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Small Business Practitioner Panel
c/o Panel Secretariat
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20 October 2021

Dear Marlene,

We welcome your annual report and the concerns you raise. This has been another challenging year for smaller firms, and the Panel has provided a key role in providing insight and advice to allow us to understand these specific challenges.

I would like to thank you and the Panel members for your commitment and support, and your input on key issues such as the Future of Regulation and fair outcomes for consumers.

In line with our statutory requirement, I would like to respond to some of the key issues raised in your 2020/21 Annual Report and update you on relevant work.

Transformation

We welcome your input and engagement on our transformation. You said in your report that you want us to think creatively about how to engage with smaller firms and encouraged an open dialogue with industry through the transformation process.

We're transforming to prepare for the future and learn from the past. In our Business Plan, we set out our role, the changes we're making to meet current and future challenges. This includes adapting to changes in our remit as set by Government and Parliament through the 'perimeter'.

We will continue to engage with you and the industry directly to make sure we hear the views of smaller businesses. We welcome your views and feedback on how best to do this.

Future of Regulation

Coronavirus

We agree with the Panel that we, along with industry, can learn from the pandemic. We will consider the lessons we can learn as we transform into a more efficient, effective and future-focused regulator.

Brexit

You raised some concerns about the Brexit process, specifically that of contract continuity and regulatory uncertainty. You encouraged us to give clarity where possible to help firms communicate with consumers.

We recognise the importance of giving clear, timely information to firms. This helps firms to communicate with their customers clearly and effectively, and ultimately treat them fairly. We set up Brexit and Covid webpages to make it easier for firms to find the latest information, including information for specific types of firms. An example is the communications to life insurance firms about servicing their EEA customers after the end of the transition period. We expect to do this again for significant cross-sector issues.

Future Regulatory Framework (FRF) Review and Response

In your report you reference your response to the FRF Review, specifically making the relationship between the FCA and the Panels more effective.

Our statutory Panels play a crucial role in providing challenge and input to our work. We are committed to ensuring your role in our policy and rule-making process is transparent, effective and well-understood, while allowing confidential discussion to take place as necessary. We're working with the Treasury to consider the role of the statutory Panels.

Consumer Credit

In your report, you highlighted increasing consolidation in the high-cost short-term consumer credit sector, which may reduce competition in the supply of credit to customers. You encouraged us to work with the CMA to identify vulnerable firms and take any necessary action.

We are alive to the potential competition implications if significant numbers of firms fail. We will take action where we see significant risks to competition and poor outcomes for consumers. We will take a risk-based approach, intervene where we can and advocate for change where appropriate, working with Government and the CMA.

Environmental, Social and Governance (ESG) issues

You highlighted the opportunity for the UK to take a lead on ESG issues. You also raised the issue of transparency, and the issues around this such as quantifying data, labels and naming conventions.

ESG performance is multi-dimensional. Each ESG rating provider makes different choices about:

- the factors to consider in its methodology
- the metrics to use to measure performance, and
- how to weigh and aggregate these metrics

These differences mean that different providers produce different ESG ratings.

We will accept some divergence, if providers are transparent and have robust methodologies. But this is not currently the case. Consumers need to easily understand what the ratings represent and – if relied upon in investment processes, or benchmark indices – how they may affect investment outcomes. A lack of transparency could lead to consumer harm.

In CP21/18, we've asked for views on engaging with the information from ratings providers and whether we have characterised potential harms correctly. We look forward to stakeholder feedback on the case for regulation in this area, and on what would constitute a proportionate and appropriate regulatory response.

The UK Government will consider how best to adopt the ISSB standard for labels and naming conventions as part of an Integrated Sustainability Disclosure Regime and product labelling system. We will support the Government on the development of both regimes.

FCA Communications Strategy

In your report, you asked us to share good practice with the industry to demonstrate what good looks like. You mentioned that small firms would particularly value case studies.

We continue to evaluate our communications, so we can improve the clarity of information we provide. We know that good and poor practice examples are popular with firms, as are case studies. We have published case studies, such as with our financial promotions case studies. We will continue to consider using these to help firms comply.

Operational Resilience

You also highlighted in your report that firms' operational resilience would particularly benefit from case studies and templates.

In our Policy Statement, we used a number of examples to help firms understand how the policy applies them. We have been proportionate in limiting our rules to only the highest impact firms we regulate. We consider the rules, and the examples included, to be a helpful reference point for all firms we regulate, as well as the wider industry.

We encourage firms with similar business models to collaborate and have encouraged discussion at industry groups we attend. We also published a review earlier this year on change management in which we shared good practices.

We have continued to run our Cyber Coordination Groups with industry. These give firms an opportunity to share insights and experiences. We have published 3 cyber insights documents which collate the good practice points that firms have shared.

We will consider setting out further best practice for firms.

You suggested we reshape our work on operational resilience to focus on lessons-learned from the pandemic, and to reflect where risks have increased as well as reduced.

We extended the consultation period for our operational resilience policy rules by 6 months until 1 October 2020. This meant feedback reflected insights from the first wave of the pandemic. While we haven't made any changes to the policy in direct response to lessons learned from the pandemic, we have incorporated key insights from firms into the final policy. Equally, the feedback reinforced the importance of our policy proposals.

We have paid close attention to where resilience risks have altered as a result of the pandemic. We're aware of an increase in Cyber-attacks using Covid-19 as subject matter to lure potential victims into clicking on a malicious link. We were also aware that many firms paused change programmes while dealing with the initial effects of the pandemic. We have encouraged firms to take a cautious approach when restarting change programmes.

Fair outcomes for consumers

Access to Cash

Fair treatment of vulnerable customers is a core pillar of our work on access to cash. Where access is removed, we know it can particularly affect customers with characteristics of vulnerability. That's why we have published guidance that sets out how banks should consider the needs of their customers and whether alternative services need to be put in place when closing their bank branches. Our branch closures guidance is consistent with our vulnerability guidance, emphasising that we expect firms to exercise particular care with customers in vulnerable circumstances. Our vulnerability guidance includes examples for building in human intervention and forms of online help into digital journeys to help vulnerable consumers.

Despite most people having reasonable access to cash, there are some consumers that may not have sufficient access. Around 5 million adults say they still rely on cash. We commissioned qualitative research to further understand those consumers' need for cash, how they access it, and to gather insight into their demographic and vulnerability characteristics.

We also receive regular insights from consumer groups about customers' experiences. These insights feed both into our supervision of our guidance and our policy work to ensure consumers and SMEs, including those in vulnerable circumstances, can access the cash they need.

Professional indemnity insurance (PII)

You encouraged us to consider the numbers of firms offering this cover to financial services businesses when making policy decisions.

We recognise that the PII market has hardened, both in terms of reduced access and increased prices. The number of insurers active in this market has fallen from around 15 to 5 in the last 5 years. We understand that PII costs for firms that have previously advised on Defined Benefit pension transfers have increased from around 1-1.5% to 3-6% of firm income. We plan to consult on changes to our prudential requirements to improve the personal investment firms' financial resilience so that they are better able to meet their redress liabilities. We will also consider changes to our requirements on holding PII, if appropriate. In the meantime, we are continuing to monitor developments in the PII market.

Consumer Investments

We welcome the Panel's input and their views on the regulatory perimeter. Some of the most serious harm we see involves investments outside our regulatory perimeter and online scams. We have limited powers, particularly in our ability to deal with online promotions. We continue to work with Government to address these harms which fall outside our perimeter.

We recognise the impact activist retail investors are having on the market. Accounts opened with trading apps surged in January, driven by the investments in GameStop and other meme stocks. We will shortly launch a new £11m investment harm campaign to help consumers make better-informed investment decisions. This will specifically target activist investors through partnerships with influencers, social media and paid ads on Google.

Culture and Governance

We welcome your comments on culture and note your recommendations for engaging with small firms, and an approach that addresses the different business models and ownership structures.

We agree that culture is a critical factor in a firm's conduct, regardless of its size. A healthy culture is key in reducing instances of poor practice. Culture is one of the main lenses through which we supervise firms. We focus on firms' purpose, governance, leadership and approach to people. We aim to identify and address issues that are indicative of poor culture before they crystallise into issues which cause consumer harm.

Since the launch of our Transforming Culture initiative, we have held numerous events to develop the discussion on culture and broaden engagement among financial services firms. We have also continued to publish discussion papers and thought pieces, for example our 2020 Discussion Paper on the importance of purposeful cultures.

We are planning to engage with firms on topical themes relating to Culture. We look forwards to working with both the members of the SBPP and, the panel itself as part of this work.

Collecting data

We welcome your comments on being smart in the way we use data, and to get maximum value from the information we ask firms to provide.

Our new RegData system will support more efficient collections of data. In collaboration with the Bank of England and industry we will transform how we collect data, specify our reporting requirements and streamline collections.

Our data foundations programme will improve how we manage and use the data we collect. It will bring together different sources of data with advanced analytical techniques to generate intelligence insights and allow us to spot harm earlier. We will also automate more of our data collections. We will make better use of our data by continuously reviewing existing collections and challenging the need to collect more data through our Information Governance Board (IGB).

We look forward to your continuing support and challenge over the next year as we undergo our transformation and continue to help firms operate and maintain high standards of conduct.

Yours sincerely,

Nikhil Rathi

Chief Executive