

# Annual Report

2017/18

The background features several overlapping, wavy lines in shades of blue and grey, creating a sense of movement and depth. These lines are layered over a white background with blue geometric shapes.

FCA

Smaller Business  
Practitioner Panel



# Chairman's foreword

The last year for the Panel has been one in which we have enjoyed constructive engagement with the FCA, and in which a number of important initiatives have moved forward. The regulator has continued to articulate its approach to regulation, and large projects such as MiFID II and Open Banking have reached significant milestones.

In my foreword last year I focussed on one of the Panel's key themes, clarity of regulation, and looked forward to hearing more detail on the implications for financial services firms of exiting the EU. Clarity of regulation continued to be one of our key themes, but we have not progressed as far as we had hoped in understanding what the regulatory landscape will look like, for smaller firms in particular. We appreciate that the FCA is working within a complex environment and that in its business plan for 2018/19 it has had to allocate substantial resource to EU withdrawal. This is encouraging if it is used to help firms understand what the impact of withdrawal will be on the industry but brings its own challenges when allocating regulatory resources to other necessary activities.

Clarity of regulation is not restricted to the implications of leaving the EU. The FCA has followed up the publication of its Mission with a welcome detailing of its approaches to consumers, supervision, enforcement, competition and authorisations. The consistent use of the decision-making framework which first appeared in the Mission is something the Panel supports as it gives coherence to a wide range of regulatory activities.

As well as clarity of regulation, the Panel's themes this year have been volume and pacing of regulatory measures, proportionality and cost-effectiveness, and communication and engagement by the FCA.

The environment in which firms are operating has not become any less complex during the past year. We have consistently emphasised the need for the FCA to consider the volume and pacing of regulatory measures, and to consider the cumulative effect on smaller firms of implementing multiple simultaneous pieces of work. The cost to small firms is not always easily identifiable, as it can take the form of an opportunity cost, such as lack of innovation or choosing not to take part in a consultation exercise. The FCA's recent initiatives to use technology to improve regulatory reporting are welcome, if they result in innovation which smaller firms can use without incurring additional cost.

In the context of our proportionality and cost-effectiveness theme the FCA's decision-making framework clearly articulates that evaluation is a part of the regulatory process. We have encouraged the FCA to take into account both the direct and indirect costs, and the cumulative impact, of all the work it undertakes with firms.

The FCA's efforts to communicate with smaller firms, using channels such as Regulation Roundup and attendance at conferences, are welcome, but there is still more work to be done. In the 2018 Practitioner Panel Survey both large and small firms were most likely to identify simplifying and improving

communication as their key message for the FCA Board, and in the future this is likely to be just as relevant.

For the coming year, we will continue to look at the impact of regulation on smaller firms, with a particular emphasis on proportionality and cost-effectiveness, volume and pacing of regulatory measures, communications and engagement and clarity of regulation. In terms of specific priority areas of the FCA's work, we will focus on innovation and technology, particularly in enabling smaller businesses to thrive in the evolving environment. We will look at culture and governance, encouraging the FCA to have expectations which are clear and proportionate. Reflecting the size of the consumer credit market, we will focus on consumer credit regulation, which is still a relatively new sector for the FCA, as well as the mortgage and lending into later life sectors. We will also look at how the FCA regulates financial life planning, including long-term savings and investments, pensions and advice. The issue of EU withdrawal is one which will affect all sectors and our key goal here will be to encourage the FCA to communicate regularly with smaller firms so that they can prepare for change.

I would like to thank the Panel members past and present for their enthusiasm and participation, and for the expertise they bring to the process of advising the FCA. The industry will be no less dynamic over the next year and we look forward to working with the FCA to continue addressing the issues which are particular to smaller firms.

**Craig Errington**  
Chairman, FCA Smaller Business  
Practitioner Panel

# 1



## Introduction

The Smaller Business Practitioner Panel (SBPP) is one of four statutory Panels for the FCA, and works alongside the Practitioner Panel, Markets Practitioner Panel and the Consumer Panel. The main aim of the SBPP is to apply the experience and strengths of smaller firms to improve UK financial services regulation through representing to the FCA the views, interests and concerns of smaller regulated firms.

Each year the Panel identifies its key themes and priorities and communicates these to the FCA. During the year the Panel meets regularly with FCA senior staff and representatives of other bodies to engage with the regulatory process and provide advice and feedback.

# 2



## Key Themes

In its work, the Panel's primary objective has been to consider the impact of FCA regulation with particular reference to smaller firms.

Under that overall objective, it has this year focussed on the priorities of proportionality and cost-effectiveness, volume and pacing of regulatory measures, communications and engagement and clarity of regulation.

## 2.1 Proportionality and cost-effectiveness

### FCA approach to value for money

*The FCA's approach to value for money has been evolving since it was created. It has developed a framework which includes a wide range of activities such as cost benefit analysis (CBA) for rules, Enterprise Act reporting, business planning prioritisation, operational excellence and benchmarking to understand operational costs.*

The Panel has welcomed the work the FCA has been doing on costs and effectiveness which applies not only internally but includes the impact its work has on firms, including the cost of meeting data requests, measured against the benefits. It has also welcomed ongoing work to make better use of technology solutions so as not to duplicate requests, such as the joint FCA and Bank of England TechSprint which looked at how to make regulatory reporting requirements machine-readable and executable.

The Panel has raised the point that the main cost to firms of regulatory work is often in the form of opportunity cost. For smaller firms, this may be a financial cost if the work has to be carried out by fee earners. Equally, complying with regulation may be done at the expense of innovation or responding to consultations.

## 2.2 Volume and pacing of regulatory measures

### Regulatory burden

One of the main issues which the Panel continues to raise is that of the cumulative burden on firms in general, and smaller firms in particular, of regulatory change. The Panel's concern is that if smaller firms' compliance resources are fully stretched by data requests and compulsory regulatory requirements there is a danger there will not be capacity to take part in discretionary activity such as responding to consultations. As a result the voice of the smaller firm community, which makes up the bulk of the industry, will not be heard. There is also a danger of smaller firms missing, and therefore failing to implement, important regulatory requirements. The Panel continues to seek reassurance that the FCA is both aware of this risk and has controls in place to monitor and mitigate. Recent initiatives to use technology to improve regulatory reporting, such as the December 2017 TechSprint event on smarter regulatory reporting are a step in the right direction.

The Panel's main message is that the FCA should bear in mind the totality of regulation on smaller firms, as well as individual workstreams, as it looks at the broader effects of regulation.



## FCA prioritisation

*The Panel is consulted on the FCA's annual business plan. The Plan for 2018/19 was published in April 2018 and as well as setting out the FCA's cross-cutting and sector-specific priorities acknowledged that preparing for EU withdrawal is inevitably a significant focus of activity.*

The FCA faces significant challenges from EU withdrawal and the Panel recognises this. It agrees with the priorities for the coming year, and appreciates that the FCA has taken on board its comments about the pressures on both its own and industry resources. It has also acknowledged that there is pressure on the limited legislative slots available, but also highlighted pressing business that still needs to be done, such as incorporating the remaining Consumer Credit Act provisions into the FCA Handbook as soon as possible, given the importance to the sector.

## 2.3 Communications and engagement

### FCA Communication strategy

*The Panel is consulted on the FCA's communication strategy. During the year the FCA launched its high profile media campaign, featuring the animatronic head of Arnold Schwarzenegger, encouraging consumers to claim for missold PPI policies before the August 2019 deadline.*

The Panel has seen significant progress in the FCA's communication with smaller firms and it welcomes the work that has been done, for example with initiatives such as Regulation Roundup and FCA attendance at conferences.

The FCA's efforts to communicate the deadline for PPI with its media campaign were acknowledged by the Panel, but it raised concerns about whether the tone of the campaign is consistent with an image of the FCA as a professional organisation. It has also cautioned that there is a risk of potential negative consequences for the broader protection insurance market which remains an important product area when sold appropriately.

Other areas where the Panel has challenged the FCA's communications include the language used in the Asset Management Market Study, where it considered the use of the term 'single all-in fee' could be potentially misleading. It has also suggested more promotion of best practice within the industry. It was a little disappointed that the Thematic Review of interest-only mortgage customers focussed mainly on the risks and areas of potential improvement rather than highlighting the substantial areas of good practice uncovered by the work.

## Whistleblowing

*The FCA has a team within its Intelligence department to act as a first port of call for whistleblowers.*

The main issue the Panel has raised around whistleblowing is a lack of feedback on what actions have been taken as a result of reports. The FCA has responded that it has been working on improving processes, including communication of progress to the public widely, while at the same time managing people's expectations.

### Data publication

*The FCA has published a number of Data Bulletins sharing information it has collected through channels such as the Retail Mediation Activities Return (RMAR), the Retirement Outcomes Review and the Mortgage Lending and Administration Return (MLAR).*

The Panel has encouraged the FCA to publish more of the data it collects. It has been very pleased to see a step change in the publication of data since outputs such as the Data Bulletin are a valuable source of information for small firms which is not available to them elsewhere. It has encouraged even more publicity of this activity as there are many firms which are still unaware of the resources they can access.

## 2.4 Clarity of Regulation FCA Approach to Regulation

*Following the publication of its Mission in 2017, explaining the framework it uses to make decisions, the reasoning behind its work and how it chooses the best tools for the job, the FCA has published a number of further documents explaining its approach to consumers, supervision, enforcement, competition and authorisations.*

The work to articulate the FCA's approach to regulation which followed the publication of the Mission was welcomed by the Panel as evidence of more clarity for the industry. In particular, the Panel was very supportive of the Approach to Competition and encouraged the FCA to use it as a reference whenever the issue of competition is relevant. It is noticeable that the responses to the joint FCA/Practitioner Panel Survey show a significant increase in confidence that the FCA is meeting its competition objective.

### Asset Management Market Study

*The FCA published the finding of its study of the asset management market in July 2017. This resulted in a package of remedies to ensure fund managers compete on the value they deliver.*

The terminology of the market study was raised by the Panel, which also expressed some doubt about whether the figures for profit margins across the industry were widespread and queried whether they were representative for smaller firms.

## Innovate

*The FCA's Project Innovate aims to tackle regulatory barriers to allow firms to innovate in the interest of consumers. It includes a 'regulatory sandbox' providing support for innovative firms ready to test, an advice unit providing feedback to firms developing automated advice and guidance models, and tailored regulatory support for innovative firms.*

The Panel has discussed the work of the Innovate team, the FCA's regulatory sandbox work and the advice unit. It encouraged the FCA to work with unregulated firms to which providers might outsource work, as FinTech firms may be unfamiliar with the restrictions of regulation. The Panel also had a workshop on the use of distributed ledger technology.

## 2.5 Cross-cutting topics

As well as the Panel's specific priorities, there are two cross-cutting issues which have been covered during a range of discussions.

## UK exit from the EU

The Panel appreciates that EU withdrawal will be the key regulatory challenge for the FCA for some time. It has encouraged the regulator to engage with smaller firms at an early stage, as it is doing with larger firms through their supervisors, to gain a deeper understanding of the impact of EU withdrawal on these businesses and the potential issues they will face. It has urged the FCA to provide as much guidance as possible to such firms about how they might start identifying and thinking about the issues which are relevant to them, such as general insurance contracts which run beyond the date of exit. The Panel has been encouraged to hear that the FCA has been in contact with regulators in other countries where there are large ex-pat communities as it considers UK nationals living abroad may be particularly vulnerable to unauthorised advice.

## Culture

*The FCA has launched a discussion on transforming culture in financial services.*

The debate about culture is welcome, and the Panel supports a more principle and outcome-based approach to supervision. It has pointed out that for this to work the FCA would have to align its own culture at all levels with that which it wishes to see firms adopt.

# 3

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## Priorities

### 3. Priorities

At the start of the year we set ourselves four key priority areas on which we would focus our attention:

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**Cyber crime – improving protection for smaller firms and their customers**

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**Financial and investment advice – helping improve affordability and accessibility**

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**Indebtedness – affordability and distribution practices**

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**Extension of senior managers and certification regime**

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#### 3.1 Cyber crime

*In June 2017 the FCA published its guide for firms on the foundations of good cyber security.*

The Panel provided advice and feedback on the format and communication of the document from the perspective of the target audience of smaller firms. It has raised a number of issues including the impact of cyber attacks on smaller firms and the extent to which smaller firms can carry out due diligence on third party providers. The Panel also encouraged the FCA to develop a core script for communications from banks to consumers around open banking and this has now been done.

#### 3.2 Financial and investment advice

**Financial Advice Market Review (FAMR) and Financial Advice Working Group (FAWG)**

*The Financial Advice Working Group (FAWG) was created to take forward some recommendations of the FAMR report, published in 2016.*

Panel members were involved in the various subgroups of the Financial Advice Working Group and contributed to their work. The Panel was interested to see the FAMR Baseline report and has encouraged the FCA to ensure that it monitors the findings that there are reducing numbers of advisers in the market and their relatively high average age. The Panel also commented on the consumer guide on differentiating between 'advice' and 'guidance' and recommended clarification of when consumers have access to the Financial Ombudsman Service. It also commented that some firms remain wary of providing guidance due to fears that this could tip over into regulated advice.

#### Money Advice Service

The Chief Executive of the Money Advice Service shared his business plan and budget with the Panel. The Panel appreciates that the issues MAS is dealing with are very challenging it was reassured it has established a clearer set of key performance indicators against which to measure its progress. The Panel made some suggestions about metrics to measure value for money.

## Pensions and retirement saving

The FCA has consulted on several areas relating to pensions and retirement savings, including its general strategy relating to competition in the pensions market, transfers from defined benefit to defined contribution pensions, and the non-workplace pensions market.

In response to the consultation on non-workplace pensions the Panel has observed that the key issue in saving for later life is not charges or specific product issues, but whether consumers are making informed decisions about their later life choices. Consumers must have access to an appropriate range of products and services, including advice and guidance. It has encouraged the FCA to consider the broader picture when considering remedies, to avoid the unintended consequences of excluding customers from taking actions in their best interests. It has also encouraged the FCA to look at technology-based developments, particularly in sales and distribution, in order to ensure that any remedies and changes to regulation remain relevant and do not only address the market as it is today.

## 3.3 Indebtedness Unsecured credit and over-indebtedness

*The FCA has been carrying out a number of initiatives addressing consumer credit and debt, including a consultation in July 2017 on assessing creditworthiness in consumer credit and a market study on credit cards which concluded in February 2018.*

The general topic of increasing indebtedness has been discussed by the Panel several times. It has raised issues about consumer prioritisation of different debts once they become over-indebted and the impact on different sectors considering forbearance. The Panel has also highlighted the issue of customers claiming on mis-sold PPI which may lead to a negative view of protection products. When purchased appropriately such products can help to prevent customers from falling into debt.

## Creditworthiness

*The FCA has consulted on assessing creditworthiness in consumer credit.*

Concerns were raised by the Panel that gathering information to assess affordability is a significant element of competitive positioning, and that those firms which are acting correctly may suffer disproportionate competitive disadvantage. It urged the FCA to take a firmer approach by introducing a clear element of prescription to ensure that the rules are applied consistently.

## High Cost Credit review

*The FCA continues to address the high-cost credit market following its call for input in 2016 and its decision to retain the cap on high-cost short-term credit (HCSTC) for a further three years.*

The view of the Panel is that the FCA should take a consistent approach across all unsecured credit sectors, and ideally would have liked the Call for Input to have an even broader scope. It has encouraged the FCA to work with relevant bodies on signposting for customers involved in the high-cost credit market to raise consumer awareness of the particular problems they may face.

## Mortgages

*The FCA is currently carrying out a study of the mortgage market focussing on areas where competition can potentially be improved. In September 2017 it consulted on number of measures to facilitate 'retirement interest-only mortgages', interest-only mortgages for older consumers where, assuming there is no default, the loan is only repaid on a specified life event.*

Following the findings in the FCA's work on the ageing population that older customers who wished to release equity from their homes or who had maturing interest-only products were having difficulty accessing mortgages, the Panel welcomed the consultation on measures to improve the situation and has urged the FCA to move quickly to implement remedies in the area.

The Panel has commented on the Mortgage Market Study and suggested it might usefully have included the role of protection insurance. Given the time the study has taken, there have also been significant changes in the mortgage market and the Panel has questioned whether some of the data may be out of date.

## 3.4 Extension of senior managers and certification regime

*The Senior Managers and Certification Regime (SM&CR) replaces the Approved Persons Regime, changing how people working in financial services are regulated. SM&CR is already in place in the banking sector and is being extended further into other sectors.*

The Panel supports the extension of the SM&CR across the industry, as its view is that if well-implemented, clearly articulating lines of responsibility will improve firms' governance processes. It welcomes the FCA's assurances that it intends to make the transition as seamless as possible for smaller firms to minimise the resources required for implementation while still achieving this objective. The Panel has advised that the FCA's communications strategy needs to strike a fine balance between alerting firms to the work they need to do in order to show that they are compliant with the new regime and creating extra work for those with robust governance structures already in place.

## FCA Register

*In July 2017, the FCA published proposals to extend the Senior Managers and Certification Regime (SM&CR) across all regulated firms. Under these proposals, the FCA will only approve the most senior individuals within firms. This means that only Senior Managers will appear on the FS Register. The FCA has committed to consulting further during 2018 to address concerns raised by the Panel and others.*

The proposed changes to the Register were highlighted by the Panel as potentially problematic as many firms and others use the current Register for recruitment and compliance purposes. It strongly encouraged the FCA to look at ways to ensure the information remains available to firms and the public, whilst bearing in mind scope for cost savings in data collection.

## 3.5 Other issues

### MiFID II

*The revised Markets in Financial Instruments Directive (MiFID II), the EU legislation that regulates firms who provide services to clients linked to financial instruments and the venues where those instruments are traded, came into effect on 3 January 2018.*

The FCA engaged with the Panel on MiFID II implementation throughout the year. Issues raised included the short timescales for implementation, proposals

relating to research which the Panel was concerned would make such research unaffordable for smaller firms, and further clarity about the rules relating to taping of telephone conversations.

## Financial Services Compensation Scheme

*The FSCS Chief Executive discussed his business plan with the Panel. The FCA has also consulted on how the FSCS is funded and proposals to increase the protection it gives to customers.*

Views on the split of FSCS contributions vary within the Panel, but it supports the overall direction of travel of the funding review. It has, however, encouraged the FCA to satisfy itself that the substantial operational budget of the organisation is providing value for money. The Panel's view is that it is better to focus resource on preventing wrongdoing in the first place, rather than compensating after the event.

## Financial Ombudsman Service

*The FCA has consulted on extending access to the FOS to more small and medium-sized enterprises (SMEs).*

The Panel responded to the FCA's consultation, raising questions about whether the FOS has sufficient resource and expertise to cope with the extra responsibility. It has recommended that a more appropriate dispute resolution system should be considered.



## Members of FCA Smaller Business Practitioner Panel

### Craig Errington

Chairman  
Group Chief Executive, Wesleyan

### James Bawa

Chief Executive,  
Monmouthshire Building Society  
Member until 31.8.17

### Paul Beasley

Chief Executive Officer,  
Richmond House Wealth Management  
Member from 1.11.17

### Andy Chapman

Chief Executive Officer, The Exeter  
Member from 26.5.17

### Nicholas Coghill

Chief Executive Officer,  
City Asset Management plc

### Gerald Grimes

Formerly Chief Executive Officer,  
ThinkSmart Ltd

### Richard Haas

Deputy Chairman  
Chief Executive Officer,  
CapeView Capital LLP

### Gemma Harle

Managing Director, Mortgage and  
Protection Network, Intrinsic

### Robin Keyte

Director, Keyte Ltd

### David Marlow

Chief Executive,  
Nottingham Building Society  
Member from 1.11.17

### Peter Minter

Chairman, Moneybarn

### Phillip Monks

Chief Executive, Aldermore Bank plc

### Ashley Rogoff

Founder and Managing Director,  
Ashley Page Insurance Brokers Ltd

### Sue Round

Director of Group Investments and  
Senior Fund Manager, EdenTree  
Investment Management Ltd

### Marlene Shiels

Chief Executive, Capital Credit Union

### Paul Smith

Chief Executive Officer, Morses Club plc  
Member from 1.5.18

## **Smaller Business Practitioner Panel**

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**FCA**

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