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14 November 2022

Dear Penny,

I want to thank you for your work chairing the Panel since March 2022. Your insight and that of your fellow Panellists has been important during another challenging year.

You have provided input that has helped inform our response to the war in Ukraine and supported our efforts in tackling fraud and cybercrime and on our discussion paper on Sustainability Disclosure requirements.

Thank you to the Panel for its thoughtful comments in its 2021/22 annual report. I respond below to the issues you raised.

I look forward to working with you over the next year.

Future Regulatory Framework (FRF)

You have asked us for an update on the FRF.

We are supportive of the Financial Services and Markets Bill as drafted, including provisions which help ensure proper scrutiny of the FCA's work, but recognise the provisions included in the Bill may change and evolve as it is considered by Parliament. As the Panel is aware, we are waiting for further information on the Government's timetable for transferring files. We will continue to engage with the Panel once we have more information on this and what impact it may have on our other commitments.

The Treasury framed the new proposed 'international competitiveness and growth' objective as secondary. We believe this strikes the right balance by reflecting our important role in supporting long-term international competitiveness and medium-to long term growth, without detracting from our existing operational objectives. Importantly, the objective as drafted helps ensure short-term competitiveness is not prioritised at the cost of long-term growth.

We report annually on our performance against our current statutory objectives and will do the same for any new secondary objective.

High-Risk Investments

You have asked us to be more vocal about the products that are and are not regulated.

The Treasury is developing proposals to reform the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 for exemptions allowing promotions to high-net-worth and sophisticated investors to be made by unauthorised persons and without the approval of an authorised person.

Unauthorised persons often use these exemptions to promote their investments outside our perimeter and therefore beyond the reach of our rules. We continue to discuss this issue with HM Treasury with the aim of reforms so consumers who don't have the knowledge and experience to understand the risks of investments or the financial resilience to be able to absorb losses, get proper protection.

Our strengthened financial promotions rules for High-Risk Investments (HRI) include requirements for consumer-tested risk disclosures. Where the person offering the investment is unauthorised, firms will need to highlight this - and the implications for regulatory protection - in any product-specific 'risk summary' they must provide as part of the investment's promotion.

We have increased our capacity to issue warnings to consumers about unregulated companies we are concerned may be scams, such as offering, promoting or selling financial products or services without authorisations. In 2021, we issued 1,410 alerts about activity by unauthorised persons; we have issued 1,212 as of 1 September 2022.

The InvestSmart campaign is an effective means to communicate the inherent risks of investing, including with unregulated products specifically. It uses advertising across social media, targeted digital display and search to proactively drive traffic to our InvestSmart website. The content on the site reflects principles of investing (risk and return, diversification) and unpacks what high-risk investments are. As part of that content, we explain the impact of investing without regulatory protection.

Environmental, Social and Governance (ESG)

You have pointed out how challenging it will be for us to supervise firms' transition plans to net zero.

The financial services industry has a vital role in the transition to net zero, particularly in financed emissions. But we know how important it is to take a pragmatic approach in our supervisory work with firms on their transition plans. We want to support firms in developing the right capabilities to build and disclose credible plans.

While supervision clearly plays a role, robust investor stewardship will be critical to holding companies to account for their transition plans. Our work within the Transition Plan Taskforce (TPT) and the Climate Financial Risk Forum (CFRF), which we co-convene with the Prudential Regulation Authority, reflects our general approach of working collaboratively with the industry and other stakeholders to develop best practice and valuable resources that support firms. We have begun discussions with some firms on transition planning and are keen to maintain constructive industry-wide and firm-specific discussions.

In November, the TPT will publish a draft sector-neutral transition plan framework and the associated user and preparer guidance for consultation. The framework will then be finalised in 2023. Additionally, the CFRF's 'Transition to Net Zero' working group is developing a holistic practitioner-led risk-based approach to transition planning. This approach complements that of the TPT and will provide practical guidance for firms. Some of this guidance will be published in time for COP27.

On 25 October, we published proposed new rules on sustainability labels and restrictions on how terms like 'ESG', 'green' and 'sustainable' can be used.

FCA Transformation

We agree it is important for us to be explicit externally and internally about our focus and priorities.

We are two and a half years into a three-year transformation programme. We are on track to deliver it on time and in line with the original mandate.

This work has six cultural characteristics we are embedding within the FCA, which are: (i) Outcome-driven, (ii) Diverse, Flexible and Inclusive workforce, (iii) Joint Working and Collaboration, (iv) Information and Data-Led, (v) Consistent End-to-End Decision making and (vi) Accountability and Empowerment at all levels.

Much of the programme involves investment in resources and capabilities the FCA needs, and will need increasingly in the future, for example in data analytics. Coupled with improvements in governance allowing for quicker regulatory decision making, as well as reforms to how we manage and reward performance, these changes could not wait because they are vital in ensuring we can achieve our objectives for the long term.

We have set out in our strategy and business plan much more clearly what our areas of focus are, and, through the regulatory initiatives grid, we have made it easier to track work stemming from these priorities far more easily.

Strategic Initiatives

You have asked us to set out clear priorities given our significant mandate, particularly given the scale of internal changes, regulatory changes following the UK's departure from the EU and fast-moving global economic conditions.

We agree with the Panel's view that prioritisation is important. With our broad and growing remit, we will need to make difficult choices on where to focus our efforts. In April, we published our first multi-year strategy. In this, we made 13 external commitments under three strategic themes. Each commitment has public and measurable outcomes we aim to deliver by March 2025.

Our priorities for the next two and a half years are making measurable progress towards these outcomes. We have also committed to becoming more operationally efficient, which will support us in delivering our strategic outcomes.

We will continue to publish annual business plans to give more detail on what we will do each year. When developing our plans, we will consider our progress to date and how we need to adapt what we're doing to reflect changes in financial services. For example, we have adapted our plans for this year to consider how consumers and firms are exposed to different risks because of the rising cost of living.

Compensation Framework

You have stressed the cost of the Financial Services Compensation Scheme (FSCS) is unsustainably high. You have also urged us to encourage good behaviour while making those firms that cause the greatest source of harm pay for it.

We have launched several work programmes over the last year that aim to tackle the issue of high FSCS costs.

We published a discussion paper in December 2021 on our compensation framework to get views on how to ensure it remains proportionate and appropriate, and will publish a Feedback Statement in due course, which will set out how we plan to take the work forward.

Our Consumer Investments Strategy introduced a target to stabilise the Life Distribution & Investment Intermediation and Investment Provision funding classes by 2025. As part of this work, we have continued to review the prudential regime for non-MIFID investment advisers. This aims to ensure that firms that create redress liabilities are better able to pay them. In doing so we are seeking to promote access to suitable advice and reduce the burden of the FSCS bill on the broader adviser population. We plan to set out further details on this next year, as we explore solutions to the key drivers of harm in the market.

We are also seeking to use data better to identify harm and to take action to reduce problems – to avoid large redress liabilities building up, which may be passed to FSCS if the firm cannot meet the cost of its liabilities.

Claims Management Companies (CMCs)

You have highlighted firms are receiving substantial numbers of subject access requests, but these are translating into few claims, tying up customer service resource.

We recognise Panel members' concerns. Initial work we have undertaken has identified issues with some CMCs' advertising leading to data subject access request ('DSARs'), though we often find that CMCs are acting on their client's instructions to make a DSAR. As a result, we intend to carry out some multi-firm work for the portfolio focused on CMCs' service standards, including assessing the use of DSAR. We would appreciate Panel members continuing to report specific concerns to us. We regularly liaise with the Information Commissioner's Office as the primary regulator for data privacy.

The Consumer Duty

Your report raised concerns that some of the proposals in Consultation Paper CP21/13 would create increased regulatory risk. This could create additional compliance costs for firms, which may lead to additional costs for customers.

The Consumer Duty sets higher and clearer standards of consumer protection across financial services and require firms to put their customers' needs first.

We are alive to risks raised by the Panel, which were among the points made in feedback to our first consultation paper. We sought to address them in our second consultation paper (CP21/36) and final policy statement and guidance (PS22/9 and FG22/5).

The rules and guidance we have introduced will deliver the Duty's aims while minimising the risks of unintended consequences and unnecessary costs for firms. We have refined the rules and added more guidance to help firms understand our expectations.

We are also committed to working closely with firms during implementation and are running a series of events and publishing communications to help provide a more consistent understanding of the new requirements and address any issues we are seeing, or firms are finding. For example, we are hosting a series of webinars explaining how the Duty will affect firms in different sectors. Recordings of these webinars are available on our website. We are speaking at a range of industry events, covering all sectors and both large and small firms. And, next year we will be holding regional in-person events on the Duty.

Cyber threat

You have asked us to help facilitate cross-sectoral information exchange and signpost early where firms should report their concerns making use of the Financial Sector Cyber Collaboration Centre (FSCCC) for cyber issues.

We are committed to assisting in the exchange of information and helping firms report their concerns. We value your input and look forward to seeing how this can be developed.

We facilitate cross-sectoral information sharing concerning operational incidents, particularly cyber incidents, in several ways:

1. We remind and encourage firms to report incidents to FSCCC and Cyber Security Information Sharing Partnership (CiSP). We also encourage firms to join the FSCCC.
2. We meet quarterly with FSCCC to ensure that information sharing between FSCCC and the regulators is happening effectively.
3. We remind firms to ensure they fulfil their obligations to report data issues to the Information Commissioners Office, the National Cyber Security Centre (NCSC) and Action Fraud, as appropriate.
4. We publish information on our website when there is a significant incident to ensure cross-sector visibility. This has been done for Solar Winds, Log4J and the Russian invasion of Ukraine.
5. We host several quarterly Cyber Coordination Group meetings; these groups can be, and are, used for cross-sectoral information exchange.
6. We published an infographic guide on good cyber security that details cyber best practices, including reporting cyber incidents.

Balance of responsibility

Your report pointed out that some of our proposals move the dial toward consumer responsibility (consumer investments) while others shift this to firm responsibility (the Consumer Duty). You have asked us to consider where the balance of responsibility should lie and to be clear about our expectations.

We do not entirely agree with the Panel's assessment. Inevitably, where the burden of responsibility lies depends on circumstances. For example, in legislation, we must have regard to, among other things, the general principle that consumers should take responsibility for their decisions as well as the differing degrees of risk involved in different kinds of investment or other transaction and the differing degrees of experience and expertise that different consumers may have.

The Consumer Duty recognises that. As a result, consumers can only be expected to take responsibility for their actions when they can trust that products and services are designed to meet their needs and offer fair value. Consumers also need help in understanding financial services and the confidence that firms will act in a way that helps their ability to make decisions. Under the Duty, firms are responsible for enabling and empowering consumers to take responsibility for their actions and decisions through information and support.

Similarly, the consumer investment strategy recognises the reality that more people are engaging in self-directed investment, without relying on professional advice. As a result, our focus is on ensuring people get the clear, concise information they need to make informed decisions on how much risk they wish to take.

We thank the Panel for their recent engagement on this work.

General Insurance Pricing Practices

In response to our consultation on general insurance pricing and auto-renewal, you have asked us to be clear on how we will monitor unintended consequences.

In developing and implementing our proposals, we know our pricing remedy (which requires firms to offer a renewing customer a price that is no greater than the equivalent new business price it would offer to a new customer) could have a wider impact on the market, including on revenues, profits and market shares.

We will monitor our remedies' impact using regulatory pricing returns. We have also committed to a longer-term evaluation of the market, likely in early 2024. By then, we will be able to assess the pricing remedy's impact on customers after at least two renewals. We are collecting additional data from firms to help this monitoring and evaluation.

I am extremely grateful for your ongoing support and input and look forward to your continued collaboration over the next year.

Yours sincerely,

Nikhil Rathi
Chief Executive