles around the strategic choices the FCA makes, to inform the FCA's strategy and day-to-day work over the coming years. It published the outcome of this work in April 2017 alongside its Business Plan.

We were engaged in the FCA's Mission work at an early stage. The Panel was represented at the Mission conference in November 2017, and we responded formally to the consultation. Our response focused on:

- **Building trust.** An overarching theme for the FCA should be to rebuild trust between the industry, the regulator and consumers. Building trust would result in more consumer engagement with the industry and is a huge opportunity to align the regulator with financial services success factors.
- **Culture.** The Mission will be an important set of high-level guiding principles for both the regulator and the industry. The regulator should lead and demonstrate the culture it wants to see from those who participate in financial services.
- **Competitiveness and competition.** The desirability of sustainable growth in the economy of the UK is a regulatory principle to which the FCA must have regard, and we wish to emphasise that the FCA must explicitly consider its international role.
- **Capability and financial education.** We focus on the need for consumers to receive the relevant information

to make financial decisions and the capability to process it.

- **Technology as a driver.** We comment on technology as a driver which redefines the nature of the relationship between the consumer and the financial services industry, and what this means for the regulator.

Sustainability of regulation

The issue of building and maintaining a sustainable regulatory environment is one of the Panel's key themes.

We discussed this with the FCA, and in the context of the Mission particularly welcomed the work to discuss the scope of the FCA and to give more clarity on what it will, and, as importantly, will not do. We support Andrew Bailey's desire to rationalise the burden of regulation, rather than continuously add to it, which is neither sustainable nor helpful to the industry nor to consumers.

Enforcement

The Panel has this year discussed the FCA's approach to Enforcement both with Executive Committee Members and, for the first time, with the Chair of the Regulatory Decisions Committee (RDC).

We are encouraged by the FCA's intention to use enforcement as a tool rather than serving only as a deterrent. We also believe there is an opportunity to develop a 'safe space' with firms to discuss with the regulator how they can improve. Our view is that learning from investigations should feed back into the enforcement and supervision process in a way which has not necessarily been captured before.

Sector Views

The FCA has a view of how the financial system works as a whole, but also monitors the individual sectors continuously. It has developed a system of sector views, bringing its collective intelligence together on each sector. In April 2017 it made these sector views public for the first time, alongside its Business Plan.

We have provided input to the sector views, and have given commentary and practical information on both the structure and the individual content. We continue to be involved in the ongoing refresh process. We encouraged the FCA to publish selected information from the sector views and therefore welcomed the publication for the first time alongside the 2017-18 Business Plan and annually in future, which we see as being helpful for the industry in its planning processes and engagement with the regulator.

3



The strategic impact of regulation

Extension of Senior Managers and Certification Regime (SMCR)

Rules on individual accountability were introduced from March 2016 based on the Parliamentary Commission for Banking Standards' recommendations to improve professional standards and culture within the UK banking industry. Work is underway to extend the Senior Managers and Certification Regime to all FSMA authorised firms by 2018.

Several of our Panel members' firms are already subject to the Senior Managers Regime and have provided feedback on their experiences so far. We have encouraged the FCA to incorporate its learning from the first wave to implement proportionately for other sectors. We were particularly keen to highlight the need to avoid adding to the already substantial administrative burden on smaller firms, and urge the FCA to learn from the experience of credit unions, which are already subject to the SMCR. Following the experience of the first phase of implementation it is neither efficient nor necessary to impose new governance structures on the industry in order to put the regime in place.

FSCS funding review

The FCA has consulted on a review of the funding of the FSCS, the UK's statutory compensation scheme of last resort. Firms from across the financial services industry pay levies to fund both the FSCS's operating costs and the compensation it pays out. The results of the consultation are due in autumn 2017.

The Panel considered the underlying funding structure of the FSCS and agreed that there is a fundamental need for a review as it no longer reflects the risk profile of the industry. We encouraged the FCA to be broad in its thinking about alternative options, and supported its review of what firms are within scope, as often problems arise with those just outside the boundaries of the Scheme. We discussed the use of professional indemnity insurance as a potential solution, but pointed out capacity restraints within the industry.

Asset management market study

The FCA is currently undertaking a market study into asset management following feedback received as part of the wholesale sector competition review, which raised a number of questions about the asset management value chain. The interim report, including further consultation, was published in November 2016, and the final report is due in the first half of 2017.

We were pleased to note the level of industry engagement in this Market Study. We responded formally to the consultation, focusing on governance and value for money, costs and pricing, fund performance and fund flows, and pensions-specific considerations. We welcome the recognition of the need not just to focus on the product providers and manufacturers, but also to look at the full value chain and total cost experienced by the investor. Overall, we have encouraged the FCA to focus on investment outcomes as well as costs, and to be mindful of interaction with the broader changes in the regulatory environment relating to disclosure and governance, such as MiFID II, PRIIPS and in particular the extension of the Senior Managers Regime.

Financial Advice Market Review

The Financial Advice Market Review (FAMR) was launched in August 2015 in light of concerns that the market for financial advice in the UK was not working well for consumers. The Review published its findings in March 2016, including a list of recommendations. A report on progress towards implementing the recommendations was published in April 2017.

The Panel has been directly involved in the implementation of the recommendations through membership of the Financial Advice Working Group and its individual subgroups. We had some concerns about the FAMR work, in particular that the scope appeared to be extending during the life of the project and that the timescales for achieving the objectives were unrealistic. We appreciated that the working group was set up to be independent, but raised our concerns with the FCA. We did, however, consider that in the end the working group had made some progress.

We believe any future advice landscape must allow a variety of advice channels to continue in order to meet the full range of consumer needs.

Mortgages

We have considered several mortgage-related initiatives over the last year, including the thematic review on Responsible Lending and the Call for Inputs on barriers to competition. We are not clear why the FCA has

chosen to revisit this area so soon with a further Market Study. We have questioned whether this is the best use of its resources, given our view that the mortgage market is one of the most competitive of the retail sectors, for example, having fewer barriers to entry than the current account market. As the study is seen by the FCA as necessary, we believe that given the increasing impact of intermediation in the mortgage sector on consumer outcomes the inclusion of this sector in this work is both welcome and necessary to provide meaningful conclusions.

High cost credit review

The FCA issued a call for input in November 2016 on the high-cost credit market, focusing on overdrafts, the high-cost short-term credit (payday loan) price cap, and repeat and multiple high-cost short-term credit (HCSTC) borrowing.

We responded formally to the call for input, supporting the FCA's proposals and emphasising that it is important to understand the range of significant and unprecedented interventions in the HCSTC sector, the results for consumers and firms, in the wider context of competition across credit product sectors, and alternative customer choices. It is equally important to continue to ground outcome reviews, analysis and any recommendations on robust and comprehensive data, which we consider the FCA has done in this work.

Markets in Financial Instruments Directive (MiFID) II

The FCA has issued a number of consultations on its plans to implement the revised MiFID Directive, which comes into force on 3rd January 2018. In September 2016 it published a consultation which included plans which would have extended the requirement to tape telephone conversations with their clients to many advice firms not currently covered by the rules.

We worked with the FCA Smaller Business Practitioner Panel to provide a detailed response to the FCA's consultation on taping of calls to comply with the revised MiFID Directive. We were concerned that imposing onerous telephone taping requirements on firms would cause disproportionate costs in an area where there is no clear evidence of significant consumer detriment. We encouraged the FCA to find a solution which meets the requirements of the EU rules without placing excessive burdens particularly on smaller firms, and therefore we were pleased that it is intending to offer firms the option of taping or making written records, which we consider is a workable compromise. We remain concerned about the ability of the industry to implement the MiFID II provisions, given the short timescales between finalising the rules and implementation.

Packaged Retail Investment and Insurance-based Products (PRIIPs)

The PRIIPS Regulation is an EU-led initiative to help investors better understand and compare the key features, risk, rewards and costs of different PRIIPs, through access to a short and consumer-friendly Key Information Document. This was initially to have been implemented by January 2017 but has been put back to January 2018.

We were very concerned about the practicalities of implementing the PRIIPs rules, particularly around the lack of past performance figures and the means of expressing costs, which we believed could have the opposite effect to the stated objective of improving transparency. The delay in implementation is therefore very welcome and we have encouraged the FCA to engage where possible with EU bodies to produce a more workable set of rules for final implementation.

4

Panel relationship with FCA

Building on the constructive relationship with the FCA continues to be one of the Panel's objectives. This year we welcomed Andrew Bailey as the new Chief Executive in July.

The Panel has regular engagement with the senior leadership of the FCA and with the Board. We have had several constructive meetings with Andrew Bailey since he took over as Chief Executive and the relationship with the Panel has continued to be open and constructive. Members of the FCA's Executive Committee continue to attend on a rotating basis to hear the Panel's views directly and feed back into the organisation.

The Panel has held separate sessions on each of its key themes this year and has discussed them at a high level with the FCA. As a result of one of these discussions, on cyber resilience, we suggested the formation of a rapid insights group involving both the industry and the FCA to address cyber crises as they arise. This group has now been put in place.

FCA and Panel joint Survey

In previous years we have added to the debate by commissioning our annual survey of industry practitioners about their view of the regulator. This year we have combined our resources with the FCA, and instead of carrying out a Panel Survey and a separate FCA Firm Feedback Questionnaire we have commissioned a single piece of work to find out more about the views of the industry. This has enabled us to pool our resources and identify more easily areas of joint concern.

List of Practitioner Panel members

António Simões

Chief Executive Officer, HSBC Bank plc
Panel Chair

Clinton Askew

Director, Citywide Financial
Member until 31.03.17, Chairman,
FCA Smaller Business Practitioner Panel

David Bellamy

Chief Executive Officer,
St James's Place plc

Andy Briggs

Chief Executive Officer, Aviva
Member until 30.06.16

Steven Cooper

Chief Executive Officer,
Personal Banking, Barclays plc

Peter Crook

Chief Executive Officer,
Provident Financial plc

Michael Dobson

Chairman, Schroders

Craig Errington

Group Chief Executive, Wesleyan
Member from 01.04.17, Chairman, FCA
Smaller Business Practitioner Panel

Paul Feeny

Chief Executive Officer,
Old Mutual Wealth

Jayne-Anne Gadhia

Chief Executive Officer, Virgin Money UK

Joe Garner

Chief Executive Officer,
Nationwide Building Society

Adrian Grace

Chief Executive Office, Aegon UK

Steve Lewis

Chief Executive Officer,
UK and Western Europe, RSA

Paul Matthews

Chief Executive Officer, UK & Europe,
Pensions and Savings, Standard Life
Member until 31.03.17

Tulsi Naidu

UK Chief Executive,
Zurich Insurance Group

Nikhil Rathi

Chief Executive Officer, LSE plc &
Director of International Development,
LSEG

Anne Richards

Chief Executive, M&G

Practitioner Panel

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FCA

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