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Wanda Goldwag
Financial Services Consumer Panel
c/o Panel Secretariat
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Dear Wanda,

The last year has been challenging for everyone. Our response was to act quickly to protect the most vulnerable, helping millions of people and hundreds of thousands of businesses through the pandemic. We wouldn't have been able to do it without the essential insights, often provided at considerable speed, into the needs of consumers from you and the Panel members.

I want to thank you and the other Panel members for your time, dedication and commitment to helping consumers. Your expertise has become even more important during the pandemic.

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

Post-pandemic priorities

You said we need to assertively supervise how firms implement forbearance measures, set clear outcomes and regularly assess progress against them. You also said we should continually consider the next stage, such as transitioning from payment deferrals to tailored support and anticipating the longer-term impact on credit files and access to financial services.

We agree we need to be clear about what success looks like. In our 2021/22 Business plan, we set out strategic overarching outcomes and metrics to demonstrate impact. In April 2022, we will begin reporting against these.

Our focus remains on ensuring borrowers in financial difficulty receive appropriate support. We are looking at the whole consumer journey from early-stage financial difficulty through to debt recovery, including the role of credit information, debt packaging and advice. We agree we need to carefully unwind consumer and market forbearance measures to ensure sustainable debt repayment as the economy recovers.

The temporary support from our Payment Deferral guidance ended on 31 July. We expect firms to continue to use our Tailored Support Guidance (TSG) to deliver sustainable support to customers struggling financially due to coronavirus (see

FS21/6). We will consider whether to make permanent changes to CONC and MCOB including incorporating elements of the TSG. Before making any changes, we will consult and publish a cost benefit analysis.

Cross cutting issues
Future Regulatory Framework (FRF)

In your report you reference the FRF review, and how the consumer voice needs to be hardwired into every part of the regulatory framework.

We continue to support the Treasury's review to adapt the UK's legislative and regulatory framework now that the UK has left the EU. We aim to have an agile and coherent approach to UK financial services regulation to support a stable, innovative and world leading financial services sector.

We are responsible for securing an appropriate degree of protection for consumers, market integrity and promoting effective competition when pursuing our consumer protection objective. These are statutory requirements, alongside the requirement to consult on our proposals, and to establish a panel to represent consumers' interests. We regularly draw on the experience and expertise of the Financial Services Consumer Panel members (and other panels) who provide valuable insight, advice and challenge.

As part of FRF Review, the Treasury is considering whether to adapt the role the panels play. The government thinks that panels effectively represent key stakeholder groups, including consumers, and contribute well to our policy-making. We are supportive of the Treasury's FRF work.

Access and Inclusion
Access to cash

You raised concerns about the speed of the move away from cash, and how we will implement measures to slow down bank and ATM closures.

We, the Payment Systems Regulator (PSR), the Bank of England and the Treasury are committed to protecting access to cash – particularly for consumers who rely on cash. It is part of our Making payments safe and accessible priority to ensure consumers can access the cash they need.

To date, we have done this by;

- Publishing guidance in September 2020 setting out how banks should consider their customers' needs and whether alternative services need to be in place when closing branches. We have been supervising this closely, mapping the geographical impacts on cash access, and assessing firm closure plans against the risk of harm to consumers.
- Our joint statement with the PSR in May 2021 reminded firms of our expectations.

- We collect data regularly to map and monitor cash access across the UK. In July, we published an updated assessment of the UK's access to cash infrastructure. We found that most people have reasonable access to cash through a combination of bank, building society, or Post Office branches and ATMs; 95.4% of the UK population had access to a free cash access point within 2km and 99.7% within 5 km. We continue to monitor both national and local changes in coverage and publish quarterly updates of data.
- Engaging with the Treasury's policy teams on regulating standards and our powers to support its policy on access to cash legislation;
- Following the progress of the industry and encouraging it to develop solutions to protect access to cash in line with the proposed legislation.

You also urged us to speed up implementing our proposals to introduce friction for banks wanting to close branches and ATMs. We are examining individual firms' decision-making and impact assessments in detail and challenging firms to show they comply with our guidance. In some cases, firms have decided to pause closure programmes while they consider our feedback.

We are looking at what more we can do to protect access before legislation is introduced. For example, whether we need to introduce further rules or guidance on branch closures to help protect reasonable access to cash and banking services. We intend to give an update on next steps in Q4 this year.

Fair treatment of consumer in vulnerable circumstances

Your report raised concerns about increased levels of vulnerability. You urged us to proactively supervise firms are complying with existing guidance and provide further guidance on how firms can monitor and evaluate their approach to vulnerability.

The treatment of vulnerable customers will be integrated into our approach to supervision. This includes our regular interactions with firms and our proactive supervisory work across sectors, as reflected in our work with firms on branch closures.

We are encouraging firms, trade associations and representative bodies to share knowledge, good practice and shared challenges to improve consistency of outcomes for vulnerable consumers. To date, we have reached over 2,500 stakeholders.

Firms don't have to monitor or report on specific metrics. But they should be prepared to show us how they monitor whether consumers with characteristics of vulnerability achieve outcomes that are as good as those for other consumers. They will need to use their judgement to decide what the Guidance means for them. Differences in firms across and within sectors means the Guidance will apply to firms in different ways. What is proportionate will depend on each firm's size and sector.

We will evaluate firms' progress and the effectiveness of our Guidance in 2023/24. We will then report firms' actions and whether the outcomes for vulnerable consumers have improved.

Financial inclusion

You referenced the letter you signed calling for the FCA to be under a duty or required to 'have regard to' financial inclusion.

The Treasury and Parliament make decisions on whether to expand our remit and powers. The Financial Services and Markets Act (FSMA) currently provides us with the framework within which we can, and do, act to support financial inclusion when advancing our objectives. This includes improving access to existing services under our consumer protection and competition objectives.

We have taken action to support financial inclusion, such as improving access to travel insurance for customers with pre-existing medical conditions. Firms must pay due regard to the interests of its customers and treat them fairly, including those with characteristics of vulnerability.

We work closely with Government and other bodies to address issues that fall outside our remit. We are a permanent member of the Financial Inclusion Policy Forum (FIPF), set up by the Government to bring together stakeholders to collaborate and tackle financial exclusion.

We provided regulatory expertise to the Government on the package of measures that came out of the FIPF to increase consumer access to 'fair and affordable credit'. Recent examples include:

- the £2 million Affordable Credit Challenge Fund to promote innovative fintech solutions to the challenges faced by social and community lenders
- the pilot of the prize-linked savings scheme which enters consumers who save with participating credit unions into a draw to win cash prizes, and
- legislative and regulatory change to make it easier for Registered Social Landlords to direct tenants to alternatives to high-cost credit

Redress and Compensation

We welcomed your response to the Regulators' Complaints Scheme Consultation (CP20/11). It's important that the Scheme is accessible and user-friendly. We are carefully considering all feedback and responses before finalising the Scheme.

We decided to delay making any revisions to the Scheme and publishing the Regulators' policy statement until the end of 2021. This was to allow for the independent review of the FCA's supervisory intervention on Interest Rate Hedging Products to be published. It will also mean any associated complaints will be lodged for consideration under the existing Complaints Scheme. Those affected will be able to make a complaint under the current Scheme before we announce whether we will introduce a revised.

Small businesses as users of financial services

You called for us to monitor how lenders treat SMEs under the different government support schemes.

We are currently working on several SME-specific pieces of work. We are monitoring the payment of SME claims under Business Interruption Insurance policies. We are also starting to examine firms' policies and procedures for collecting and recovering SME debt across the back book as well as government-insured schemes. Our aim is to identify any potential cause of harm and take steps to remove these.

Sector specific issues

Consumer Credit

You encouraged us to implement the proposed remedies of the Woolard review swiftly and to use our non-FSMA powers where appropriate.

We agreed with the Woolard recommendation to bring Buy-now-pay later (BNPL) business into regulation, and the Government has also announced its intention to do so. As BNPL is increasingly used as an alternative to more traditional credit we want to ensure that consumers have adequate protections and are given sufficient information when it comes to making payment choices. That is why we support regulating the sector. Subject to the Treasury's consultation on the regime's scope, we plan to consult on new rules in 2022 and are developing our approach to the authorisation gateway and supervision.

In the meantime, where we see harm, we will act. A number of firms offering currently exempt BNPL products are regulated by us for other activities and this enables us to intervene if we see poor conduct. We also have consumer protection powers outside of the FSMA regime which can apply to unauthorised firms, including:

- In respect of unfair contract terms under the Consumer Rights Act 2015. This allows us to intervene where for example the contract terms of BNPL providers lacked transparency or contained unfair default terms.
- In respect of unfair practices under the Consumer Protection from Unfair Trading Regulations 2008. This covers where firms engage in misleading or aggressive marketing practices.

General insurance

Pricing Practices

We are grateful for the Panel's engagement on the pricing practices market study. You raised concerns that the proposals would not achieve the outcomes you wanted to see.

Our published final rules on the pricing practices remedies will directly address the issues identified in our September 2020 market study, including banning dual pricing. In 2018, for example, 6 million loyal policy holders would have saved £1.2 billion had they paid the average price for their actual risk.

Our policy statement also introduces a package of measures to improve competition and ensure firms offer fair value products in the future. Alongside the final report, we published final rules on reporting and publishing value measures data and value measures product governance rules. This data will provide an important indicator on how insurance products are performing.

You also raised concerns about SMEs being excluded from the potential benefits of the market study.

We want firms to compete in effective and innovative ways to provide long-term fair value, both of price and quality of service and cover for all customers.

The focus of our market study and the pricing remedy is on home and motor insurance. But the remedies include rules that apply to all insurance firms and all general insurance and pure protection products, including products for SMEs. We made changes to the scope of the existing product governance rules. All insurance firms will need to have appropriate and effective processes to deliver insurance products that consistently offer value to customers. We expect firms to be able to evidence this to us.

We have also recently produced a further report and firm letter as part of our multi-firm work on value. We reminded firms that the enhanced product governance rules were coming into force on 1 October and they would apply to all GI and pure protection products. We also told firms there is work they need to do, and we will intervene if firms don't comply.

Trust in the sector

You shared your concerns about the poor behaviour of some insurance firms during the pandemic, which may threaten overall trust in the sector.

Our Financial Lives Survey showed that trust in insurance companies has suffered a net decline: 22% of adults trust insurance companies less because of Covid-19, while 11% trust them more. And 36% believe that the insurance and protection industry did not do enough to help consumers in response to Covid-19.

Through our remedies on pricing practices and our ongoing focus on product value, we expect firms to place the interests of customers at the core of their business.

Mortgages

You raised a concern that the temporary guidance on maturing interest-only and part-and-part mortgages (the "Interest-only Guidance") essentially extended the Payment Deferral Guidance to this subset of borrowers. Payment deferrals dealt with the possibility that the pandemic might impact a borrower's ability to service ongoing loan payments. The Interest-only Guidance addressed the potential short-medium term disruption to long-held plans to repay the capital now due after the mortgage term has expired. To be eligible to delay capital repayment under this guidance, borrowers needed to remain up to date with their interest payments. Our guidance explains that borrowers who only missed payments in accordance with the Payment Deferral Guidance were still considered to be "up to date" and so within scope of the Interest-only Guidance. This did not affect the scope of, or time periods set out in the Payment Deferral Guidance itself, but clarified the interaction between the two sets of guidance. Firms also remained subject to the requirements in MCOB 13 when dealing with customers in financial difficulty more generally. All borrowers who are already in financial difficulty before their mortgage matures are supported through other measures, such as the forbearance requirements in MCOB 13.

You also raised concerns about mortgage prisoners. We are undertaking a Mortgage Prisoner Review and published the terms of reference for this. We are reviewing and updating our data to assess the demographic and loan characteristics of mortgage prisoners. We are also reviewing the effect of removing regulatory barriers to switching for mortgage prisoners. This includes looking at the effect of the modified affordability assessment, and the lender switching options prompted by this, have had on borrowers with inactive firms being able to switch and receive other support e.g. referrals to debt. We will lay the outcome of our review before Parliament by the end of November. The Government and industry, with input and support from the regulators, have said they will work together following the review to find practical and proportionate solutions to help as many affected borrowers as possible switch to an active lender. We look forward to gaining more of your insights on this work as it progresses.

Payments

In your response to the Treasury's Payments Landscape Review, you called for the extension of the FCA and FSCS perimeter to include all payment types, so all consumers benefit from the protections of regulation. The Review is considering increased intermediation and innovation in the market, which has led to new business models which sit outside the perimeter. The review brings together the Bank of the England/PRA, the PSR and the FCA to ensure that regulation keeps pace with developments in payments. We continue to support the Review, and to work closely with the Treasury to develop a regime which encourages innovation while protecting consumers.

We note your call for the guidance on safeguarding consumer funds to be extended after the pandemic, and for us to actively supervise how firms are complying with it. We are currently consulting on making the guidance permanent. We supervise our firms using a risk-based approach and take account of the quantity of safeguarded funds and the apparent adequacy of safeguarding in doing so. Safeguarding will be among the priority issues considered in any proactive work we undertake, as and when resource allows.

Pensions

You suggested we review how firms have adopted the guidance set out in FG21/3: 'Advising on pension transfers'. The guidance is based on our rules so any review would be an assessment of how firms are complying with our rules. We check firms' use of the guidance through our supervisory work, which may include reviewing suitability of advice reviews, including cost disclosures and whether firms are compliant.

We welcome your response to our June 2020 consultation. You felt that firms providing pension products should have a specific responsibility for ensuring value for money (VfM) for customers and called for further discussion. We agree this needs careful consideration. Earlier this month, we published our Policy Statement (PS21/12), proposing to postpone our decision and incorporate the feedback received to CP20/9 to inform our final response. We want to consider it in the context of questions in our joint discussion paper with TPR on VfM (DP21/3), published in September 2021, and in the context of our proposals for a new Consumer Principle.

Savings and investments

We welcome the Panel's input and vision for the market. Many aspects of this resonate with our recently published Consumer Investments Strategy. We want to see a consumer investment market in which consumers can invest with confidence, make informed decisions about the risks and know about the relevant regulatory protections. We do not want to restrict consumers who want to invest, but we do want them to be able to identify and access investments that suit their circumstances and attitude to risk. Key to this is ensuring that they can get the advice or support they need, that they only access higher risk investments knowingly and are protected from scams. When things go wrong, we want consumers to know how to seek compensation and for the cost of redress to be met by firms in a fairer and more sustainable way. We welcome the ongoing work with the Panel to deliver this vision for the market.

Debt advice

We welcome your comments on Debt advice. We engage regularly with the Money & Pensions Service (MaPS) which monitors demand for its debt advice services and estimates future demand and capacity within the sector. We also liaise closely with MaPS as they look to use increased debt advice funding to improve their digital money guidance and to widen access to digital support.

We have previously encouraged firms to explore how they can use technology to increase efficiency and introduce digital advice products. We will continue to support firms that want to do this in line with our rules and guidance.

We have considered what protections consumers in financial difficulties need when facing delays in receiving debt advice. We have been clear that firms should not consider referring a customer to a debt advice provider to be a substitute for working with the customer to reach an appropriate arrangement, including forbearance. We continue to closely monitor firms' approach in these areas.

We are grateful for your support and collaboration and look forward to continuing to work with you to achieve our common goal of protecting consumers.

Yours sincerely,

Nikhil Rathi

Chief Executive