



THE FCA PRACTITIONER PANEL'S

Response to Banking Standards Review Consultation

March 2014

1. Introduction

The FCA Practitioner Panel (the Panel) was established by the Financial Services and Markets Act (as amended) to represent the interests of regulated firms and to provide input to the Financial Conduct Authority (FCA). The Panel provides advice to the FCA on its policies and strategic development of financial services regulation.

The Panel was pleased to discuss with Sir Richard Lambert his early thoughts on the scope of the activities of the new Banking Standards body at its January 2014 meeting. The Panel expressed its gratitude to Sir Richard for agreeing to start this work, and its support for the proposed initiatives which aim to raise standards of conduct and competence in the banking industry. This will undoubtedly be highly challenging given the diversity of the organisations operating in the banking industry, from small friendly societies to retail banks to large investment banks, and the breadth of activities they and the individuals that work for them undertake.

We have provided our detailed comments below.

2. Executive Summary:

- The Panel is supportive of the creation of a new, independent, credible organisation which aims to promote improved standards of competence, culture and conduct in banking.
- The Panel believes there is a case for calling on the participation of all banks and building societies doing business in the UK. In the short to medium term, the prime relationship should be at an organisation level but, over time, the Panel supports the aspiration to move to individual-level membership.
- The Panel agrees with the proposed role of the new organisation to set standards around conduct and competence, and to help define metrics to enable the monitoring, benchmarking and reporting of members' performance – both to highlight good practice and to identify where improvements are required.
- Standards set by the new organisation should take into account the wide range of business activities within the banking industry. Moreover, to build public credibility and trust, the approach to measuring and reporting members' performance should be robust and transparent. The new organisation and its members should also be seen to work together to take action to address any areas of concern that are identified.
- The Panel supports an approach whereby the new organisation aligns with and builds on the regulatory regimes and guiding principles defined by the FCA and Prudential Regulation Authority (PRA). Existing good practice in the industry should also be built-on, not reinvented.
- The Panel agrees that the new organisation should establish itself, with the support of the industry, as an over-arching umbrella body for the existing professional bodies – with an interest in helping these bodies raise standards, among other things, in developing their members and qualifications. The Panel also supports the new organisation's proposed role in accrediting both member organisations' in-house and the professional bodies' training programmes, provided this is focused on banking competence.

Panel response:

Question 1 - Do you agree with the objective to establish a new independent organisation with the aim of defining and raising standards of conduct and competence in banking?

The Panel is supportive of the creation of a new organisation which aims to promote improved standards of competence, culture and conduct in banking.

To be successful, we agree that the new organisation should have credibility and be independent of, and not an advocate for, banks and building societies. Care also needs to be taken to align with, but not to duplicate or conflict with, work already being undertaken by the regulators and other industry bodies in this area.

The new organisation will also need to set out a clear business plan, particularly to articulate its key deliverables in its first year.

Question 2 - Do you agree that there is a case for a collective approach calling for the participation of all banks doing business in the UK?

The Panel agrees that widespread and collective participation of the banks and building societies is important, both for the new organisation's credibility and for the reputation of the industry as a whole. Publicly, the "banking industry" is often viewed homogeneously and any failure by one organisation to meet accepted standards of conduct and competence can impact negatively on the reputation of all.

One potential risk of voluntary, rather than compulsory, membership is that if one or more organisations opt out of collective participation, others may follow. This in turn could not just distort public perception of the industry's desire to rebuild public trust and strengthen standards, but also affect the new organisation's ability to deliver its objectives or impact its funding. However, a benefit of opting in as a member organisation could be to confer a competitive advantage on those member organisations that can publicly demonstrate that they consistently meet expected standards of practice.

Question 3 - Do you agree with the proposed role of the new organisation to set standards of behaviour and competence for banks and building societies, and to define metrics against which they could benchmark?

The objective of the new organisation is to raise standards of behaviour and competence in banking. It therefore follows that the new organisation has an important role in the design and promulgation of unambiguous and consistently applied standards of conduct and competence, and in monitoring its members' performance against these standards. The new organisation also has a role to play in highlighting and praising good practice and progress where seen, as well as providing challenge or criticism where needed.

To be most effective, the Panel believes that the new organisation's standards should be built on and aligned with the regulatory regime and guiding principles defined by the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA). Aligning with, not duplicating, the regulators' work will help to

clarify and accommodate the respective objectives of the new organisation and the regulators.

The Panel is supportive of the new organisation building on good practice where it already exists within the industry. New initiatives should only be considered where there are gaps in existing practices, or where these practices need to be strengthened. Also, rather than adopting a “one size fits all” approach, the new organisation should take care to recognise the wide range of business activities encompassed within the banking industry, ensuring that the standards of conduct and competence it develops reflect this diversity.

We agree codes of conduct should apply to all colleagues in an organisation, not just to “banking professionals” but also to those working in support functions such as HR, Marketing etc. It is the personal conduct and professionalism of all staff collectively that ultimately impacts upon the customer experience and the reputation of the industry overall.

Finally, once standards of conduct and competence are in place, we agree that there needs to be a simple, effective and rigorous means of measuring firms' performance against these standards. We therefore support the role of the new organisation in helping banks and building societies to develop metrics to benchmark their performance against their peers, to support the firms in developing actions plans where practice needs to improve and for firms to report publicly on their performance and progress.

Question 4 - Do you agree with the proposed scope of the new organisation to include all British banks and building societies, and foreign banks doing business in the UK?

The Panel agrees that the scope of the new organisation should include all British banks and building societies, and foreign banks carrying out business in the UK. However, this will undoubtedly be challenging given the diversity of the organisations operating in the banking industry and the breadth of activities they undertake. We consider that, unless all such organisations operating in the UK are under the scope of the new organisation, there is a risk that industry accepted standards may be applied inconsistently or even ignored. This could impact negatively on the customer experience and, hence, the industry's reputation.

Question 5 - Do these proposals go far enough to ensure the body has credibility?

The proposals regarding the initial appointments to the new organisation, and its ongoing governance structure, appear sensible to establish credibility at inception. The Panel agrees, however, that true credibility will only come with time – both as a result of the new organisation designing and promulgating robust standards of competence and conduct that are supported by the industry, and through being seen to take action to help improve the practices of member organisations who do not meet these standards.

In practice, there are a number of practical issues to be considered and addressed to reinforce this credibility. For example, appointments to the new

organisation must be viewed positively not only by the sector but also by the wider constituency of stakeholders, particularly with regard to rebuilding public trust. Remuneration packages also need to be appropriate to attract the right board members for the new organisation, perhaps being closer to those of regulatory and other professional standards-setting bodies rather than the industry.

On the question of accountability, and to maintain independence and credibility, we believe that the new organisation should have a clear reporting line outside of the financial services industry, such as to the Treasury Select Committee.

Question 6 - Do you agree that the new body should initially work with banks and building societies rather than individuals? What are the pros and cons of aspiring to build individual membership over time?

The Panel believes that firm-level membership is the correct approach for the new organisation to take, at least in the short to medium term. The initial task is to establish the new organisation so that it is operating successfully, with sufficient coverage of and support from the industry. Maintaining firm-level membership during this time will likely prove to be administratively simpler and help to garner public support.

An approach to individual-level membership could, however, be an aspiration for the longer term, once the organisation is established and has demonstrated its credibility. Colleagues working in the banking industry may, for example, wish to become individual members in the future as a means of demonstrating their professionalism. Indeed, individual membership could, over time, become a requirement as an indication of fitness to practice. Nonetheless, we recognise the range of difficulties highlighted by the consultation paper in creating a professional body to cover and, as appropriate, distinguish between the full range of banking activities and there are many practical issues that would need to be considered before reaching that stage.

Question 7 - In the section titled 'Ethics', a case is made for a more pro-active approach to managing ethical issues. Do you agree with this, and if so how should it be done?

The Panel agrees there is a case for the pro-active management of ethical issues although we recognise that firms may seek to manage ethical issues in a number of different ways. These may include improved clarity around responsibility and accountability; appropriate governance structures for the consideration and reporting of ethical issues; implementing and communicating relevant policies, standards and procedures to staff at all levels; ensuring that remuneration systems do not incentivise unethical behaviour; monitoring adherence with required practices; and taking robust action for non-adherence.

We support the new organisation's proposals to help build an environment in which poor conduct in the workplace is escalated appropriately, and to help set the standard for whistleblowing arrangements. The new organisation should also monitor its members' performance in this regard, as for the other standards it sets, and also ensure that action is taken to improve performance as necessary.

Question 8 - Do you agree with the proposal to build on best practice as set out in the regulators' guiding principles?

As noted previously the Panel agrees with the proposal that the new organisation should align with and build on the best practice set out in the regulators' guiding principles to avoid confusion within the industry and any duplication of effort.

Question 9 - What would be the best way of assessing the implementation of a bank's code of conduct?

There are a number of possible ways in which the implementation of banks' and building societies' codes of conduct could be assessed following registration with the new organisation. These could include, for example, member organisations providing evidence of their policies and procedures for implementing their codes of conduct; demonstrating how staff compliance with the code is linked to appraisal, remuneration and promotion practices; and analysing staff survey results to assess staff awareness, at all levels of the organisation, of the contents of the code and how it applies to their role in practice.

Question 10 - Do you agree with the agenda outlined in the 'standards of competence' section?

The Panel agrees with the new organisation's proposed agenda for the development of standards of competence. For there to be demonstrable improvements across the industry, there needs to be well-defined, consistently applied standards in place against which member organisations' performance can be measured and monitored. The existing professional bodies, such as those noted in the consultation paper, are likely to have an important role in helping the new organisation establish and promote to the industry the benefits of implementing accepted standards of competence, and in helping the industry embed these standards consistently through training and development.

Question 11 - Would you support the proposed relationship with the existing professional bodies?

The Panel agrees that the new organisation should establish itself, with the support of the industry, as an over-arching umbrella body for the existing professional bodies in banking, under which they would continue to operate and grow. We also agree that the new organisation should have an interest in helping these bodies raise standards in the development, qualifications and disciplining of their members by, for example, overseeing and/or accrediting their training programmes. There should, however, be clarity of the respective roles and responsibilities of the professional bodies and the new organisation to avoid any conflicts or duplication of effort. For example, as the focus of the new body is banking competence, there should not be any unnecessary overlap with accounting or legal training, where professionals in these fields are working in the banking industry and are already supported comprehensively by their own membership organisations.

Question 12 - Is the proposal for assessing in-house training sensible and practical? Could the new organisation play a helpful role in the certification process?

The Panel considers the proposal for the new organisation to assess in-house training to be both practical and sensible, provided there are rigorous standards in place for this, and a simple and accessible assessment process. Such an assessment by the new organisation could confer a number of benefits including, providing reassurance to banks and building societies that their in-house training programmes meet the required standards, and giving staff confidence that the training they receive is both credible and externally recognised.

Question 13 - Do you think a benchmarking exercise, to help banks identify areas for improvement, would be of value?

The Panel believes that a benchmarking exercise would be of value in helping its members identify areas where its practices can be strengthened. The new organisation aims to encourage a “race to the top”. Therefore, enabling member organisations to measure performance against defined standards and against their peers, particularly where that peer group is widely representative of the UK banking industry, provides a useful indicator of where good practice is being employed and where improvements can be made. However, where a self-reporting approach is adopted, the new organisation may wish to consider whether some form of independent verification of both the method of reporting and the data reported is required. In areas such as customer service, the new organisation may also wish to consider benchmarking against other sectors where customer service is recognised as excellent.

Question 14 - Are the groups of metrics outlined in the section titled ‘Benchmarking’ the correct ones? Would you propose others?

The Panel does not currently propose any additional metrics to those included in the consultation paper as these appear to address the catalyst for setting up the new organisation - the loss of public trust in the banks - and also to provide measures for the other categories of interest (i.e. culture, competence, the customer perspective). Including further metrics at this time could add unnecessary complexity in both measuring and reporting on progress. However, over time and as experience grows, the metrics used may evolve. Wherever possible, the new organisation should endeavour to tie-in with regulatory metrics to avoid having competing measures.

Question 15 - Would it make sense for banks to adopt a set of standard questions to add to their existing staff surveys?

To minimise bureaucracy and additional workload for member organisations, and to enhance comparability, it appears sensible for banks and building societies to adopt a set of standard questions to add to their existing staff surveys. However, care will need to be taken not to overburden staff with too many additional questions. The new organisation will also need to be mindful of the potentially diverse timings of individual firms’ surveys when collating and reporting on findings.

Question 16 - Is self-reporting appropriate? Might other methods deliver better results?

There are pros and cons to firms self-reporting on their performance. Self-reporting is possibly the most practical approach to adopt initially, but this may raise issues of independence, credibility and trust. To alleviate these concerns, the new organisation may wish to consider whether, over time, and subject to resource constraints, there is a way in which it could report on member organisations itself.

Question 17 - Are there non-bureaucratic alternatives to the approach outlined in the section titled 'discipline' that might work better? Is there a role for kite-marking?

The Panel fully recognises that the new organisation is not a regulator and is focusing on championing good practice. It is therefore for the regulators to formally discipline firms and individuals where necessary. However, as the new organisation matures, and particularly if it moves towards individual membership, it may wish to consider whether there are ways it can work with the regulators to develop a complementary disciplinary approach.

For the new organisation to establish credibility and help restore public trust in the banking industry, the Panel considers that there needs to be real and visible consequences for member organisations that are not working towards or meeting the agreed standards. The new organisation should take care, however, that these consequences only impact the specific member organisations, not the banking industry as a whole.

On the matter of 'kite marking', we suggest that this could be used most effectively in the area of accrediting and validating qualifications and training.

Question 18 - Do you agree with the proposition that the new body should aim to become, in time, a membership organisation for bankers to join?

The Panel believes that the initial focus for the new organisation should be for its prime relationships to be with the member organisations themselves not individuals. The practicality and desirability of becoming a membership organisation for individuals will become clearer once the new organisation has been operating for some time. However, the Panel supports this aspiration in the context of the organisation's continuing role as an independent body, not an advocate for the banks and building societies.

Question 19 - Should the new organisation aspire to a role as a thought leader in banking, sharing best practice and helping to propose solutions to challenges that arise in the future?

We agree that the new organisation could have a useful role to play in co-ordinating and sharing best practice and, through its engagement with the banking industry and other stakeholders, in helping to propose solutions to future challenges faced by the industry.