

# Annual Report

2015/16



FCA

Practitioner Panel



# Chair's foreword

This is my first opportunity to present the Panel's Annual Report, and I am pleased with the progress made against the Panel's objectives over the last year. The Panel exists to help foster a more effective regulator and to help restore trust between the industry, the regulator and consumers. Despite significant changes to the leadership of the FCA and within the Panel itself we have been working hard to develop an open and collaborative relationship over the past year. Following the EU referendum the industry and the regulator face a particularly challenging and uncertain environment and the Panel will continue to provide the FCA with support to help it achieve its objectives.

Our annual Survey of regulated firms shows that firms' satisfaction with their relationship with the regulator continues to increase. Given that during this period the FCA has undergone a period of uncertainty following the departure of Martin Wheatley and the recruitment of his permanent successor, this indicates an underlying confidence in the resilience of the organisation. I would like to thank Tracey McDermott for her work as Acting Chief Executive and note that during this period we have moved forward on identifying areas where the Panel and the Regulator can work together.

## 1. Work over the last year

Our priorities for the past year have been:

- to evaluate the FCA as an effective regulator,
- to consider the strategic impact of regulation and

- to build on the Panel's relationship with the FCA.

### 1.1 Evaluating the FCA as an effective regulator

The Panel Survey headline results indicate that although overall satisfaction with the effectiveness of the regulator is relatively unchanged, there are underlying issues which need to be addressed. Firms which are classified for supervisory purposes as Fixed Portfolio, with a direct supervisor relationship, are less confident in the effectiveness of the regulator than firms supervised on a Flexible Portfolio basis. Looking at the FCA's performance against its objectives, there has been a small decline in industry confidence across all the objectives, with the exception of protecting the integrity of the financial system which has slightly improved. It is disappointing that performance against its objective of promoting effective competition has not improved as this was an area we had highlighted as an issue last year. We are working with the FCA Competition area to help address this. We have also highlighted that across almost all areas measured by the Survey lower levels of satisfaction were apparent in the long-term savings and pensions sector.

The detailed findings of the Panel Survey will be available in a separate report on the Panel's website.

### 1.2 Considering the strategic impact of regulation

The Panel has engaged throughout the year with the FCA's regulatory agenda, particularly focusing at a strategic level. Specific engagement has included

initiatives such as the House Views project, which addresses risks in all the sectors the FCA regulates. We have also discussed, in conjunction with the Smaller Business Practitioner Panel, the Financial Advice Market Review and we look forward to being represented on the working group which has the task of taking forward several of the Review's recommendations. We also provided a thinkpiece for the FCA's Discussion Paper on Financial Services and the Ageing Population, one of our key themes, and we support the collaborative approach of this work which drew together views from a range of stakeholders.

### 1.3 Building on the Panel's relationship with the FCA

We continue to discuss with the FCA the timing of the Panel's input and when it can most effectively provide support and challenge to the ongoing work of the regulator. We intend to carry out a review of the Panel's effectiveness, including how it can add value to the FCA and the industry, including building trust between the two. We will consider developing a set of key success measures against which to measure our work in future.

### Panel Themes

As part of our drive towards a more collaborative approach we have identified four areas, in discussion with the FCA and the other Statutory Panels, where we wish to stimulate discussion and drive forward active thinking, using the expertise and perspective of Panel members. These themes are:

- consumer responsibility and duty of care. Where does the boundary

for responsibility lie between the consumer and the industry and where should the regulator be involved?

- sustainability of regulation. How can the regulator operate in a changing environment without constantly changing its rules?
- customer vulnerability and the changing needs of the ageing population. How should the regulator and the industry be addressing the needs of customers in times where they need extra support?
- risk pooling and Big Data. As technology develops to handle substantially larger amounts of consumer data from new sources, how should the industry and the regulator respond?

We are using our Panel meetings to explore these issues in more detail and to discuss with the FCA at a strategic level, and this will continue through the next year.

## 2. Looking forward

The greatest uncertainty faced by financial services at the moment is the future shape of the regulatory environment following the result of the EU referendum. We set our priorities for the next year before the result of the referendum was known, but we consider our three priorities and our key themes remain relevant for the next year and will continue to use these as a focus.

### In conclusion

I would like to take this opportunity to thank Alison Brittain for her work as Panel Chair in the first part of this year. Although her career path has now taken

her away from the financial services industry she delivered valuable insight and expertise to the Panel during her time as Chair. I would also like to thank Graham Beale for staying on the Panel for a further year after retiring as Chair, for providing continuity and experience both for the FCA and the Panel itself.

This has been a year of change for the Panel, the FCA and the industry and I appreciate the commitment and hard work put in by the existing members and those new members we have welcomed this year. I look forward to working together to deliver further progress over the next year.

**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 to 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.

We have contributed our opinions to the FCA on a range of topics, and have added to the debate by commissioning our annual survey of industry practitioners about their view of the regulator.

This year we have chosen, in conjunction with the other Panels and the FCA itself, to address several high level themes. Our intention in doing this is ensure that these areas are fully considered, and to bring an industry perspective to its work on these topics. We have agreed 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, and are discussing each of these in turn with the relevant FCA Executive members to stimulate debate.

# 2

## The FCA as an effective regulator



## Industry Feedback

Each year the Panel carries out a survey of regulated firms to investigate their views of the industry and provide feedback to the FCA. The latest wave of the survey was conducted by TNS BMRB between February and April 2016. In total, 3,357 firms completed the survey, a response rate of 34%.

The top-level finding of the Survey is that the majority of firms are reasonably satisfied with the regulatory relationship. They believe the FCA is an effective regulator and feel their interaction is at about the right level.

The overall effectiveness score has remained the same as last year, with firms scoring the FCA at 6.7 out of 10. Satisfaction with the FCA has increased slightly year on year from 7.1 out of 10 in 2015, to 7.2 in 2016. In 2014, the first Survey of the FCA, the score was 6.9. The generally positive trend in satisfaction is welcome but there is still room for improvement both in satisfaction and effectiveness. The long term savings and pensions sector in particular has lower levels of satisfaction in almost all areas of the survey.

The Survey has highlighted three areas where the industry would value improvement from the FCA. These are:

- improving the knowledge of FCA staff and supervisors. We have already discussed the FCA's people strategy and the plans it has to develop its existing workforce as well as recruiting externally. This is an area where the

industry can work with the regulator, such as developing secondments and exchange programmes.

- more transparent regulation, including emphasis on the independence of the FCA and consistency of action. Over the last year the Panel's relationship with the FCA has been one of more open engagement and we encourage the use of a more collaborative relationship with the industry in general in order to improve transparency.
- more forward looking regulation, including a better grasp of impact of its work on the industry. The work of the FCA's Innovation Hub, with the development of the Regulatory Sandbox and other initiatives to promote innovation, is a good start to improving the FCA's position as a forward-looking regulator.

The Survey also highlighted that the industry considers that the FCA is still less successful in meeting its objective to promote competition than in its other operational objectives. Addressing the issue of forward-looking regulation, in particular, will help here.

The Panel believes that progress in these three areas will lead to significantly better effectiveness over the next year.

## Effective and sustainable regulation

We have discussed with the FCA CEO and Chair the concept of effective regulation, and whether the considerable amount of resource directed at regulatory activity by the industry is providing value for the end

customer. Resource which is spent on meeting regulatory requirements is resource not spent directly on improving customer service or on innovation; therefore the industry needs to be confident that regulation is proportionate, timely and necessary. We have recommended that the FCA should spend time actively considering where regulation can be reduced, rather than continually increasing the regulatory burden.

## FCA Communications Strategy

*Last year all the panels raised the issue of the FCA's communications strategy in their annual reports, and in particular the challenge it received from the Davis Review of the launch of the 2014/15 Business Plan. This year's communications strategy involved implementing the recommendations of the Davis Review. The FCA also faced challenges in communicating the changes to its senior management and in implementing its business plan, including the thematic review of banking culture.*

The Panel provided input to the FCA's communications strategy, which has evolved over the three years of the organisation's existence. In particular, we noted that there has been explicit acknowledgement of where the recommendations of the Davis Review have been addressed. We understand that the FCA continues to believe that a pro-active media strategy is necessary and is committed to using communications as a regulatory tool.

Nevertheless, we continue to maintain that this strategy carries significant risks for the FCA. We still believe that the FCA needs to be aware that as a regulator it has a particular relationship with the media, which will tend to pick up more on negative messages, and that its strategy needs to reflect this in its use of media tools.

A key finding of the Panel's 2016 Survey was that the most important action the FCA could take to ensure that the public has an accurate impression of the industry is to publicise examples of good practice and positive behaviour within the industry. As the FCA's strategic objective is to ensure that the relevant markets work well, we believe the communications strategy should support this objective by reflecting the collaborative work that is already being done with the industry. Good examples of this include the work that is being done on combatting financial fraud and in considering the needs of the UK's ageing population.

The FCA was criticised for the way it handled the announcement that it would not be taking forward the proposals for a thematic review of banking culture, as previously indicated in its Business Plan. We understood the rationale for taking it forward on an individual firm basis rather than in the form of a thematic review, particularly when it overlaps with work underway by other bodies such as the Banking Standards Board. If communication of the FCA's plans had been articulated more clearly and the explanation of its narrative made public at an earlier

stage the Panel believes this could have reduced the amount of negative press coverage which the announcement attracted at the time.

## Internal Audit Review of External Communications

The Davis Report made specific recommendations relating to the Panel having input into the FCA's audit review of the internal and external communications strategy. In line with the recommendations the Panel had the opportunity to provide input on the Terms of Reference for this review.

## NAO study on financial services mis-selling: regulation and redress

*The National Audit Office carried out a review into the various agencies, including the FCA, which are involved in identifying and dealing with financial services mis-selling. The report was published in February 2016.*

The Panel was consulted by the National Audit Office during its work around financial services mis-selling. We discussed the issue of regulatory coordination between the various participant bodies such as the FCA, Financial Ombudsman Service (FOS) and the Financial Services Compensation Scheme (FSCS), in particular the situation where there is an emerging issue or a new piece of regulation. We raised the point that any difference in interpretation between these agencies creates uncertainty for both firms and consumers. Separately, we discussed

the issue of retrospection, and the difficulties faced by firms which believed they were complying with rules in place at the time. We encouraged the NAO to consider these specific points, within a framework of consistency, effectiveness and efficiency.

## New ways of regulating

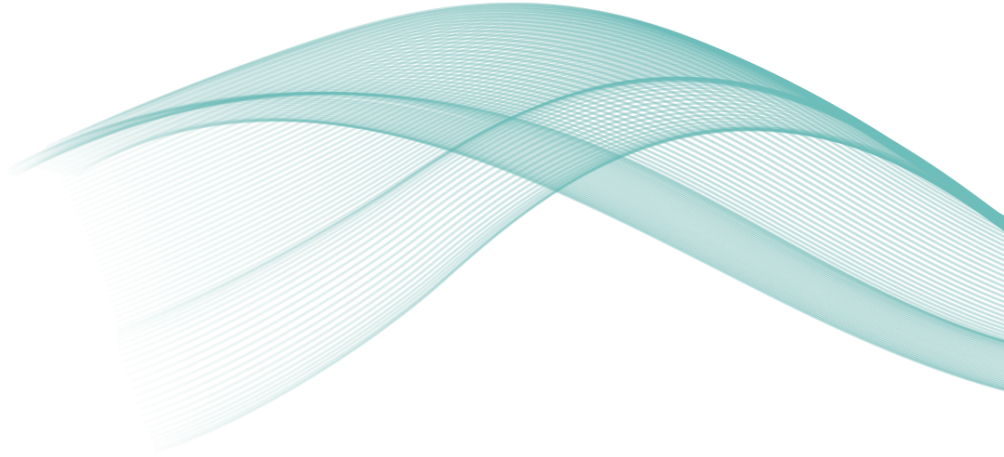
*The FCA has been working on new ways of regulating over the past year. The New Bank Startup Unit, launched in January 2016, is a joint initiative from the FCA and PRA giving information and support to newly authorised banks and those thinking of becoming a new bank in the United Kingdom. The FCA's Innovation Hub, including the concept of a Regulatory Sandbox, aims to help new and established businesses introduce innovative financial products and services to the market.*

The Panel is supportive of the FCA/PRA New Bank Unit with its objective of providing more effective oversight by coordinating the two bodies in this area. It also welcomes the work of the Innovation Hub, although it has encouraged the FCA to be aware of the potential for consumer detriment and the need for regulatory clarity for consumers and businesses when regulating innovative solutions.

## FCA People Strategy

*Actively building its ability to attract and retain talent was a key element of the FCA's business plan over the last year.*

We agree that the FCA needs quality, experienced staff and that recruiting and retaining such staff is key to achieving its objectives. We have recommended that the FCA should market its proposition more explicitly to potential recruits, and to existing staff, by describing how it makes society better through facilitating access to financial services, rather than focusing solely on the need to protect consumers.



# 3

## Strategic Impact of Regulation

## FCA House Views

*During the past year the FCA has been bringing together the intelligence it collects across the organisation to form a house view of each of the markets and sectors that it regulates. This intelligence – from firms, consumers, market research and other sources – forms a full picture of the markets it regulates with the aim of ensuring that risks to each of its objectives are considered and assessed alongside each other.*

The Practitioner Panel, along with the other FCA Panels, has engaged actively with the House Views process both at full Panel meetings and in the form of expert subgroups. It has been keen to see the work develop at all stages, and has discussed with the FCA both the technical content and tone of the outputs. We have recommended that selected information from the House Views is made available in the public domain, as this would be useful for the industry's planning processes.

### Specific key workstreams and regulatory change

We have actively engaged with particular regulatory initiatives.

#### Financial Advice Market Review (FAMR)

We provided input to the joint FCA and HM Treasury FAMR work, discussing the work with the project team and responding, jointly with the FCA Smaller Business Practitioner Panel, to the public consultation. Individual members of the Panel were also members of

the FAMR Expert Advisory Panel. Our public response emphasised the need to consider the wider environment including the changes underway in the pensions area and ongoing projects at EU level to ensure the work is not considered in isolation.

The recommendations of the Review included the formation of a Financial Advice Working Group, involving the active participation of the relevant Statutory Panels, and we look forward to being involved with this at all stages of the work.

### Ageing Population

Considering the needs of the changing age profile of the population is one of the Panel's key themes for this year and we were pleased to contribute to the FCA's Discussion Paper on the subject of the UK's ageing population, focusing on adapting to the changing needs of our customers. We consider that the collaborative approach to this project, in which a range of industry, consumer, regulator and third sector stakeholders gave their views, is a model for future engagement on challenging and complex topics.

### PPI review

We have been encouraged that the FCA has consulted widely on its proposed rules and guidance for PPI complaints, and have made the point that any decisions must be taken in the round and with a full appreciation of what would be right for the UK economy, consumers and broader issues of confidence in financial services.

## Enforcement

The Panel has had regular discussions with the FCA's Enforcement team. We have expressed the view that we would welcome more transparency on the calculation of fines. We have discussed the issue of reductions in fines for 'good behaviour', and consider that the most constructive approach is for the FCA to articulate what 'good' looks like. Focusing mainly on publicising fines, rather than rewarding good outcomes can have the unintended consequence of undermining consumer confidence rather than driving better behaviour.

## Asset management market study

The work of the asset management market study is a key element of the FCA's regulation of this sector. The main point we have raised with the Competition team is to highlight that although there is important work to be done around understanding the underlying costs, the key measure of satisfaction is whether investments achieve their objectives, of which cost is only one element.

## Secondary annuity market

The Panel has concerns about the development of a secondary annuity market and believes there are very few consumers who would be in a position to benefit from it. It is an example of uncertainty in the pension and at-retirement area which is unhelpful for consumers or providers. We understand that the FCA has been given the role of regulating in a difficult area and recommend that it should focus in particular on the area of advice.

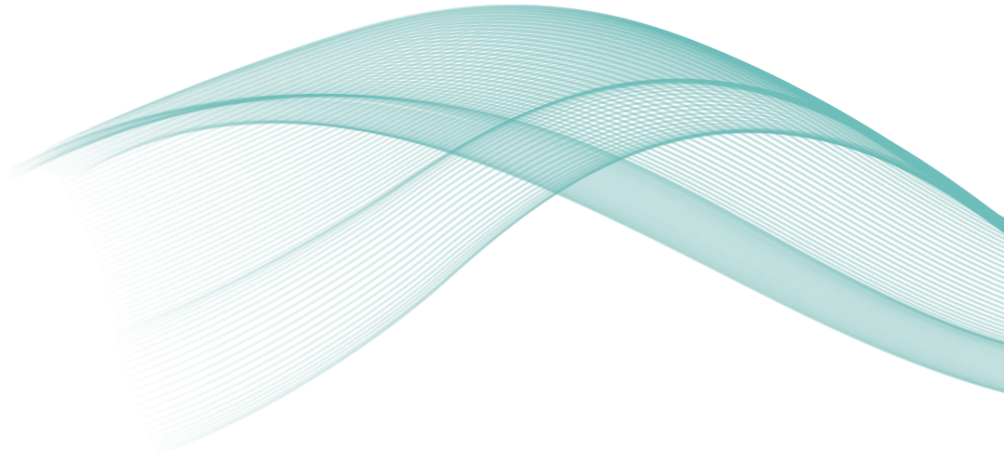
## Markets in Financial Instruments Directive (MiFID II)

The extension of the timescales for the implementation of MiFID II was welcome, but we have encouraged the FCA to be mindful of firms' resources when carrying out other regulatory initiatives in the asset management area as there is still likely to be significant pressure in order to comply with the new rules. We will continue to advise, as required, on this and other workstreams which originate at EU level as the regulatory and legislative regimes are clarified.

## Senior Managers Regime

We have worked with the FCA on the implementation of the Senior Managers Regime. Balancing the two objectives of proportionality, for example between larger and smaller firms, and implementing a level playing field, will be a difficult task as the regime is extended further.





# 4

## Panel relationship with FCA

The Panel identified this year that one of its objectives was to clarify and develop further its relationship with the FCA. This was as a result of the events leading up to the Davis Review, the recommendations of the Review itself and the Treasury Committee, as well as changes in personnel at the FCA and in the Panel itself.

### **Senior Management and Board engagement**

The FCA CEO and Chair regularly attend Panel meetings and have also been guests at Panel dinners over the past year, along with some of the FCA's Non-Executive Directors. Additionally, members of the FCA's Executive Committee attend the Panel on a rotating basis to provide senior management input and feed back the Panel's views to the organisation.

Throughout the last year the Panel has been working on areas where the FCA and the industry can work together. We have developed this work into our key themes. At our meeting in October, the first with António Simões as Chair, we had the opportunity to engage both with Tracey McDermott as acting CEO and the FCA Chair John Griffith-Jones. This was an opportunity to have an active and open discussion and to reset the Panel's relationship with the FCA. We also welcomed the opportunity to discuss the FCA's priorities with Tracey McDermott in December.

### **Feedback**

Following discussion with the FCA senior management the Panel now receives formal feedback from the FCA Board on the points it raises. We consider it is an important aspect of the Panel's work that it is kept informed of the response to its inputs, whether these have been taken forward or not. The introduction of such a feedback loop helps us to prioritise our work and improve the effectiveness of the Panel process.

# Members of FCA Practitioner Panel

1 April 2015 – 31 March 2016

## António Simões

(Chair from 1.8.15)  
Chief Executive Officer  
HSBC Bank plc

## Alison Brittain

(Chair from 1.4.15 until 31.7.15)  
Group Director of Retail  
Lloyds Banking Group  
Member until 31.7.15

## Clinton Askew

Director  
Citywide Financial Partners  
[Smaller Business Practitioner  
Panel Chair]

## Graham Beale

Chief Executive  
Nationwide Building Society  
Member until 31.3.16

## David Bellamy

Chief Executive Officer  
St James's Place plc

## Andy Briggs

Chief Executive Officer  
Aviva  
Member from 1.7.15 to 30.6.16

## Steven Cooper

Chief Executive Officer, Personal  
Banking, Personal and Corporate Bank,  
Barclays plc  
Member from 1.8.15

## Peter Crook

Chief Executive,  
Provident Financial plc

## Michael Dobson

Chairman,  
Schroders

## Paul Feeney

Chief Executive Officer  
Old Mutual Wealth  
Member from 1.5.15

## Jayne-Anne Gadhia

Chief Executive Officer  
Virgin Money UK  
Member from 1.12.15

## Joe Garner

Chief Executive Officer  
Nationwide Building Society  
Member since 25.4.16

## Paul Geddes

Chief Executive Officer  
Direct Line Group  
Member until 31.7.15

## Adrian Grace

Chief Executive Officer, Aegon UK  
Member since 25.4.16

## Alexander Justham

Chief Executive Officer, LSE plc  
Member from 1.4.15 to 22.10.15

### **Jackie Hunt**

Chief Executive  
Prudential UK  
Member until 5.4.16 and Deputy Chair  
from 1.9.15 to 5.4.16

### **Steve Lewis**

Chief Executive Officer, UK and Western  
Europe  
RSA  
Member from 1.8.15

### **Paul Matthews**

Chief Executive Officer, UK & Europe  
Pensions and Savings  
Standard Life  
Member from 27.6.16

### **John Pollock**

Chief Executive  
Legal & General Assurance Society  
Panel member and Deputy Chair until  
21.5.15

### **Nikhil Rathi**

Chief Executive Officer, LSE and Director  
of International Development, LSEG  
Member from 9.11.15

### **Anne Richards**

Chief Executive  
M&G

## Practitioner Panel

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