



# Our response to key comments from the independent panels' annual reports for 2015/16

December 2016



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# 1. Introduction

- 1.1 We work with the Panels throughout the year on a wide range of subjects. We value their experience, advice and support in identifying risks to markets, their insight on consumer issues and views of firms. We consider their views when developing our policies and when determining and implementing other regulatory interventions.
- 1.2 The Statutory Panels each publish Annual Reports that detail their activities for the year and comment on our work. Our responses to these reports are grouped into two sections. Firstly we look on pages 3-8 at themes that are common across all or most of the Panels. We then look on pages 9-16 at issues that are more specific to the individual Panels.

## The FCA panels

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- The Financial Services Consumer Panel**
  - 1.3 Represents the interests of consumers, monitors how far we fulfil our statutory objectives for consumers when developing rules or policy and provides us with advice and challenge.
- The FCA Practitioner Panel**
  - 1.4 Represents the interests of practitioners, and provides us with external input from the industry as a whole.
- The FCA Smaller Business Practitioner Panel**
  - 1.5 Represents smaller regulated firms, who may otherwise not have a strong voice in policy making.
- The FCA Markets Practitioner Panel**
  - 1.6 Reflects the interests of practitioners who are likely to be affected by our functions relating to markets.
- The Listing Authority Advisory Panel**
  - 1.7 This non-statutory panel advises the FCA on policy issues that affect issuers of securities and on policy regulation proposals from the FCA listings function.

## 2. Key themes across the panels

### Sustainability of regulation/performance measurement

- 2.1** Both the Practitioner Panel and the Smaller Business Practitioner Panel discussed the sustainability of regulation in their reports. The Practitioner Panel highlighted the issue of our operating in a changing environment without constantly changing our rules. The Smaller Business Practitioner Panel focused on the need to develop robust metrics and outcome measures to track progress against our Business Plan. It also highlighted the challenges and strain on resources for both the FCA and firms as a result of the pace of change and volume of regulation. The Consumer Panel looked more widely at how effective our regulation is and believes that we should develop additional means of measuring our success in meeting our statutory objectives. The Consumer Panel offered to help us develop these and other measures further.

#### **Pace of regulatory change**

Regulatory change since the financial crisis has been substantial, with prudential and conduct changes at a global, EU and UK level. We consider the costs on firms when deciding our interventions, including through cost benefit analysis. We will continue to take a proportionate, judgement-based approach to regulation, assessing the risk a firm poses to our objectives and focusing resources on the higher-risk firms. We recognise the importance of ensuring that recent regulatory initiatives have been effective.

#### **Cost of regulation on firms**

We continue to undertake analysis to ensure that costs imposed by our regulation are proportionate to the benefits achieved. Under the Financial Services and Markets Act (FSMA), the FCA already assesses the costs and benefits of proposed rules. These assessments take into account both direct and indirect costs and the benefits to consumers. In October 2015 the FCA was included in the provisional 'Regulators List' to be in scope for the Small Business Enterprise and Employment Act. Under the Act we will also submit Impact Assessments to the Regulatory Policy Committee. The Government is still consulting on this list but we expect it will be confirmed.

These impact assessments will include a wider range of reporting than required by FSMA. For example, changes to our processes that impact firm costs will now be reported.

#### **Improving our performance measurement**

We have developed an outcomes-based performance framework to measure our effectiveness. Our [2016/17 Business Plan](#) provides more details on the framework, gives details of the outcomes we want to achieve in a number of priority areas, and provides some of the success measures we will publish to demonstrate our progress.

We continue to develop our approach and performance measures and look forward to working on this with the Panels.

## Duty of care

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- 2.2** The Consumer Panel called for an amendment to FSMA to enshrine a formal duty of care by financial services firms towards their customers in law. The Panel believes that 'Treating Customers Fairly' has been weakened by the 'consumer responsibility' principle in FSMA, and that the legislation is not giving consumers the protection that Parliament intended. The Practitioner Panel also raised duty of care as a key theme. It suggested that the boundary of responsibility between the consumer and industry and the regulator's involvement within this was an area for discussion.

### Duty of care and responsibility

The question of firm and consumer responsibility features in the FCA Mission Consultation. We look forward to the Panels' contributions to the consultation and debate and we will consider their views carefully.

## Technology

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- 2.3** The Consumer Panel raised technology as a key issue. They discussed the impact of technology on the FCA's Handbook in light of changes in the industry and the implications for duty of care and customer needs and expectations. The Practitioner Panel considered the impact of big data, asking how the industry and regulator should respond to the developing technology to handle substantially larger amounts of consumer data from new sources.

### Innovation

Innovation and technology are one of the seven FCA priorities in our 2016/17 Business Plan. Our interest in technology and information is driven by a clear link to our duty to promote competition in the interests of consumers. Since the launch of Project Innovate, we have received over 500 requests for support and directly helped over 250 firms with their innovative ideas.

Project Innovate has delivered practical results. We have authorised, or are near authorising, over 40 firms. These firms are launching new products that may not have otherwise come to market, including very short-term insurance, new ways of assessing credit worthiness or raising funding. Building on these results, in May 2016 we launched the Regulatory Sandbox, which gives firms a safe space to test new ideas without immediately incurring all of the normal regulatory consequences.

### Big Data

Big Data has become increasingly important for regulators globally and we are undertaking work to understand its implications more fully. In 2015 we launched our Call for Input on Big Data, to seek views on how Big Data is affecting and is likely to affect consumer outcomes and competition in the retail general insurance (GI) sector.

We published our feedback statement in September 2016. We found that broadly positive outcomes resulted from the use of big data. It can be used by firms to transform how consumers deal with insurance firms, allowing firms to develop new products as well as reducing form-filling, streamlining sales and claims processes.

We identified two areas where the use of Big Data had the potential to leave some consumers worse off. Big Data changes the extent of risk segmentation so that categories of customers may find it harder to obtain insurance. We are also concerned about the potential that Big Data might enhance firms' ability to identify opportunities to charge certain customers more. In light of the feedback received and evidence examined we have decided not to launch a market study on data at the present time, but will take forward a number of measures designed to further engage with the industry.

## Consumer vulnerability

- 2.4** The Practitioner and Small Business Practitioner Panel highlight this issue, most notably on ageing and indebted younger consumers. Both Panels welcomed the opportunity to contribute to Discussion Papers on this topic, and welcome the collaborative and wide ranging approach we have taken to this work.

### Vulnerable consumers

We have been working closely with industry and trade bodies to discuss experiences, best practice and potential approaches around vulnerability issues.<sup>1</sup> This has culminated in a significant programme of work led by the British Bankers Association through its Vulnerability Task Force. This Task Force recently published a report highlighting fair treatment of vulnerable consumers as a priority for the industry and making further recommendations for improvement.

One of the themes identified in our work on Vulnerability is the problems consumers can face when they are unable to access financial products and services, either at all or at a price they can afford. We have since carried out a large scale programme of work to explore this issue of financial exclusion and published an Occasional Paper exploring the consumer experience of access to financial services in the UK.<sup>2</sup> We have also discussed the issue of consumer vulnerability in the Mission Document.

We are also conducting work on the Ageing Population. In February 2016 we published a Discussion Paper DP16/1: Ageing population and financial services. This looks specifically at the way in which financial services meet the needs of older consumers. We will publish a series of recommendations for future action in 2017.

In addition to our own research, working in partnership with consumer organisations has been pivotal to us being able to seek insight on the experiences of a range of consumers. We have also very much valued the input of Panel members into our work.

## Competition

- 2.5** Both the Consumer and Practitioner Panels see competition as an important issue we must continue to address. The Consumer Panel believes that the CMA's retail banking market investigation does not tackle the root causes of weak competition in consumer and business current accounts. It also sees an opportunity for us to promote greater transparency in information for consumers, providing information they can understand and use. The Practitioner Panel notes that, overall, respondents to its survey do not think that we have improved our performance against our objective of promoting effective competition, despite the Practitioner Panel highlighting this as an issue last year.

<sup>1</sup> In February 2015 we published an Occasional Paper on consumers in vulnerable circumstances

<sup>2</sup> In May 2016 we published Occasional Paper No. 17: Access to Financial Services in the UK

### **Promoting competition**

Where competition works effectively, pressure from consumers will work alongside consumer protection measures to push firms to treat consumers well, including offering better products and services. The issue of competition is raised in the Asset Management Market Study, discussed later in this section.

Following our market studies, we have introduced a range of remedies: both demand- and supply-side. Our demand-side remedies aim to empower consumers to make it easier for them to find and purchase suitable products and in turn to change firms' behaviour in response.

We note that the CMA has considered pricing of current accounts as part of its investigation into competition in the retail banking sector, including analysis of the so-called Free-If-In-Credit model. We set out our response to the CMA's final report on its investigation into competition in the retail banking market on November 3<sup>rd</sup>. This response considers prompting increased customer engagement, improved transparency for overdraft users, promoting innovation and improving service.

## **Communication**

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- 2.6** This is a key theme for the Panels. The Consumer Panel focuses on disclosure of information, highlighting that this could empower consumers to make more informed decisions about the firms they want to do business with. The Practitioner Panel discusses communications as a regulatory tool, understanding the need for a proactive media strategy but highlighting the inherent risks given the media's tendency to pick up on more negative messages. The Small Business Practitioner Panel notes our efforts to engage with firms, including compliance workshops and regional events.

### **Firm communications with consumers**

Our Discussion Paper DP15/5 and Consultation Paper CP15/32 set out our appetite to explore new methods, consider changes in how firms communicate with consumers and investigate how to make disclosure requirements more effective. In October 2016 we published Policy Statement PS16/23, which contained final rules, as well as our Feedback Statement to DP15/5 (FS16/10).

In FS16/10, we set out the next steps we will take over the course of 2017 in order to enable smarter, and more effective, consumer communications. We will undertake activities across a range of topics including terms and conditions, risk warnings, social media, disclosure guides and the concept of durable medium. We will also consult on amending or deleting additional rules and guidance provisions which have been identified as being a barrier to smarter consumer communications.

### **Communications and engagement as a regulatory tool**

Our external Communications approach has evolved from a reactive, event-driven approach, to one that prioritises specific communications. This more focused approach, which prioritises competition, wholesale market integrity and protecting consumers, allows us to maximise the impact of our communications and better manage the risks of using communications as a regulatory tool.

At the same time we have also increased engagement across all stakeholders to inform our regulatory approach. This has been driven by our firm outreach programme, for example the nationwide Live and Local events, and increased partnership working with external stakeholders, such as the Consumer Network of consumer organisations.



## Disclosure of asset management costs

- 2.7** The Consumer Panel stressed the issue of disclosure of asset management costs, and called on us to introduce measures to force the asset management sector to control costs and deliver better returns. The Practitioner Panel noted the need for the Asset Management Market Study to look at asset management costs. However, they believed this needs to be part of a wider consideration on whether investments achieve their objectives, of which cost is only one element.

### Asset management

We launched our Asset Management Market Study in November 2015 to look at whether both retail and institutional investors can get value for money when purchasing asset management products and services.

We published our preliminary, interim findings in November 2016, which included:

- price competition is weak in a number of areas of the industry
- there is stronger competition on price for passively managed funds, though the FCA did find some examples of poor value for money in this segment
- despite a large number of firms operating in the market the asset management sector as a whole has enjoyed sustained, high profits over a number of years with significant price clustering
- investors are not always clear what the objectives of funds are, and fund performance is not always reported against an appropriate benchmark
- we have found concerns about the way the investment consultant market operates

We have proposed a significant package of remedies to make competition work better in this market, and protect those least able to actively engage with their asset manager. These include a strengthened duty on asset managers to act in the best interests of investors, reforms to hold asset managers to greater account, introducing an all-in fee to make it easy for investors to see what is being taken from the fund, and measures to help retail investors identify the most appropriate fund.

## Financial Advice Markets Review (FAMR)

- 2.8** In March 2016 the FCA and the Treasury published FAMR, looking at the barriers to consumers accessing financial advice and guidance. It made recommendations to tackle these barriers, including providing new guidance on 'streamlined advice', and the creation of a new dedicated Advice Unit as part of Project Innovate.
- 2.9** The Panels inputted widely into FAMR. In its Annual Report, the Practitioner Panel emphasised the need to consider the wider environment including changes underway in the pensions area and ongoing projects at EU level to ensure the work is not considered in isolation. The Consumer Panel and Small Business Practitioner Panels focused on market issues relating to advice, including standards in and consistency of advice.

### **Delivering FAMR recommendations**

In May 2016 we set up our Advice Unit to provide regulatory feedback on firms' automated advice models, including on the outcomes these models are delivering for consumers. We are ensuring FAMR implementation is co-ordinated with related European initiatives, including MiFID II and the IDD, as well as reforms to the UK pensions market.

Following FAMR, the Financial Advice Working Group, which includes representatives from the independent panels, has also been established. The Working Group will consider three FAMR recommendations.

- providing affordable advice to consumers
- increasing the access to advice
- addressing industry concerns relating to future liabilities and redress, without watering down levels of consumer protection

## 3. Key specific issues raised by the panels

### Financial Services Consumer Panel

#### Banking culture and the risk of mis-selling

- 3.1** The Consumer Panel highlighted culture in banking as a concern and as a potential driver for mis-selling and poor treatment of customers.

#### Culture in financial services

We share the panel's views on the importance of culture in financial services firms. Culture and governance have been and continue to be at the top of our priorities, as set out in our Business Plan. An important part of this is the Senior Managers and Certification Regime, covered later in this response on page 12.

#### The FCA Financial Services Register – accessibility plus tackling scams

- 3.2** The Panel recommended that we make our Financial Services Register more accessible to consumers by using simple language and avoiding jargon. The Panel also highlighted the important role the FCA has in helping consumers avoid scamming, especially in light of the new pension freedom rules.

#### FCA Financial Services Register – Accessibility

We agree with the Consumer Panel that a more accessible Register has an increased benefit for consumers. In 2015 we asked the Plain Language Commission to review the Register front page to see how clear it is for many different audiences. They awarded the Register their silver status. It can be challenging to get the balance right between information that is both accessible and legally accurate and we will continue to work on improving accessibility further.

#### FCA Financial Services Register – Scams

We share the panel's views on the importance of tackling scams, and pension related scams in particular. Action against scams is one of our key priorities as set out in our Business Plan 2016/17.

We have undertaken much work in recent years to raise consumer awareness of scams, and show how to identify and avoid them. This year we have run a further phase of 'ScamSmart', a crime prevention campaign aimed at retail investors. The campaign stressed the importance of rejecting cold calls, checking the FCA's warning list before making an investment and getting impartial advice.

#### Payment protection insurance (PPI) deadline

- 3.3** The Consumer Panel did not believe that we had made the case for a deadline. It recommended that if we decide to go ahead with a deadline, we need to ensure there are additional consumer protection measures.

**PPI complaints deadline** In August 2016 in a further consultation paper, we said we believed that, overall, the package of proposals PPI complaints laid out in our November 2015 consultation should be taken forward.

This package includes imposing a deadline for making new PPI complaints launching a consumer communications campaign to raise awareness of the PPI issue and the deadline, and making rules and guidance on handling PPI complaints in light of the Supreme Court judgment in *Plevin v Paragon Personal Finance Ltd (Plevin)*. We will consider the further feedback we receive before making a final decision on some or all of the proposals.

### **Challenges facing small businesses**

- 3.4** The Consumer Panel also noted that many small businesses and microbusinesses face similar challenges in financial services markets to retail consumers, but do not get the same regulatory protection as they are considered to be more financially sophisticated.
- 3.5** In its response to the FCA's discussion paper on SMEs (small and medium sized enterprises), the Panel urged the FCA to carry out a segmentation of SMEs to explore the differences between businesses of different sizes and characteristics, and whether there are specific issues relating to different legal forms (e.g. sole trader, partnership or limited company). The Panel also argued there is a need for banks to make available suitable banking and lending.

### **Small businesses – our current work**

We are currently considering our response to the CMA's final recommendations on competition in retail banking. The research on banking culture commissioned by the Panel provides some concrete suggestions on how service quality is understood by micro-enterprise customers. It is also an important reference for us as we consider what prompts micro-enterprises might respond to. We have noted the agreement between some of the findings of this research and some of the findings of the Ombudsman service's recent review of micro-enterprise complaints, specifically with regards to micro-enterprises' expectations of the role of their bank manager.

We have also considered the Panel's views on segmenting the SME population. Since DP15/7 was published, which looked at the ways in which SMEs that use financial services are treated in our rules, our review of major data sources has provided us with new insights into the relative resources of small businesses. These sources included the SME Finance Monitor, the Legal Services Board's Legal Needs of Small Business Surveys and Research Works' qualitative research into business banking, commissioned by the CMA. We expect to publish feedback on some of these findings later this year.

We have noted the Panel's suggestions on the availability of appropriate products for the self-employed, which we have started to address in recent work. For example, access to mortgage products and the level of firms' understanding of entrepreneurial income are issues that we considered in the context of our recent Thematic Review into responsible lending (TR16/4).

## The FCA Practitioner Panel

### Panel Survey – areas for further progress from the FCA

**3.6** The Practitioner Panel Survey has highlighted three areas where the industry would value further progress from the FCA. These are:

- improving the knowledge of FCA staff and supervisors, including via working with industry and developing secondments and exchange programmes.
- more transparent regulation
- more forward looking regulation, including a better grasp of impact of its work on the industry.

**3.7** The Practitioner Panel also commented on the work of the Life Insurance and Financial Advice division (LIFA, previously Long-Term Savings and Pensions), noting that there were generally lower levels of satisfaction from firms in survey results for this area.

#### Improving the knowledge of FCA staff and supervisors

The FCA Academy, launched in Autumn 2014, sets out a mandatory 'pathway' of learning for our supervisors, with clear milestones for capability and knowledge, the content of which is reviewed regularly to ensure it is comprehensive. This is complemented with industry specific training, as well as developmental learning aimed at individuals' requirements more broadly. In addition, we have expanded the remit of our MSc in Financial Regulation with Henley Business School, and plan to engage with overseas regulators and stakeholders. Thanks to a collaborative relationship with regulated firms and consumer organisations, we have also expanded our successful secondment programme to a wider range of regulated firms and consumer bodies.

#### More accessible and transparent regulation – Our Mission

Accessibility and transparency is vital to our work as a regulator. The more understanding we have of our work from our stakeholders, the better we are able to work with them collaboratively and deliver on our objectives more effectively.

Recognising this, we have published a consultation paper on the FCA Mission, and are following this up with an intensive period of public consultation. This includes how to balance firm and consumer responsibility, the role of firms and the role of the regulator. We aim as a result to be more transparent about our decisions including when and how we choose to deploy our resources to help ensure that markets function well.

#### More accessible and transparent regulation – Other initiatives

This Mission document builds on other initiatives already underway to improve our accessibility and transparency. Our work on improving accessibility for our register is detailed on page 9. This year we have rewritten, redesigned and redeveloped the FCA website to deliver clearer content, improved search functionality and more accessible navigation. We have also created a new Transparency section on the website. Here we publish relevant information about the firms and individuals we regulate, as well as details about how we work. This includes information about our service standards, internal guidance and audits and how we apply the Senior Managers Regime to ourselves.

### **Forward looking regulation**

We recognise the importance of regulating based on what markets will look like in future rather than regulating to simply prevent past problems from reoccurring. The FCA will host a conference in 2017 looking at hypothetical future landscapes for the financial sector and exploring opportunities and risks posed to financial services participants.

A key factor in the future is the transformative impact of technology. Our work on Project Innovate is detailed on page 4. The key challenge for government, industry and regulators is to ensure the regulatory environment fosters the best of financial innovation. Our ultimate goal is that the benefits of competition can be realised in the interest of UK consumers.

### **Life Insurance and Financial Advice division – survey results**

The Life Insurance and Financial Advice division (LIFA, previously Long-Term Savings and Pensions) have taken the Practitioner panel survey results and other feedback on board. They have paid particular attention to feedback regarding communications with firms and the level of information they are required to provide to consumers.

LIFA have identified improvements within these areas, in particular:

- We are working to establish closer knowledge sharing links with Supervision and the Contact Centre to help them support the firms who have queries as much as possible.
- We are reviewing the tone and level of detail of communications within LIFA to build on the interaction to date at both Live & Local events and regional conferences. For example, we have undertaken external communication activity with over 5,000-advisors over the last year. A more targeted communications strategy is currently being developed to enable better engagement with firms and individual advisors, and this is expected to begin being rolled out in Q2 next year.
- We note comments that the level of information firms are required to provide for consumers is excessive, which also came out through FAMR and are looking at this through the output of the Smarter Consumer Communications Feedback Statement.

### **Senior Managers Regime**

- 3.9** The Panel noted its work with the FCA on the implementation of the Senior Managers Regime, believing that balancing the two objectives of proportionality and implementing a level playing field will be a difficult task as the regime is extended further.

### **Implementing the Senior Managers and Certification Regime**

Firms' senior managers have a crucial role in demonstrating that they are accountable and responsible for their part in delivering effective governance, including taking responsibility and being accountable for the decisions they make and exercising rigorous oversight of the business areas they lead. We expect firms and senior managers to:

Develop a culture of individual accountability at all levels and senior individuals are fully accountable for the business areas, activities and material risks for which they are responsible.

Explain principles of good conduct towards customers and markets and incorporate them throughout their business, producing better consumer outcomes.

We will ensure the effective implementation of the Senior Managers and Certification Regime in the banking sector and develop our policy for its extension across the financial services sector. We acknowledge the issues of proportionality and creating a level playing field and will take these factors into account.

**Considering the strategic impact of regulation**

- 3.10** The Practitioner Panel's engagement with the FCA's regulatory agenda includes looking at issues at a strategic level. Specific engagement has included initiatives such as the House Views project, which addresses risks in all the sectors the FCA regulates and the Financial Advice Market Review, discussed earlier on page 8.

**House Views**

The FCA welcomed engagement from both the Practitioner Panel and Small Business Practitioner Panel, including feedback that the FCA should make the House Views public in some form, as this would help industry participants understanding of the regulator's thinking in their sector. The FCA notes this feedback and is looking at how to improve understanding of its analysis in various market sectors.

**Competition – survey**

- 3.11** The Practitioner Panel survey showed a slight dip in firms' view of the FCA's performance against its competition objective. Firms questioned what the FCA was doing on both competition and competitiveness.

**Our response to the survey**

The Competition Division have been actively engaging with panels as a result of the survey. We have spoken to Panel Chairs individually and attended a Practitioner Panel session to discuss the results. The Practitioner Panel are interested in how the FCA could communicate better with firms, within the FCA and with consumers, to help industry better understand what the FCA means by competition. We are continuing to work with the Panel on this.

**The FCA Smaller Business Practitioner Panel****Proportionality/burden of data requests**

- 3.12** The Panel encourages us to take into account the reality of the business environment for smaller firms. It highlighted that requests for regulatory information, particularly within short timescales, are becoming increasingly onerous.

**Data requests**

Before issuing a data request, we conduct a firm burden analysis, which provides a breakdown of the firms in the requested sample, their existing regulatory reporting requirements and other data requests. A designated internal committee evaluates the impact of the request on the firm and seeks to minimise it, where appropriate. Where possible, we seek to extend the deadline of data requests to allow firms sufficient time to submit information, reduce the scale of a data request or suggest alternate firms on the basis that those included in the original sample are heavily involved in other approved data requests. We give further consideration to those smaller firms who aren't likely to have received a data request from us or who have had little interaction with us.

### **Pension freedoms**

- 3.13** The Panel welcomed our ongoing review of the pensions rules. However, it had concerns about the development of a secondary annuity market, though subsequently the Government cancelled its plans for a secondary annuity market.

#### **Pensions – Advice**

We recognise the importance of good quality advice, including for those making decisions about retirement income. FAMR made recommendations to support the supply of advice and guidance to consumers, particularly those with smaller amounts to invest. We are currently working to deliver those recommendations, including launching our Advice Unit and preparing to consult on guidance on streamlined advice.

### **The FCA Markets Practitioner Panel**

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- 3.14** The Markets Practitioner Panel's report outlined its views on the result of the EU Referendum, MiFID ( Markets in Financial Instruments Directive) II and what it saw as emerging risks for the FCA. Below we have detailed our response to the comments on the Referendum and a selection of the emerging risks.

#### **European Union – Overall Approach**

- 3.15** The Panel noted that its focus in previous years has been the pace and complexity of regulatory developments in the UK, Europe and globally. Following the outcome of the EU Referendum vote on 23 June, the Panel said that it recognised that its priorities, as well as those of the FCA, would need to change to adapt to the new political landscape.

#### **Working with the European Union**

We welcome the panel's thoughts on the European Union and look forward to continued engagement with the panel on these issues, including the Capital Markets Union. We will continue to work closely with the Government as it confirms the arrangements for the UK's future relationship with the EU.

#### **MiFID II**

- 3.16** The Panel highlighted the continued challenge that MiFID II poses for both the FCA and industry and the need for both the FCA and industry to work together to overcome the difficulties of the requirements and timetable.

We agree with the Panel that the delay in the application of MiFID II was welcome, and that ensuring readiness by the new date will require firms and regulators to maintain the pace and energy of their implementation work. The announcement of the delay did not affect the effort we are putting into MiFID II implementation. Our work includes regular discussion with a wide range of firms and trade associations on policy and practical issues related to MiFID II. Several associations whose members include unregulated firms trading commodity derivatives and undertaking high frequency trading are regular attenders at the monthly roundtable discussions we hold with trade associations. In addition, we update our website with implementation information and this is supplemented by regular email bulletins to over 4,000 interested parties.



**3.17** The FCA Markets Practitioner Panel previously outlined to our Risk Committee what it believes to be several high-level emerging risks to our objectives. These risks include:

- Interest rates and quantitative easing
- Liquidity
- Basel III
- Lack of a retail debt market
- Tech and cyber resilience on markets

#### **Interest Rates/QE**

The Bank of England recently reduced the official Bank Rate, and also implemented and expanded other forms of monetary easing. Similar actions have also been taken in other jurisdictions. There are several risks which may arise for markets and consumers in the current environment.

For example, low interest rates can fuel a search for higher rates of return, potentially encouraging riskier investments. Consumers may also buy products that are not appropriate for their needs and which leave them exposed to higher losses. The FCA will continue to monitor the relevant risks in line with its objectives.

#### **Liquidity**

We understand the Markets Practitioner Panel's concerns and we continue to closely monitor liquidity in corporate bonds and other asset classes in light of recent changes. We welcome further engagement with the industry and the Markets Practitioner Panel to help mitigate potential risks from changes to liquidity conditions. We have carried out further work and obtained additional data that give us a more informed picture of changes in liquidity across different markets. Several recent firm visits have also helped improve our understanding of how some market participants are adapting to changing market dynamics. We also remain actively engaged with the Bank of England and internationally, particularly in IOSCO.

#### **Basel III**

We are aware of the restraints imposed by the leverage ratio and that some institutions have withdrawn from providing client clearing services, citing the leverage ratio as one of their reasons. We are supportive of initiatives which encourage access to clearing and broaden clearing capacity within the system, particularly given the recent introduction of a clearing mandate for G4 interest rate swaps. The Basel Committee on Banking Supervision is also looking at this issue.

#### **Lack of a retail debt market**

We note the Panel's concerns in relation to the lack of a retail debt market in the UK compared to other European jurisdictions. We have been advocating the amendment of requirements that disincentivise corporate debt issuers from including retail investors in bond transactions, for example in our response to the Commission's consultation of changes to the prospectus regime, and propose to continue to engage with industry in relation to this topic.

### **Tech and cyber resilience on markets**

Cyber-attacks are increasing and pose risks to both consumers and markets. This is a priority for us and is part of our Innovation and Technology priority in our Business Plan 2016/17. Given its importance, we have established a dedicated team to take forward our work on cyber. This works sits alongside our broader work on operational resilience and feeds into this work as appropriate.

We are working closely with the Bank of England and the Treasury on firms considered to be 'core' to the functioning of the UK financial system, where we have helped to develop CBEST, an intelligence led penetration testing programme seeking to verify the capability of our firms to defend against sophisticated 'real world' cyber-attacks. We are also further developing our work to focus on non-core firms who pose the greatest risk to our operational objectives. This will include a broader range of market participants.

We are working with the other financial authorities and government agencies to deliver a clear communications programme to the range of firms we regulate. This will explain our expectations and provide access to educational material which is likely to include materials being developed within government.



Financial Conduct Authority



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