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c/o Panel Secretariat
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Dear Wanda,

Consumers are facing very difficult and uncertain times and we have a huge role to play in supporting them. Your role in representing their interests, monitoring how we are fulfilling our statutory objectives towards them and providing us with advice and challenge has been and remains critical.

I would like to thank you and the other Panel members for your time, commitment and expertise over the past year. I would also like to thank you for your continuous engagement on issues arising from the pandemic.

In line with our statutory requirement, I would like to respond to some of the key issues raised in your 2019/20 Annual Report and update you on relevant work.

Coronavirus response

Coronavirus has affected millions of people and the economic impact is significant.

We have worked hard to manage the financial impact and to ensure that firms give people the support they need. We have made a series of interventions to protect consumers and communities across the country. For example, over 3.4 million people have taken advantage of the payment deferrals we established over a range of credit products including mortgages, credit cards and personal loans.

Over recent months we have announced proposals to extend support for people affected by coronavirus, to ensure they continue to get the support they need. We proposed to extend payment deferrals and other support to personal loans, credit cards, motor finance, rent-to-own, buy-now-pay-later and pawnbroking customers who are experiencing payment difficulties.

In June 2020, we published guidance setting out our expectations for insurers and insurance intermediaries to consider the value of their products in light of coronavirus. We asked firms to carefully consider where coronavirus affected how consumers could use and benefit from their products. We also asked firms to help customers in financial difficulty to maintain their insurance cover.

The pandemic has had a significant impact on SMEs. We have worked closely with the Government and the British Business Bank on changes to the UK's coronavirus business interruption loan scheme (CBILS) to support small businesses and the launch of the bounce back loan scheme (BBLS) to help businesses access finance. While we are not responsible for the schemes, we are committed to ensuring that the benefits of these measures are passed to the businesses that need them as soon as possible.

We are investing in our insight and research to understand the impact of coronavirus on consumers and their financial lives and will continue to work to ensure the fair treatment of consumers and small businesses.

Regulatory effectiveness

Our approach to regulation

In your report, you call for us to be bolder in our approach to regulation.

Our transformation is underway and will ensure that our approach to regulation is fit for the future. We are shifting our focus towards empowering consumers to make good decisions. We are investing in our systems and processes to enable us to work more efficiently and make better use of our sources of information. Our Data Strategy will harness the power of data and help us understand markets and consumers better.

We are investing in regulatory technology that will enable us to focus our resources on those markets where we see the most potential harm and will underpin outcomes based regulation.

Our transformation programme will equip us to be faster to identify harm and to intervene more quickly. We will move more swiftly to enforcement action against those firms that consistently fail to meet our standards.

Fair treatment of customers

Duty of Care

Achieving better outcomes for consumers, including the work on Duty of Care, remains a priority for the FCA and we remain committed to ensuring that consumers are treated fairly.

In our Feedback Statement on Duty of Care and potential alternative approaches we committed to reviewing how we apply the regulatory framework, particularly the Principles for Businesses, and how new or revised Principles could strengthen and clarify firms' duties to consumers. We said we would do further work to examine the options that are likely to be the most effective and proportionate, so we can understand their likely impact on all areas of our operation, industry and consumers.

Over the last months, we have had to reprioritise in order to protect consumers from harm arising from the pandemic. We had planned to seek views on options for change by the end of this year. Due to the coronavirus, we have had to delay publication and we now aim to consult in Q1 2021.

Digital Marketing

We welcome the Consumer Panel's research findings on online customer journeys in relation to financial promotions. If we find instances where consumers have been targeted inappropriately (for example where consumers display characteristics of vulnerability and may have different or additional information needs) we will take action to ensure that these financial promotions are meeting the high-level requirement to be fair, clear and not misleading.

Financial promotions

We have a wide range of supervisory and enforcement tools to protect consumers from misleading financial promotions. At a firm specific level, where we see non-compliance with our rules we have asked firms to stop approving further financial promotions and taken down individual promotions that don't comply. At a market-wide level we have stopped certain products from being marketed to ordinary retail investors at all, such as our recent ban of the financial promotions of 'speculative mini-bonds'

Where we suspect serious misconduct, we will take action. We are currently pursuing a number of enforcement investigations involving financial promotions. We can also investigate and prosecute unauthorised individuals and firms for unlawfully promoting investment schemes, where the communication of the financial promotions was not approved by an authorised firm. We have a number of live investigations looking into the activities of unauthorised firms and their financial promotions.

Often, given the nature of the unlawful promotions and the fact that the individuals behind the statement may not be based in the UK, our most immediate and effective course of action will be to issue an alert on the unauthorised firm and take steps to try to remove the website and/or social media. In 2020, we published 1,185 alerts in comparison, in 2019 we published 586 alerts.

Reducing harm in the consumer investments market was identified as a priority in our 2020/21 Business Plan. In September 2020, we published a Call for Input on consumer investments which covered some of the thorniest, most intractable issues which affect the market.

We sought views on key questions posed, including those which focus on financial promotions. Specifically, we are seeking views on 'How can we use the regulation of financial promotions to make it easier for people to understand the level of regulatory protections afforded to them when they invest?' and 'How can people be better protected from scams?'

As part of our engagement strategy, we had a helpful discussion about the CFI with Consumer Panel members in October and gained a clear steer about the importance of understanding the consumer voice in this market. Further engagement with the Panel will be important to help inform our next steps.

We also welcome the Panel's response to our intervention to ban the mass-marketing of speculative illiquid securities. In December 2020, we confirmed proposals to permanently ban the mass-marketing of speculative illiquid securities - including speculative mini-bonds - to retail investors. The new rules applied from 1 January 2021.

We have been working with the Treasury in connection with their recent consultation on establishing a regulatory gateway which a firm must pass through before it is able to approve the financial promotions of unauthorised firms. If implemented this would mean that we would have to give consent to firms wishing to do this, and enable us to ensure only suitable firms with relevant expertise engage in this activity. It would also mean we could target our supervisory activity more effectively.

Loyalty Penalties

Ensuring markets work well and that consumers are offered fair value products in a digital age remains a priority. This includes concerns about loyalty penalties faced by consumers. In deciding how and when we intervene on loyalty penalty issues involves consideration of a range of factors, including market dynamics and the harms consumers face. This means our priorities and our approach will differ from market to market. This is illustrated by our work across the general insurance, mortgages and cash savings markets.

We have published the final findings from our study of how home and motor insurance firms set prices. We have published a proposed package of remedies designed to ensure customers get fair value, improve competition and have increased trust in these markets. Under our proposed pricing remedy, home and motor insurance should cost a consumer no more at renewal than if they were a new customer buying through the same sales channel.

We expect our proposals to benefit longstanding customers and improve competition. We estimate that they will save consumers £4.2 billion over 10 years.

The mortgage market generally works well for consumers, with high levels of switching and apparent competition on headline rates. However, a minority of borrowers remain on a reversion rate for over six months, although they are able to switch to a new deal and would benefit from doing so. We have published research into why borrowers do not switch, but our consideration of any follow-up work to help such borrowers was delayed as we needed to prioritise our response to the pandemic in the mortgage and other retail markets. Our work continues on this.

In the cash-savings market, our work on considering whether to introduce a Single Easy Access Rate has been stopped because we do not currently think introducing this as an intervention is proportionate to the current level of harm in the market. In the current economic environment, interest rates have fallen, and so has the gap between rates paid to new and longstanding customers. This means that the size of the harm we originally estimated in the cash savings market study is now much lower. However, we have said that we will continue to monitor this market and we may revisit our priorities if we see significant harm to consumers in the future.

Contingent charging

Over the past year we have continued our work to ensure that more consumers receive suitable advice from Defined Benefit (DB) pension transfers. We carried out significant supervisory work on firms that we believed were posing harm to consumers.

In June 2020, we set out a package of measures to address weaknesses across the DB transfer market, which includes a ban on contingent charging. We also implemented proposals to allow advisers to offer a short form of advice (‘Abridged Advice’) to give consumers initial advice at a more affordable cost.

Non-Workplace Pensions

We are considering requirements to simplify how costs and charges in Non-Workplace Pensions are presented, so that they are made clearer, simpler and easier to compare. We will be appearing at the Panel to talk about this later in the year.

Access to financial services

Vulnerable customers

We are grateful for your encouragement in relation to our work on vulnerable customers. The key aims of our vulnerability guidance, and our common definition of vulnerability, are to help ensure that firms take vulnerability seriously and prompt them to embed the fair treatment of all vulnerable consumers into their culture, policies and processes.

We have recently completed further research on the impact of coronavirus on people's finances. As expected, while levels of vulnerability have increased, the drivers of vulnerability have not changed.

We continue to work with other regulators on how using data can improve outcomes for vulnerable consumers. We also work with government departments, consumer organisations and the wider industry.

Our good practice examples have been well-received and we will continue to work with all relevant organisations to support progress on the outcomes we have set out.

Access to cash

Access to cash is a shared priority between the Treasury, the Bank of England, the FCA and the Payment Systems Regulator (PSR). These bodies meet as the Joint Access to Cash Strategy (JACS) Group and I would like to thank Panel member, Mark Chidley, for his continuing support in chairing one of our working groups on this subject.

On 26 November, we published the findings from a collaborative research project with the PSR and researchers from the University of Bristol which mapped how far people have to travel to access cash across the UK. The findings demonstrated that free access to cash is readily available on almost all (99 percent) high streets within 500m, but that falls to just over three quarters of neighbourhoods within 500m. Further, the report found that over a two-year period to March 2020, the number of Pay-to-use ATMs increased by 23 percent in the most deprived communities.

We are working with PSR and the industry to explore how we can provide an appropriate and sustainable model of accessing cash that meets consumer and SME need now and in the future. We expect that the Steering Group for the industry work will recommend proposed solutions by the end of this year, before beginning implementation at the start of 2021.

In September, we finalised guidance on the steps firms should take when considering closing branches or ATMs, or converting a free-to-use ATM to pay-to-use. Firms are expected to notify us of planned closures, with consideration given to consumer needs, and provide information to customers on closures and alternative access arrangements.

We are also working closely with the Treasury to inform their legislative plans, as announced in the 2020 budget. The Treasury recently published its Call for Evidence on Access to Cash, which highlighted the FCA as the potential lead regulator on this work and sought views on infrastructure for cash withdrawals including ATMs, the Post Office, branches and cashback, infrastructure for cash deposits and cash acceptance.

Since the start of the pandemic we have worked with PSR and industry to ensure essential services continue to be provided. We have also engaged regularly with consumer organisations to gain knowledge during the crisis and to understand the impact on specific groups, such as the vulnerable or older people.

SMEs

Most business lending is unregulated, but we do generally regulate business lending of £25k or less to certain types of businesses, such as sole traders. Most FCA rules don't apply to unregulated business lending even if the firm is authorised by us. Legislation sets out the activities that are regulated, and those which are not.

This is one of the reasons why we expanded the remit of the Financial Ombudsman Service to include 97% of small businesses. We published an exchange of letters on how the Ombudsman Service will approach complaints from lending under the Government's schemes.

The Government has launched the Bounce Back Loan Scheme (BBLS) and the Coronavirus Business Interruption Loan Scheme (CBILS) to help businesses access finance during the crisis. While we are not responsible for the schemes, we want to ensure that their benefits are passed to the businesses that need them as soon as possible, and that firms treat them fairly.

On 15 April 2020, we wrote to the CEOs of banks and insurers, setting out our expectations of lending to, and insuring, small businesses during this crisis. We followed up on our CEO letter by issuing a consultation, launched on 4 December, setting out how firms can offer their Bounce Back Loan customers Pay As You Grow payment flexibility in a way which complies with our relevant rules.

We have asked firms to prioritise complaints-handling for micro-enterprises and small businesses who are likely to face serious financial difficulties if their complaint is not resolved promptly and fairly during the pandemic.

The Directory

Directory Persons data launched on the Financial Services Register in November 2020 for dual-regulated firms and December 2020 for solo-regulated firms. Solo-regulated firms who have not yet submitted information on their Directory Persons will need to do so by end March 2021. This will be published as it is received. Firms who do not make changes to their Directory persons data over any rolling twelve-month period will be required to attest to the ongoing accuracy of their data.

Consumer credit

Cumulative impact of interventions

In your report, you encourage us to monitor the cumulative impact of our interventions in the consumer credit sector. Ensuring that consumer credit markets work well is one of our 3-year business priorities. We want a consumer credit sector that helps consumers manage their day-to-day spend, meet unexpected costs and make essential purchases they could not otherwise afford. Through our research and analysis - including the Financial Lives survey and market data - we analyse the changing financial landscape. This includes how markets are changing for consumers, how effectively markets are working, as well as the impact of our interventions on markets and consumers.

We have recently published an evaluation of our price cap on rent-to-own products, which came into force in April 2019. We have also committed to impact evaluations of our other high cost credit interventions, including buy-now-pay-later products and overdrafts.

Understanding the effectiveness of our interventions is in line with our commitment to the Public Accounts Committee to measure and report on progress towards our outcomes, and our three-tier approach to measuring our performance set out in the Mission.

To enable this, we are building internal reporting of key indicators aligned to the consumer and market outcomes we set out to achieve. This will provide an indication as to the cumulative effect of interventions, whilst the FCA's programme of ex-post impact evaluations enables us to isolate the FCA's impact.

Motor Finance

From 28 January 2021, we are banning discretionary commission models that lead to conflicts of interest, giving motor finance brokers and dealers an incentive to raise customers' finance costs. We estimate this will result in consumers paying £165m less in interest costs every year.

At the same time, we are also changing some of our rules to make sure credit brokers across all sectors, not just motor finance, give consumers more relevant information about the commission they receive. We expect this will improve consumers' ability to make more appropriate decisions.

We wanted to address harm from discretionary commission models as soon as possible and were originally minded to set a 3 month implementation period. However, in light of feedback to our consultation and the coronavirus pandemic, we extended the implementation period of these rules to 6 months in our July Policy Statement. In the meantime, we have been clear that we find discretionary commission models in this market unacceptable and are encouraged that some firms have been able to move away from them sooner.

Overdrafts

We are grateful for your support on the interventions we have made in the overdrafts market. Our overdraft pricing rules, which came into force in April 2020 require firms to advertise overdraft prices in a standard way, including a representative APR. We know that customers find this helpful in comparing products.

The information that we now require firms to advertise will highlight the interest rates and the refused payment fees consumers are being charged on a product.

Our regulation of overdraft pricing doesn't extend to regulating the interest rates that firms charge customers. We know that pricing according to risk is a standard practice in lending, and our overdraft remedies did not limit the scope for firms to introduce risk-based pricing. However, we will monitor developments in the market, and will take appropriate action if we see evidence of harm.

Credit Information Market Study (CIMS)

We note your questions around whether multiple Credit Reference Agencies (CRAs) benefit or harm consumers and the ease with which consumers can engage with CRA services.

We have temporarily paused CIMS to enable us to focus on other activities that are critical to protecting consumers and market integrity during the pandemic. But we intend to resume work in 2021. We will also be considering how the pandemic may have affected our findings, before publishing an interim report later in the year.

Persistent debt rules

We note your comments about monitoring the impact of our Persistent Debt (PD) rules. We are not planning to do a post-implementation review of the Credit Card Market Study remedies (including the PD) rules until 2022/23, when we can fully measure their impact. However, as part of our coronavirus work, we have given firms temporary guidance on how the PD rules interact with payment deferrals, and we will continue to monitor whether we need to address any further issues.

Our Supervision division has also completed a number of activities to review the effectiveness of firms' PD plans. In February 2020, we issued a Dear CEO letter to set-out our overall expectations of firms' treatment of customers.

During February to May 2020 we worked with individual firms to outline some of our other expectations, as we had found that several firms' implementation plans were not in line with our PD rules and expectations.

Extending mortgage prisoner rules

We note your suggestion that we make representations to the Treasury to extend our regulatory remit to help mortgage prisoners. We deal with some of the issues around this in Chapter 8 of our Statement on mortgage prisoners.

Our focus now is working with industry to implement our rule changes and evaluating and assessing the impact of our interventions. We will continue to monitor this issue and to discuss this area and our findings with the Treasury.

We look forward to your support over the year ahead as we continue our work to safeguard consumers' financial wellbeing and meet their changing needs.

Yours sincerely,

Nikhil Rathi
Chief Executive