FINANCIAL CONDUCT AUTHORITY

Our Mission 2017

Consultation responses: Webform submissions

5 of 5

April 2017

Non-confidential web form respondents
Lighthouse Services Limited
Skirrow Insurance Services
Susan Hill
Paul Adleman
Diane Bugeja
Ivor Pearson
Florian Ederer
Create Solutions Ltd
Malcolm McPartlan
Ciso Compliance Limited
Anonymous
He Zongze
Vince Harvey
Equitable Life Assurance Society
National Franchised Dealers Association
Armchair Mortgages Ltd
The Association of Corporate Treasurers
Ed Hodson
Ian Jones
Marine Aviation & General
Dr H Powley and Professor K Stanton
Responsible Finance
Community Investment Coalition
Anonymous

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 26 October 2016 14:14
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

No it can never be complete, as the markets need to continually evolve, and as the regulator you need to do the same, in a proactive way rather than re active, to do this you need to better work with the industry together, rather than a big stick attitude

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

In some cases yes, but as the disclaimer says, investments can go up as well as down, therefore clearer regulator views on appropriate disclosure and advice to retail clients is important, correct assessment of needs etc. and a very clear regulator view of change of client circumstances, as what is correct today, may not be at an unknown point in the future, no one can anticipate or in some cases pan for this, so when a product/or products are correctly advised now, and a change in the future by various outside circumstances occurs, can or should the advisor or indeed the product provider be responsible !?!, client awareness here is important

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

No, but it is getting there, this will continue to evolve naturally as markets and other regulation guidelines emerge, but again it is working and talking to the industry on regular basis to ensure this does

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

Not at all, you need to be much clearer on this and your view on what is wholesale and what is retail, it simple terms any provider that sells it's products direct is retail, those that sell though a third party are wholesale, the third party is then the retail provider, basically whoever sells to the end user is retail. Both wholesale and retail should have a clear regulatory responsibility to both the retail client wholesale provider and the regulator

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

UMM good question here, as there are so many ways to measure, depending on what end result you want or are looking for, but from a regulator point of view, surly it should be on a clear best advice basis, true performance is on good quality business written and maintained with little to no complaints, cancellations, no need for business to be re written etc. basically get it right first time, all this is just assuming good, correct and best advice at the outset, based on current known circumstances at that time, this can conflict with your question 2 above

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

This is a question that I assume you will get a lot of varying answers, as no regulator is every going to get this 100% correct in the eyes of the industries it regulates, but the best it can do here is to be open & honest with the industry as it expects the industry to be with it

Q7: Do you think our intervention framework is the correct one?

This is another that will need to and will continually evolve, as it takes into account more than likely the previous questions/answers and those that also follow this question

Q8: Where do you believe the boundary between broader policy and the FCA’s regulatory responsibility lies?

This the regulatory needs to be able to clearly define, where and where not it's scope lies, at this time it is still finding it's feet here, and like all infants does cross the line and has created many grey areas, more so in the regulated to unregulated mortgage market as well as the scope and definitions of the old consumer credit licence that it has now taken over to the wider market, that in general terms is not the financial market that it was originally set up to regulate

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

no, I cannot agree here with this, as either private companies and or individuals in the industry, any business has the right to trade on the basis that is wishes to (albeit within regulation), and as such should be able to cost, change, charge it's clients whatever it wishes to, but in fairness should be open and honest in it's charging structure, so as to let the client either wholesale or retail be in a position to make their own informed choice decision

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

This has really been questioned and answered above, the need to evolve, this double question is proof of the need of the regulator in some cases to step back and think first as all should do to get it correct in a cost effective way, for the eventual benefit of all

Q11: Would a Duty of Care help ensure that financial markets function well?

Surely this is what the industry is already doing under TCF, although this does have currently a double meaning, it may therefore be prudent at this time to really get to now sorted and clarify to all in the industry, what the regulator wants and expects of both TCF and 'duty of care', which is a far better terminology to best advise to the wholesale and retail customers

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

No, all should be treated the same, a client that fits the more complex products tends to be more aware, this is already done on the risk scale, however on the more complex products which by there nature tend to have more issues, as they appear to boarder some very strange schemes !! here the regulator needs to have better placed approval of these schemes before they are released into the market, maybe now is the time to get these companies to have to talk to and submit to you for prior approval, before release, this would be a very good proactive move by the regulator to prove to he public it is there for there protection

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

no, but it is getting there, this is a very sensitive question and difficult one, where the wholesale and or retail sales side has to be able to place clients into safe categories, there really needs to be a very clear and precise view here from the regulator on the regulators view of 'lesser capability' of an individual, and a clearly defined framework for this to be recognised and recorded

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

if it is outside of your regulatory perimeter, why are you even getting involved in it

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention?

nothing this is not the role of the regulator but that of the ombudsman, there is and has been to much ambulance chasing over the past decade and this has been fuelled by the regulator comments, care should be take going forward, I am not adverse to correct disclosure when something has gone wrong, but it is the way it is done

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one? this again is covered in question 13

Q17: Is our approach to the effectiveness of disclosure based on the right assumption?

this as before will never be totally correct as it needs to evolve as markets and products change, but as above, by working with the industry at all levels openly this can only improve

Q18: Given the evidence, is it appropriate for us to take a more ‘interventionist’ approach where conventional disclosure steps prove ineffective?

yes of course that it what you are there for, to be proactive in this situation, but there is a need to get it right and ensure fairness here to all

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable?

is that a bad thing!!! industry will clearly know if they get it wrong what to expect

Q20: Are there any other factors we ought to consider when deciding whether to intervene?

timing, and the need to always ensure the retail clients are totally protected, by this I mean that at the point of intervening, you take all reasonable steps to protect the retail client form maybe a sharp fund loss/fall due to your actions, as then all you would be doing is making in the eyes of the retail client things even worse, if this makes sense

Q21: What more do you think we could do to improve our communication about our interventions? ensure quick and timely communication by yourselves direct to the retail clients

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals? no not really, most is covered above

Q23: Do you think it is our role to encourage innovation?

to a degree possibly yes, but that is surely the choice of the industry, the regulator should encourage this, but not place Obstacles in the industries way, it should work better and on a more human approach with industry

Q24: Do you think our approach to firm failure is appropriate?

this always has to be dealt with as it occurs in the most appropriate way for consumer protection, there is always going to be the need to review this, and as above the ultimate has to be that it is dealt with in a sympathetic way to protect the consumer

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

of course yes, as mentioned above, but not with a big stick, with consideration where you show you a able and willing to work TOGETHER with industry going forward, being more approachable

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

if it is private how is it transparent, again here you need clearer definitions of your wording. Surely a private warning is private and confidential with that company, it's content should be transparent so that company easily understands you, but transparent in the open sense is for all to see, this then needs to be wary of client protection as this could cause the market to react in an unnatural way to the clients being forced into a forced loss situation

Your details

Company Lighthouse Services Limited

Name Barry Davis

In what capacity are you responding? as a representative of an authorised firm

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 26 October 2016 16:45
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

I fail to see the relevance of a definition in the real World. Surely a living organisation can appreciate the constraints that this imposes in a dynamic environment? A well functioning market needs no definition, and it's appearance may differ from one day to another.

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

I can only respond from my own perspective. The current regime effectively enforces specific actions and currently I feel that I am being asked to treat all of my customers as if they were less intelligent than myself. Most clients are not "vulnerable customers" yet I feel that we are being forced to treat the majority as if they were brainless idiots incapable of disseminating the endless stream of information that we are forced to throw at them. Ultimately it becomes counter productive because no one can even be bothered to read it all and the most important features are lost.

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

Absolutely not. Since when should a pensioner that you personally know have to be screened before you can provide them with a home contents policy for £39.99? As a small broker I am not in a position to facilitate multi-national crime or terrorism but perfectly capable of deciding that I do not wish to deal with someone who's circumstances seem suspicious. Even so the regulatory system currently treats me as if I can expect to be asked to insure Osama Bin Ladin's diamond mines at any second.

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

OK so we have retail and we have commercial. Where does Wholesale come from? At what point does an insurer become a wholesaler. As a small broker I have enough of a problem in deciding if a customer is retail or commercial, and that's before the FCA decide to change their definitions.

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

No. There are major problems every few months that cause massive fallout within the market yet the FSA and FCA have been present to oversee any since 2005. Did either act effectively on PPI until it was effectively too late? Did either punish the offenders properly? Did honest brokers pick up the tab on that from the Banking fraternity? Success is easy if all you do is set your own targets and ignore anything that essentially implicates total failure in your primary responsibility.

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

The only comment I can make on this subject concerns the gross over emphasis on the control of sales. The major problems associated with the insurance market have all come from the boardrooms of the big players, the very people who determine culture within the organisations that they then claim not to be able to control. These people never make face to face sales, they never see the customer and they are unlikely to suffer serious financial detriment personally if this then causes problems. If every major fine administered demonstrates anything it is that the objectives are failing to be met - system failure.

Q7: Do you think our intervention framework is the correct one?

Every six months I fill in returns confirming that I am complying with this that or the other. Larger organisations do the same yet we still see major intervention, usually after significant damage has been done. Does the framework even matter if it fails to stop the damage?

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies?

The FCA has given me a mountain of red tape to wade through that has grown year on year. It is not possible for me to keep up to date, or to even understand what a lot of it is referring to. In my experience the FCA employee's understand some of it even less. Quite simply the FCA remit is too big and the idea that it has boundaries seems at odds with the daily tasks that I am required to perform. The FCA needs to redraw the boundaries and in a much more restrictive way.

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

To the first part of this - You tell me? To the second part - Probably not!
Underwriting is dependent upon price discrimination but then discrimination between two similar customers is unfair. That doesn't stop supermarkets selling things cheaper in one branch than another does it! Cross subsidy is clearly wrong but it could be useful in one off circumstances, insurance is after all about spreading the risk across a wider base. On the intervention side I still see the bigger firms getting away with things that I would be afraid to try, even if I were minded to do so!

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

In what context? Individual customers or insurance professionals? Whatever the answer we need less regulation and more enforcement.

Q11: Would a Duty of Care help ensure that financial markets function well?

I thought we already had one? Isn't that part of treating customers fairly?

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

Again this depends upon the context. Does a multi-national conglomerate need greater protection for it's asset insurance portfolio than my Grandmother required on her sole asset (her house)?

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

Making a distinction is one thing but making the judgement as to who falls into one category or another is quite a different matter. Currently the FCA draws up definitions and then decides if the definition has been adhered to. Both judge and jury. So why does the distinction even matter when the FCA will decide the outcome based on their own interpretation. Surely this is a matter for common sense - another one of those things that you can't seem to define properly.

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers? Why is the FCA stepping outside of it's regulatory perimeter?

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention? Leave it up to the redress schemes!

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one?

As before - you are correct to point out the blatantly obvious but isn't that just common sense again?

Q17: Is our approach to the effectiveness of disclosure based on the right assumption? ?

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective? ?

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable? ?

Q20: Are there any other factors we ought to consider when deciding whether to intervene? ?

Q21: What more do you think we could do to improve our communication about our interventions? ?

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals? ?

Q23: Do you think it is our role to encourage innovation? Why?

Q24: Do you think our approach to firm failure is appropriate? ?

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes? ?

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

Clearly not but then what happens if you publicly warn someone who actually didn't do anything wrong?

Your details

Company Skirrow Insurance Services

Name Graham Skirrow

In what capacity are you responding? as a representative of an authorised firm

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 26 October 2016 17:59
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

Q7: Do you think our intervention framework is the correct one?

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies?

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

Q11: Would a Duty of Care help ensure that financial markets function well?

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention?

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one?

Q17: Is our approach to the effectiveness of disclosure based on the right assumption?

Only if you adopt the new behavioural economics and some of the suggestions you have made in the 'Smarter Communications' document. One criticism I have is that the disclosure documents and suitability reports advisers are required to provide to the customer are designed by men assumed to be read by men, yet 50% of the customer base for financial service is female. Women read differently to men, you only have to look at our respective magazines to realise that. If we want women to engage with important information to make informed decisions we need to present documents in a way that women will read them. I was fortunate to have a long conversation with a doctor of behavioural economics from the University of Cambridge, she told me women read information in blocks, chunks, they read small sections quickly, they often put a document down to do another task, when returning to it they remember which sections they have read, blocking sections and colour coding was helpful. Network compliance departments interpret the FCA rules on disclosure for the SCDD, IDD and suitability report to be in a 'manual' format, they don't like block, emphasise or colour coding, they want long sections of same look, which is great for men but doesn't help women. If men have a bias and write documents that appeal to themselves, women will continue to be excluded and dis-engaged from the information process of disclosure.

Q18: Given the evidence, is it appropriate for us to take a more ‘interventionist’ approach where conventional disclosure steps prove ineffective?

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable?

Q20: Are there any other factors we ought to consider when deciding whether to intervene?

Q21: What more do you think we could do to improve our communication about our interventions?

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals?

Q23: Do you think it is our role to encourage innovation?

Q24: Do you think our approach to firm failure is appropriate?

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

Your details

Company Susan Hill FP Ltd

Name Susan Hill

In what capacity are you responding? as an individual

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 27 October 2016 16:56
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

Q7: Do you think our intervention framework is the correct one?

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies?

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

Q11: Would a Duty of Care help ensure that financial markets function well?

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention?

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one?

Q17: Is our approach to the effectiveness of disclosure based on the right assumption?

I'm not sure !! Our company is a mortgage and pure protection company. I personally have had substantial training in neuroscience and how human beings make decisions / choices (which are 2 distinct things). One way to consider human beings brains is that are progressively programmed throughout life to make a decision based on the most successful decision they had made in the past given a similar set of circumstances. NB 'successful decision' in this context is a very primordial thing - it is the decision that is most likely to allow that human being to 'survive'. Given the above consumers are likely to fall into a number of different groups - a consumer looking for a mortgage who has moved a number of times / a consumer who is a second time buyer / a first time buyer / a person doing a let to buy on their current residential and buying a new residential etc. Given all that (although potentially undesirable) it may be that different groups of consumers require different levels of disclosure. I completely agree with the part of the mission statement that talked about 'less is more', however I have to say that from our point of view the disclosure documentation is for 2 purposes - 1/ for the clients benefit 2/ for our benefit in case we have to defend a complaint - in all our years of trading we have had 2 complaints go the FOS both of which found in our favour due to the documentary evidence we had on file. For all regulated cases, apart from the obvious standard disclosure documents, we complete a full fact find including affordability assessment and produce a suitability letter (which by the way I believe should be a mandatory document in the mortgage world). All key disclosure documents are emailed to the client so they have an electronic version of them. When we receive a mortgage offer we email it to the client asking them to 'check and approve' it and email it back to us signed. We have additional (internal) disclosure documents for things like let to buy mortgages and extra statements that go on the suitability letter regarding things like additional stamp duty etc.

In other words at some level we are already dealing with different groups of consumers in slightly different and tailored ways.

Finally (and probably unfortunately) my experience over 15 years of mortgage broking is that we can have all the disclosure documents / warnings / neuroscience etc in the world but when it comes to a consumer wanting to buy their dream home it all goes out the window. Since the ESIS was introduced I haven't had a single client look at the part that talks about payments assuming the last 10 year average interest rate and what the payments would be based on that and then say 'OK I am now not going to buy the property'

I actually believe that disclosure (for both the client and the mortgage broker) could look something like;

1/ A standard Company introduction letter (a slim version of the IDD) - which includes the company's exact charging structure (we have this as a Terms of Business Letter)

2/ A fact find

3/ A mortgage Illustration (as simple as possible - maybe with Brexit we will abandon the ESIS and go back to simple mortgage illustrations)

4/ A suitability letter

I think these should be compulsory - I think that MCOB at the moment leaves too much to to the businesses discretion - I'm pretty sure that I read something where the FCA inspected files and couldn't find justification for the recommendation on something like 60% of files !!!

Disclosure documents that are standard across all mortgage firms and prescribed by the FCA, in my view, could only be of benefit to the consumer.

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective?

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable?

Q20: Are there any other factors we ought to consider when deciding whether to intervene?

Q21: What more do you think we could do to improve our communication about our interventions?

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals?

Q23: Do you think it is our role to encourage innovation?

Q24: Do you think our approach to firm failure is appropriate?

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

Your details

Company Instant Mortgages Ltd

Name Paul Adleman

In what capacity are you responding? as an individual

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 27 October 2016 16:56
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

In theory, the FCA's distinction is correct. In practice, I believe that the FCA tends to assimilate corporate retail investors, i.e. investors who are business entities (non-individuals) but which still fall within the definition of 'retail' under the MiFID/COBS regime, to wholesale market participants, thereby affording them less protection. I am currently researching a PhD (final year) on mis-selling to this category of corporate retail investors by focussing on the IRHP mis-selling saga and the findings so far are indicative of a need for further regulatory protection towards these investors since they are prone to the same biases as individuals, being typically run by one or two individuals themselves.

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

Q7: Do you think our intervention framework is the correct one?

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies?

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

Q11: Would a Duty of Care help ensure that financial markets function well?

No, I think it would be too onerous. I however do not agree with 'consumer responsibility' as a statutory principle and I believe that the UK is alone in having legislated in favour of this principle. I foresee a number of issues tied to this statutory principle, predominantly the fact that the FCA does not regulate consumers and hence it is unclear in practice as to how this principle is deployed (possibly indirectly when the FCA comes to determine the extent of enforcement and redress measures). Also, the nature of the responsibilities that consumer ought to take on is not defined and one wonders whether these should mirror the general principles of law, such as not misleading the service provider and/or not giving false declarations. To this end, it would be advisable to abolish this principle from statute and establish a 'retail investor charter' as an alternative. This charter is useful in instilling a questioning attitude in investor by prompting retail investors to ask the right pre- and post-transaction queries as well as guiding them towards the red flags they should look out for, hence covering the end-to-end journey of the retail investor. It is also recommended that this charter falls within the auspices of the new money guidance body that shall be replacing the MAS, given that it will be entrusted with responsibilities around, inter alia, the promulgation of financial capability, whilst also being endorsed by the Government, the FCA, FOS, the FSCS, and FCA Panels representing the interests of the industry and of investors.

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

Yes - it makes sense that consumers are protected when they need it the most, in other words when they least understand the products. However, the definition of 'complex' is very unclear and all there is to date is a non-exhaustive list issued by ESMA and MiFID itself. It would help if the regulator were to get involved in assessing products prior to their launch and issue a determination as to their complexity. This would in turn assist investors in determining whether a product is likely to be suitable for them or otherwise, whilst also allowing the regulator to intervene over the dissemination of products considered complex as and when required.

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

See response to Q4 - I believe that the regulator should consider corporate retail investors to a greater extent when developing its regulatory strategy.

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention?

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one?

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Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

Your details

Company King's College London

Name Diane Bugeja

In what capacity are you responding? as an individual

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 01 November 2016 12:16
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider? yes

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate? yes

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline? yes

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider? transparency

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness? YES

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

review telephone companies at present not regulated by FCA Having been successful in my life because of support from the community I now help support consumers by offering a free of charge service to anyone who asks for my help. In my crusades I have been surprised and disappointed at the complete lack of integrity particularly in very large companies. Right now I have a case of 02 and credit expert being in collusion As you regulate credit expert but not
02 I am sending complaints to the commissioner of information and yourselves .Lastly congratulations, Keep up the good work

Q7: Do you think our intervention framework is the correct one? YES except for replynto question 6

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies? with a customer service director and one of your case officers

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one? yes

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response? yes

Q11: Would a Duty of Care help ensure that financial markets function well? yes

Q12: Is our approach to offering consumers greater protection for more complex products the right one? N0. please see question 6 answer

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate? yes

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers? YES

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention?

Virtually nothing. Your service has been excellent on every occasion when I have sought your support

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one? I think you should broaden your definition of vulnerable consumers

Q17: Is our approach to the effectiveness of disclosure based on the right assumption? yes

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective? yes

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable? yes

Q20: Are there any other factors we ought to consider when deciding whether to intervene?

where there is evidence of a fraudulent activity should you or the consumer contact Action Fraud ?

Q21: What more do you think we could do to improve our communication about our interventions? nothing really

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals? n0

Q23: Do you think it is our role to encourage innovation? yes in particular broadening your terms of reference eg regulate communication

Q24: Do you think our approach to firm failure is appropriate? yes

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes? yes

Q26: Do you think that private warnings are consistent with our desire to be more transparent? no

Your details

Company no

Name ivor pearson

In what capacity are you responding?

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 28 November 2016 11:28
To: FCA Mission
Subject: 22 - Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider? Yes, that's pretty good.

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate? Yes.

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline? Yes.

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

Q7: Do you think our intervention framework is the correct one?

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies?

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

Q11: Would a Duty of Care help ensure that financial markets function well?

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention?

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one?

Q17: Is our approach to the effectiveness of disclosure based on the right assumption?

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective?

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable?

Q20: Are there any other factors we ought to consider when deciding whether to intervene?

Q21: What more do you think we could do to improve our communication about our interventions?

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals?

I read the consultation document, in particular chapter 11 on competition and market design. I believe the new literature on common ownership (diversified investors owning stakes in several competing firms) and its negative effect on competition and consumers may be of interest to you and the FCA.

For a quick summary on this topic, see here:

THE ECONOMIST:
http://www.economist.com/news/finance-and-economics/21707191-passive-investment-funds-create-headaches-antitrust-authorities-stealth

(Note: Lots of other media outlets have covered this developing body of research includings WSJ, NYTimes, Slate, Fortune, Forbes, ...)

A POLICY PROPOSAL:
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2872754

If you're interested I can give more details on the research on this topic.

Q23: Do you think it is our role to encourage innovation?

Q24: Do you think our approach to firm failure is appropriate?

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

Your details

Company Yale University

Name Florian Ederer

In what capacity are you responding? as an individual

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 28 November 2016 14:50
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

Yes. The market however needs to deliver socially desirable outcomes as well. This is not necessarily the outcome from well functioning markets, but can be. For example to reduce the level of debt, increase the number of people with a pension and not dependent on the state, more ethical and honest behaviour from all participants, including consumers. The FCA wants better financial education, and should also want better social outcomes, especially when there is broad political agreement.Whilst this is a prime function of government the FCA should have a voice on this

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

Yes, with the above proviso. Trust in financial services is important and where there is a loss, the FCA needs to explain that the public must take their share of responsibility

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

Due diligence by individuals is necessarily difficult due to marketing standards being so low outside regulated financial promotions

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

Yes. More can be done by wholesalers to recognise the end customer is the point of all markets.

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness? You need to measure the confidence the public have in you

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

Yes, a stronger role for enhancing the UK's position as a leader in honesty and fair dealing. "my word is my bond"

Q7: Do you think our intervention framework is the correct one?

Yes. Greater use could be made of Gabriel - for example asking firms to submit documents for review

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies?

The FCA should take a much stronger line on fraud, even working with insurers to reduce policyholder and claims fraud

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

Understanding is correct, but you could do more under principle 6 to ensure fairness is central to business practice. Firms could be asked be proactive in identifying unfair business practices

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response? Yes. The current response allows to many firms to operate under the radar

Q11: Would a Duty of Care help ensure that financial markets function well? Yes, a statutory one

Q12: Is our approach to offering consumers greater protection for more complex products the right one? Yes. Some products should be sold only with advice

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

Difficult to police, firms could be mandated to dived products and services into risk categories

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers? Yes, and has worked well with the Payday loan companies

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention? Unclaimed redress should go to charity

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one?

Yes, but it is quicksand as so many are vulnerable at some time or another. Failure to take vulnerability into account should be a rule breach

Q17: Is our approach to the effectiveness of disclosure based on the right assumption? Yes

Q18: Given the evidence, is it appropriate for us to take a more ‘interventionist’ approach where conventional disclosure steps prove ineffective? Yes. It might be useful to bark more than you bite

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable? Yes

Q20: Are there any other factors we ought to consider when deciding whether to intervene? You need to intervene more often. You need to be seen as well as heard.

Q21: What more do you think we could do to improve our communication about our interventions? More press coverage

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals?

The FCA suffers from a lack of regional offices. Open some and a lot of these problems will solve themselves

Q23: Do you think it is our role to encourage innovation? Yes, it is inevitable anyway

Q24: Do you think our approach to firm failure is appropriate? Yes

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes? No.

Q26: Do you think that private warnings are consistent with our desire to be more transparent? Yes

Your details

Company Create Solutions Ltd

Name Mike Cranny

In what capacity are you responding? as a representative of a professional firm

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 08 January 2017 21:54
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

The view that the customer takes of the 'market' is paramount and sadly this is not taken into consideration or indeed there is no easy method for this view to be heard.

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

The loss that ex Equitable pensioners experienced should never be repeated and your approach should have this in mind

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

Not really between the FCA and the Ombudsman there seems to be no interest in providing justice for Prudential wp annuity pensioners who have suffered decreases in pensions since 2007

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider? I know nothing of wholesale markets so cannot comment on them.

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness? What do the public 'customers' think of you are they satisfied ?

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

I see little 'integrity displayed at the Prudential, their dealings are underhand and damaging to pensioners, yet you or the ombudsman do nothing

Q7: Do you think our intervention framework is the correct one?

No. You should take on complaints from the public and investigate the reason for the complaint

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies? I do not understand this question

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one? Have no knowledge of this

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

Of course each individual is self responsible for checking products but a massive trust is put in financial institutions to do the very best for their customers, sadly this very often does not happen and we are taken advantage of, some would say ripped off

Q11: Would a Duty of Care help ensure that financial markets function well?

Yes a duty of care to the customer but surely that is an unwritten expectation that has always existed.

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

Define 'complex'? is a with profits pension annuity complex ? would seem so with the Prudential who quote obscure and jargon full reasons for never paying an increase.

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate? Pension age people should get more help with disputes

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers? Don't understand question

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention?

The ombudsman seems to think that having looked at a complaint once it should not do so again even if the same sort of complaint continues for years , thus becoming a 'serial complaint' against the same firm

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one? Yes

Q17: Is our approach to the effectiveness of disclosure based on the right assumption? Don't know

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective? Yes interventionist and be proactive

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable? Don't know

Q20: Are there any other factors we ought to consider when deciding whether to intervene?

How many people are complaining.
Has the ombudsman failed them
Is the action bringing the financial industry into disrepute

Q21: What more do you think we could do to improve our communication about our interventions? Reach out to the public much more most of us don't even know you are there

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals?

Get the press more involved and get them to print items about your activites
Talk to Which? and other consumer organisations more

Q23: Do you think it is our role to encourage innovation? Yes

Q24: Do you think our approach to firm failure is appropriate? Name and shame in the press

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

Yes and also apply a 3 strike system and remove their licence to operate if in breach of the rules and regulations

Q26: Do you think that private warnings are consistent with our desire to be more transparent? No everything should be public and transparent

Your details

Company Individual customer

Name Malcolm McPartlan

In what capacity are you responding? as an individual

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 15 January 2017 22:30
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

Yes, the definition is all encompassing however the market should always consider that consumers vary widely in their knowledge and understanding of products however ethical behaviour can be understood by all. A continuous focus on ethics and ethical practice with clear consequences for deliberate mis-information should remain a high priority. Firms dealing business to business should also be expected to conform to ethical standards as they may also be detriment overall affecting the financial market place by not remaining consistent with regulatory requirement's.

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

Yes, consumer loss should be proportionate to the nature of the loss and the overall cause however in a well-functioning market consumers are also expected to take some responsibility for situations arising. i.e. ensuring sensible decision making, and questioning of processes. The definition of a well-functioning market may need further clarification as the current trend
seems to be to obtain consumers signatures to agreements and a simple tick box exercise with no real meaning or value behind the process.
Consumer loss is overall well covered.

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

The regulator may need to enhance the audit role to ensure that the market place maintains focus on its responsibilities, individual due diligence can be flawed when other pressing business needs arise. The regulator may obtain a better understanding of the market place by obtaining consumers direct views together with conducting "mystery shopping exercises" for feedback and audit review. It is suggested that the Thematic reviews could be extended to
incorporate this activity,
Enforcing market discipline needs to be a continued focus with no let up,
and there may be room for further discipline linking back to ethical behaviour.

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

All markets should operate in accordance with ethical standards of behaviour with no difference in the high level principles for business. The above should apply to both wholesale and retail markets. Market protection needs to be at all levels to ensure consistency and a "right first time" message is understood by all.

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

The measurement of performance could include more detailed feedback from industry markets and consumers in general.
General industry customer satisfaction is key to highlighting any anomalies arising whilst also providing a measurement of industry effectiveness.

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

Yes, it is appropriate overall however further drill down attention to establish detailed market places and their detailed practices may assist further. Focus concerning consumer feedback relating to satisfaction and further consumer interaction may assist further.

Q7: Do you think our intervention framework is the correct one?

The current intervention framework is overall the correct one, required at the front end of businesses and needs to be seen as an exercise for assisting and supporting the market rather than punitive action and is also a good way to ensure corrective action is not a simple tick box exercise. The intervention framework could eventually be a diminishing requirement for
funding purposes if the overall regulatory monitoring and audit controls took full effect, and if the market place moves forward to fully embrace compliance especially customer interaction

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies?

The regulatory responsibilities should be separate to the broader policy and should be in support of same. The regulator should however influence the broader policy by its findings in the market place. The findings should be utilised to gain insight in to the scope of further policy definitions, but the regulator should maintain a distance from the ultimate policy making to ensure objectivity when carrying out the policy requirements.

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

The understanding of the benefits and risks seems to be correct overall there is a large range of criteria that needs to be weighted and the risk is that tight restraints may strangle the market either at potential new entry limiting consumer choice. Yes, this seems to be correct and is as above intervention needs to be applied where there is clear and intended detriment to ethical practice and where consumer consequences are out of proportion to the overall market trends.

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

Yes, this is definitely correct the more diverse the responsibility that may be placed with consumers the greater requirement for an innovative response, however if the detail relating to the responsibility is sufficiently transparent and conveyed accordingly to consumers in an ethical manner the need to intervene should be less, with innovation being the greater theme.

Q11: Would a Duty of Care help ensure that financial markets function well?

A duty of care would assist overall however this may be at odds with the need for consumer responsibility and should not simply involve the market place in requesting consumers to tick and sign their agreement and understanding. The company culture needs to be at the heart of all consumer / customer interaction and requires companies to be fully transparent
with their understanding of their own responsibilities

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

Yes, overall this is a good approach however the firms concerned should consider the amount of information and offer "jargon busting" literature to assist in the complex areas. Assessment of consumer experience of products should not be a simple tick box exercise but should be enhanced with clearly identified milestones for understanding the product

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

Yes, it is appropriate to distinguish between consumers in order to provide protection for more vulnerable consumers. All products should be made available for all consumers however it would be inappropriate to assume that all consumers have the same capabilities for understanding products and services.

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

More specific criteria would assist overall for both firms and consumers. Looking ahead the reference to the use of data science is also an excellent way to gain fast insight in to trends and traits however it is not a substitute for consumer interaction which can still provide unexpected insights in to how processes can and should be applied to best suit various consumer needs, including redress schemes. The continued interaction with new technologies coupled with human interaction with relevant third parties may be the best way forward to ensure that grass roots insight is maintained. It is also important that redress schemes are advertised in a simple plain English manner for ease of understanding by the general public.
It is also noted that voluntary redress schemes may not provide the longer term solution for protection of consumers if the redress is not enforceable.

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention?

It is important that redress schemes are easily accessible and understandable with robust processes and procedures being fully transparent for all consumers. It is important to ensure full utilisation of new technologies alongside more traditional methods to ensure that all consumer interaction is addressed to allow for the widest possible consumer outreach.
The more transparent and robust the redress processes become an expected decrease in outside intervention may become apparent.

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one?

Yes, this is the right approach and more attention to the definition of vulnerable consumers would assist further in this matter. It is imperative that whilst consumers should remain responsible for their own decisions when presented with "easy to understand material" this should not be weighed against the need to protect consumers when the need arises. A clear and consistent message will greatly assist in this area of the market.

Q17: Is our approach to the effectiveness of disclosure based on the right assumption?

Partly correct assumption consumers are in general willing to understand products and do like to seek the "best deal" they can find to suit their needs however this search can be tempered with product knowledge and information available both of which can be limited in "plain English resulting in incorrect decision making whilst believing that the best deal has been found.

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective?

Yes, it would be more appropriate to take a more 'interventionist' approach even to the extent of advising on best layout and presentation of information.

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable?

As the market place is fluid and products are varied the predictability factor will not always be reliable however there will be an element of predictability. This may be a positive factor ensuring that certain elements conform as required.

Q20: Are there any other factors we ought to consider when deciding whether to intervene?

The other factors for consideration are that early intervention with a preliminary report may assist in removing the need for further in depth intervention and may assist the market overall in rebalancing its priorities to negate incurring further investigation / penalties.

Q21: What more do you think we could do to improve our communication about our interventions?

A more defined and easier to understand set of parameters by way of a possible flow chart or
flow path may assist overall with regular bulletins issued to the market by way of various mediums and again utilising the latest technology available at any given time

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals?

Yes it would be good if communication could be based on flow paths and charts where applicable to assist in understanding and providing a pictorial snapshot of proposals and determined categories

Q23: Do you think it is our role to encourage innovation?

Innovation should always be encouraged however it may be best for a regulator to support relevant innovation where appropriate when it occurs

Q24: Do you think our approach to firm failure is appropriate?

Yes it does seem appropriate overall however if it is identified that a particular sector is consistently failing to meet requirements an overall investigation in to practices relating to the failure and support to rectify the industry standard which may be at fault and then address the firm accordingly in a supporting manner. However, where it is identified that shortcomings were a deliberate attempt to circumvent the market the consequence should match the failure.

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

Yes definitely, the more interaction and communication the better the understanding of lessons learned and this would have significant impact if the matter was addressed via formal discussion

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

No private warnings do not seem to be consistent with transparency albeit that there may be factors that promote a private warning if no breach has occurred, this does however seem to take the sting away from the basic drive towards full transparency. It may be best to scale warnings on a points system that clarifies the range of the warnings from “no breach occurred” to more severe criteria, this would allow for full transparency and would convey the right message by harmonising the procedure for warnings.

Your details

Company Ciso Compliance Limited

Name Selima Norton

In what capacity are you responding? as a representative of a professional firm

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 17 January 2017 18:41
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider? No. Well functioning markets always change and this always requires updating.

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate? Again this is forever changing and requires regular updates

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline? Laws are always broken in new ways

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

This market is forever changing and should always focus on customer requirements

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness? Feedback is critical

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

There are always new scams. These scams should be regularly reviewed and the people

Q7: Do you think our intervention framework is the correct one? Yes although there could be room for change in an adaption manner

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies? Identification should be withheld in some cases

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one? It seems acceptable altho it could be useful to monitor

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response? There would be a change to character

Q11: Would a Duty of Care help ensure that financial markets function well? Yes although not all financial markets are so open about their business

Q12: Is our approach to offering consumers greater protection for more complex products the right one? It can be although these things may not always be understood very clearly

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate? I didn't know u had one

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers? Always as these things change and refreshing the approach is useful

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention? Ask questions

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one? Yes

Q17: Is our approach to the effectiveness of disclosure based on the right assumption? Not always as things can be complicated

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective? It can be useful that advise yes

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable?

No as the case always has variables depending on product and consumer and criminal

Q20: Are there any other factors we ought to consider when deciding whether to intervene? Variable depending on case

Q21: What more do you think we could do to improve our communication about our interventions? IM not sure as the methods possible were all instated i imagined

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals? Depending on the proposal

Q23: Do you think it is our role to encourage innovation? Yes

Q24: Do you think our approach to firm failure is appropriate? Yes although there could be room for improvement

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

No illegal activity goes on.regularly although it could change the purpose of the firm type

Q26: Do you think that private warnings are consistent with our desire to be more transparent? A meeting could be useful with many peoples opinion included in the statement

Your details

Company Anonymous

Name Anonymous

In what capacity are you responding? as an individual

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 23 January 2017 14:53
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

It is comlete from the aspect of the specific area in Uk,but from the aspect of globalization,each market is not only competive with native markets,but also competive with foreign markets,so,the Intenational competive ability is an important characterist you should consider.

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

Not so complete,because you'd better describe the approach in details,not outline,such as what kind of information must be informed to consumers.

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

Generally speaking,FCA does it very well,but it's difficult to some consumers who have special hobbies and require different information,other than official's.

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

Relatively right,not completely right.As some firms you cannot distinguish because of its combined with individuals and firms financial products or services.

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness? Yes.

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

Q7: Do you think our intervention framework is the correct one?

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies?

I think broad policy solves the macro issues,regulation solves the concrete issues,generally speaking they are consitent with each other in making well-functioning markets.But,some times,the government may make a special decision for its special goal,then FCA's relative regulations must be modified to follow it.Except this,No broad policy forbidden,just FCA's responsiblilities.

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

Yes,just as the chinese old proverb,The goat's wool is produced from the goats.

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response? Yes.

Q11: Would a Duty of Care help ensure that financial markets function well?

Just in some degree,it's not the key factors in the firm's duties.The main duty of the firms are still the fine quality products,transperance infomation,nice after-sales services.

Q12: Is our approach to offering consumers greater protection for more complex products the right one? Yes.

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

Not perfect.Because it's difficult for you to recognize who is with greater capability and who is with lesser capability.

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

Not a proper one.You can do it inside,but only give advices outside your regulatory,otherwise you are unauthorized.
Establish complaints dealing window on the internet.

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention? Establish complaints window online.

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one? Yes.

Q17: Is our approach to the effectiveness of disclosure based on the right assumption?

Not all right.Although the information is the most important factor for the consumers in making decesions,but on one hand,too much information may confuse the consumers,such as some format contacts with so many clauses which are hard to understood in short time,on the other hand,according to behavior economics,the consumers often make decesions relying on their own feelings not on the 'official' materias.

Q18: Given the evidence, is it appropriate for us to take a more ‘interventionist’ approach where conventional disclosure steps prove ineffective?

Not all right.Because some disclosure which has clear duties, proves ineffective to some consumers but it does good for firms and other consumers when they are in actions.

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable? Ofcourse.

Q20: Are there any other factors we ought to consider when deciding whether to intervene? The boundary between the other goverment organizes duties and FCA duties.

Q21: What more do you think we could do to improve our communication about our interventions?

Inviting the presentatives of the consumers,firms and offials to discuss the interventions.

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals? Co-operative with relevant organization,such as PRA.

Q23: Do you think it is our role to encourage innovation? No,it’s other organs role,such as development department.

Q24: Do you think our approach to firm failure is appropriate? Yes.

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes? Yes.

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

Yes,it’s not contradict,for the private warnings given to the firms whose process aren’t fair,not serious, doesn’t influencing FCA’s opening punishing tools.

Your details

Company Anhui Radio and Tv university

Name He zongze 何宗泽

In what capacity are you responding? as an individual

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 23 January 2017 16:25
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

As it includes the possibility of things going wrong it is probably as good a definition as is reasonable (and concise).

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

My concern is that people are widely encouraged in the media to adopt a stance where any loss is someone else's fault and that compensation should be paid. The rules should cover and rein in claims chasers.

Q3: Do you think we have got the balance right between individual due diligence and the regulator’s role in enforcing market discipline?

Given the range of knowledge and understanding among the public there will never be one approach that suits everyone - hence the FCA's emphasis on treating vulnerable clients differently.

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

The concept of the difference is fine - the challenge will be the practical application: at what point does a business/client move from retail to wholesale? Some larger businesses are still run by the person who set them up; they may for example be successful at running a road laying business but have limited knowledge of insurance but their turnover means they are treated as a commercial customer.

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

As is mentioned in the text the FCA are responsible for a large number of firms and cannot hope to get everything they do right for every one of them. It is also very difficult to measure what would have happened without a specific intervention - how much would the market lead in the 'right' direction?

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include? OK

Q7: Do you think our intervention framework is the correct one?

My chief concern is the length of time things take - a recent look at enforcement decisions indicates that firms can continue trading for many months after concerns become apparent. I wonder if a stronger message can go out to firms about the benefit of identifying to the FCA where other firms are in breach of the rules. Adopting your own findings in Occasional Paper 23, consider how to convey the costs on 'good' firms of those who try to circumvent the rules can be communicated. Fining good firms through the FSCS for those who go out of business is not popular among regulated businesses.

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies?

As you indicate, the duty to care concept is covered by the rules and principles governing financial services - TCF should be at the centre of every business. The bigger issue from a public policy perspective is raising the level of education/awareness so that people are better equipped to make good decisions (and avoid scams).

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

The challenge of discouraging cross-subsidy is that the market will only work for the benefit of those able to pay their own way - there will be a growing advice gap. As with other questions in this paper the key issue is raising the ability of the consumers to become engaged.

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

It shouldn't - the principles should guide firms in their dealings with consumers. MiFID II if effectively explained and implemented will reinforce the idea that firms should design and market products carefully.

Q11: Would a Duty of Care help ensure that financial markets function well? It's already their in Principle 6

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

Maybe an increased emphasis on the impact of things going wrong would be helpful to consumers - would they understand or grasp the significance of likelihood?

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

Getting firms to think about what vulnerable means is key - and recognising that the same person could move category depending on the nature of the product under discussion. Some, because of physical, emotional or intellectual circumstances, may always need more care than others.

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

Short of amending the rules so everything is regulated there has to be a recognition that some activities cannot be subject to a formal compensation scheme so there has to be scope for the CA and firms to agree voluntary solutions.

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention?

This will always be difficult as resources are constrained - certainly at FOS level it can take far too long to make decisions.

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one? see earlier answers

Q17: Is our approach to the effectiveness of disclosure based on the right assumption?

I believe so - but many firms may see nudges as further interference in the market. However encouraging shorter more comprehensible communications would be helpful, if firms could be persuaded that they won't be penalised for not throwing in the kitchen sink.
As indicated earlier the effectiveness of any disclosure is going to be limited by the ability of those reading it to understand the material. It is widely recognised that schools are not adequately preparing pupils to engage with financial concepts.

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective?

Further intervention would only be worthwhile if it increased engagement by the public - the FCA needs to build on the work done by the Positive Compliance team and people like Rory Percival to get the message across that volume of information is not the benchmark for disclosure.

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable?

It will be helpful if firms are aware of the approach and can quickly see it being used - the number of responses to this paper may be indicative of the interest firms have in this issue. It is often easier to find fault than do research - make it easy for them to see examples of predictable intervention. Years ago there was discussion of a regulatory dividend - could this be revived?

Q20: Are there any other factors we ought to consider when deciding whether to intervene? Can't think of any

Q21: What more do you think we could do to improve our communication about our interventions? Occasional Paper 23 gives some ideas - personalised is the one that struck me.

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals?

Emphasis on what's in it for the reader - also stress some examples where responding to proposals has resulted in changes. I think many firms feel there is little benefit in replying as the FCA have already decided what to do.

Q23: Do you think it is our role to encourage innovation?

No - the role of the FCA is to ensure firms understand and apply appropriate rules. Being flexible/accessible so that innovation can happen in a managed way would be helpful; the sandbox is an example but can't be relied on as it has limited windows and a very restricted definition of eligibility.

Q24: Do you think our approach to firm failure is appropriate?

Recognition that firms will fail is widely accepted - far less popular is picking up the cost when they go to FSCS (and there appears to still be an impression that phoenixing is not stopped).

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

Positive Compliance or Live and Local or ...... provide a good tool to communicate these stories. However they are limited in their reach given the size of the presenting team - more examples could be given at other events (PFS, APCC, CISI etc.). Feedback I receive is that the good practice/poor practice elements of thematic reviews are helpful.

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

In the interests of a speedy resolution, private warnings may have a place - but other firms who could benefit from a better understanding of the issues leading to such warning would be annoyed if they later discovered the FCA had knowledge and acted without informing them. This links back to question 25 - the individual firm should produce better outcomes but others may not be aware of a need to improve.

Your details

Company Compliance Cubed

Name Vince Harvey

In what capacity are you responding? as an individual

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 24 January 2017 08:38
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

We consider that the way in which FCA interpret the objective is broadly appropriate.

We would suggest that it would be helpful if FCA made reference to firms closed to new business and in run-off, and clearly articulate how they see the principles, in particular those about 'Proportionality' and 'Recognising the differences in the businesses of different regulated persons', applying to such companies.

Q7: Do you think our intervention framework is the correct one?

The framework looks to be relatively clear, balanced and proportionate.
We would suggest FCA provide more detail on:

(a) How 'harm' is defined.
(b) The practicalities of the approach that will be taken, for example, timeframes, opportunities for firms to respond to draft findings, appropriate implementation timescales, process for communicating progress and findings with firms.

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies?

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

Q11: Would a Duty of Care help ensure that financial markets function well?

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

In our view there will always be varying levels of financial capability among consumers. It was not entirely clear from the Mission what in practice is meant by 'regulatory distinction'; further explanation would be helpful.

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention?

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one?

The Society agrees in principle with the approach.

More detail on what FCA consider makes a consumer vulnerable, specifically in regard to Insurance and investments, would be helpful, as would greater clarity on what in practice is meant by greater levels of protection.

Levels of protection need to be considered carefully, to ensure that 'non-vulnerable' consumers feel that they have also been afforded an appropriate level of protection.

Q17: Is our approach to the effectiveness of disclosure based on the right assumption?

The Society agrees that the approach is based on the right assumption.

We note that FCA say that the traditional assumption is that people will make the right choice for their needs if they are given as much information as possible. FCA also say that behavioural economics has shown that inherent bias can play a greater role in influencing consumers decisions than rationale choice and that their own research has shown that too much information can confuse consumers. This is in line with the Society's thinking.

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective?

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable?

Q20: Are there any other factors we ought to consider when deciding whether to intervene?

Q21: What more do you think we could do to improve our communication about our interventions?

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals?

Q23: Do you think it is our role to encourage innovation?

Q24: Do you think our approach to firm failure is appropriate?

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

Your details

Company Equitable Life Assurance Society

Name Dave Pearce

In what capacity are you responding? as a representative of an authorised firm

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 24 January 2017 12:40
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

The National Franchised Dealers Association (NFDA), agrees the components of a functioning market have been considered. However, NFDA does not feel the definition of a well-functioning market is made clear. NFDA has not identified any other significant characteristics that would impact on whether a market functions well (or not).

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

Overall, NFDA agrees with the FCA's approach. However, it should be considered that even well informed customers, on occasion, will make poor decisions and feel this point should be considered when looking at a well-functioning market.

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

NFDA's agrees that the balance is right in the main. However, guidance needs to be clearer with regards to the responsibilities of the consumer when making their purchasing decisions, as this is often not consistent. This is problematic when dealing with complaints and their outcomes.

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider? Yes.

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

NFDA accepts and agrees that performance management needs to be meaningful. However, it is unclear from the document as to what your measurements are in relation to whether they are effective or not. Detail was highly limited on this point.

Furthermore, additional measures that look at fees and levy payments, would be useful to understand if they are proportionate to the sector and risk categories.

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include? Agree.

Q7: Do you think our intervention framework is the correct one?

NFDA believes the FCA objective is appropriate. However, as a trade body, NFDA sees examples within the automotive sector where firms struggle to meet regulatory requirements in-house and often must rely on third party compliance consultants or become Appointed Representatives of external Principal Firms. This is often due to rules being complex or ambiguous which are difficult to understand which creates a 'fear factor' in the senior management of firms. The recent Thematic Review identified potential risk to consumers from where firms are relying on a Principal/Appointed Representative arrangement, which is of concern. However, with the complexity of the FCA rulebook, it is likely more firms will switch to the option of being an appointed representative.

It is likely that more franchised vehicle retailers will increasingly see regulation as a burden and may cease regulatory activities which will lead to less consumer choice and poorer outcomes for consumers.

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies? We largely agree that the boundaries are correct.

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

With regards to price discrimination, NFDA does not believe this affects members as the models you refer to are often set by insurers or third party providers.

NFDA members are not providers of long term products but agree that the conduct risks associated with consumer apathy need to be considered in your approach.

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

NFDA requests further clarity regarding what is meant by 'individual responsibility'. If the view is that consumers should have increased responsibility, then NFDA fully accepts that the regulator will need further intervention methods.

Q11: Would a Duty of Care help ensure that financial markets function well?

NFDA members are concerned that additional duty of care documents or information may not help markets function well. However, NFDA would support the view that existing guidance given to firms in the form of case studies and/or examples would help firms interpret what 'good' looks like.

Extra requirements on firms to provide additional information to consumers will not necessarily make them any more informed or engaged.

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

The products NFDA members offer are not complex. However, NFDA welcome greater clarity as to what is deemed to be complex.

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate? Agree.

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

NFDA does not believe the regulator should be involved in redress schemes that fall outside of its remit and are not linked to a regulated product. The lack of clarity that currently exists is not helpful from a firm or consumer perspective.

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention? NFDA believes existing rules are sufficient and clear.

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one?

Agree. NFDA agrees providing that the outcomes being considered are not biased in the view that all consumers are vulnerable. NFDA members are able to provide many examples where consumers mis-use this definition when they have purchased finance products as informed consumers and then attempt to use this as a loophole to exit from their obligations.

NFDA requests sector specific case studies and guidance.

Q17: Is our approach to the effectiveness of disclosure based on the right assumption? Agree.

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective?

The automotive retail industry would welcome sector specific examples to understand what effective disclosure to consumers could look like.

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable? Agree.

Q20: Are there any other factors we ought to consider when deciding whether to intervene? NFDA does not believe that there are any other factors to consider.

Q21: What more do you think we could do to improve our communication about our interventions?

We would welcome sector specific alerts and guidance on your website. Historically, there was a motor specific page which was very helpful for firms.

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals? No.

Q23: Do you think it is our role to encourage innovation? NFDA agrees as this will lead to more positive consumer outcomes.

Q24: Do you think our approach to firm failure is appropriate? Agree.

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

NFDA would welcome greater publication of example discussions held with firms. This will help NFDA members improve where necessary.

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

NFDA believes the findings should be published but should remain anonymous in order for members to understand and deliver best practice.

Your details

Company National Franchised Dealers Association (NFDA).

Name Katy Recina

In what capacity are you responding? as a representative of a professional firm

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 24 January 2017 15:36
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

We do not charge a broker fee unless the mortgage completes so we are paid for the work we have done, not the work we promise to carry out. It is our believe that some unethical brokers charge a fee upfront even after completing a fact find that highlights the applicants will not be expected by any lender. Not sure what the FCA can do in this case ut you should be aware of the facts.

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate? I think this is working okay.

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

In the main yes. However i would like to see some more stringent rules applied to some of the commercial considerations which some firms operate under. I realise that could be a tricky problem but it is worth some consideration.

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider? No real comment to make on this.

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

I believe the Gabriel Report could be trimmed as one part of the information you request appears meaningless. I am referring to the fact you want the amount of insurance premiums paid/collected. It is a figure that has no consequence (the firm the client is with collects the premiums) to how we run the business or informs me of anything worthwhile so why do you need that ? What does it tell you ? ????

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

Computer generated pay slips appear to be on the increase so maybe that needs looking at soon as they contribute to some of the problems with fraudulent mortgage applications.

Q7: Do you think our intervention framework is the correct one? I believe it is.

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies?

Difficult question that presents a ongoing monitoring of the market as and when situations change.

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one? Yes. I think good riddance whenever a rogue firm lose their permissions.

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response? Possibly but one hopes the vast majority always do right by their client.

Q11: Would a Duty of Care help ensure that financial markets function well?

Debatable as no matter what qualifications the adviser has you are still relying on their integrity as well as their professionalism when dealing with clients.

Q12: Is our approach to offering consumers greater protection for more complex products the right one? Has to be.

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

Yes. Many find financial matters confusing and those who do need every type of assistance they can get.

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

Your perimeters are fairly wide reaching but as areas change and perhaps more complex issues arise then yes.

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention? Not sure that is a major problem so no strong views to add.

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one?

Has to be as the vulnerable ones can be taken in by advice they think is good but in reality is their worst cause of action.

Q17: Is our approach to the effectiveness of disclosure based on the right assumption?

Yes. Everything is up front so there should be no confusion on what is being offered

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective?

Absolutely. Taking away permissions and levying fines is a way to clean up our industry.

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable?

Do not really have an opinion on this as not sure when intervention takes place and the criteria you apply before intervening.

Q20: Are there any other factors we ought to consider when deciding whether to intervene?

I believe some brokers are removed from lender panels based on poor judgement, you only have to read Mortgage Strategy to think this way. We had a problem case when the underwriter was unhappy but stated it could be the client not us. Well let's get to the bottom of issues before accusations are leveled as to many decisions seem unjustified. We are all human and one case that perhaps was questionable should be seen in that light against the overall picture.

Q21: What more do you think we could do to improve our communication about our interventions?

No comment apart from stating we appear to be kept up to date via your website and the general press.

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals?

Shame you have no jurisdiction over Estate Agents. Calling one of our clients to visit them on the basis of monitoring Money Laundering when all they wanted was to change their minds about the mortgage we arranged was diabolical. This needs to be addressed before someone gets hurt as i can foresee the day when a irate broker does something silly but perhaps partly understandable. The ball is in your court on this !!

Q23: Do you think it is our role to encourage innovation?

Any area that makes a process easier and faster yes but the FCA should let the market come up with products they can approve or reject.

Q24: Do you think our approach to firm failure is appropriate? Seem fine to me.

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

I believe this applies more to new entrants joining the industry as older hands should now be fully aware of what's required. Also new entrants should be taken under the wing of a senior person for the first 6 months to learn the ropes.

Q26: Do you think that private warnings are consistent with our desire to be more transparent? Yes, assuming the facts are 100% correct.

Your details

Company Armchair Mortgages Ltd

Name Brian Rossiter

In what capacity are you responding? as a representative of an authorised firm

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 25 January 2017 13:22
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

ACT1: We recommend the FCA considers:

1/ The Definition of Consumers
We are concerned that the broad definition of well-functioning markets comprising "engaged consumers, firms and employees" (page 11) shows a lack of granularity of the nature of market participants and this is no better defined by the description of markets on page 12.
An issue for the corporate sector in particular is understanding where and how it should interact with the FCA and what role it is being asked to perform. Corporates are increasingly required to engage in regulation of the financial services markets (EMIR and SFTR reporting, potential adherence to money market and forex market codes of conduct) without regard to the level of their materiality in any market (i.e. whether they are systemically important).

To illustrate: a multi-national extractive industry will be both a buyer and seller in commodities markets, and it is a buyer in treasury transaction markets such as interest rate derivatives. It may be a price maker in one or more commodities and able to understand, predict, and find on occasion that its activities drive market direction. In interest rate derivatives it will be a price taker reliant on the inter dealer market where non-financial (government, corporate, and HNWI) forex activity accounted for less than 2% of global markets in April 2016 (http://www.bankofengland.co.uk/statistics/Documents/bis-survey/fxotcsum16.pdf).

We call for a review of market participant definitions to provide granularity to the buy side of markets. This would enable businesses to understand what the FCA expects of them. In short: to know when a business will be regarded as a customer reliant on the efficient operation of a market, and when it is regarded as a principal.

This clarity is a prerequisite in order to be able to identify whether markets are functioning well as it would enable the FCA and all market participants to understand their individual role and expected responsibilities.

Clearer definition of non-Financial Services market participants would also enable clearer definition of risks to borrowers and debt investors. The latter is an issue which has been highlighted by efforts to expand the range of debt investors in the latest developments to the Prospectus Directive where it is appreciated that retail investors are unlikely to be able to understand risk statements of complex businesses.

2/ The Need to Critically Analyse Markets even when apparently successful.

We discuss this more fully in our response to Q7.

3/ The Effect of Reactive Regulation on Non-Offending Market Participants – Unintended Consequences
Since 2008, the FCA and Bank of England have been required to manage the fallout from the GFC, and other market specific scandals. We question both the timeliness of the regulatory response and insufficient critical analysis further in response to Question 7. We are also concerned by "regulatory creep" – the imposition of new rules on all market participants for the moral failings of a few.

As an example, UK corporates are required to engage in the reporting and reconciliation of their derivative positions to assist EU wide regulators to check that financial counterparties are correctly stating their exposures to those financial services regulators.

Other examples include extension to financial services regulation to intra group transactions of non-financial services groups, and now extension of market codes for trading.

4/ More broadly, the banks traditional role as maturity transformers is becoming increasingly constrained as regulation to protect the exchequer denies the essential risk taking role of banks in western style economies and credit for real economy activity becomes more expensive, while the return to that real economy on financial assets diminishes.
We call on the FCA to take more account of the fall out on the real economy of its regulation for failings in the behaviour of the financial services economy.

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

ACT2: We accept that it is not possible to create markets where loss by either buyer or seller could not occur. We would differentiate between loss where the "wisdom of crowds" drives a market and that where loss is generated through deliberate obscurity and/or complexity.

Example: the trend in Western economies that led to extension of mortgage credit to the many to meet a cultural belief that owning one's home had a long term benign effect.

- Retail Consumer loss arose when mortgages were (and continue to be) sold with rate break clauses not understood by buyers. The current risk is that rates rise abruptly when fixed rates expire.
- Wholesale and Retail Consumer loss when the information chain does not enable them to clearly identify the underlying credit risk as a result of complex/opaque financial structures. The securitisation of P2P debt and mortgages being the example.

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

ACT3: As set out in our responses to Q1 and Q2, we believe that the consumer population requires clearer definition before a regulator can form an opinion whether any class of consumers can undertake appropriate due diligence on a market product.

As the Northern Rock (NR) failure highlighted, material funds can be invested by relatively unsophisticated investors: the example being the depositor who claimed to have £1m deposited with NR apparently without appreciating the counterparty risk of a deposit in excess of the deposit guarantee cap. Similarly, there was the failure of Local Authorities to understand the risk of Icelandic bank deposits.

The recent debate over Prospectus Directive changes to facilitate retail investment has highlighted the difficulty of marketing tradeable securities to retail investors who are not expected to be able to assess more than a few pages of risk analysis.

While not of concern to members of the ACT, the current marketing of on-line foreign exchange services to individuals and SMEs raises the risk that they are buying into complex forward and option structures which they may not understand.

Regulators need to look beyond simple consumer definitions to understand the sophistication of different customers in different markets.

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

ACT4: We repeat our answer to Q3: regulators need to better consider the ability of individuals and SMEs to undertake due diligence. The definitions of retail and "business to business" are too simplistic to reflect the broad range of abilities.

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

ACT5: The statement in "Measuring outcomes in markets" is in our opinion the root problem of the 2008 GFC: it is hindsight management. While post crisis analysis may assist to understand how to avoid fresh crises, we believe regulators should also be prepared to examine seemingly smoothly functioning markets more critically than is apparent. They must be prepared to ask why markets are operating apparently so well and not only to react to complaints.

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

ACT6: We are concerned that the regulatory consumer protection objective shows insufficient granularity when defining Retail and Wholesale Consumers (page 16).

Those classified as retail are likely to continue to believe, as they did prior to the 2008 GFC that their protection is beyond that available despite obvious warnings of risk of loss of capital.

Also revealed post 2008 was the reliance of wholesale consumers, such as fund managers, on simplistic credit measures such as credit ratings, and advisor statements although one party had no prima facie liability, and the other may not have had sufficient capital to meet sustained damages claims for the transactions it promoted.

We believe that regulators need to be prepared to challenge market practices rather than divert capital to building ever larger reserve buffers which themselves are reliant on asset prices, such as government bonds, to have effect.

We have recently witnessed the counter-intuitive efforts to make the Prospectus Directive simpler for retail investors by offering stripped down risk statements in a supplement, and it is the wholesale debt issuers which have had to push back for more complete risk analysis to be maintained.

Q7: Do you think our intervention framework is the correct one?

ACT7: Our main concern with the intervention framework is the long period foreseen for Market Studies and Thematic Reviews. Modern financial services markets are capable of reacting quickly to market developments. The post 2008 example being increased activity by non-banks (so called shadow banking) to meet a reduced capacity of banks to meet the credit needs of smaller businesses and consumers.

We detect gaps in UK regulatory thinking where bank regulation (by Bank of England, and the Prudential Regulatory Authority) has not extended to cover shadow banking, and the FCA processes are too slow to critically examine new products.

The apparent gaps coupled with slow processes for intervention expose UK financial services to further disruption.

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies?

ACT8: The discussion on pages 22 to 24 is not considered within our scope as a member organisation for corporate treasurers.

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

ACT9: The discussion on pages 22 to 24 is not considered within our general scope as a member organisation for corporate treasurers.

We would note however on cross subsidy:

Care is required when assessing cross subsidy to ensure it is targeted explicitly at consumers without price visibility. For example, recent practice has been to limit the cross subsidy of motor vehicle insurance by identifying high risk pools of customers such as inexperienced drivers. This has resulted in changes in driver behaviour through the use of electronic monitoring which enables lower premiums.

Conversely the recent years' loss of the premium benefit of female drivers has penalised them in the name of equality for hitherto safer driving as a class of drivers.

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

ACT10: The discussion on pages 22 to 24 is not considered within our general scope as a member organisation for corporate treasurers.

However:

The preamble on page 22 notes an ageing population. This is a simplistic approach to individual capacity. The example should not be whether an audio App can overcome poor eyesight, but whether the consumer is able even to use a smartphone.

There is an underlying approach to financial services in the UK that consumers, retail and wholesale, have access to high quality digital telephony, and are capable of understanding and using that technology. We note this is a London centric view, where 4G is standard, and disregards the increasing number of consumers physically or mentally unable to use modern technology.

Q11: Would a Duty of Care help ensure that financial markets function well?

ACT11: We do not see that a "Duty of Care" as defined would ensure the financial markets function well. We would expect however that consumers should be able to use the FCA rules as a basis of recovery of damages, and if required use these rules through the courts.

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

ACT12: Of the examples used on page 27, only the selling of interest rate protection is relevant to our members and their employers.

We note that the problem of mis-selling arose from both the complexity of some derivative structures and from the negotiating strength of the sell side.

Greater granularity in the definition of market participants would enable regulators to restrict the sale of complex financial services only to those classes of market participants expected to be able to understand them and with sufficient access to competitive suppliers to be able to take a measured view of the product's value.

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

ACT13: As noted in our answers to questions 1,2,3,4,5,6, and12, we do not believe that the FCA makes sufficient distinction between consumers with greater and lesser capability.

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

ACT14: There is perhaps, given this questions asking, a need to amend the FSMA to better define the FCA regulatory perimeter.

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention? ACT15: None identified.

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one?

ACT16: Please see answers to questions 1, 2, 3, 4, 5, 6, 12 and 13. We recommend first, more clearly defining consumers and then reviewing the products in the market in order to understand to which consumers they could be marketed.

We also note that there is the risk of bias towards minority consumer groups by using financial services regulation to address social issues.

This is symptomatic of financial services regulation which seeks to place the burden of failed financial processes onto the broader real economy. As an example, the recent PSR publication of its Payment strategy highlighted the difficulty of low paid consumers operating bank accounts with fixed date direct debits because the culture of casual work (know euphemistically as "zero hours" contracts) makes pay cash flow erratic. The result is that these consumers often suffer overdraft fees.

While we welcome the financial services regulator's wish to assist these financial services consumers, the underlying social problem is the shift to casual work with low pay which does not reflect the real world cost of living. It is perverse to distort the successful and cost effective direct debit system, which enables many consumers to manage their financial affairs, for the benefit of a few vulnerable consumers whose problems arise from a broader social issue: that individuals are expected to live on pay below the cost of living.

Q17: Is our approach to the effectiveness of disclosure based on the right assumption?

ACT17: Please see answers to questions 1, 2, 3, 4, 5, 6, 12 and 13, we recommend first better defining consumers and then reviewing the products in the market to understand to which consumers they could be marketed.

Standards of transparency and disclosure can only be effective if they take account of the ability of the consumer to understand what information is made available. We agree the assumptions listed on page 33.

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective?

ACT18: Please see answers to questions 1, 2, 3, 4, 5, 6, 12 and 13, we recommend first better defining consumers and then reviewing the products in the market to understand to which consumers they could be marketed.

"Nudge" intervention assumes the target consumer appreciates the availability of the nudge. The FCA may wish to consider whether it can be confident it has achieved this, or should it explicitly limit access to some forms of market.

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable?

ACT19: We are concerned that the FCA approach is hindsight management: the FCA responds to complaints or "whistle blowing". Given the concern of vulnerable consumers, we would expect the FCA to actively and continuously review markets whether or not they are identified as functioning well.

Q20: Are there any other factors we ought to consider when deciding whether to intervene? ACT20: No response

Q21: What more do you think we could do to improve our communication about our interventions? ACT21: No response

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals? ACT22: No response

Q23: Do you think it is our role to encourage innovation?

ACT23: We would expect the FCA to critically analyse innovation in financial services to ensure it meets the same standards applied to existing market processes.

Q24: Do you think our approach to firm failure is appropriate? ACT24: No response

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

ACT25: It is not clear how this question flows from the discussion which precedes it, but we would expect that the lessons learned from investigations of the failure of a firm are communicated to all similar firms and their customers.

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

ACT26: Although it is not our role to defend Financial Services firms' behaviour, it would appear against the backdrop of complex regulation that the FCA should use "private warnings" where rules have been contravened inadvertently. An otherwise sound firm could be put out of business by panicking consumers for no economic purpose.

Your details

Company The Association of Corporate Treasurers

Name Stephen Baseby

In what capacity are you responding? as a representative of a professional firm

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 25 January 2017 16:37
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

'Economic theory' (what a good system looks like and what is required to make it work) is only a theory (set of differing, sometimes contradictory theories) and should not be held above the lived experiences of companies and individuals on the ground as some form of utopian state the regulatory State is moving towards.
Conventional regulation focuses on overseeing product quality and contractual delivery. We would argue the biggest barrier to a better relationship between companies and individuals (service providers and consumers) is a fundamental lack of faith of the latter in the integrity of the former. This is not about poor outcomes from bad/inherently risky decisions/unforseen-unforseeable changes in circumstances. It is about public impressions of market power abuse to the detriment of consumers as a routine activity. On the ground, this means deliberate barriers erected to simple, timely and informed choices with corresponding rights to redress when necessary. It means barriers to informed decision making through marketing, advertising and selling 'sleights of hand'. It means barriers based on utilising knowledge of the psychology of decision making (and a lack of the monitoring or regulation of this). It results in lack of public trust in the intentions and practices of businesses. They are are considered disingenuous in their communications and deceitful in their practices; particularly in the field of seeking redress.
In terms of market failure, the result is 'poor' decision-making from vulnerable (and not so vulnerable) consumers, 'safe' decision-making, apathy and paralysis from other potential consumers who choose not to engage in the process at all.

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

Yes - though I think the cost to ordinary people of lost time and energy in coping with delay, error, procrastination and distraction/diversion is underplayed and re-inforces consumer apathy, paralysis and distrust.

Q3: Do you think we have got the balance right between individual due diligence and the regulator’s role in enforcing market discipline?

Probably, but it is crucial to always remember the power and capacity of the individual consumer (the overwhelming majority of them) is inconsequential in comparison to the corporate actor. The corporate actor holds all the cards. The corporate actor should be expected to take more responsibility for a poor consumer outcome that an arbitrary 50:50 split. Consumers make decisions but businesses shape, channel if not largely determine what these choices are once the consumer has decided to engage in the process.

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness? Difficult to comment - explanatory paragraphs are too vague.

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

Q7: Do you think our intervention framework is the correct one?

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies?

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

Yes - to address the bigger risks of 'long term products'. The balance between consumer and corporate actor has to reflect bigger more uncertain decisions more likely to result in consumer loss. More transparency, flexibility and simplicity is paramount in product design, delivery and management (including redress).

Q11: Would a Duty of Care help ensure that financial markets function well?

Yes - it would acknowledge the current imbalance of power between consumers and companies and combat any fear of 'overly-specific/complex' regulation resulting from the need to counter every industry innovation with a potentially adverse consumer impact. (A duty to treat customers 'fairly' is not enough).

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

Yes - consumers vary in their understanding of financial services even when companies minimise their inability to communicate effectively. Where products are complex and business engagement is made difficult consumers need more protection.

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

Yes - but the nature of 'capability' needs to be understood and, more importantly, needs to be translated into sympathetic policy or process decisions. Capability can vary hugely between different consumers living through different circumstances. More pertinently, capability can vary hugely over time for the same consumer. This has to be taken into account but, because it means more sophisticated (costly) engagement from companies, it rarely happens.

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers? Yes and yes!

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention?

Be 'tight' on the adherence of companies to voluntary schemes to ensure they are not abused. Minimise delays, errors, confusions and mis-communications by businesses when dealing with consumer issues. And promote 'single (accessible) point of contact' approaches.

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one?

Yes - identifying vulnerability is always difficult. However, if discussions begin with three basic categories of vulnerability - those with a lack financial resilience, those with a lack of capacity to make an informed decision and those with a lack of access to effective decision-making (eg digital exclusion) - then progress is possible.

Q17: Is our approach to the effectiveness of disclosure based on the right assumption?

Q18: Given the evidence, is it appropriate for us to take a more ‘interventionist’ approach where conventional disclosure steps prove ineffective?

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable?

Q20: Are there any other factors we ought to consider when deciding whether to intervene?

Q21: What more do you think we could do to improve our communication about our interventions?

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals?

Q23: Do you think it is our role to encourage innovation?

Yes, but not the primary role; and not directly. Highlighting market/company failure should be insightful, specific and purposeful. Innovation can be in any aspect of business activity - not just product innovation. If measures (eg low consumer trust/satisfaction, consumer activity) indicate need, encouragement is justified; but only under the general rule that nearly all business growth (in a competitive market) is underpinned by innovation, whether doing better, quicker cheaper and so on.

Q24: Do you think our approach to firm failure is appropriate?

Orderly exit from markets is crucial for consumers to asses risk of their decisions accurately and to offset risk reasonably (otherwise the 'safe' choice wins every time, overall market activity is reduced and market newcomers are disadvantaged more than incumbents). The split between agents and principals is fair based on the differential impact to consumers

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

Yes - they will engender public confidence in the regulator and promote transparency of issues; so long as more formal discussions means consistent, transparent and insightful approaches to issues with companies rather than tick-box, 'being seen to be doing something', 'hiding more than its shedding light on' approaches.

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

No - unless there are exceptional circumstances agreed and made clear in the 'rules of engagement'.

NB - agree with proposed idea of replacing 'referred to enforcement' with 'referred for investigation (or exploratory investigation)'.

Your details

Company Coventry Citizens Advice

Name Ed Hodson

In what capacity are you responding? as an individual

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 25 January 2017 18:04
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider? YES

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate? YES

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

NO - THE BANKS SELL THEMSELVES AS FRIENDS AND ADVISERS THROUGH THEIR ADVERTISING AND THROUGH THEIR CUSTOMER RELATIONSHIP MANAGERS.
MANY A SMALL BUSINESS OWNER HAS A RELATIONSHIP WITH THEIR MANAGERS BUILT UP OVER THE YEARS WHICH LEADS THEM
a) TO TRUST THE BANK
b) TO FEAR THE CONSEQUENCES OF ANY WITHDRAWAL OF BANK SUPPORT
THEY WOULD AND SHOULD EXPECT THE BANK TO PROVIDE REASONABLE AND HONEST ADVICE. AFTER ALL THIS IS WHAT THE BANKS CLAIM TO DO.

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

NO - SEE MY COMMENT ON Q3 ABOVE. BANKERS ARE NOT EXPECTED TO UNDERSTAND ENGINEERING INSTEAD THEY GO TO ENGINEERS FOR ADVICE. WHY THEREFORE SHOULD SOMEONE WHO HAS BUILT A LARGE SUCCESSFUL ENGINEERING BUSINESS BE EXPECTED TO UNDERSTAND FINANCE ESPECIALLY WHERE THE BANKS SELL THEMSELVES AS HONEST PROVIDERS OF FINANCIAL ADVICE

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

ENFORCEMENT SHOULD INCLUDE PROSECUTIONS FOR FRAUDULENT / CRIMINAL BEHAVIOUR. ANYONE OUTSIDE THE FINANCIAL SECTOR WHO BREAKS THE LAW FACES CRIMINAL PROCEEDINGS
YOU MENTION DETERRENCE EARLIER, SURELY THIS IS THE GREATEST DETERRENT

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

NO. YOU RELY ON CUSTOMERS CONTACTING YOU TO MAKE COMPLAINTS. IN MANY CASES SMALL BUSINESSES ARE AFRAID THAT THEIR BANK WILL WITHDRAW FACILITIES IF THEY MAKE A COMPLAINT. FOR MANY OF THESE BUSINESSES THIS WOULD BE TERMINAL. ONCE YOU HAVE RECEIVED A COMPLAINT FROM SMEs YOU SHOULD ENGAGE WITH THE WIDER SME SECTOR TO GATHER THEIR EVIDENCE. THIS WOULD GIVE A MORE BALANCED VIEW THAN THAT WHICH WILL BE PROVIDED BY "FIRM ANALYSIS" OR "FIRM REVIEW". THE BANKS WILL ONLY TELL YOU WHAT THEY WANT YOU TO HEAR.

Q7: Do you think our intervention framework is the correct one?

NO. EARLY ON IN YOUR "MISSION STATEMENT" YOU MENTION THE WORD DETERRENCE. YOU ALSO MENTION FRAUDULENT / ILLEGAL ACTIVITY - YET I SEE ONLY PASSING MENTION OF CRIMINAL PROSECUTIONS.

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies? NO COMMENT

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one? NO COMMENT

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response? NO COMMENT

Q11: Would a Duty of Care help ensure that financial markets function well?

YES A "DUTY OF CARE" WOULD GREATLY HELP TO ENSURE THAT FINANCIAL MARKETS FUNCTION WELL. MANY SMEs BUILD UP A RELATIONSHIP WITH THEIR BANK MANAGERS AND EXPECT THOSE MANAGERS TO HAVE THEIR INTERESTS AT HEART AS WELL AS THOSE OF THE BANK. THE SALE OF IHRPs WAS ENTIRELY FOR THE BENEFIT OF THE BANKS. I AM NOT EVEN SURE THAT SOME OF THE BRANCH MANAGERS UNDERSTOOD THE RISKS ASSOCIATED WITH THE PRODUCTS THEY WERE SELLING. A CYNIC MIGHT SAY THAT AS LONG AS THEY GOT THEIR BONUS THEY DID NOT CARE. EITHER WAY THE SALE OF IHRPs WAS A BETRAYAL OF THE TRUST THAT THE BANKS SO ASSIDUOUSLY TRY TO CONVINCE THEIR CUSTOMERS THAT THEY SHOULD PUT IN THEM.

Q12: Is our approach to offering consumers greater protection for more complex products the right one? YES

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

BETWEEN THE INDIVIDUAL CONSUMER AND THE CORPORATE CUSTOMER LIES A LARGE GROUP WHICH IS DESCRIBED AS SMEs. THESE SMEs PROVIDE A LARGE PROPORTION OF THE COUNTRY'S EMPLOYMENT AND ECONOMIC VALUE. VERY FEW OF THEM CAN BE DESCRIBED AS FINANCIALLY "SOPHISTICATED" AND WHY SHOULD THEY BE? THE FCA SHOULD CLEARLY IDENTIFY THIS MIDDLE GROUP AND PROVIDE PROPER PROTECTION TO THE SMEs IN THEIR DEALING WITH THE BANKS.

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

IF FIRMS HAD A PROPER "DUTY OF CARE" IMPOSED ON THEM THEN MAYBE LESS ISSUES WOULD FALL OUTSIDE THE "REGULATORY PERIMETER".
THE 2006 FRAUD ACT APPLES WHETHER INSIDE OR OUTSIDE THE REGULATORY PERIMETER AND AN "ABUSE OF POSITION" CONSTITUTES A FRAUD.

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention?

SPEAK TO THE CONSUMERS MORE AND THE FIRMS LESS.
THE AGENDA FOR THE REDRESS FOR VICTIMS OF IHRP MISS SELLING SEEMS TO HAVE BEEN DICTATED BY THE BANKS.

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one? NO COMMENT

Q17: Is our approach to the effectiveness of disclosure based on the right assumption? SEE "DUTY OF CARE" COMMENTS

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective? YES

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable? YES - PROVIDED YOUR INTERVENTIONS ARE TRANSPARENT TO BOTH FIRMS AND CONSUMERS

Q20: Are there any other factors we ought to consider when deciding whether to intervene? NO COMMENT

Q21: What more do you think we could do to improve our communication about our interventions? SEE Q19 ABOVE

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals? NO COMMENT

Q23: Do you think it is our role to encourage innovation? NO

Q24: Do you think our approach to firm failure is appropriate? YES

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes? YES

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

NO - ALL REGULATION SHOULD BE TRANSPARENT.
WE HAVE SEEN MASSIVE FAILURES ON THE PART OF THE FINANCIAL SECTOR OVER THE PAST DECADE. YET AS FAR AS I AM AWARE NO BONUSES PAID HAVE BEEN RETURNED AND NO-ONE IN A SENIOR POSITION HAS GONE TO JAIL OR EVEN HAD THEIR PRIVILEGES SUSPENDED

Your details

Company RHEIDOL DEVELOPMENTS LTD

Name IAN JONES

In what capacity are you responding? as an individual

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 26 January 2017 12:54
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

You have defined how you will manage a well-functioning market but not what a well-functioning market is.

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate? Yes

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

Individual responsibility needs to work in conjunction with regulation of companies. if the products are open and transparent so the cost and what you get for that, the individual must be allowed to decide if it is appropriate/wanted by them.

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

Yes, wholesale markets have more sophisticated participants but currently carry the same approach to customer treatment as retail market, rendering transactions needlessly cumbersome and potentially detrimental to consumers because more care is taken in ticking boxes for consumer related issues than actually looking at the products transacted and how that can fulfil the needs of the buyers.

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

It is meaningful only if you keep under review, as stated, unintended consequences.

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

There is still considerable confusion on the definitions of consumer, retail, wholesale, client, customer, etc. among market participants. This leads to misunderstandings, delays and data that does not reflect reality. An unequivocal definition would help a great deal.

Q7: Do you think our intervention framework is the correct one?

It is correct for some type of firms but not for all. Yet, the rules flatly apply to all.

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies? The regulator will need to adapt to these changes

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one? It is correct. Only time will tell.

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response? Needs to adapt its scope, not to increase it.

Q11: Would a Duty of Care help ensure that financial markets function well?

Any good company already has a duty of care to its clients. It's good business sense.

Q12: Is our approach to offering consumers greater protection for more complex products the right one? Initial understanding of what they are buying is better for all parties

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate? Yes

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers? Yes with more specific criteria

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention? A point of contact who is consistent throughout the redress process

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one? Yes

Q17: Is our approach to the effectiveness of disclosure based on the right assumption? Yes

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective?

there will always be business sensitive information. The regulator must be careful, this is done in the best intent of the consumer and not for its own sake

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable? Not necessarily

Q20: Are there any other factors we ought to consider when deciding whether to intervene?

Ensuring it is proportionate. the regulator must consider the effect on the company as well as the consumer.

Q21: What more do you think we could do to improve our communication about our interventions?

It is quite time consuming to be fully aware and process all your communications and if you were clearer on what is required, it would help

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals? Make this information more user friendly

Q23: Do you think it is our role to encourage innovation?

No. Your role is to ensure that all parties play to the same rules. The market will innovate.

Q24: Do you think our approach to firm failure is appropriate?

At times, it appears to be politically motivated as opposed to subjective and fair. Should be evidence based.

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes? yes

Q26: Do you think that private warnings are consistent with our desire to be more transparent? no

Your details

Company Marine Aviation & General

Name Federica Cenciotti

In what capacity are you responding? as a representative of an authorised firm

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 26 January 2017 16:00
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

A well functioning market should prevent undercutting on price at the expense of quality. There is a minimum requirement in terms of regulation.

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

In principle yes, but experience shows that even sophisticated individuals are reluctant to accept responsibility for poorly performing investments. A blame culture exists in this context.

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

The notion of individual consumer due diligence is very difficult to apply to financial markets. Outside of P2P lending and crowdfunding
it is very difficult for a consumer to understand how an investment or product is structured or performing.

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider? No views

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness? We regard it as very difficult to measure performance.

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

While we agree that your interpretation of the integrity objective is appropriate, as with the majority of the issues raised in this consultation paper, the crux of the problem is the development and implementation of internal approaches to address the problems that could threaten the statutory objectives.

No, we do not think there are other aspects you should include at this time.

Q7: Do you think our intervention framework is the correct one?

Yes. More information on your common risk appetite would be useful.

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies? No views

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

Yes, but you fail to address the issue of the quality of the product. Price is not the only criterion. Risk and financial literacy need to be part of the picture.

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

Yes. Consumers cannot be expected to keep up to date with the detail and risks of the latest innovations which are being sold to them.

Q11: Would a Duty of Care help ensure that financial markets function well?

We do not believe that the introduction of a duty of care would be helpful. Consumers are already provided with significant protection by means of FOS and s138D of FSMA. We think it is highly unlikely that a duty of care would be an additional useful remedy. The expense of litigation in the modern world needs to be taken into consideration.

Q12: Is our approach to offering consumers greater protection for more complex products the right one? Yes

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate? Yes

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

It is correct that you should be able to do this in appropriate circumstances. However, these situations are difficult to predict, so some discretion is required. There is a risk that over specific requirements might hamper the discretion.

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention? The emphasis has to be on full and clear communication

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one? Yes

Q17: Is our approach to the effectiveness of disclosure based on the right assumption? Yes

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective? Yes

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable? Yes

Q20: Are there any other factors we ought to consider when deciding whether to intervene? No view

Q21: What more do you think we could do to improve our communication about our interventions?

We think that the current level of press publicity given to your decisions is quite good. But this needs to be kept under review. As researchers in the area, we find it easy to access much of your material on interventions (much better than, for example, the Information Commissioner's Office which seems to delete material regularly).

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals? No views

Q23: Do you think it is our role to encourage innovation?

Yes. The sector needs to grasp innovation if it is to succeed. But, it is an important element of a proactive species of regulation that innovation in this market is overseen by the regulator. Innovation needs to be understood and tested to identify the risks it creates.

Q24: Do you think our approach to firm failure is appropriate? Yes

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

We think that replacing the term enforcement by investigation would be a positive step.

All publicity about lessons learned is of value

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

We see no problem with private warnings so long as the root cause of the problem is identified and publicised. For example, this may have happened in other enforcement action and repetition would serve little purpose.

Your details

Company School of Law, University of Bristol

Name Dr H Powley and Professor K Stanton

In what capacity are you responding? as an individual

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 27 January 2017 00:02
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

The definition of a well-functioning market is largely agreeable. One important aspect which seems to be missing is market coverage. It is questionable whether a market can be defined as 'well-functioning' if a population that can viably be commercially and responsibly served is not covered, whatever the reason. It is understandable that the FCA cannot force firms to cover the fullness of the market. However, regard should be paid to steps the FCA can take to accommodate firms who will target underserved markets and other actors which act to prevent or limit harm to the financially excluded.

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

One aspect that is underdeveloped is that low income and other vulnerable consumers stand to experience more drastic downsides from market malfunction, simply because of their circumstances. An emphasis should be placed on protection of this market segment that would allow for a more interventionist approach and speak to the inclusion of consumer exclusion as a source of harm under the framework for defining harm.

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

It is the view of the Community Investment Coalition (CIC) that the current interpretation of the objective to protect and enhance the integrity of the UK financial system lacks adequate acknowledgement of actors within the financial services ecosystem that are not firms, the FCA or other regulators. Our focus is on the potential of open data on different kinds of financial services activity to help create better, more open markets, whether it is by allowing firms to identify commercial opportunity, allowing debt charities to engage in more targeted intervention, or otherwise. There is a lot of untapped potential for the creative use of more open data sources on lending and credit to help build better-functioning, fairer and more innovative financial services markets.

Open data, made available responsibly and with the protection of the customer in mind, has the potential to enable other actors with an interest in financial services to act to help support the work if the FCA, particularly when it comes to preventative intervention.

The problem is that it is unclear where in the FCA's objectives these aspirations are accommodated. It is an inter-connected world where open data sources are becoming more commonplace and smaller organisations have growing capacity to utilise data. The FCA should include in its interpretation of how it pursues its objectives, if not as another objective entirely, a framework for making data available for other organisations. This will allow for an indirect form of collaboration where missions overlap or allow the FCA another avenue for action in pursuit of its other objectives.

Q7: Do you think our intervention framework is the correct one?

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies?

The Financial Services and Market Act (2000) does set out that the FCA may 'have regard to the ease with which consumers may wish to use those services, including customers in areas affected by social or economic deprivation, can access them'. It is unclear when such considerations come into effect. More work is needed to clarify when the option to have regard precipitates action on that option. The FCA should define the framework for deciding what precipitates action in this regard.

More generally, policy should match up with and support the FCA's core objectives. Where policy seems inadequate support or a limiting factor on the power of the regulator, or vice versa, the FCA should be more open to consultation with stakeholder organisations and policymakers to more efficiently design legislation and keep up-to-date the FCA's focus moving forward.

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

Q11: Would a Duty of Care help ensure that financial markets function well?

The FCA as the industry regulator should take up the role of monitoring the effects of changes in the data and technology landscape. Data, the ways in which it is used and the technology that manipulates and processes are is becoming ever more complex, and ever more critical in financial services. The typical consumer is understandably finding the growing complexity ever more difficult to penetrate and is becoming disengaged, For example, agreeing to supply personal information without fully understanding how it is used and the risks involved. Therefore, there is a mandate for FCA action under the objective of protecting consumers from harm, given that critical risks and implications are quite opaque to the typical consumer. However, the mandate for action should go further than redress schemes. A more proactive approach is required under the umbrella of a Duty of Care, for three reasons:

The first is the complexity and the pace of change. The Competition and Markets Authority has mandated retail banks to embrace open API and innovation is generally to be encouraged to foster competition. An increasingly dynamic backdrop means more chance of unintended consequences being generated. It cannot be expected that the majority of consumers will keep up with product development and the full implications of how data is used.

The second is that consumer harm can arise not from new products and services but from gradual obsolescence of established products and services. An example of this is vulnerable or isolated customers, particularly the elderly, who face the closure of their local bank branch due to the volume of banking now being done online. A formalised structure is needed to ensure there is no gap between the closure of accessible services and the provision of an adequate replacement, whatever that might be.

The third is that there are use cases for data and new technology in pursuit of the competition objective and tackling financial exclusion. Without direct measures being taken, the FCA could release or mandate the release of detailed, anonymised market data under a Duty of Care to empower organisations working in the consumer's interest. Anonymised data on lending would enable new markets entrants to identify commercial opportunities in underserved segments and introduce targeted products and services at the margins, the classic model of market disruption. Data can also be used proactively predict consumer harm ahead of time and enable targeted action. Even with limited data, research has shown the potential of debt-mapping to identify areas with a high concentration of 'problem debt', potentially enabling targeted intervention by local authorities and debt advice services (http://responsiblefinance.org.uk/report-the-distribution-of-consumer-credit-debt-in-leicester/).

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

The distinction is appropriate in itself. However, in the context of consumer protection in the Mission document overall, consumer capability is only listed alongside more complex markets or products as regulatory distinctions when it comes to intervention. A relative lack of access to finance should be included as a further distinguishing factor. Financial exclusion is included as a source of harm in the FCA's framework. However, it is persistent and some consumers can find themselves largely financially excluded for a long time, without it being attributable to complex markets or products, or to a lack of capability. Given its persistence in the UK, it should be regarded as an ongoing regulatory distinction.

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention?

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one?

Vulnerable consumers should receive greater levels of protection. The focus throughout the FCA's Mission document is on protecting consumers from harm who directly engage in the market. Financially excluded customers should also be considered vulnerable. It should also be recognised that most, if not all, vulnerable customers, in relation to financial services, are targeted by peripheral organisations seeking to redress some of the harm that may occur. This includes debt charities, responsible finance providers and social enterprises. As mentioned in responses to earlier questions, the FCA could do more to protect vulnerable customers by embracing (or mandating that large financial firms embrace) open data and making it available to these peripheral services.

Q17: Is our approach to the effectiveness of disclosure based on the right assumption?

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective?

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable?

Q20: Are there any other factors we ought to consider when deciding whether to intervene?

Q21: What more do you think we could do to improve our communication about our interventions?

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals?

Q23: Do you think it is our role to encourage innovation?

Q24: Do you think our approach to firm failure is appropriate?

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

Your details

Company Community Investment Coalition

Name John McLean

In what capacity are you responding? as a representative of a professional firm

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 26 January 2017 16:48
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

Financial services markets regulated by the FCA are divided in the 'Our future Mission' documents into retail, wholesale and capital markets. Responsible finance providers operate in a retail environment, but customers who utilise responsible finance products and services usually do not access to the mainstream retail market. The goal of responsible finance providers is therefore not to compete with mainstream retail finance, but to serve customers who cannot access the mainstream market. This effectively means there are two retail markets operating simultaneously in a highly segmented fashion.

Any definition of the markets regulated by the FCA should acknowledge prime (mainstream) and subprime (non-mainstream) market segments either as two separate markets or as distinctive sectors of the retail market. This is a step to ensuring the competition principle is made to work for all.

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

The overall approach to consumer loss is correct. A distinction is drawn between retail and wholesale markets. A similar distinction should also be drawn between prime and subprime retail markets. In the subprime segment of the retail market, consumer loss can have the potential for severe repercussions for the customer given lack of savings of personal wealth buffers and is more likely to occur due to a lack of understanding regarding the financial product.

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

Overall the distinction is correct, however there is too strong an emphasis on retail finance serving household needs while only "some small businesses may be consumers" in this market. More than 99% of businesses in the UK are SMEs. Furthermore, 96% are microbusinesses, employing 0-9 people (http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06152). The majority of businesses, therefore, are unlikely to fit the definition of "a very sophisticated and informed entity" non-reliant on third party advice as the typical wholesale customer is described in the existing Mission document. Most small businesses will rely on the retail market, so an alternative initial descriptor could read, "Retail markets serve household and most small business needs such as credit, insurance and investment products."

Responsible finance providers lend approximately £100 million to small businesses each year, most of which is to microbusinesses and start-ups, which falls under consumer credit activity. These businesses are typically unable to access finance from mainstream lenders, and add value to the local economy through employment, regenerating high streets, and providing goods and services.

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

The second operational objective (market integrity) should include the principle of promoting inclusivity in financial services markets. Due to the far-reaching negative side effects that arise from a lack of inclusivity, the capacity and will of the wider UK financial system to grow and maintain its consumer base has implications for consumer confidence, market integrity and the over-arching goal of operational objectives "to support and maintain healthy and successful financial markets".

The framework for defining harm includes consumer exclusion as a harm under the relevant FCA operational objectives 'effective competition' and 'consumer protection'. Financially excluded consumers, such as those served by the responsible finance sector, are locked out of competitive markets altogether and exposed to negative outcomes. Often, these consumers are among the most vulnerable in society. The triggering of investigation and diagnosis of harm caused by exclusion through the intervention framework could let consumer harm continue for some time before being addressed. Financial exclusion is endemic in market segments that historically require more proactive intervention, such as the FCA's work with debt management companies, due to persistent lack of competition and vulnerability to the entry of illegitimate or exploitative actors. For these reasons, addressing exclusion only through the framework for intervention, when the competition or protection objectives are threatened or breached, is not adequate.

Commercial viability and the principle of fair competition can coexist alongside the aim of providing an inclusive market. The Royal Mail has a universal service obligation (http://www.royalmailgroup.com/about-us/regulation/how-were-regulated/universal-service-obligation), on the basis of which it has successfully appealed to Ofcom, the postal services regulator, take to action to protect fair competition while maintaining Royal Mail's mandate to provide universal postal coverage in the UK (https://www.ofcom.org.uk/postal-services/securing-universal-postal-service). While acknowledging that it is not appropriate to guarantee universal access to financial products, it is possible to recognise the unique environment, priorities and needs of market actors that seek to widen access to financial products where it is commercially viable, and to do so within the existing framework of operational objectives.

Q7: Do you think our intervention framework is the correct one?

We welcome the 'Our future Mission' document's inclusion of consumer exclusion as a type of harm, and therefore a basis for intervention.

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies?

The following is acknowledged in the existing Mission document:

• the essential nature of financial goods and services to participation in UK society
• a well-functioning market provides more accessible goods and services to more people
• the failure of markets to meet consumer needs due to gaps in the existing range of products, consumer exclusion or the lack of market resilience are types of harm, addressable under competition and consumer protection objectives
• the Financial Services and Markets Act 2000 (FSMA) empowers the FCA to take action on consumer access, with specific reference to consumers in areas of social or economic deprivation

While the FCA is not responsible for financial inclusion policy, it has specific legal power to address access to finance as a competition issue. This can be actioned passively or proactively. Encountering the growth of innovation in financial technology, the FCA chose to take an active role, instituting measures such as the Regulatory Sandbox, Innovation Hub and Advice Unit. A similar approach to addressing financial exclusion, utilising only existing tools and remits, could play an important role in maintaining a healthy retail market, galvanising consumer confidence in financial service providers and improving the landscape for competition.

An example of a small action which could yield significant gains would be investigating how the FCA could use, or allow others to use, data it has from financial firms on lending activity, so that the FCA could map identify gaps. Without specific remedial action being taken, better insight into market coverage and lending behaviour can empower the market to address gaps through open competition, particularly from smaller firms specifically focused on market niches.

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

The FCA understanding of price-sensitivity references the distinction between 'sophisticated' and 'naïve' consumers, and consumer unwillingness or barriers to switching providers. The lack of awareness is another factor. In low income markets, price-insensitivity also occurs because consumers are not aware of other finance options outside of mainstream retail banks and a handful of high-cost short-term credit providers.

Credit providers operating in low income markets typically offer credit at more expensive interest rates on repayments than mainstream providers. The purpose can be to make the overall rate of default sustainable, as opposed to price-gouging. In effect, they are using the higher repayment rates of those who do repay to cross-subsidise those who do not manage to repay. Cross-subsidy in this circumstance can be a form of consumer protection if the purpose is to allow the firm to write off more bad debt and be flexible regarding alterations to repayment plans. This is in the interests of the consumer.

Some firms such as HCSTC operate with higher interest rates on repayments in low income markets to take commercial advantage of the lack of awareness, naïvity or lack of alternative options of sometimes vulnerable customers. Other firms do so to facilitate the provision of financial services to underserved markets at the lowest viably sustainable rate. It is important to recognise the distinction between the two.

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

Q11: Would a Duty of Care help ensure that financial markets function well?

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

It is overly simplistic to only vary the balance of consumer/firm responsibility depending on the particular product or transaction and how it is sold. Often, particularly in low income consumer markets, the danger for consumers is not just the complexity of the product but the wider social context and a lack of awareness or convenient access to more appropriate or beneficial products. Viewing consumer protection as the balance of responsibility within the confines of a discrete transaction does not provide adequate protection for such consumers.

This is a financial exclusion issue as well as a capability issue. While the FCA is not mandated to regulate for financial inclusion directly, encouraging or facilitating greater release of granular data regarding lending would empower the wider financial services industry, community interest civil society and local economics groups to identify market failure, inefficiency or consumer harm. These groups can then advocate for policy change on the behalf of low income consumers. While not direct policy intervention, it fulfils the capacity to 'have regard to the ease with which consumers who may wish to use those services, including consumers in areas affected by social or economic deprivation, can access them' in pursuing the competition objective.

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

As mentioned in our response to question 12 regarding consumer protection, it is not enough to assess the capability of the consumer based on their ability to understand a particular product in itself and relation to similar products. Consumer capability should also be assessed with regard to whether they have ready access to, awareness and understanding of alternative products, and the wider social context, such as localised distrust of certain products or firms or familiarity with others. An interpretation of consumer capability that is too simplistic against the backdrop of complex consumer markets leaves room for ongoing harm and hampers the capacity of stakeholders to call for redress or policy change.

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention?

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one?

The framework for defining harm includes consumer exclusion, which we welcome. However, in describing the FCA's approach on deciding when to take regulatory action to protect vulnerable customers, the 'Our future Mission' document states, "we focus on the potential harm of a particular product, firm or market and the capabilities of consumers using them." The approach to protecting vulnerable customers is therefore very much oriented towards issues arising from active engagement with product, firms and markets. It is not clear where financial exclusion as a form of harm comes into the frame, given that it is a passive form of harm caused by not having active engagement with products, firms and markets.

To fully protect the range of vulnerable customers, including low income customers, we recommend that financial inclusion is more clearly included in the general regulatory framework, from specific reference in the FCA's objectives through to the protection of vulnerable customers, recognising that more proactive measures are needed to minimise consumer harm, including creating a proportionate regulatory environment for firms such as community finance organisations, that exist to tackle financial exclusion.

Q17: Is our approach to the effectiveness of disclosure based on the right assumption?

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective?

Yes, it makes sense for the regulator both to initially adopt a more hands off approach initially. The exception would be when significant harm is occurring and the risk of not robustly intervening is that significant harm will continue to occur.

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable? Yes

Q20: Are there any other factors we ought to consider when deciding whether to intervene?

The responsible finance industry is an example of a sector of financial services which seeks to put benefit to the customer alongside commercial considerations and serve disadvantaged, underserved populations. In doing so, its firms operate with constrained budgets and smaller workforces. It is reasonable to expect that the FCA takes into consideration the consistent commitment to prioritise the interests of the consumer when considering whether to intervene and, if so, what intervention to pursue. Given the aforementioned constraints on resources and capacity, regulatory requirements that place unnecessary burdens on time or the finances of small firms can ultimately limit their scope for operation, particularly when they are working with vulnerable or underserved customers. This can have a negative effect on competition and ultimately harm the consumer, therefore we request the FCA makes a commitment to proportionality in terms of the size and scope of the firm.

Q21: What more do you think we could do to improve our communication about our interventions?

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals?

Q23: Do you think it is our role to encourage innovation?

The FCA should facilitate innovation under the competition objective, without actively incentivising it. From the perspective of Responsible Finance, more active consultative engagement on regulatory issues would be welcome, with recognition of the unique market, mission and circumstances of the responsible finance sector. This is not limited to technological innovation. The responsible finance sector is, for example, seeking ways to innovate on funding models, in addition to the delivery of ethical finance. At this juncture, we lack an open avenue for discussion with the FCA to test proposals on what might be possible within existing frameworks or regulatory evolution.

Q24: Do you think our approach to firm failure is appropriate? Yes

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

Formal discussions in instances when there has been insufficient evidence to take action will help improve regulatory outcomes. Where possible and appropriate, these conversations should be opened up for public contributions.

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

Private warnings may benefit from less contentious terminology, such as private statement of concern. The implication is that the firm has an opportunity to change its behaviour before harm occurs. Warnings should be a subsequent public step, as the implication is that some harm has occurred, or that privately stated concerns have not been properly addressed.

Your details

Company Responsible Finance

Name John McLean

In what capacity are you responding? as a representative of a professional firm

From: The FCA future Mission [mailto:fcamission@fca.org.uk]
Sent: 27 January 2017 08:49
To: FCA Mission
Subject: Online response form submission for the FCA future Mission

Q1: Do you think our definition of a well-functioning market is complete? What other characteristics do you think we should consider?

Q2: Do you think our approach to consumer loss in well-functioning markets is appropriate?

Q3: Do you think we have got the balance right between individual due diligence and the regulator's role in enforcing market discipline?

It is my personal opinion that individual consumers should not have to factor in the risk/likelihood of a firm breaching regulatory boundaries when they purchase financial products... So in that sense, I think you should tip the scale more towards the regulator's role rather than the individual's need to do due diligence. Due diligence is not something you can expect the average consumer to do, in my opinion.

Q4: Do you think the distinction we make between wholesale and retail markets is right? If not, can you tell us why and what other factors you believe we should consider?

Q5: Do you think the way we measure performance is meaningful? What other criteria do you think are central to measuring our effectiveness?

Q6: Do you think the way we interpret our objective to protect and enhance the integrity of the UK financial system is appropriate? Are there other aspects you think we should include?

Q7: Do you think our intervention framework is the correct one?

Q8: Where do you believe the boundary between broader policy and the FCA's regulatory responsibility lies?

Q9: Is our understanding of the benefits and risk of price discrimination and cross subsidy correct? Is our approach to intervention the right one?

I feel that perhaps you have been a bit lenient when defining price discrimination, I think the definition should be harsher and intervention should be taken earlier and harder.

Q10: Does increased individual responsibility increase the need and scope for a greater and more innovative regulatory response?

Q11: Would a Duty of Care help ensure that financial markets function well?

It would ensure that financial markets function well, yes, however care needs to be exercised when drafting rules for what constitutes "duty of care".

Customers should be able to take firms to court over breaches! I wonder if there any past examples of where something like this has prevented customers from going to court.

Q12: Is our approach to offering consumers greater protection for more complex products the right one?

Q13: Is our regulatory distinction between consumers with greater and lesser capability appropriate?

Q14: Is our approach to redress schemes for issues outside our regulatory perimeter the right one? Would more specific criteria help firms and consumers?

Q15: What more can we do to ensure consumers using redress schemes feel they are receiving the appropriate level of personal attention?

Q16: Is our approach to giving vulnerable consumers greater levels of protection the right one? Absolutely!

Q17: Is our approach to the effectiveness of disclosure based on the right assumption? Yes, I think so.

Q18: Given the evidence, is it appropriate for us to take a more 'interventionist' approach where conventional disclosure steps prove ineffective? Absolutely -- I wouldn't see why not.

Q19: Do you think our approach to deciding when to intervene will help make FCA decisions more predictable? Yes, definitely.

Q20: Are there any other factors we ought to consider when deciding whether to intervene? The speed of resolution in the case you let another party intervene.

Q21: What more do you think we could do to improve our communication about our interventions?

Q22: Is there anything else in addition to the points set out above that it would be helpful for us to communicate when consulting on new proposals?

Q23: Do you think it is our role to encourage innovation? Partly, yes. At least you should not be hindering it.

Q24: Do you think our approach to firm failure is appropriate? Yes.

Q25: Do you think more formal discussions with firms about lessons learned will help improve regulatory outcomes?

I think this could be useful, however I know you are already having a lot of discussions with firms. But more could not hurt, I am sure.

Q26: Do you think that private warnings are consistent with our desire to be more transparent?

Your details

Company Anonymous

Name Anonymous

In what capacity are you responding? as an individual

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CONDUCT
AUTHORITY

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