

**2002 Survey of the FSA's
regulatory performance
Report
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Prepared for:

Financial Services Practitioner Panel

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INTRODUCTION

Background

The Financial Services Practitioner Panel is a high-level group drawn from organisations in the financial sectors that are regulated by the Financial Services Authority (FSA). The Panel's role is to review the effectiveness of FSA policies and operations from an industry standpoint, as well as being available to the FSA for consultation on specific high level issues.

At the beginning of 2002, the Panel commissioned BMRB International to carry out a programme of research, using both qualitative and quantitative methods, to gauge industry views and opinions on the performance of the FSA. The research largely repeated a similar study carried out in 1999.

To provide a full picture, views were sought at different levels within the industry. The two key groups whose views were investigated were Chief Executives and Heads of Compliance in financial organisations in all sectors of the industry.

The objectives of the research can be defined as follows:

- to provide top level assessment from chief executives and heads of compliance on their perceptions of the performance and areas of priority of the FSA;
- to provide industry wide views of the operational efficiency of the FSA in dealing with firms;
- to provide information which can be used by the Practitioner Panel in suggesting to the FSA how it should set its priorities and guide the delivery of its operations in the future;
- to monitor changes over time.

The 1999 survey was carried out during a period of transition to the new regulatory system and most practitioners were assessing the performance of the regulators who preceded the FSA. The measures collected in this survey can thus be used as a benchmark against which the FSA's performance as a single regulator can be assessed. In the 2002 survey, all firms were being regulated by the FSA.

Methodology

The research programme in 1999 included a qualitative developmental stage among practitioners, to identify the key issues of importance to regulated firms and make sure they were included in the main survey. A similar stage of qualitative research was carried out in

2002, to ensure that any new issues of importance were covered in the survey. The main survey was then carried out using self-completion questionnaires posted to regulated firms, to provide results based on a large, representative sample. All questionnaires were completed between 4 July and 4 September 2002.

This document reports the findings from both the qualitative study and the main survey in 2002. Where appropriate, comparisons are shown with the 1999 survey results.

A copy of the 2002 questionnaire, and further details of the sample and response rates, are included in the Technical Appendix.

Arrangement of this report

The next section of the report contains a summary of the key findings from the research programme and the conclusions that can be drawn. This is followed by a more detailed description of the survey results under the following chapter headings:

1. General attitudes towards regulation
2. Requirements from a regulator
3. Effectiveness of the FSA
4. Consultation procedures
5. Provision of guidance
6. Supervision and investigation
7. Enforcement
8. Transition to N2 and beyond
9. Costs of regulation
10. Knowledge and views of the FSA
11. Wider environment issues
12. The Financial Services Practitioner Panel

The charts illustrating the report are based on the figures included in separate volumes of computer tabulations. In these tabulations, responses to each question are analysed by a number of different variables, including the main area of operation identified by each firm.

SUMMARY AND CONCLUSIONS

Second survey of the FSA's regulatory performance

The results reported here are based on a survey of 3,890 senior executives in regulated financial services firms. The survey was carried out using postal self-completion questionnaires. The overall response rate was 42% of individuals, and 50% of firms contacted. The survey results are representative of all regulated firms in the industry.

Apart from IFAs with less than 10 registered individuals and accountancy and legal firms, one in three of which were randomly selected, all regulated firms were included in the survey. In most cases, two versions of the questionnaire were sent to firms, for separate completion by the chief executive and by the senior person with specific responsibility for compliance. Where the FSA had only one contact (mainly professional firms, smaller IFAs and other small businesses) only the Compliance version of the questionnaire was sent. These smaller organisations are looked at as a separate group.

The survey was carried out in July/ August 2002. The 2002 survey repeats, to a large extent, the similar survey carried out in the summer of 1999; where possible, comparisons are made in this report between the results of the two surveys.

1. Expectations about regulation

In the 1999 survey, there was strong support among all sectors of the financial services industry for the principle of strong regulation. More than eight in ten practitioners thought this was for the benefit of the industry as a whole. Three out of four, however, also agreed that the current system placed too great a burden on the industry, and half that it gave too much weight to the interests of consumers. These views were most strongly expressed by smaller organisations.

Around half of practitioners had already noticed some changes in regulation, in 1999, which they attributed to the creation of the FSA; for most, these changes were only slight. Around three quarters of practitioners were expecting to see further change, and one in three thought there would be a lot more change to come.

When asked whether the new regime would be better, worse, or the same for their own business, about two fifths of practitioners did not expect there would be any difference. One in four expected the new regime to be better, a similar proportion expected things to be worse, and the remainder were unsure.

There were also mixed views on how the switch to the new regulator would affect the financial services industry. About half of practitioners thought the advent of the FSA would be beneficial to the industry, compared with only one in six who thought it would be

harmful, and about a third who did not know or thought it would make no difference. Practitioners in smaller organisations were less likely than others to think the change would be beneficial, and more likely to think it would make no difference.

2. Initial experience

In 2002, there was continuing support in principle for strong regulation - from more than eight in ten practitioners - but chief executives and heads of compliance now felt more strongly than in 1999 that the burden of regulation on the industry was too great. In all practitioner groups, more still agreed than disagreed that too much weight was being given to the interests of consumers. In both surveys, smaller organisations held the most negative views about the burden of regulation and the balance in favour of consumers.

In the 2002 survey, around nine out of ten practitioners had noticed some change in the regulation of their business which they attributed to the creation of the FSA (compared with around half who had noticed any change in the 1999 survey), and around four in ten felt there had been 'a lot' of change. These proportions were similar to the level of change expected by smaller organisations in 1999, but both chief executives and compliance heads had experienced rather more change than their counterparts in the 1999 survey were expecting three years ago.

Asked to comment on the impact of this change on **their own business**, two in five practitioners were unable to express an opinion, with most of these feeling it was 'too early to say'. Those who did give an answer were about twice as likely to say things had got worse than better; this compares with an equal split between positive and negative expectations in 1999. Opinions were similar in both surveys for all three practitioner groups.

When asked about the impact of the change to the FSA upon the **financial services industry as a whole** (as opposed to their own business) chief executives and compliance heads were more positive in their views, being twice as likely to feel the change had been beneficial as harmful for the industry; the balance of opinion was, however, also less positive than expectations in 1999, when the balance between 'beneficial' and 'harmful' had been three to one for chief executives, and four to one for compliance heads. For smaller organisations, opinions also shifted from the 1999 survey, in which practitioners were twice as likely to anticipate the change as being beneficial rather than harmful, to being just as likely to say the change had been harmful as beneficial in 2002.

In both surveys, around one in five practitioners across all industry sectors felt the change to the FSA had made no difference, with one in six saying that they didn't know.

In the 2002 survey, heads of compliance and smaller organisations were also asked to consider the effect on **consumers of financial services**. Around four in ten felt that the

change to the FSA had made no difference to consumers, and this opinion was particularly widespread among smaller organisations. Of the remainder, heads of compliance were much more likely to feel the change had been beneficial rather than harmful (by a ratio of four to one) while opinion among smaller organisations was evenly balanced.

3. A widening gap?

The survey was designed to quantify the **relative importance** to practitioners of 15 different criteria for evaluating the effectiveness of the FSA, and then to measure their perceptions of **the performance** of the regulator against these same criteria. Similar questions were asked in the 1999 survey (when 13 criteria were used).

Practitioners were first asked to give each criterion a score between 1 and 10, with high numbers indicating a high level of importance. Of the 15 criteria, 13 were given average scores of 8 or above, indicating they were regarded as very important. Two aspects of the regulatory role stood out as particularly vital for practitioners, 'provide reliable guidance when needed' and 'take a firm line with businesses which persistently break the rules'. 'Listen to consumer views when deciding policies and procedures' and 'Encourage the education of the public about financial products and services' were seen as the least important of the different criteria that practitioners were asked to consider.

Perceptions of importance were relatively unchanged for most criteria from the previous survey. The one exception was 'encourage the education of the public about financial products and services' which all three practitioner groups rated lower in importance in 2002 than in 1999.

Practitioners were then asked to rate the effectiveness of the FSA, on each of the same criteria, by allocating a score from 1 to 10, with high numbers in this case indicating a high level of performance. Although some practitioners felt unable to give a rating on some criteria (the proportion generally ranged between 6% and 20%, depending on the criteria), the proportions were not noticeably higher than in the 1999 survey.

Average effectiveness scores ranged between 4.6 and 6.6 for chief executives (overall average of mean scores 5.4), between 4.7 and 6.8 for heads of compliance (overall average 5.6), and between 4.3 and 6.3 (overall average 4.9) for smaller organisations, suggesting that most practitioners judged the FSA's performance as average rather than good. Banks, friendly societies and general insurance firms tended to give the highest ratings, and IFAs and firms with life and pensions business the lowest.

Two attributes stood out as having the highest perceived performance scores across all three practitioner groups, 'Take a firm line with businesses which persistently break the rules' and 'Listen to consumer views when deciding policies and procedures'. The former was judged as one of the most important attributes of a regulator at the previous question.

For chief executives and heads of compliance, the attributes which had the lowest performance scores were: 'Provide reliable guidance when needed' and 'Have efficient administrative procedures'. The lowest scores for smaller organisations were: 'Interpret rules in a flexible and common-sense way' and 'Be efficient and economic in use of its resources'.

The largest gaps between importance and performance scores, and therefore the biggest shortfall between expectation and delivery, were (for chief executives and heads of compliance) on the attributes 'Provide reliable guidance when needed', 'Have efficient administrative procedures' and 'Interpret rules in a flexible common-sense way'. The equivalents for smaller organisations were 'Interpret rules in a flexible common-sense way', 'Listen to industry views when deciding policies and procedures' and 'Be efficient and economic in use of its resources'.

It is possible to compare the results of the 2002 and the 1999 surveys, both in terms of importance and perceived performance, with the exception of two criteria which were new for the 2002 survey. It must be remembered that in 1999 practitioners were asked about their current regulator (which only in around a third of cases was the FSA), and in 2002 practitioners were asked about the FSA only. For most practitioners, therefore, the comparison is not between views of the FSA at two points in time, but between views of the FSA in 2002 and their previous regulator in 1999.

In terms of importance, it has already been noted that scores were generally unchanged from 1999; in both surveys, most criteria were judged to be of relatively high importance with mean scores generally between 8 and 9 out of 10. However, when performance scores are compared between the two surveys, it is clear that perceptions of the FSA's performance in 2002 were generally more negative than perceptions of the regulators in 1999. Among chief executives, all except one aspect of performance saw a decrease in mean score (the exception was 'encourage the education of the public') and the overall average score went down from 6.1 to 5.4. Among compliance heads, the result was similar: all except one aspect of performance declined (the exception was again the education of the public) and the overall average score went down from 6.2 to 5.6. The net result was a widening gap between importance and performance scores and hence between expectation and delivery.

For smaller organisations, the results were rather different. Three aspects of performance saw an improvement in perceptions, against four which saw a decline and eight which remained largely unchanged. The overall average of mean scores increased slightly (but not significantly) between the two surveys, from 4.8 to 4.9. In spite of this improvement, the perceptions of the FSA by smaller organisations in 2002 remained generally more negative than those of chief executives and heads of compliance.

The attributes which showed the largest decrease in mean performance score between the two surveys were 'Provide reliable guidance when needed' and 'Have efficient administrative procedures' for chief executives and heads of compliance, and 'Take a firm line with companies which persistently break the rules' for smaller organisations.

4. Details of experience

Consultation procedure

The general perception among practitioners was that the FSA was making a lot of effort to consult, with around three-quarters of compliance heads and half of smaller organisations agreeing that this was the case.

Six in ten compliance heads also agreed there had been sufficient feedback of the results of consultation exercises, compared with one in four who held this opinion in 1999. However, only around half of compliance heads and a quarter of smaller organisations agreed that the reasons for policy decisions following consultation had been explained satisfactorily, and similar proportions felt that the FSA was taking account of industry views

Around eight in ten compliance heads thought FSA consultation papers should be more concise, with a similar proportion of smaller organisations taking this view. With both groups this proportion had increased since the 1999 survey. Similarly, around three-quarters of compliance heads and smaller organisations felt their business did not have time to respond to FSA consultation papers, a significant increase for compliance heads from around two-thirds in 1999 to three-quarters in 2002.

As in 1999, smaller organisations expressed more negative views about consultation procedures on most dimensions.

Among chief executives, opinion was divided as to whether they thought the FSA's consultation process had been effective in collecting the views of their business, with around 45% saying it had been effective and 45% saying it had been ineffective. Heads of compliance were slightly more positive, but smaller organisations were much less positive, being over twice as likely to say the process was not effective as effective. Other than an understandable decrease in the proportion unable to express an opinion on this issue, results were largely unchanged from 1999.

As in 1999, for both chief executives and heads of compliance, the most popular method of communicating their business's views to the FSA was directly to the FSA, although a substantial proportion preferred to put forward their views via trade associations or via surveys such as this one. For smaller organisations, as in 1999, surveys were the first choice, although a lower proportion chose this option in 2002.

Provision of guidance

Detailed questions about the provision of guidance were asked of heads of compliance and smaller organisations with experience of seeking guidance on rules or regulatory policy from the FSA.

Heads of compliance were positive about some elements of guidance provision, with six in ten feeling that it was possible to be open and frank in discussion with the FSA when seeking guidance, and a similar proportion that the regulator's emphasis was on prevention rather than enforcement.

However, around a half of heads of compliance said it was difficult to work through things informally with the FSA without involving legal people, six in ten felt that FSA staff did not generally provide any informal guidance, and almost as many felt they avoided making decisions altogether. Three quarters of compliance heads disagreed that FSA staff generally give definitive guidance promptly.

Views among smaller organisations were broadly in line with those for compliance heads, with slightly lower proportions feeling that it was possible to be open and frank in discussion with the FSA when seeking guidance and that emphasis was on prevention rather than enforcement.

There was a fall in the perceived clarity of guidance provided between the two surveys. In 2002, around one in ten heads of compliance thought that the guidance received from the FSA was always clear, compared with nearly four in ten who held this view in 1999. Similarly, a quarter of heads of compliance in 2002 thought that guidance received from the regulator was often unclear, compared with only one in ten in 1999. Practitioners in smaller organisations were more likely than compliance heads to say that guidance was often unclear (four in ten did so), but results were largely unchanged from the previous survey.

There was a similar fall in the perceived consistency of guidance provided, particularly among heads of compliance. In 2002, one fifth of these practitioners said that guidance from the FSA was always consistent, compared with two fifths in 1999 who said this about their regulator at the time. There was a corresponding two-fold increase between the two surveys in the proportion saying that guidance was often inconsistent. Among smaller organisations, there was also a drop in the proportion saying guidance was always consistent, and an increase in those saying it was often inconsistent, although the shift was less pronounced than for compliance heads.

FSA Handbook of Rules and Guidance

Some new questions were included in the 2002 survey about the FSA Handbook of Rules and Guidance. Views on the Handbook were generally negative, particularly so with smaller organisations.

The most pressing issue was finding the rules and guidance needed in the Handbook, with around eight in ten heads of compliance and smaller organisations saying it was difficult to do so. Similarly, around three-quarters of practitioners disagreed that the Handbook was clear and easy to understand. Of those who expressed an opinion, around six in ten also disagreed that the level of detail in the Handbook was about right.

Over half of practitioners who gave an opinion felt that the transition to the new Handbook from SRO rules had not been managed well.

Approach to supervision

Over half of all practitioners described the FSA's application of the rules for Conduct of Business Standards and Prudential Standards as either 'fairly rigid' or 'about right'. Around one in ten described the application as 'highly rigid' and a similar proportion felt it was 'fairly flexible'. Virtually no one described the application as 'highly flexible'. Chief executives were more likely to feel the application was 'about right' or 'fairly rigid', and smaller organisations were more likely to say 'highly rigid', particularly in relation to the rules for Conduct of Business Standards. However, around a quarter of chief executives and four in ten heads of compliance and smaller organisations said they had no experience or didn't know.

Compared with 1999, there was an increase in the proportion of practitioners who were unable to give an opinion about their regulator's approach to supervision. This was presumably due to a relative lack of familiarity with the FSA as a supervisory body, compared with previous regulators who had been operating for many years.

Opinions of chief executives and compliance heads were generally very similar. Among those who could give an answer, the balance of opinion on the majority of issues was positive. For example, around seven in ten practitioners felt that the FSA applied a reasonable level of supervision for a business of their size and type, and six in ten said the regulator was willing to hold a dialogue with them about compliance issues.

However, there were some less positive opinions as well, with four out of five chief executives and heads of compliance who gave an opinion thinking that the FSA tended to look at processes rather than outcomes, and only one in four agreeing that the FSA gave praise as well as criticism.

In most cases, practitioners who expressed an opinion had less positive views about their regulator than in the 1999 survey.

Smaller organisations were generally more negative than chief executives or heads of compliance with regard to the FSA's supervision, being less likely to agree with positive statements and more likely to agree with negative ones. The exception was 'the FSA applies a reasonable level of supervision', with which they were as likely to agree as other groups. Although results for smaller organisations were less positive than those of other practitioners, they are in some cases more favourable to the FSA than the comparable results for small organisations in 1999

Just over half of compliance heads, and four in ten smaller organisations had direct experience of dealing with FSA supervisory staff. Those who had no experience were not asked to comment on the behaviour of staff, so the results are not directly comparable with the 1999 survey. In 2002, among those who had experience of them, practitioners' views of the FSA's supervisory staff tended to be generally positive. Around eight in ten heads of compliance thought they made site visits at reasonable intervals rather than too frequently, and two-thirds thought they had quite good interpersonal skills, read the information that had been provided about their business, and treated the firm's staff as trustworthy.

However, there were also a number of less favourable impressions, with 45% of heads of compliance feeling that FSA staff followed a checklist rather than concentrating on broad issues of principle and one in six feeling that it was difficult to give feedback to the FSA on their supervisory staff.

As before, the views of practitioners in smaller organisations were less positive. The most positive rating was for frequency of visits, with three-quarters saying that these were at reasonable intervals. Almost two-thirds said that staff tended to just follow a checklist rather than concentrate on broad issues of principle, and that their approach varied depending on the individual.

Enforcement

Only around 5% of practitioners had been subject to any enforcement or disciplinary action either by the FSA or by their previous regulator in the last twelve months. As a result, the questions about enforcement procedures were answered by very small numbers and results can only be described in fairly broad terms.

Opinion was split as to whether practitioners thought their regulator was justified in starting enforcement procedures with similar proportions thinking that they were justified to those who thought they were not justified. Smaller organisations were less likely than other practitioners to think that their regulator was justified. Heads of compliance were also fairly evenly split on whether the regulator had treated their business fairly during

enforcement, although the balance of opinion was negative for chief executives and smaller organisations.

In terms of whether the regulator had imposed a reasonable penalty, completed the investigation and enforcement process within a reasonable time scale, and made clear the rationale for the penalty, there was again some division of opinion between heads of compliance and the other two groups, with the former taking a more positive view.

Costs of compliance

Only about one in seven practitioners (one in 14 smaller organisations) considered the costs of compliance to be reasonable. About four in ten compliance heads, five in ten chief executives and six in ten smaller organisations considered the costs to be 'excessive'. The views of smaller organisations on this issue have not changed from the 1999 survey, but other practitioners were less likely to consider the costs to be reasonable and more likely to consider them excessive than was the case in the previous survey. In 1999 only a third of chief executives and a quarter of compliance heads felt that their compliance costs were excessive.

Smaller organisations were more likely to say that their compliance costs were a high percentage of total costs, compared with other practitioners. Around 45% of chief executives and compliance heads reported that their total compliance costs were less than 5% of total costs, compared with a quarter of smaller organisations. Around a third of smaller organisations said their total compliance costs were 10% or more of total costs, compared with around one in seven chief executives and heads of compliance.

5. Transition or new steady state?

In the 2002 survey, as we have seen, around nine out of ten practitioners reported some change in the regulation of their business which they attributed to the creation of the FSA, and around two in five had experienced a lot of change. This is not surprising, given the transition from sector-based regulation to a much larger single regulator with more wide-ranging objectives and powers.

What is perhaps unexpected is that, six months after N2, the transition is seen by most of the industry as far from complete. When practitioners were asked to gauge the amount of further change in the regulation of their business still to come, almost nine out of ten chief executives and heads of compliance, and eight out of ten smaller organisations, said they expected further change, and two in five thought there would be 'a lot' more change. IFAs and insurance firms were the most likely to expect a lot more change in regulation.

Another indication of the perceived incompleteness of the transition is practitioners' views on the ongoing costs of compliance compared with 1999 i.e. excluding the N2 'bulge'.

Around two-thirds of practitioners in all three groups felt the costs of compliance for their business would be higher than in 1999, with most of the remainder either thinking there would be no change or unable to estimate. Of those who felt ongoing costs would be higher, around two-thirds expected them to be more than 10% higher, and one in ten said they expected a cost increase of over 50%. These estimates were similar for all three practitioner groups.

On many of the survey questions about the new regime, a substantial proportion of practitioners indicated that they had no experience of the FSA in that area, could not give an opinion, or that it was 'too early to say'. This applied particularly to questions about guidance, supervision, application of the rules and the overall effect of the change on the firm's own business. So the financial services industry has not, in the 2002 survey, given a final verdict on the FSA's performance as a regulator - the jury is still out.

6. Other views of the new regime

The majority of practitioners who expressed an opinion felt that the FSA was being **as open and responsive as possible** in the way it was currently operating, although two in five smaller organisations took the opposite view. This picture was largely unchanged from the 1999 survey. However, on several other aspects of the regulator's role, the balance of opinion was negative towards the FSA.

The majority with an opinion (two thirds of chief executives and compliance heads, three quarters of smaller organisations) felt that the FSA's powers were too extensive, which matched practitioners' fears about this in 1999). More practitioners disagreed than agreed that there were **sufficient safeguards in place** to ensure that the FSA was accountable for its activities, and the negative balance was particularly marked among smaller organisations. Responses followed a similar pattern for the statement 'The FSA operates independently of the government', with smaller organisations particularly likely to disagree.

Only around a third of chief executives and heads of compliance with an opinion agreed that the government had **listened to industry views** in its decisions about the FSA, falling to one in five smaller organisations. This contrasts with three-quarters of chief executives, two-thirds of compliance heads and six in ten smaller organisations who felt that the government had **listened to consumer** views in its decisions about the FSA.

All practitioners were asked to describe what they saw as the **most important priorities** for the FSA to address as the single regulator for the financial services industry. Most of the issues mentioned in response to this question had been identified in the qualitative interviews, and covered elsewhere in the questionnaire, but this provided an opportunity for practitioners to sum up their priorities overall.

The issues raised were mentioned by lower proportions of practitioners compared with the 1999 survey, when practitioners were being asked to think about the FSA's future agenda. The priorities most frequently mentioned in 2002, by around 8 or 9% of practitioners, were 'promote caveat emptor', 'build consumer confidence', and 'understand the diversity of regulation needed'.

As was the case in the 1999 survey, the main sources of information about the FSA were its own booklets and consultation papers. Compared with 1999, the FSA website has become a far more important source of information, now cited by two-thirds of compliance heads as a main source.

Only around a third of practitioners (a quarter of smaller organisation) had had telephone or face-to-face contact with frontline FSA staff, a lower proportion than in 1999. Practitioners indicated that they had had even less telephone or face-to-face contact with FSA policy makers with seven in ten chief executives and compliance heads and eight in ten smaller organisations having no contact at all.

7. Wider environment issues

Around seven in ten chief executives and heads of compliance and 85% of smaller organisations felt that there were too many regulatory reviews being undertaken of financial services. Two-thirds of practitioners felt that regulatory reviews should be carried out by the FSA and not by other government departments.

Of those who had an opinion, around three quarters of practitioners agreed that the boundaries between complaints handling by the Financial Ombudsman Service and policy setting by the FSA were unclear. There was no clear consensus as to whether the money laundering rules were clear and practical, with similar proportions agreeing and disagreeing.

There was general disagreement with the statement 'The behaviour of the FSA encourages competition to flourish within the UK', particularly so by smaller organisations where nearly seven in ten disagreed.

8. Views of the Financial Services Practitioner Panel

Around one in three chief executives, four in ten heads of compliance and a quarter of smaller organisations had seen or heard something about the Practitioner Panel before they received the letter about the survey. This result was similar to the 1999 survey.

Opinions of the Panel were generally positive; around 90% of practitioners who had seen or heard anything about the Panel thought it had an important role to play on behalf of the industry with the FSA.

Around 70% of practitioners who had seen or heard anything about the Panel felt it was helping the FSA to understand industry views and was independent of the FSA. Around 60% of practitioners felt that the members of the Panel could represent the industry as a whole.

Of those who had an opinion, around two-thirds agreed that the Panel was able to influence FSA policies and decisions. There were more mixed views on the ease with which firms were able to express their views to Panel members, with around half of practitioners who gave an answer agreeing that this was the case.

There were very few differences on these questions between chief executives, heads of compliance and practitioners from smaller organisations.

9. Differences by main area of operation

Generally speaking, practitioners from retail/ personal banks, smaller corporate/ investment banks, investment management firms and general insurance firms were the most positive in their views of the FSA and its performance. This was the case across most aspects of the survey.

Similarly, practitioners from IFAs and firms with life and pensions business were the most negative in their views of the FSA and its performance, almost without exception.

Practitioners from friendly societies and securities and derivatives firms were mixed in their views, being negative about some aspects (particularly in relation to guidance), but more positive on other aspects.

CONCLUSIONS

The 2002 survey of the FSA's regulatory performance was carried out a few months after the FSA assumed full responsibility for the regulation of the industry on 1 December 2001. The survey findings provide authoritative and up-to-date evidence of what the industry thinks of its new regulator. Because it builds on the first survey undertaken three years ago, this second survey is also able to identify how views of the FSA and of the regulatory environment have changed over time.

What firms expect from the FSA

In the 1999 survey, eight in ten practitioners were in favour of strong regulation, and felt that the UK regulatory system needed to change. A substantial proportion believed the new FSA regime would bring change for the industry, and the majority expected the change to be beneficial. They hoped the single regulator would ensure greater consistency and cohesion of regulation across all sectors of the industry, and that this would lead to greater efficiency and lighten the administrative burden. They were also hoping for a more pragmatic, risk-based approach to regulation.

A notable feature of the 2002 survey findings is the continued widespread support in principle for strong regulation, which most practitioners feel is for the benefit of the industry as a whole. In line with this, one of the most important requirements for practitioners is for the FSA to 'take a firm line' with non-compliant firms. An equally key requirement is for the regulator to provide reliable guidance when needed. In both the 1999 and the 2002 surveys, these were identified by practitioners as their two most important requirements.

Expectations versus reality

The overall view of the changes is that they have been beneficial for the financial services industry as a whole (of those expressing a view, approximately 2.5: 1).

Despite expectations remaining high and largely positive, there are signs of a widening gap between the expectation and the experience of regulation. Practitioners now feel more strongly than in 1999 that the burden of regulation on the industry is too great, and the majority think too much weight is being given to the interests of consumers. Views about the impact of the change on the industry as a whole, although still positive, are less so than they were three years ago about the expected change.

When asked about the impact of the change to the FSA on their own business, those who gave an answer were twice as likely to say that things had got worse as to feel they had got better - again, taking a more negative view about the actual experience than their counterparts predicting the impact of the change in 1999.

There are continuing concerns about the powers and accountability of the FSA, its independence from government and the attention being given by the government to consumer, rather than industry views.

Aspects of firms' experience to date

In the more detailed analysis of firms' experience of regulation, the areas of more specific concern become clear:

Consultation

As in the 1999 survey, the new regulator is given credit for making a lot of effort to consult the industry, and more practitioners now feel there has been sufficient feedback from these exercises. Concerns still remain about the same issues that were felt to be problematic in 1999: the length of the consultation papers, the time needed to consider them, and the general effectiveness of the whole process.

The provision of guidance

The largest gap between what practitioners consider important attributes for the FSA to demonstrate and the regulator's perceived performance is in providing reliable guidance. This also gave rise to the largest gap in the 1999 survey, when most practitioners were commenting on their previous regulator, and there were high hopes that the change to a single regulator would result in clear, concise and unambiguous guidance to practitioners, based on broad principles rather than narrow rules.

What has actually happened since the FSA took over is a reduction in the perceived clarity and consistency of the guidance being provided - or, in some cases, guidance not being provided at all. Although the regulator is given some credit for putting the emphasis on prevention rather than enforcement, many practitioners complained about the FSA's apparent inability or unwillingness to provide definitive guidance promptly, or to provide guidance informally without involving legal advisors.

Supervision

Among practitioners who have sufficient experience to comment on the FSA's approach to supervision, the balance of opinion is generally positive, although less so than in the previous survey when most practitioners were considering their previous regulator. Seven in ten feel the FSA is applying a reasonable level of supervision to their business, and six in ten see the regulator as willing to hold a dialogue with them about compliance issues. On the other hand, over three

quarters believe the FSA tends to look at processes rather than outcomes, and less than half feel the regulator has a good understanding of their business. In most cases, practitioners who expressed an opinion had more negative views about their regulator than in the 1999 survey.

The quality of FSA supervisory staff

At the time of the 2002 survey, only around half of practitioners had any direct experience of dealing with FSA supervisory staff. The views of these practitioners about FSA staff are often positive, particularly in relation to the frequency of site visits, the interpersonal skills of FSA staff and the way they treat practitioners' staff. On the debit side, a substantial proportion of practitioners say that FSA staff just tend to follow a checklist rather than broad issues of principle, and that the approach varies depending on the individual.

The Handbook

There is strong criticism of the new FSA Handbook of Rules and Guidance. A large majority find the Handbook difficult both to navigate and to understand. There is a widespread feeling in the industry that the FSA has got it wrong in terms of the level of detail, and that the transition to the new set of rules has not been managed well.

The impact of N2

There is evidence that the impact of N2 has been felt right across the industry with nine in ten practitioners reporting some change in the regulation of their business which they attribute to the creation of the FSA. Practitioners' views on the impact of this change on their business are notable for the sizeable proportion - two in five - who feel it is 'too early to say'. Of the remainder, the general feeling is that things have got worse rather than better. Another area of concern is the increased cost of compliance; more practitioners than in 1999 feel their compliance costs are excessive.

The scale of future change

What is perhaps unexpected is that, six months after N2, the transition is seen by most of the industry as far from complete, with two thirds of practitioners expecting further changes in regulation. Another indication of the perceived incompleteness of the transition is practitioners' views on the ongoing costs of compliance in the future - two thirds expect ongoing costs to be higher than before the 'N2 bulge'.

Other issues

A large majority of practitioners feel there are too many regulatory reviews being undertaken of financial services, and two-thirds believe such reviews should be carried out solely by the FSA and not by other government departments.

The boundaries between complaints handling by the Financial Ombudsman Service and policy setting by the FSA are generally seen as unclear, with around three quarters of practitioners taking this view.

Overall view of FSA's performance as a regulator

The FSA is given credit for being as open and responsive as possible in the way it is operating. It is also seen as a strong regulator, attracting its highest performance rating for taking a firm line with businesses which persistently break the rules. But on this, as on other aspects, practitioners' assessments of the performance of the FSA are generally less favourable than similar assessments made in the 1999 survey of the financial regulators who were operating at the time. Wider gaps are also opening up between what practitioners identify as important, and how they perceive the FSA's performance, in particular on providing reliable guidance when needed, having efficient administrative procedures, and interpreting rules in a flexible common-sense way - all areas in which hopes of the FSA were particularly high in 1999. The FSA's application of the rules is seen as being rigid rather than flexible.

As already noted, a substantial number of practitioners have had little contact as yet with the FSA and were therefore unable to give an answer to some of the questions, particularly those relating to guidance, supervision, and the overall effect of the change of regulator on their own business. In many respects, it is still 'early days' for the FSA.

It would, therefore, be premature to say that the overall view is turning negative, but there are signs that it could, and this would be in spite of a generally positive attitude by the industry towards the new regulatory regime.

1. GENERAL ATTITUDES TOWARDS REGULATION

At the qualitative stage, as in the previous research in 1999, practitioners believed that effective **regulation was a necessity**. It was felt to be important to get rid of the crooks and also to provide codes of practice that ensured that nothing went seriously wrong in the financial services industry.

Furthermore, regulation was seen as good for business in the long run.

There was a division in terms of whether the current regulatory system was believed to give too much weight to consumer interests as against those of practitioners. Some of the sample felt that the FSA was achieving a good balance between the two.

Others felt that the FSA was more weighted towards consumer protection. Some of them felt that this was acceptable, or at least bowed to the inevitable, since consumer protection was part of the FSA's statutory remit.

“Since the FSA’s statutory objective is heavily biased towards consumers, I’d expect it to be weighted in favour of consumers, it’s their job.”

HOC/Asset Management

“Yes, but I think that they should. That’s the whole purpose of regulation.”

HOC/Investment Bank

However, a minority of the qualitative sample complained that consumer protection had gone too far and was working to the detriment of practitioners. These people tended to be involved in the retail side of the business. They felt that consumers should be required to take some responsibility for their own decisions and actions.

“I was told in a meeting with our account manager that the focus of the FSA was going to be on their consumer responsibilities...I see a natural conflict in a regulator between consumer obligations and their other jobs. I’m a free market person. I have a fundamental problem with regulators meddling around in the market. When you start

saying we're going to publish league tables of who's got the best mortgage by the regulator, that to me is fundamentally wrong."

CEO/Retail Bank

"If it's anything to do with consumers, and the industry is screaming that they've got a problem, they can scream as much as they like, they're on the side of consumers, is the impression I got....regardless of the impact on the industry.

Partner/Lawyers

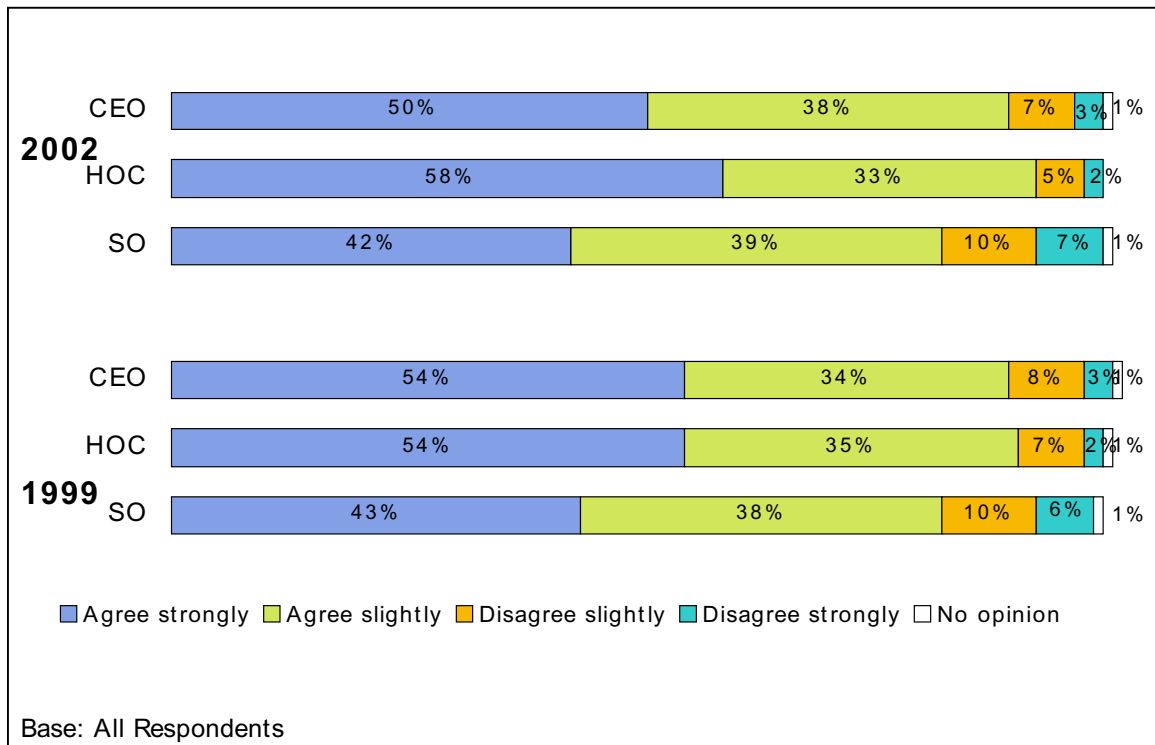
This minority were also of the opinion that the current regulatory system placed too great a burden on the industry, whereas the majority did not feel this to be the case.

In the **quantitative survey**, we asked firms to indicate how much they agreed or disagreed with three general statements about the regulatory system in the UK, using the following four point scale:

- Agree strongly
- Agree slightly
- Disagree slightly
- Disagree strongly

All three of these questions were asked in the 1999 survey.

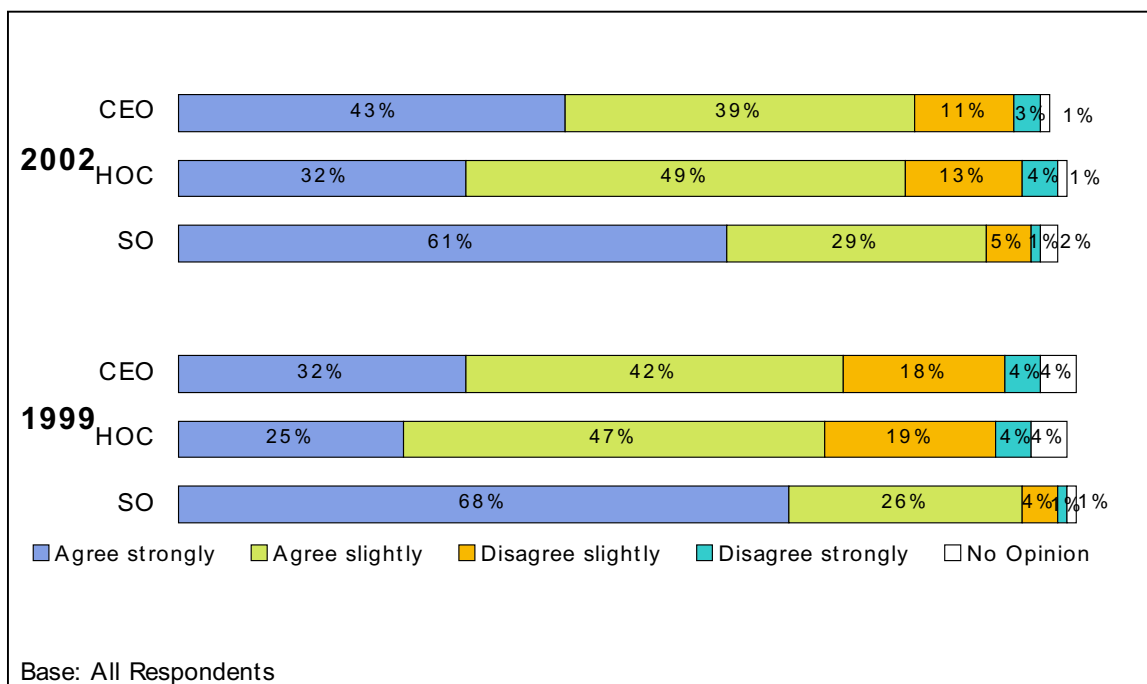
Chart 1.1 Strong regulation is for the benefit of the financial services industry as a whole



The continued support for strong regulation indicated by the qualitative research was confirmed in the survey. The great majority of practitioners - ranging from 81% of smaller organisations to 91% of heads of compliance - agreed that 'strong regulation is for the benefit of the financial services industry as a whole'. These results are largely unchanged from the previous survey.

General insurance firms and smaller investment management firms advocated the benefit of strong regulation most strongly.

Chart 1.2 The current regulatory system places too great a burden on the financial services industry

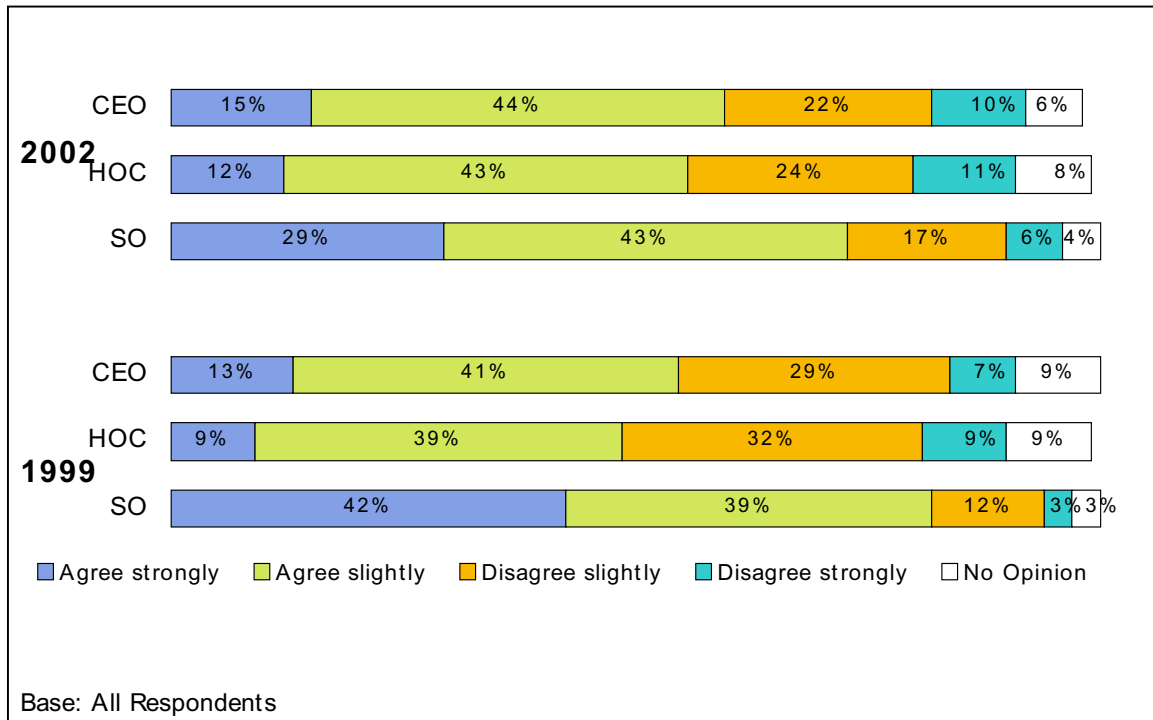


In spite of their support for strong regulation, most practitioners also agreed that ‘the current regulatory system places too great a burden on the financial services industry’. Smaller organisations were more likely to agree than chief executives or heads of compliance.

IFAs, general insurance firms, firms with life and pensions business, and Friendly Societies were most strongly in agreement.

The level of agreement was similar to the previous survey for smaller organisations, but the proportion of chief executives and heads of compliance who agreed that the burden of regulation was too great increased significantly between the two surveys.

Chart 1.3: The current regulatory system for financial services gives too much weight to the interests of consumers



Smaller organisations were again more likely to agree that ‘the current regulatory system for financial services gives too much weight to the interests of consumers’, with 72% agreeing compared with 59% of chief executives and 55% of heads of compliance.

IFAs, chief executives in general insurance firms and smaller firms with life and pensions business were more likely to feel that the current regulatory system gives too much weight to the interests of consumers.

Compared with the previous survey, the proportion of practitioners from smaller organisations who agreed fell, while for chief executives and compliance heads this trend was reversed.

2. REQUIREMENTS FROM A REGULATOR

The **qualitative study** indicated that people from all parts of the industry had a number of requirements from their regulator.

Firstly, as in 1999, practitioners felt that the regulator should maintain a **good on-going working relationship** with the firm being regulated which created trust on both sides. They wanted the role of the regulator to be more that of a **consultant** rather than simply that of a policeman or box ticker. Importantly, they wanted the regulator to be **flexible**, looking at whether firms were complying with the underlying principles of compliance and the basic aims of consumer/client protection, rather than simply being rulebook based and punishing any small mistake that had been made. Above all they believed that regulation should be **risk based**.

“The principles they are following of needs based should make it lighter than before, less dictatorial and dogmatic....Not a policeman. To create a framework which we all operate together and we need that. ”

CEO/Brokers

“They have a police role but I don’t think it’s the predominant part. It’s more of a promotional role, promoting good practice....To make sure that the commercial aspects of those decisions are properly balanced with the risks, controls. Manage issues that will impact on customers, markets....Making sure there are proper people in the right place to do things, as opposed to getting to the next level of detail.....Don’t put barriers in the way.”

HOC/Bank

“A risk based approach to regulation. Trying to focus on the things that are important. In the past there has been an excessive reliance on box ticking”

CEO/Insurance

What was also important here was that the supervisory personnel who were involved in the regulatory process should be **knowledgeable about the firm** that they were regulating and also about the area of business that the firm was operating in.

“You’ve got to be able to judge more intelligently....Form relationships with firms...They need to understand the nature of the firms that they’re regulating. They need to understand there’s a wide range of customers with different types of needs and accept that there are different ways they need to be sold to.”

HOC/Friendly Society

Crucial to this process was that the regulator should be **willing and able to give advice and guidance** to the firm and answer any questions that were posed both quickly and efficiently. This meant that the people working for the regulator needed to be of a sufficiently high intellectual calibre as well as being willing to seek out information from others within the FSA, if they could not answer questions themselves. They also needed to have good interpersonal skills so that they could deal easily with people in the individual firms that they were regulating and maintain a good ongoing working relationship.

“So that the person that I get in touch with as my contact at the FSA will be able to handle queries...One person to at least give me a reasonable level of response and that person will get to know any unusual aspects of our operations.”

CEO/Friendly Society

“If I want to know some definitive answer on a product that I sell, I expect to be able to phone the regulator and say, I have an issue with this, can you give me some advice.”

CEO/Accountants

A further area that was of importance to these practitioners was that the regulator should **listen to the views of the industry** when deciding policy and procedures and take into account the needs and requirements of different parts of the financial services industry.

“That the people who are communicating know their subject, do more listening than talking...I think the FSA has taken consultation seriously.”

CEO/Insurance

“A good dialogue between regulator and regulated...Another good mechanism of getting practitioners’ views at the highest level. To be

consulted by senior people at the FSA as to their thinking. From a practitioner's point of view to outline the danger areas."

HOC/Asset Management

Another requirement from the regulator was **to keep down the costs of compliance**, particularly in terms of senior management and compliance departments' time.

"What we spend on compliance! The client pays. Does he get value for his money for that? I don't think so. ...It's the balance of the costs and benefits that we're looking at."

CEO/Brokers

Additionally, it was felt to be important that any regulator should **keep control over its own costs**.

Practitioners also did not want the regulator to do anything that would undermine **consumer confidence in the financial services industry**. This was particularly important in certain sections of the industry like pension providers, where some felt consumer confidence was already at a low ebb because of past mistakes made by the industry itself, which pre-dated N2.

"I think they should have the remit to do that...One or two scandals arose before the FSA took over."

CEO/Accountants

"Before consumers get real confidence, I suspect that there are still some stones to be unturned and worms to crawl out...They should be conscious that they have an effect and are not damaging things unnecessarily."

HOC/Bank

Most believed that the regulator should listen to consumer views when deciding policies and procedures and, as part of this, should **consult with consumer groups**. This was considered to be right and proper because it was part of the FSA's remit. Most felt that this would be beneficial to their industry because it would mean that the FSA could sort out problems as they went along before anything major went wrong and then build this information into their rules and processes.

“Yes, consumer campaigning groups are one of the interested parties....So I think it is entirely appropriate that they should consult with them.”

CEO/Insurance

Only a small minority maintained that it should not be part of the FSA’s remit to have to consult with consumer groups.

“I don’t like it. Because I don’t like their role as consumer champion.”

CEO/Bank

Many were in favour of the FSA promoting **consumer education** about financial services and products. A better educated public was seen as being beneficial to the industry as a whole, as it might lead to fewer problems arising in the future if consumers knew what they were buying.

“Making sure consumers are properly educated is the most difficult but the most important task they have. If consumers know what they’re buying, it’s much better.”

HOC/Asset Management

“Presumably, in the end, the best thing we could have is an educated population in terms of knowing about financial things, mortgages and pensions, these affect our daily lives.”

CEO/Bank

On the other hand, some practitioners felt that this might be more of an area for the government to influence directly, via education in schools, rather than something that could easily be achieved by a regulator.

“The general public isn’t necessarily well educated on financial matters. This sort of stuff needs getting into schools: tax, salary, state benefits, National Insurance, pensions, house buying.”

HOC/Insurance

“There’s only so much you can do to educate the public. If they don’t want to read it, they won’t read it.”

CEO/Accountants

Last but not least, anyone who was operating in an international context felt that it was important that the regulator should operate in such a way as to enable UK firms to **maintain their competitive edge and allow the UK to remain a competitive international centre.**

“That London is a place where the rest of the world are happy to do their financial transactions.”

HOC/Insurance

“Yes.But there are a lot of people out there who would like to take over London’s position.”

CEO/Bank

The quantitative survey set out to quantify the **relative importance** to practitioners of various criteria for evaluating the effectiveness of the FSA, and then to measure their perceptions of the **performance** of the FSA on each of the same criteria. The findings from these questions are reported in this chapter and in the chapter that follows. More detailed issues about practitioners’ relationship with the FSA and with the FSA’s staff were also explored in the survey, and these results are reported in later chapters.

Fifteen broad criteria were agreed with the Panel, mainly based on those used for the previous survey. The 2002 survey included two new criteria, ‘Distinguish sufficiently in its policies between the regulation of wholesale and retail businesses’ and ‘Listen to consumer views when deciding policies and procedures’. These new criteria were developed from the qualitative research and also took into account the FSA’s stated aims and objectives as a single regulator.

Practitioners were invited to indicate the relative importance to them of these criteria by giving each one a rating from 1 to 10. The lowest rating of 1 would indicate that the criterion was ‘Not at all important’ to them, and the highest rating of 10 would indicate that they believed the criterion was ‘Absolutely essential’ – or, of course, they could choose any number in between.

The 15 criteria are shown in the charts which follow, ranked in order of mean score i.e. the average of all the numerical ratings given. A comparison is given in most cases with the

results obtained in 1999. It should be remembered however that in 1999 practitioners were considering their current regulator (which was the FSA for less than a third of practitioners), whereas in 2002 all practitioners were answering about the FSA.

Chart 2.1: Most important criteria for evaluating FSA – Chief Executives 1

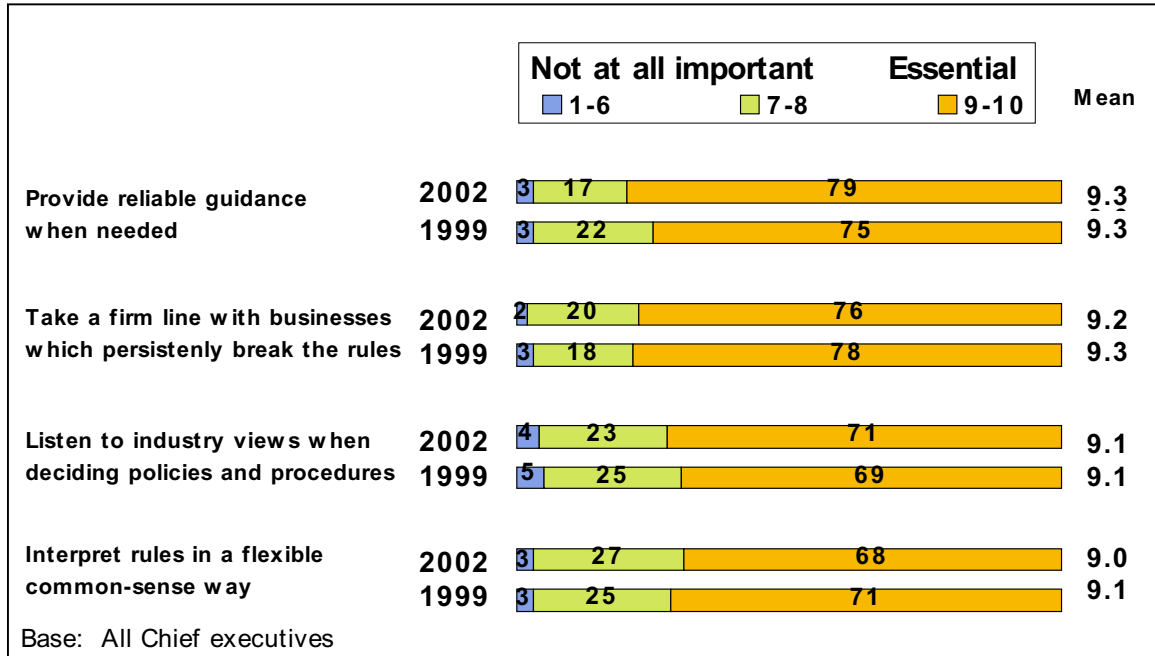


Chart 2.2: Most important criteria for evaluating FSA - Chief Executives 2

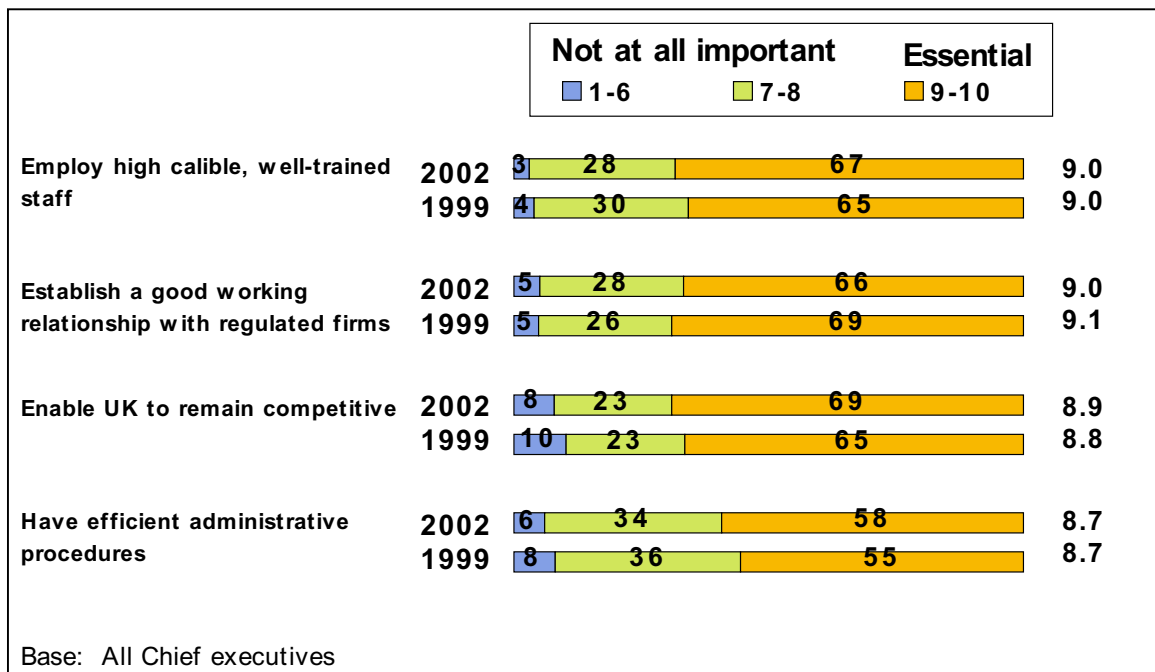


Chart 2.3: Most important criteria for evaluating FSA - Chief Executives 3

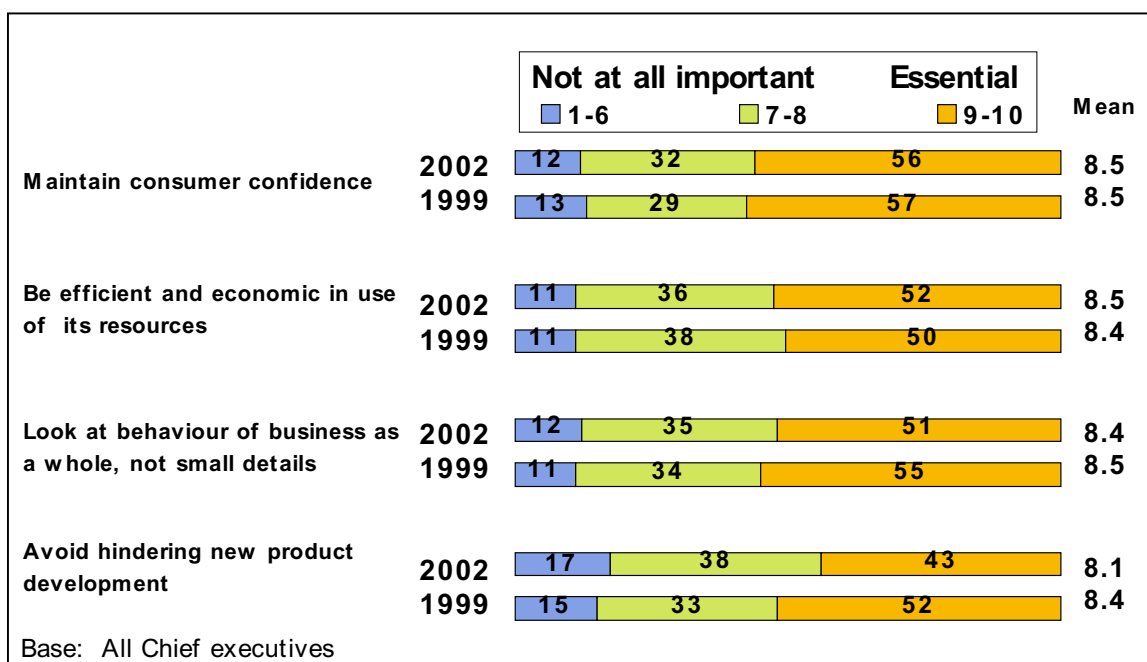
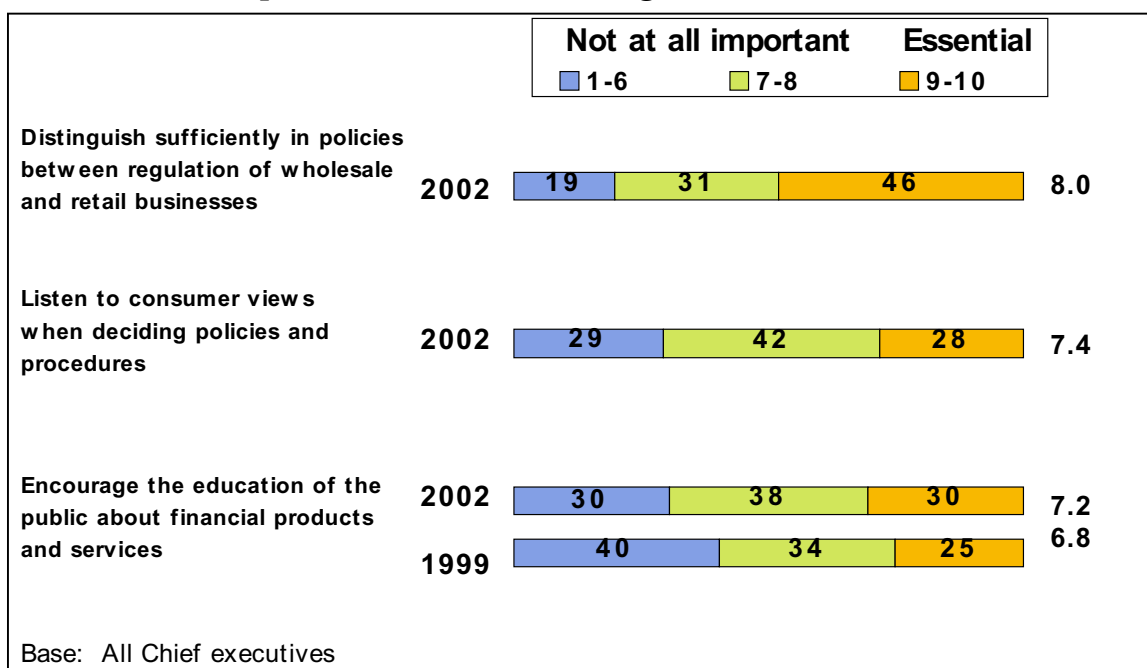


Chart 2.4: Most important criteria for evaluating FSA - Chief Executives 4



The first point to note is that nearly all the criteria attracted high scores on the 1-10 scale, showing that they were seen as very important - average ratings for all practitioner groups were between 9.3 and 7.2. The second point is that the scores were very similar to those given in the 1999 survey, indicating that there had been no significant change in what practitioners felt a financial regulator should do.

In the 2002 survey, the criterion judged to be most important by chief executives was 'provide reliable guidance when needed', with a mean score of 9.3. This was closely

followed by ‘Take a firm line with businesses which persistently break the rules’, with a mean score of 9.2. These were also the top two criteria in the 1999 survey. Six of the 15 criteria had mean scores of 9 or above in both surveys, and 13 had scores of 8 or above. ‘Listen to consumer views when deciding policies and procedures’ and ‘Encourage the education of the public about financial products and services’ were seen as relatively less important, with mean scores below 8.

There were some minor differences across industry sectors, but the pattern of response was more noticeable for its similarities than its differences.

Compared with the 1999 survey, most ratings of importance stayed the same, or moved by no more than 0.1. The greatest change was from 6.8 to 7.2 for ‘Encourage the education of the public about financial products and services’, showing that this aspect of the regulator’s role was now seen as more important than in 1999.

There was a remarkable degree of consistency between chief executives and compliance heads in the importance that they attributed to different criteria.

Chart 2.5: Most important criteria for evaluating FSA - Heads of Compliance 1

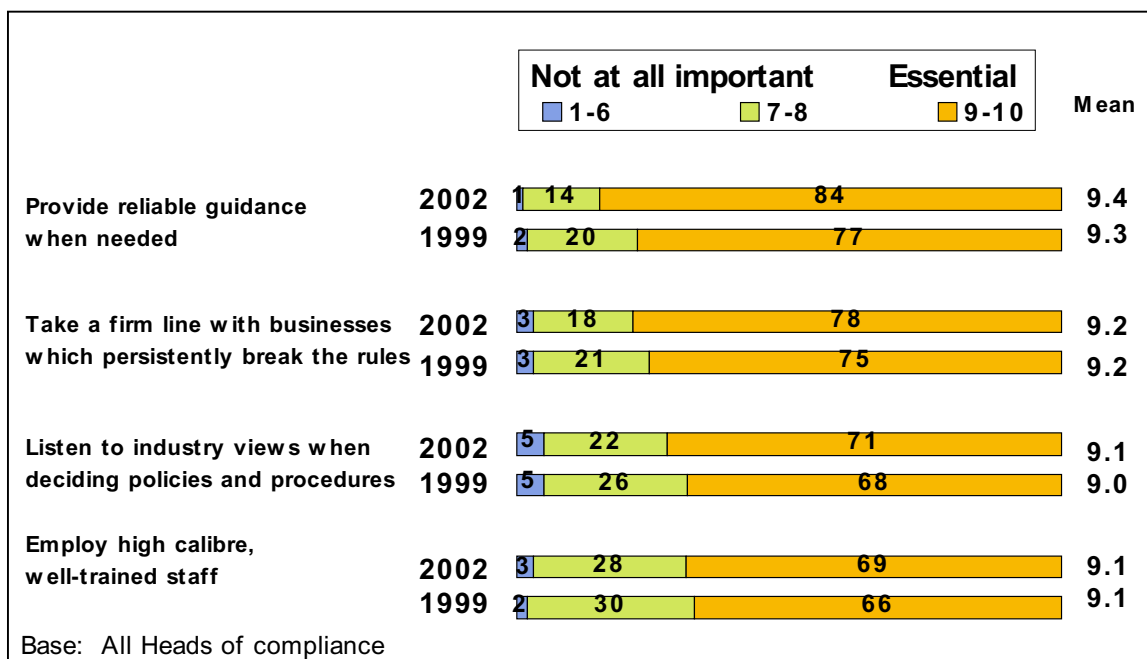


Chart 2.6: Most important criteria for evaluating FSA - Heads of Compliance 2

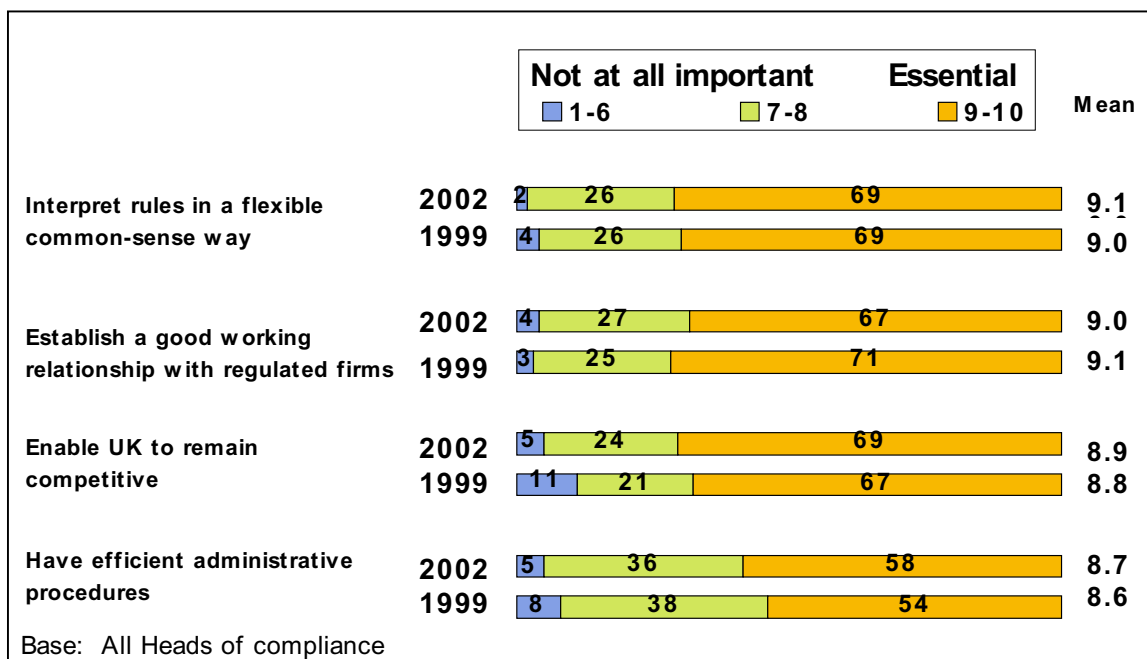


Chart 2.7: Most important criteria for evaluating FSA - Heads of Compliance 3

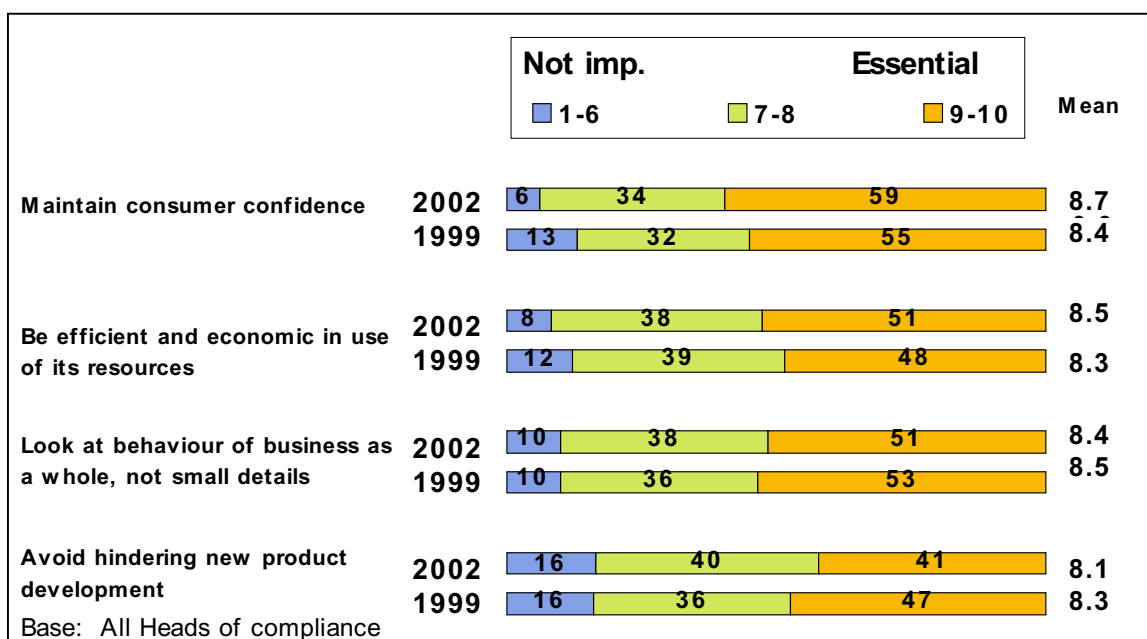
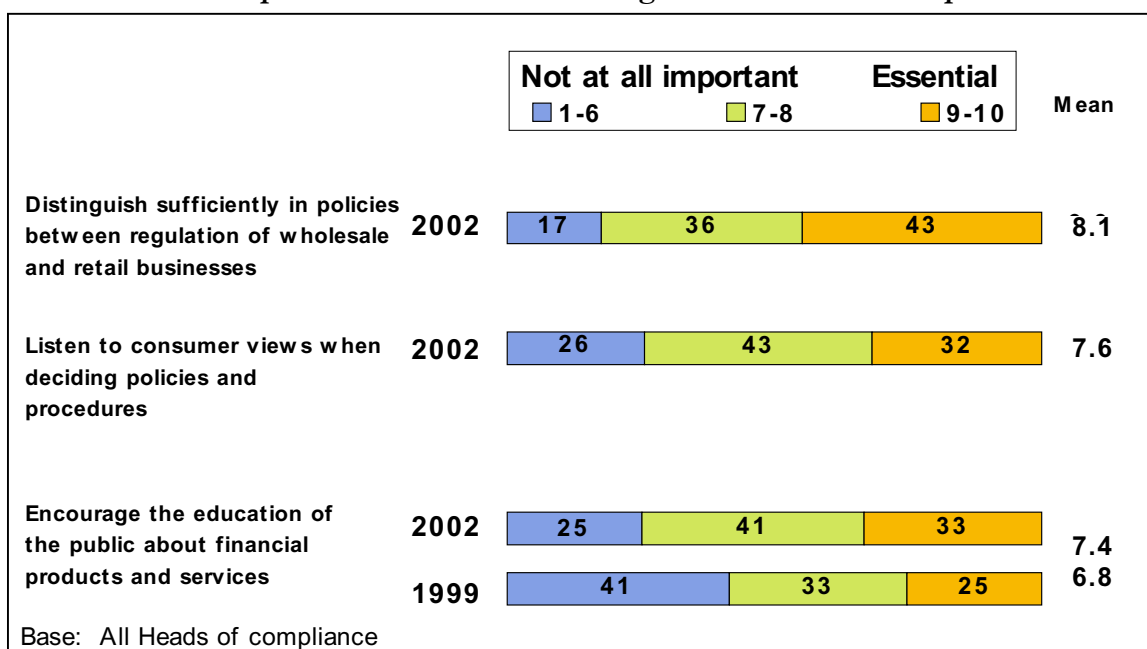


Chart 2.8: Most important criteria for evaluating FSA - Heads of Compliance 4



Heads of compliance rated the 15 criteria in exactly the same order as chief executives. Again, nearly all the criteria were seen as very important, with mean scores between 9.4 and 7.4. Six of the 15 criteria had mean scores of 9 or above and 13 had scores of 8 or above. ‘Listening to consumer views when deciding policies and procedures’ and ‘Encourage the education of the public about financial products and services’ were again seen as relatively less important, with mean scores below 8.

As with chief executives, there were only minor variations across different sectors in the importance that was attached to the different criteria.

Ratings of importance were again very similar to those given in the 1999 survey. The only exception, as with chief executives, was ‘Encourage the education of the public about financial products and services’, for which the mean score increased from 6.8 to 7.4.

The rating of the criteria by smaller organisations was very similar to that of chief executives and heads of compliance, and there were no significant differences across industry sectors or from the 1999 survey.

Chart 2.9: Most important criteria for evaluating FSA - Smaller Organisations 1

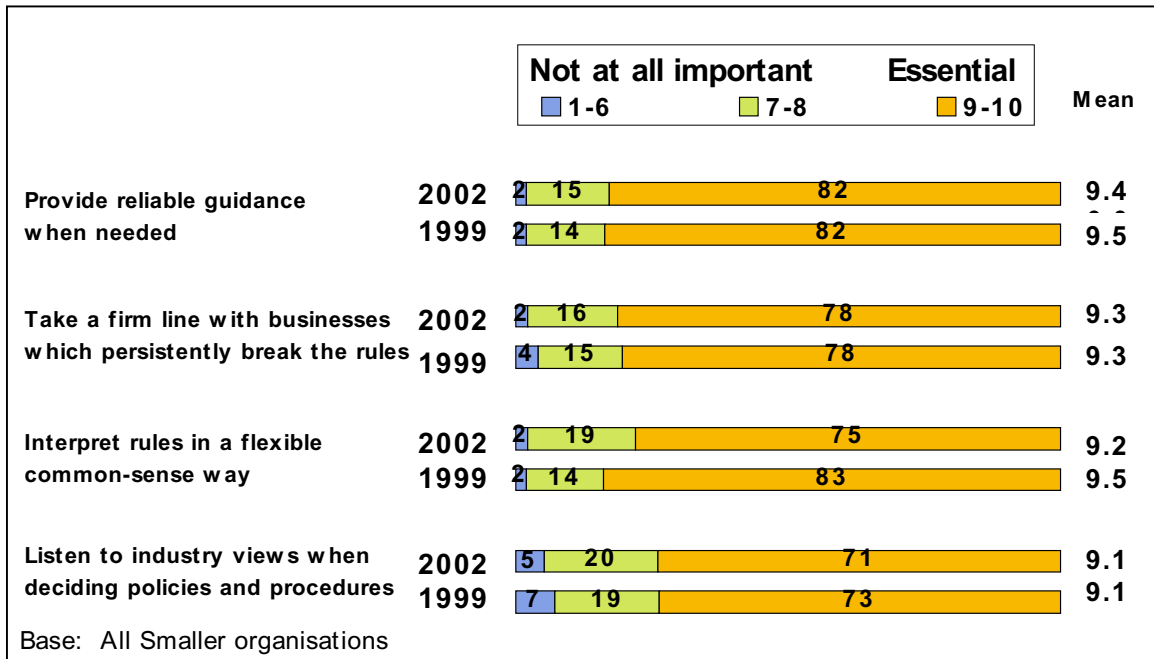


Chart 2.10: Most important criteria for evaluating FSA - Smaller Organisations 2

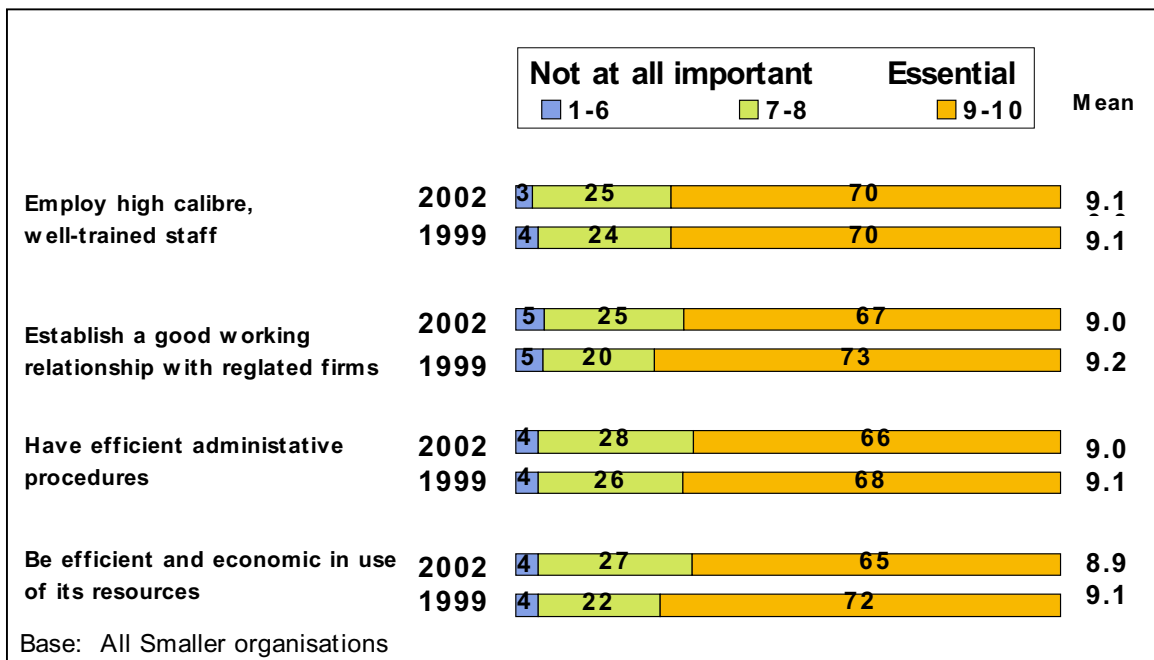


Chart 2.11: Most important criteria for evaluating FSA - Smaller Organisations 3

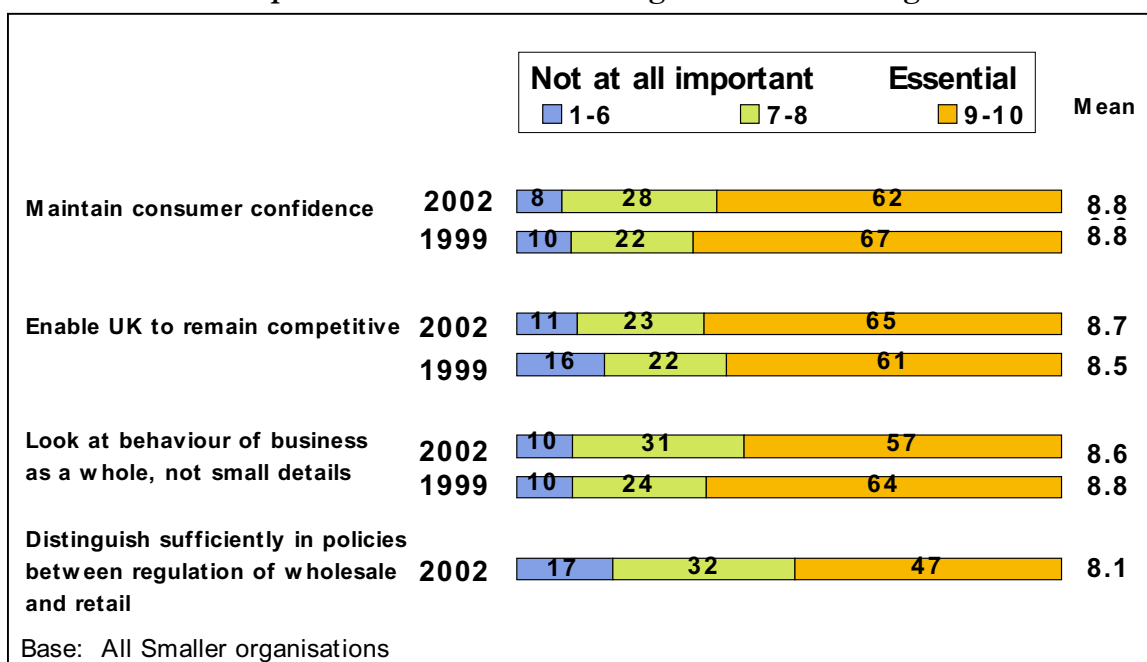
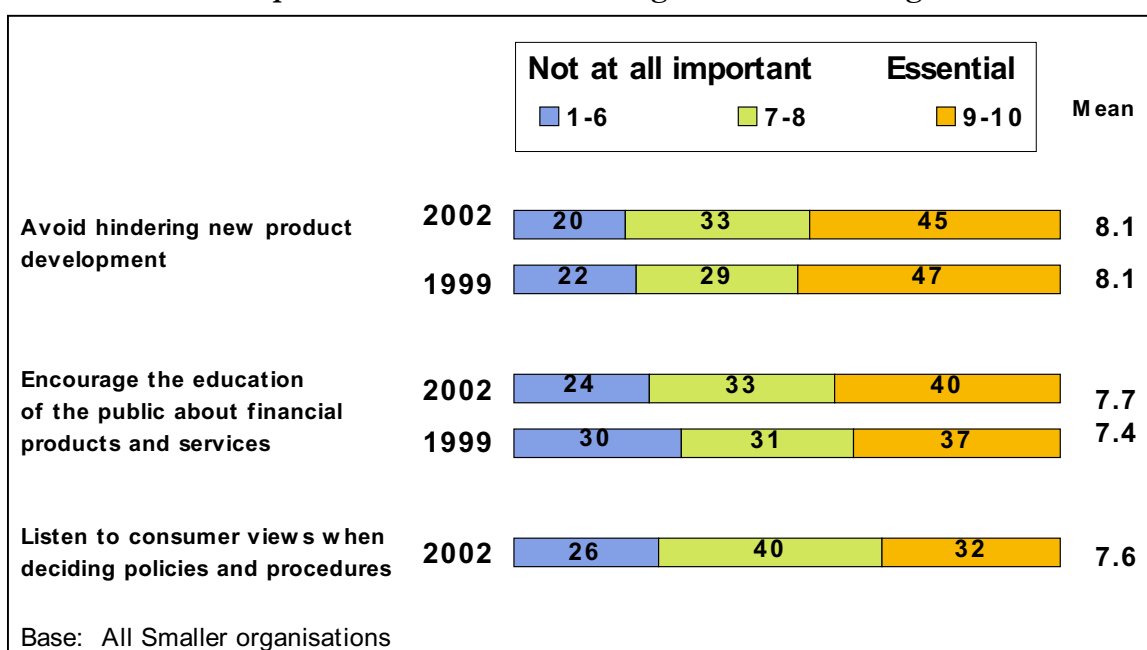


Chart 2.12: Most important criteria for evaluating FSA - Smaller Organisations 4



3. EFFECTIVENESS OF THE FSA

In the **qualitative study**, many practitioners expressed the view that it was very **early days yet to deliver a judgement** about how well the FSA was performing, since it was only four to five months after N2 when the qualitative interviews were taking place. They felt that it would be another twelve to eighteen months before they would be able to make a full judgement and before the new regime “bedded down”.

“What the advantages are is early to say because we’ve only had the single regulator since 1st December, N2”.

HOC/Insurance

“I haven’t seen any advantages yet, everything’s bedding down.”

CEO/Friendly Society

Overall, many firms in the study believed that **the FSA had made a good start**. There were several areas that were singled out for praise.

Firstly, one of the main positives to emerge was the fact that the **FSA had communicated with and consulted practitioners** about policies and procedures for the new regulatory regime.

“Overall the communication process is good, more transparent and that gives confidence to business.”

HOC/Investment Bank

“I think it’s not done a bad job. Its web site is quite good. There are signs that the FSA senior people are certainly prepared to come and speak to the industry. They’re holding more seminars. They’re doing a good job coming out to communicate.”

HOC/Insurance

Secondly, the fact that the FSA was proposing a **risk-based approach to regulation**, looking at outcomes rather than inputs, was felt to be a major step forward. This was, in fact, in contrast with what firms had expected when the original survey was conducted in 1999, when they had feared that the FSA would be more rulebook based than their previous regulators. Moreover, since these practitioners took this same risk based approach themselves, it appeared entirely sensible to them.

“Being risk based, looking at institutions who are likely to cause the system to be difficult...It seems very sensible.”

HOC/Retail Bank

“I’m totally in favour of it. It’s the right way to go about regulation. Put the emphasis on firms to put their own house in order, concentrate on where are the risk areas, on themes that have manifested themselves and rely on management to get on with it.”

HOC/Asset Management

“Risk based approach and concentrating on important things...We think the same way.”

HOC/Broker

Although many felt that it was too early to tell at this stage, practitioners **hoped** that this would mean that the FSA would look at the behaviour of the business as a whole in terms of whether they were complying with the underlying principles of regulation, rather than simply box ticking and picking on little details where genuine mistakes might have been made. They also **hoped** that they would interpret the rules in a common sense way.

“This idea of a lot less detail but the same high standards. There’s a lot less prescriptive rules than there used to be, more flexible, more you can decide. That means they give you a broad framework and it puts the onus on how to get there on the firms themselves. I prefer that approach...a more flexible risk based approach.”

HOC/Friendly Society

It’s a risk-based approach to regulation. Trying to focus on the things that are important. In the past there has been an excessive reliance on tick boxing.”

CEO/Insurance

Because of this they anticipated that there would be more emphasis in seeking out and punishing the real criminals rather than disciplining firms who had unwittingly made minor mistakes.

In terms of whether the FSA had established a **good working relationship** with firms, there was some division. Some companies had seen continuity with the same teams that had regulated them before so that a good working relationship was ongoing.

“We are still under the same group so we haven’t seen any significant change from personnel or approach. We’ve always maintained good relations with our regulator.”

CEO/Broker

These firms believed that the FSA team **understood their business**. Some others who had new teams believed that the new FSA personnel were making an effort to build up new relationships with them **and beginning to get to know their business**.

“They are moving to this higher level relationship and trying to be more open.”

HOC/Investment Bank

“We’ve found that we can actually sit down and have a fairly simple conversation and agree things fairly quickly, far more so than with the Bank of England....We have a very open relationship.”

CEO/Investment Bank

Other firms complained that the FSA had not yet built up any relationship with their firm and **did not understand their business**.

“There is a phenomenal turnover of staff at the FSA...The person who did all the questioning, they’ve never met before, never heard of. How are these people going to supervise and regulate institutions? ...There is just not the continuity that there should be.”

Partner/Lawyers

“The FSA have very little understanding of professional advisory work...As far as the FSA is concerned, a transaction which generates little commission must be best for the client..cheap is best.”

CEO/IFA

Generally, practitioners at the qualitative stage believed that the FSA was making a sufficient **distinction between wholesale and retail businesses**.

“Fine, it’s the right thing”

HOC/Investment Bank

“We don’t deal with private consumers. As soon as they know your customers are market counterparts or intermediate customers, they’re not that concerned...all the protection is for the retail.”

HOC/Investment Bank

“I think the FSA are on the right track in differentiating between wholesale and retail.”

HOC/Asset Management

The only exceptions here were practitioners in the exchanges, both of whom felt that the FSA were trying to impose rules on them that were more suitable to the retail sector or to equity based businesses rather than to their very specific area of business.

“At times the FSA does adopt a one size fits all. They want to bring everything down to the retail level. We are a wholesale market and they continually try to foist upon us retail type provisions.”

CEO/Exchange

The perceived **quality of FSA staff** was believed to vary considerably. The top policy makers were perceived to be of a very high calibre. They were praised for the fact that they appeared to be capable of more lateral thinking and for the instigation of the risk based approach to regulation.

“Howard Davies is very good. He understands that the rules have to change and that they need to look at the changing dynamics of the market.”

HOC/Asset Management

“I think the organisation is being led by someone who I have a high regard for and so it will be all right.”

CEO/Building Society

Some of the **supervisory staff** were also seen as good. They were felt to be getting to know the firms' businesses and were already making it clear that they were going to look at outcomes rather than just examining inputs and box ticking.

"I don't have any complaints about our current relationship with the FSA. We have a good supervision team who understand our business. What they're doing right is to emphasise senior management responsibility."

HOC/Asset Management

However, some practitioners did complain that the supervisory staff at the lower echelons of the FSA were of a lower calibre than was desirable. There were also some criticisms that FSA supervisory staff were not yet imbued with the new approach of looking at outcomes rather than inputs and so were still too rule-book orientated, asking for too much detail and going through too many pointless box ticking exercises.

"There's a dearth of good foot soldiers in the organisation. Sometimes they're seeking all this information without understanding what the hell they're going to do with it."

CEO/Exchange

"(Bad) Turning policy into detailed practice. Some of the detail we are asked to provide is disproportionate to the benefit that will come. At the top they've got a strategic direction. As it gets further down the organisation, some of the strategic work gets watered down."

CEO/Insurance

"It was quite clear that some of the team just had no idea what they were looking at, what they were looking for...They don't always know the rules is a thing I really resent....There's a slight tendency I think, where you don't know or understand the concepts...to do the tick box easy things...That's not the way to look at things."

HOC/Brokers

It should be pointed out here that perceptions of FSA supervisory staff also depended on which sector of the financial services industry they had previously supervised. FSA people who had past experience of a firm's market sector were felt to understand the business

well, whereas those with no past experience in a sector were seen as less knowledgeable and still beginning the learning curve.

*“At management level and above they understand the business.
Beneath that it depends where people have come from.”*

HOC/Investment Bank

“The team I’ve seen, one of which is an experienced fund manager and he’s been our regulator on the asset management side for many years, we’re quite happy. He’s very pragmatic and he’s much less rulebook constrained. Not check list based more risk based.”

HOC/Asset Management

Again, it was felt to be very early days and these firms expected that this was a process that would take some time.

One area however where there did appear to be a weakness was in the FSA **being able to provide reliable guidance to practitioners** as and when it was needed. This point will be dealt with in greater detail in section 5.

Practitioners found it difficult to assess whether the FSA was **maintaining consumer confidence** in the financial services industry since it had only been a short time since N2. There was, in any case, a division in terms of this issue between the wholesale and retail side of the industry. Firms dealing on the wholesale side felt that consumer/client confidence was high anyway and were happy that the FSA had done nothing so far to reduce this confidence. Retail investment firms that had a private client base felt very similarly.

“I don’t think that it was particularly lacking.”

CEO/Brokers

However, some retail businesses dealing with the public, like firms with life and pensions business and friendly societies, were concerned that consumer confidence in their products and services was low because of past mistakes made by the industry, which pre-dated N2. They did not generally feel that the FSA could increase consumer confidence until past problems were rectified.

*“It’s an impossible task at the moment. They can only regulate so far.
Things like Equitable and Enron, the large events like that have given
financial services a bad name, more so now, the mortgage situation,*

endowments....I think it's up to the industry themselves to do things better."

CEO/Friendly Society

"It's difficult to say how much the FSA influences but I think confidence in the industry is very low. Stock markets have had a pretty torrid time...the scandals, pensions mis-selling, the problems with Equitable."

HOC/Insurance

"One or two scandals arose from before the FSA took over, Equitable Life...They've only being doing this for four months so how can you judge it?"

CEO/Accountants

On the other hand, they expected that, if the FSA fulfilled its role and obligations effectively as a regulator, consumer confidence would improve in the long term.

Practitioners also tended to feel that it was too early to make judgements on whether the FSA had encouraged **the education of the public about financial products and services** and most appeared to have little idea of what the FSA was doing in that respect. A few had seen leaflets at Canary Wharf or consumer information on the FSA web site. Many practitioners expressed the view that consumers were not particularly interested in finding out more about financial services and so they felt that the FSA could only go at the speed that consumers were willing to take this information on board. So educating the consumer was not felt to be an easy task.

"I think there is a limit to what can be done to educate them....How on earth do you get there?"

Partner/Lanyers

"Our type of clients have a very low level of understanding....For the FSA to try and educate the man in the street is hope over experience....For people to learn they've got to want to learn. The client is not, by and large, willing to learn."

CEO/Brokers

In terms of enabling the **UK to remain competitive as an international financial centre**, almost all of the firms interviewed believed that the UK's regulatory system worked in the country's and its firm's favour. This was because they saw the level of strictness here as being finely balanced, strict enough to ensure that markets operated properly and consumers were protected, yet not so strict as to impede business operating and developing. Almost all believed that, under the FSA, the competitiveness of the UK would continue. Firms also believed that the FSA would ensure the City of London maintained its position as the main financial centre in Europe. This was in line with similar expectations expressed by practitioners when this survey was last conducted in 1999.

"I think they're committed to it. Foreign clients have wanted to contract with a London entity because they believed that the regulatory protection was better than anywhere else in the world, for the client."

HOC/Asset Management

"It is our operating assumption that they're not going to over regulate the market to an extent that companies that are interested...choose not to base themselves in the UK...That may be the selling proposition, that it is necessary for the UK market that it is a properly regulated marketplace."

CEO/Investment Bank

"I think it's more attractive...I think it works in favour of entities in the UK."

HOC/Asset Management

It is worth pointing out here that a small minority of practitioners were concerned that **European directives** might be difficult to integrate into UK regulation and that this might impact negatively on the country's international competitiveness or on certain sections of the UK financial sector.

"I've just got a slight concern that is in relation to the Basle capital reviews....Rules that are being devised there...there is a danger that interpretation of those, the application of those through Europe, that the smaller organisations could be overlooked, forgotten about..brought into this country which are a disadvantage to Building Societies."

CEO/Building Society

Some practitioners would not give any opinion as to whether the FSA was being economic and keeping control over its own **costs**, because they did not know. Others, however, expressed the view that there was no evidence that the FSA was wasting money.

“You’ve got to have the right people in place, you’ve got to pay supervisors a decent salary.”

HOC/Asset Management

“I don’t have the feeling that they’re an extravagant organisation.”

CEO/Retail/Bank

Other, usually smaller firms, were critical of the FSA in this respect, complaining that they were spending too much money on the building in Canary Wharf.

“There is no cost cutting going on there. They are some of the most outstanding offices that I have seen, and I go to a few, they are breathtaking, they are stunning. They have wider corridors than any buildings I’ve been to in years...how much completely unutilised space you have in the building.”

CEO/IFA

The **quantitative** survey provides robust evidence of how firms judge the FSA. Having been asked about the importance of different criteria in evaluating the effectiveness of their regulator, practitioners were then asked to give another rating, from 1 (Extremely poor) to 10 (Outstandingly good), to show how they rated the **performance of the FSA** on the same criteria.

3.1 Chief Executives

The mean scores for different criteria, based on chief executives’ performance ratings ranged between 4.6 and 6.6, with an overall mean of 5.4, suggesting that most judged the FSA’s performance as average rather than good. There was a general decrease in perceptions of performance across most criteria since the 1999 survey, when scores ranged between 5.0 and 7.4, with an overall mean of 6.1. Again it should be remembered that the comparison that is being made is not between practitioners’ views of the FSA at two points in time, but between their views of the FSA in 2002 and their regulators in 1999.

Chart 3.1: Performance of FSA - Chief Executives 1

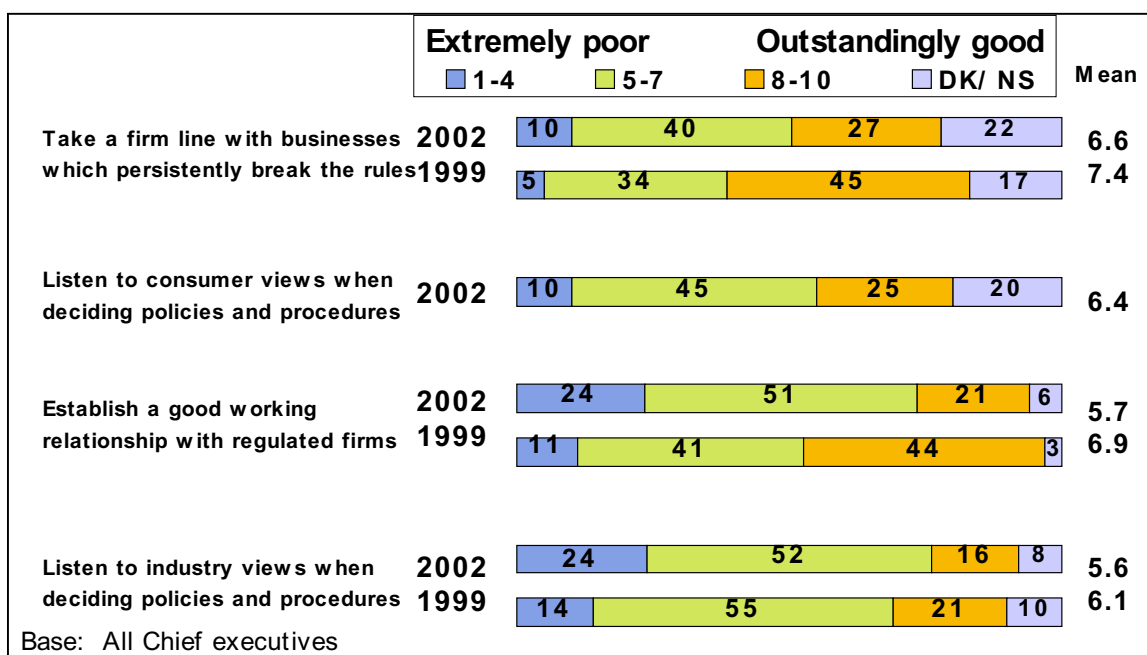


Chart 3.2: Performance of FSA - Chief Executives 2

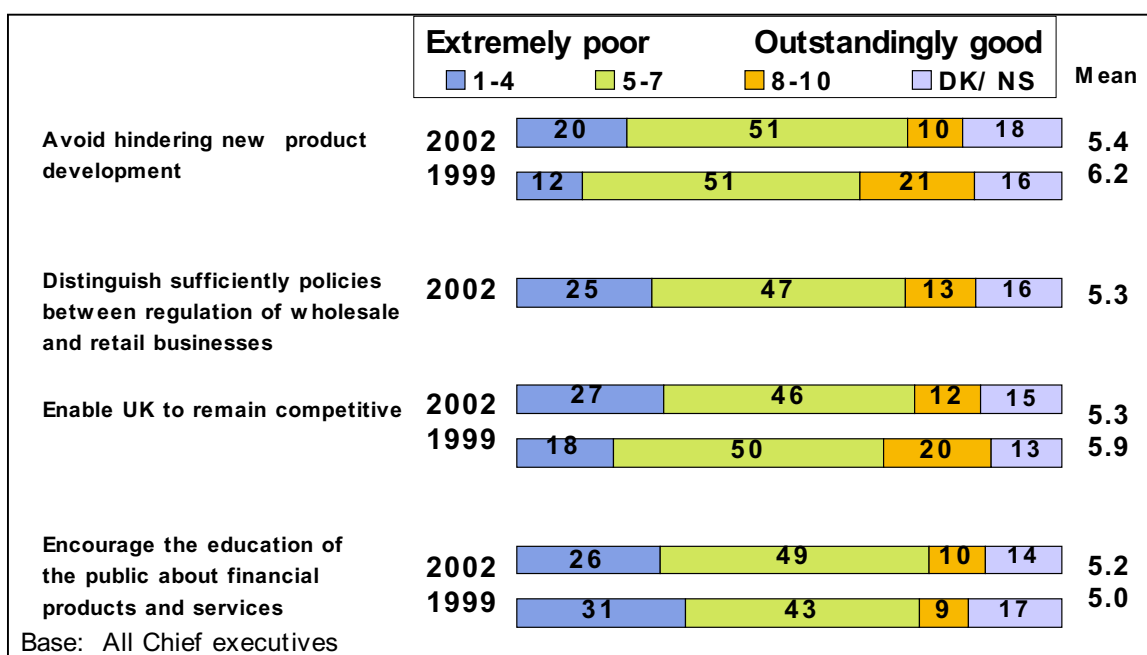


Chart 3.3: Performance of FSA - Chief Executives 3

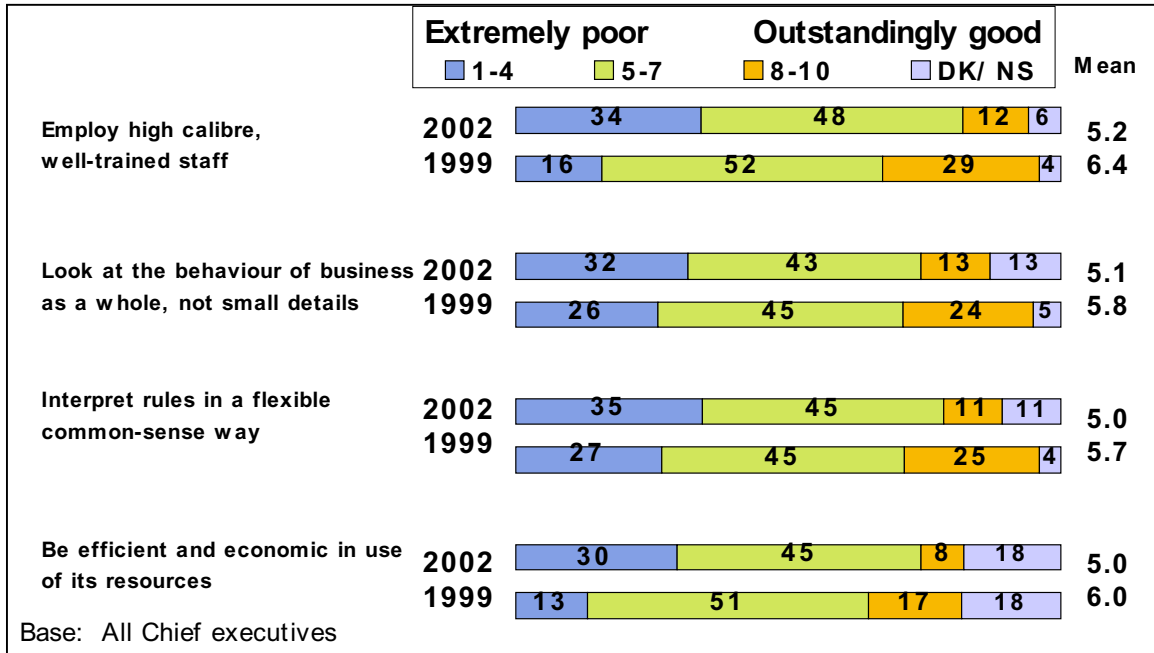
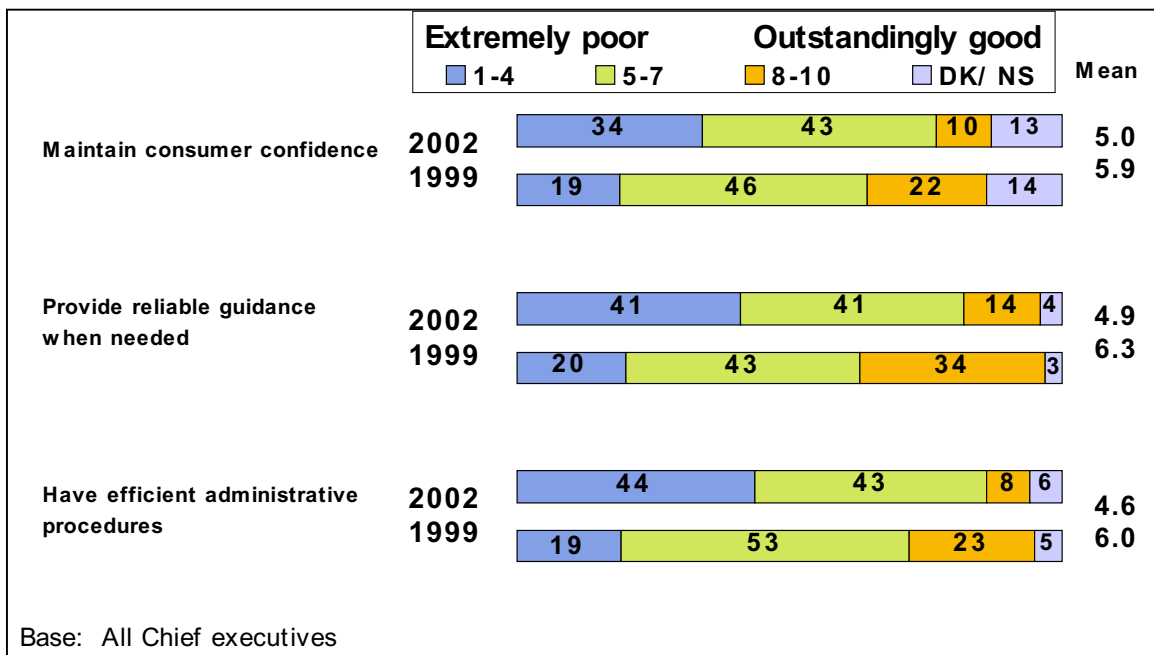


Chart 3.4: Performance of FSA - Chief Executives 4



The aspect of the FSA’s performance which was most highly rated by chief executives, with a mean score of 6.6, was also one of the most important – ‘Take a firm line with businesses which persistently break the rules’. On this aspect, there was a decrease in perceived performance compared with the 1999 survey, when the mean score was 7.4. The next highest score for perceived performance was for ‘Listen to consumer views when deciding policies and procedures’ – one of the least important criteria for practitioners. This was a new aspect for the 2002 survey and had a mean score of 6.4.

The aspects of the FSA's performance which were given the lowest ratings by chief executives were 'Provide reliable guidance when needed', with a mean score of 4.9, and 'Have efficient administrative procedures', with a mean score of 4.6. These aspects saw the greatest decline in mean score compared with the 1999 survey, with a fall of 1.4 in each case. The first of these two aspects is a particular cause for concern, since providing reliable guidance was seen as the most important of the 15 criteria for evaluating the FSA at the previous question.

Banks, general insurance firms and friendly societies tended to give the FSA the highest performance ratings, and IFAs and firms with life and pensions business tended to give the lowest ratings. This was a very similar picture to that observed in 1999.

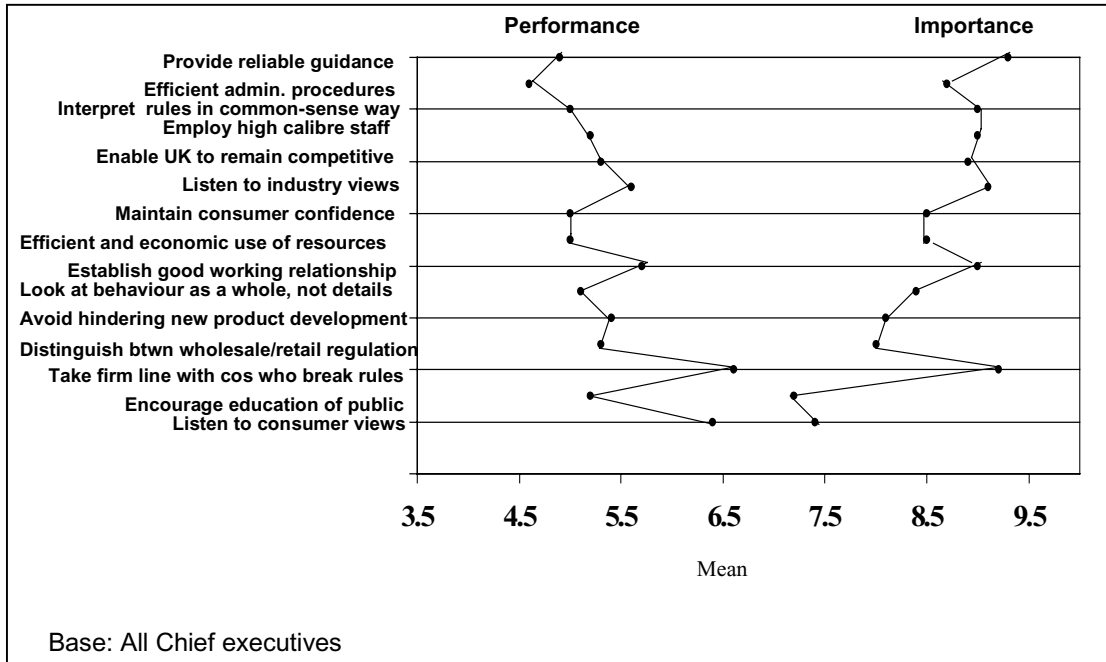
Compared with the 1999 survey, all except one aspect of performance saw a decrease in mean score (of between 0.5 and 1.4). The exception was 'Encourage the education of the public about financial products and services' with an increase in mean score from 5.0 to 5.2.

The relative distance between what is most important to practitioners and how the FSA is rated can be seen by plotting the mean scores for both importance and performance on the same chart.

For chief executives, the largest gaps between importance and performance were for 'Provide reliable guidance when needed', 'Have efficient administrative procedures' and 'Interpret rules in a flexible common-sense way', where the mean score for importance was around 9 but the mean score in terms of perceived performance was around 5.

The smallest gaps for chief executives were for 'Take a firm line with businesses which persistently break the rules', 'Encourage the education of the public about financial products and services' and 'Listen to consumer views when deciding policies and procedures'. Here the differences between mean scores for importance and perceived performance were only around 1-2 points.

Chart 3.5: Importance vs performance Chief Executives 1



Mean scores for both importance and performance can also be plotted onto a quadrant to show the relative dispersion of the aspects. In the following chart each dot represents an aspect and its position in terms of mean importance score and mean performance score.

Chart 3.6: Importance vs performance Chief Executives 2



The chart shows which aspects were outliers from the cluster. In 2002 ‘Take a firm line with businesses which persistently break the rules’ is at the top right of the cluster, indicating that this aspect had relatively high performance as well as relatively high importance; this can be seen as a positive result.

The aspect ‘Encourage the education of the public about financial products and services’ had a relatively low performance score but was also relatively low in importance, so this is a lower priority for the FSA to address, as far as practitioners are concerned.

The aspects ‘Provide reliable guidance when needed’ and ‘Have efficient administrative procedures’ also had relatively low performance scores, but were of high importance to practitioners; as such, these aspects are of most concern.

3.2 Heads of compliance

The performance ratings given to different aspects of the FSA by heads of compliance ranged between 4.7 and 6.8, with an overall mean of 5.6, compared with 5.4 for chief executives. The aspects given the two highest scores and the two lowest scores were the same for both practitioner groups.

Chart 3.7: Performance of FSA – Heads of compliance 1

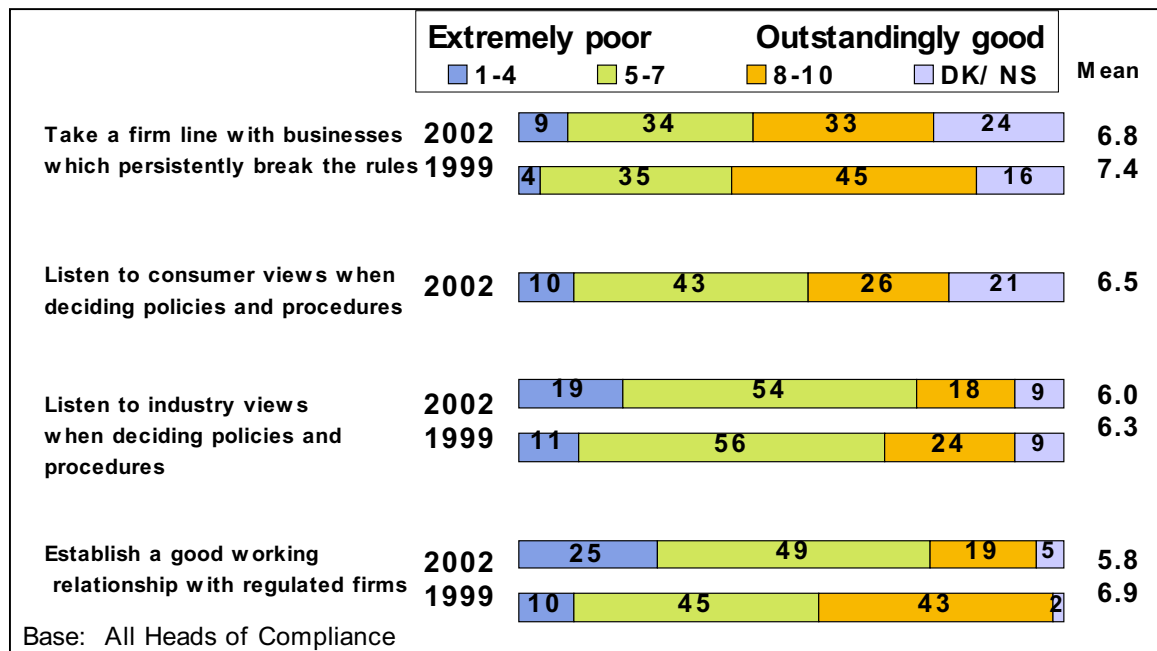


Chart 3.8: Performance of FSA – Heads of compliance 2

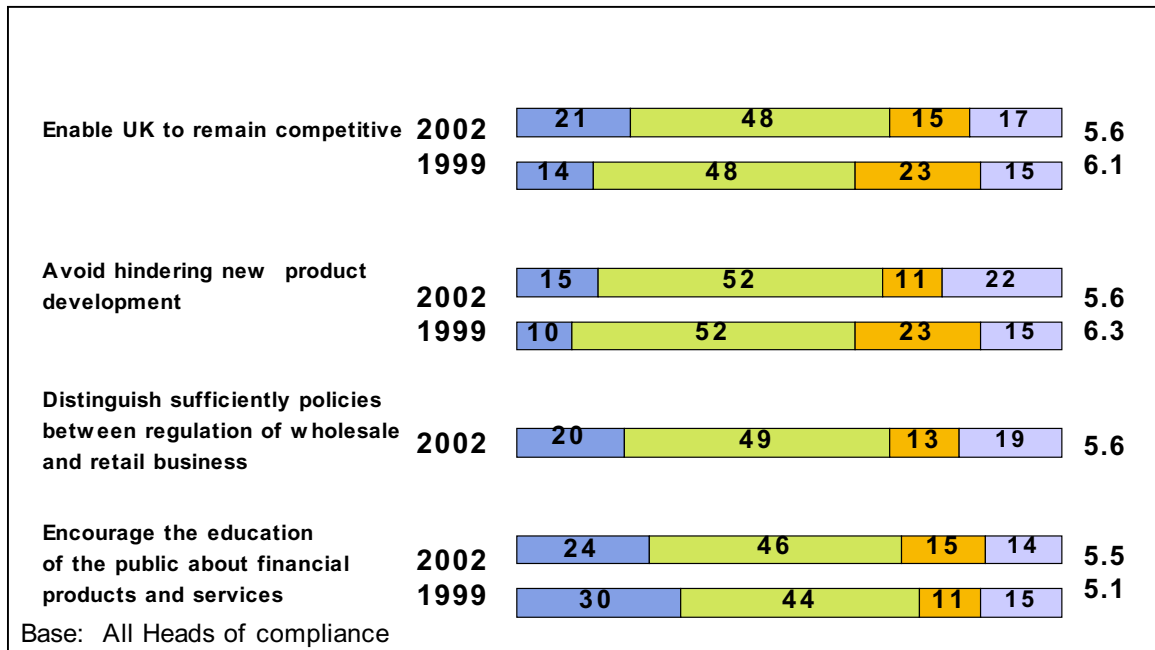


Chart 3.9: Performance of FSA – Heads of compliance 3

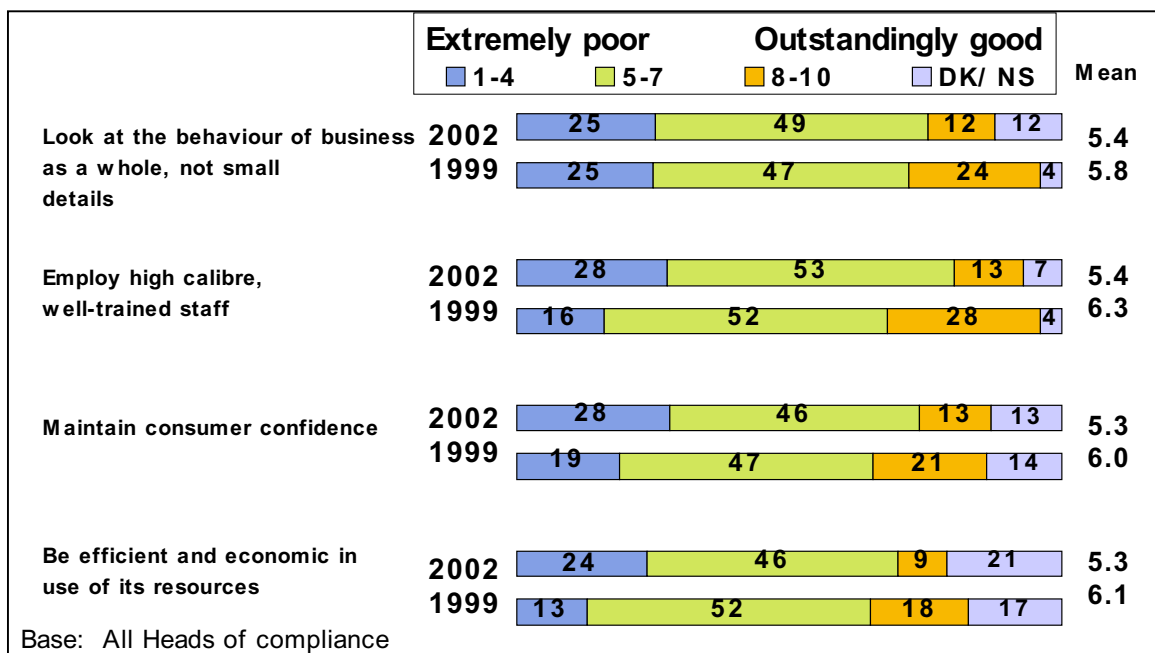
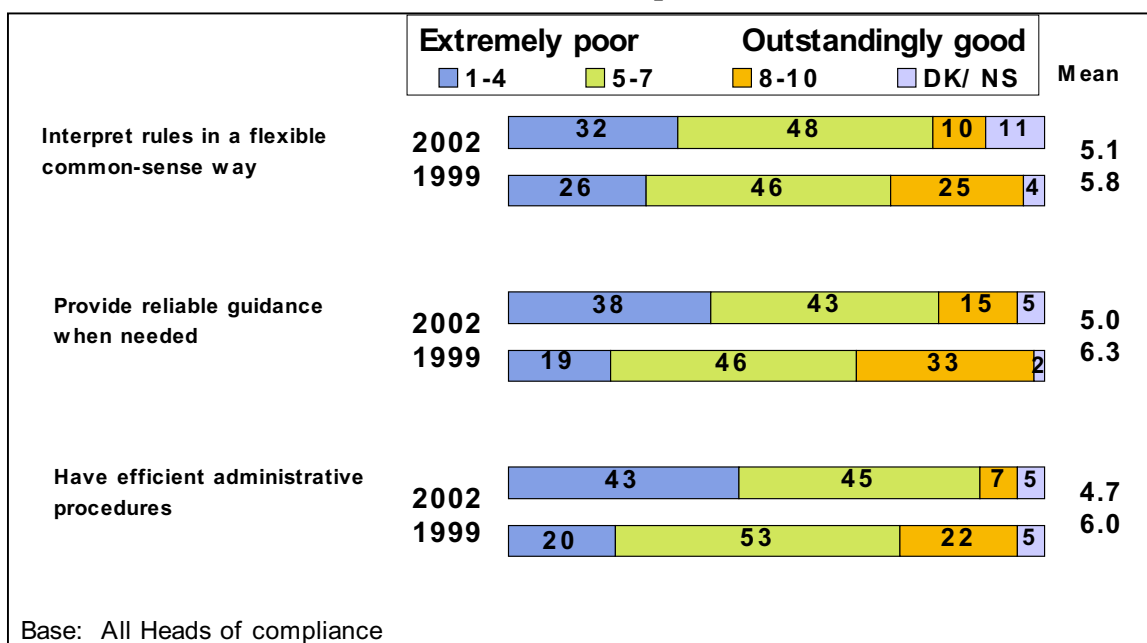


Chart 3.10: Performance of FSA – Heads of compliance 4



The aspect of the FSA’s performance which was most highly rated by heads of compliance, with a mean score of 6.8, was ‘Take a firm line with businesses which persistently break the rules’. However, as was the case for chief executives, perceived performance was lower than in the 1999 survey, when the mean score was 7.4. The next highest score was for ‘Listen to consumer views when deciding policies and procedures’ (included for the first time in 2002) which had a mean score of 6.5.

The aspects which were given the lowest ratings by heads of compliance were ‘Provide reliable guidance when needed’ (mean score of 5.0), and ‘Have efficient administrative procedures’ (mean score of 4.7). As with chief executives, these aspects saw the greatest fall in mean score compared with the 1999 survey, with a drop of 1.3 points in each case.

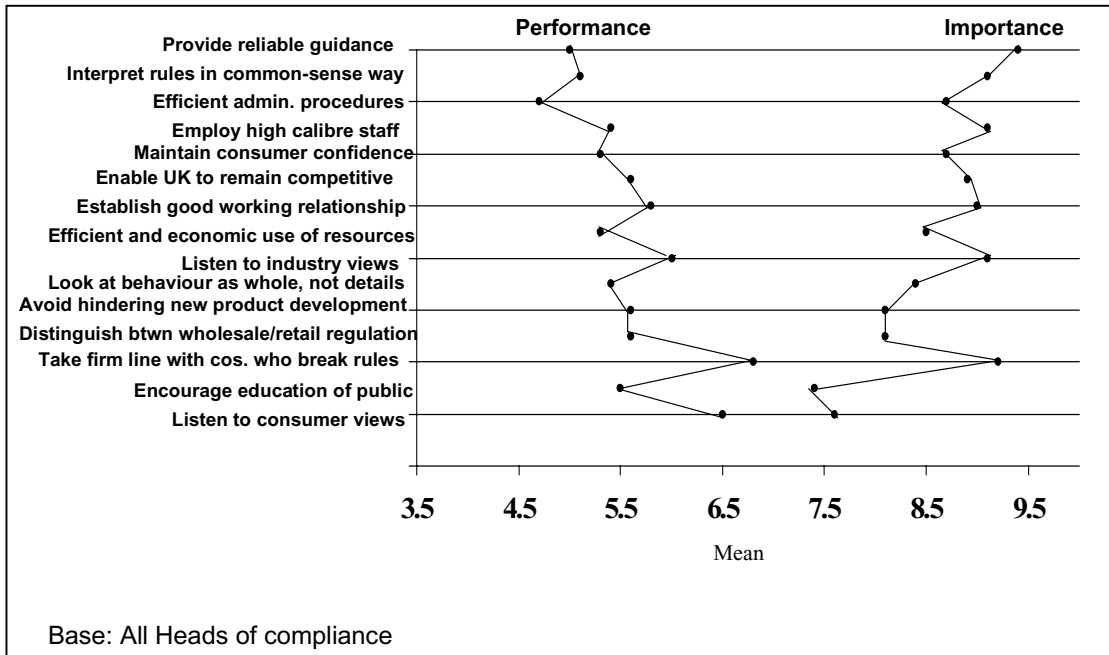
Building societies, friendly societies, retail/ personal banks and general insurance firms tended to give the FSA the highest ratings, and IFAs and firms with life and pensions business tended to give the lowest ratings. This was a similar pattern to that observed for chief executives.

Compared with the 1999 survey, all except one aspect of performance saw a decrease in mean score, of between 0.3 and 1.3. The exception was ‘Encourage the education of the public about financial products and services’, with an increase in mean score from 5.1 to 5.5. Again, this mirrored the results for chief executives.

The gaps between importance and performance scores also followed the same pattern as chief executives, with the largest gaps – and therefore the highest priority areas for

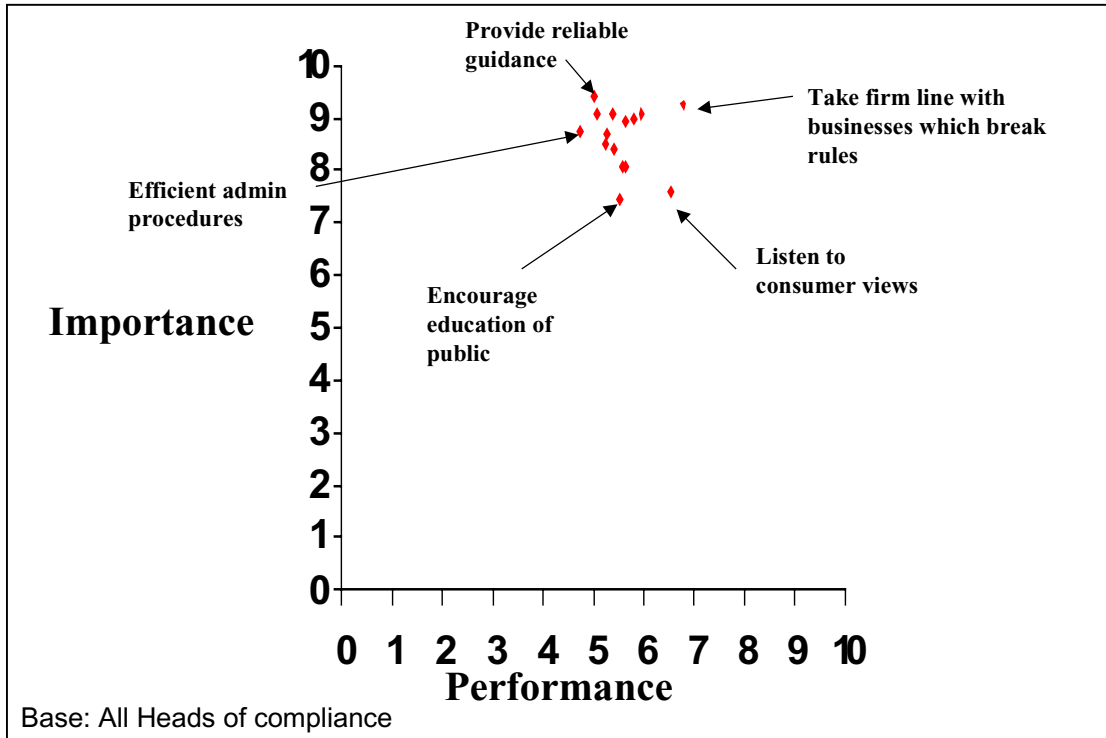
improvement - again being ‘provide reliable guidance when needed’, ‘interpret rules in a common-sense way’ and ‘have efficient administrative procedures’.

Chart 3.11: Importance vs performance Heads of compliance 1



When mean scores for both importance and performance are plotted onto a quadrant to show the relative dispersion of the aspects, we again see a similar picture to that for chief executives, indicating that ‘provide reliable guidance when needed’ is the key area of concern for all practitioners.

Chart 3.12: Importance vs performance Heads of compliance 2



3.3 Smaller organisations

The performance scores given to the FSA by practitioners in smaller organisations were lower in most instances than the ratings given by other practitioners, with mean performance scores ranging between 4.3 and 6.3. The overall mean was 4.9, compared with 5.4 for chief executives and 5.6 for heads of compliance.

Chart 3.13: Performance of FSA – Smaller organisations 1

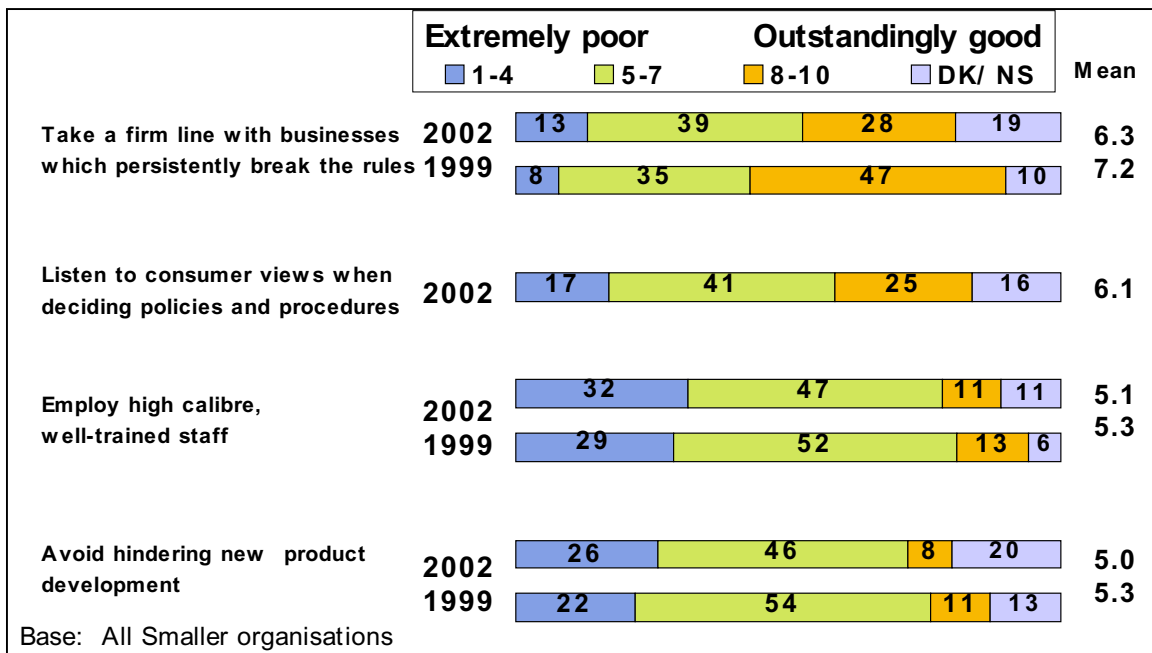


Chart 3.14: Performance of FSA – Smaller organisations 2

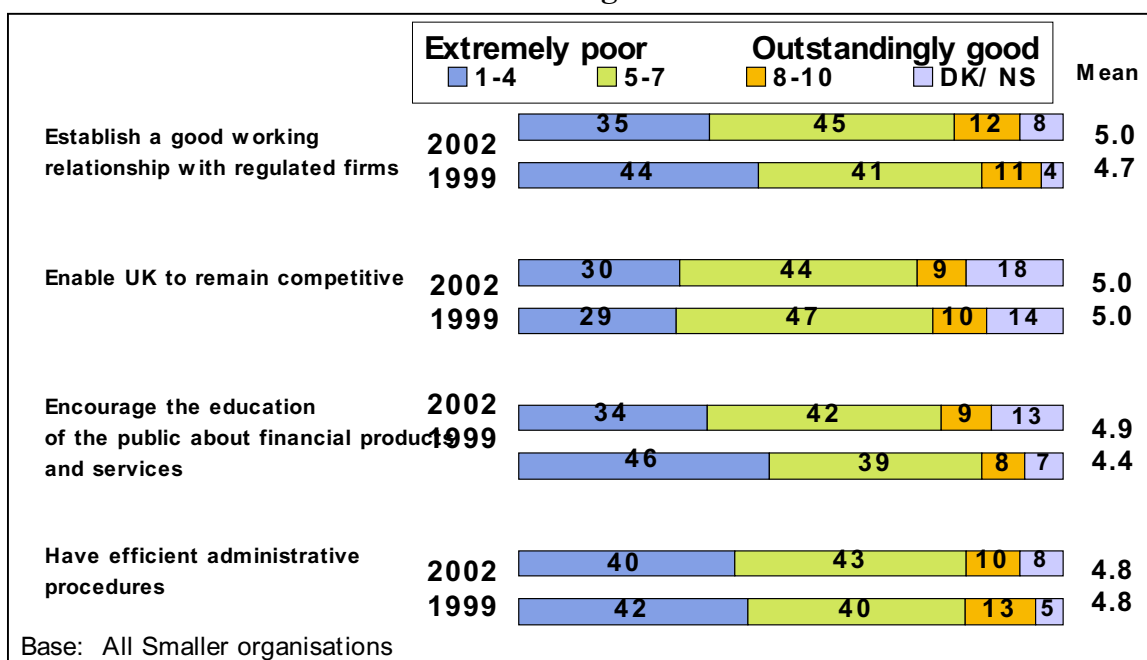


Chart 3.15: Performance of FSA – Smaller organisations 3

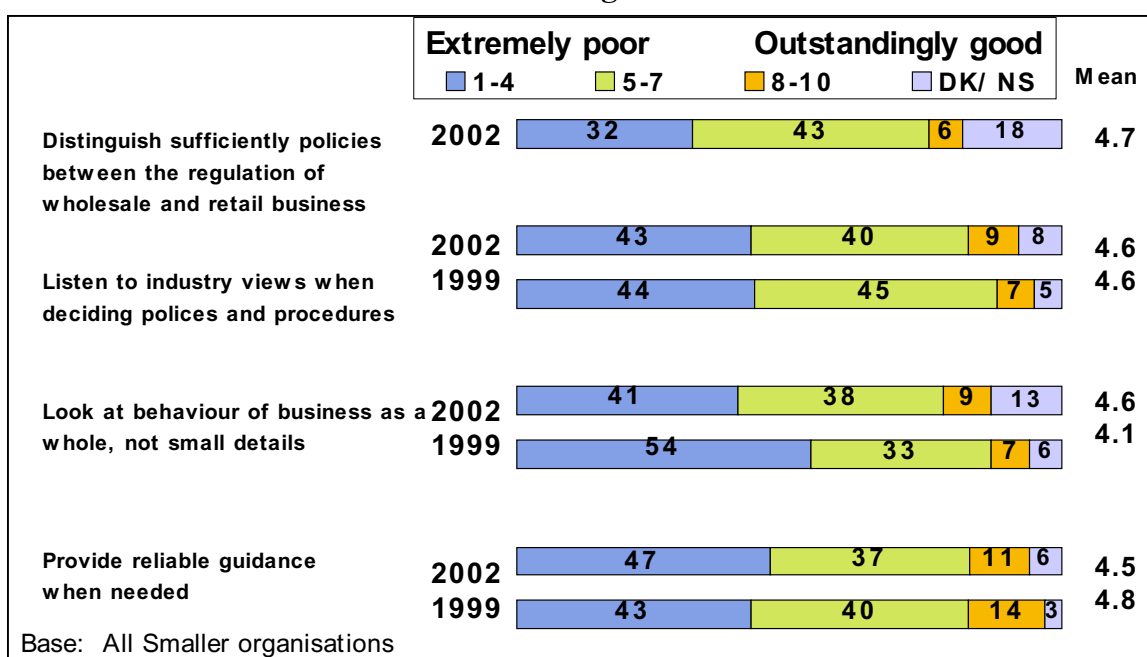
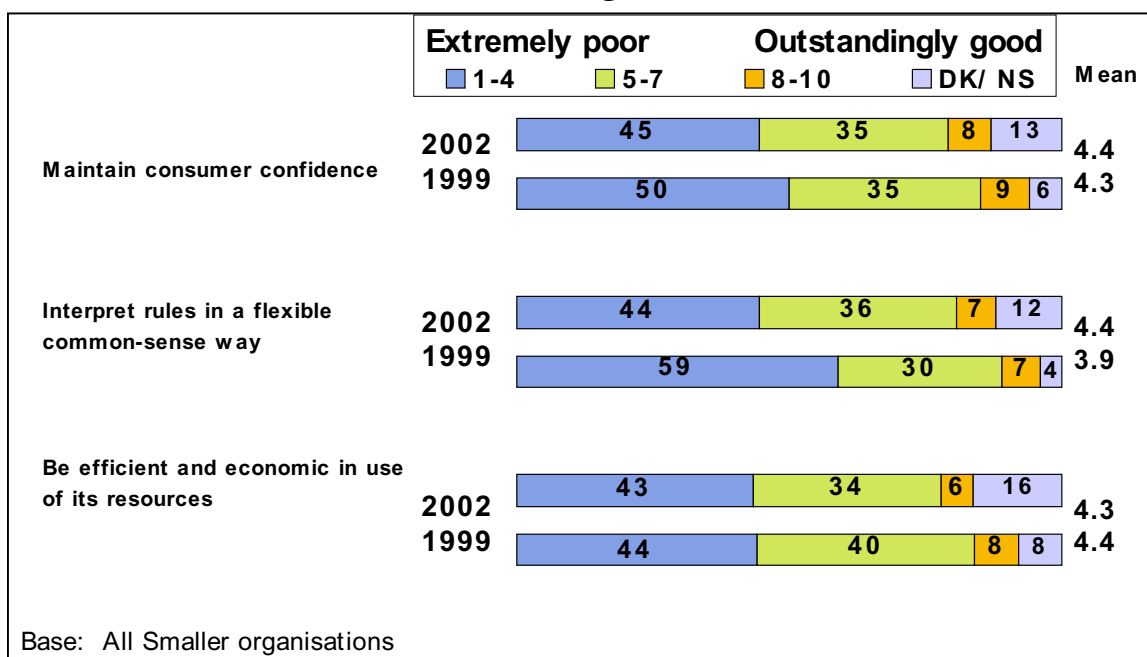


Chart 3.16: Performance of FSA – Smaller organisations 4



The two aspects most highly rated by smaller organisations were the same as for chief executives and heads of compliance. ‘Take a firm line with businesses which persistently break the rules’ had a mean score of 6.3, but as was the case for other practitioners, this was a decrease in perceived performance compared to the 1999 survey when the mean score was 7.2. The new aspect ‘Listen to consumer views when deciding policies and procedures’ had a mean score of 6.1.

The aspects which were given the lowest ratings by smaller organisations were different from those given the lowest ratings by other practitioners. They were ‘Maintain consumer confidence in financial products and services’ with a mean score of 4.4, ‘Interpret rules in a flexible and common-sense way’ also with a mean score of 4.4, and ‘Be efficient and economic in use of its resources’, with a mean score of 4.3. Among smaller organisations, IFAs and firms with life and pensions business tended to give the lowest ratings.

Compared to the 1999 survey, three aspects saw an improvement in terms of average performance ratings, with an increase in mean score of around 0.5 (‘Encourage the education of the public’, ‘Look at the behaviour of the business as a whole, rather than focussing on small details’ and ‘Interpret rules in a flexible ‘common-sense’ way’). Four aspects saw a decrease of between 0.9 and 0.3 in terms of mean score (‘Take a firm line with businesses which persistently break the rules’, ‘Avoid hindering the development of new financial products and services’, ‘Establish a good working relationship with regulated firms’ and Provide reliable guidance when needed’). The rating of the other aspects remained largely unchanged.

This pattern was again different from the results for chief executives and heads of compliance, where only 'Encourage the education of the public' showed any improvement in performance rating, compared with 1999. One possible explanation for this difference is that, in 1999, two-thirds of smaller organisations (compared with between a quarter and a third of the other practitioner groups) had the Personal Investment Authority (PIA) as their regulator. In the 1999 survey, PIA stood out as having lower performance ratings than all other regulators at the time, on 12 of the 13 criteria about which practitioners were asked to judge their regulator.

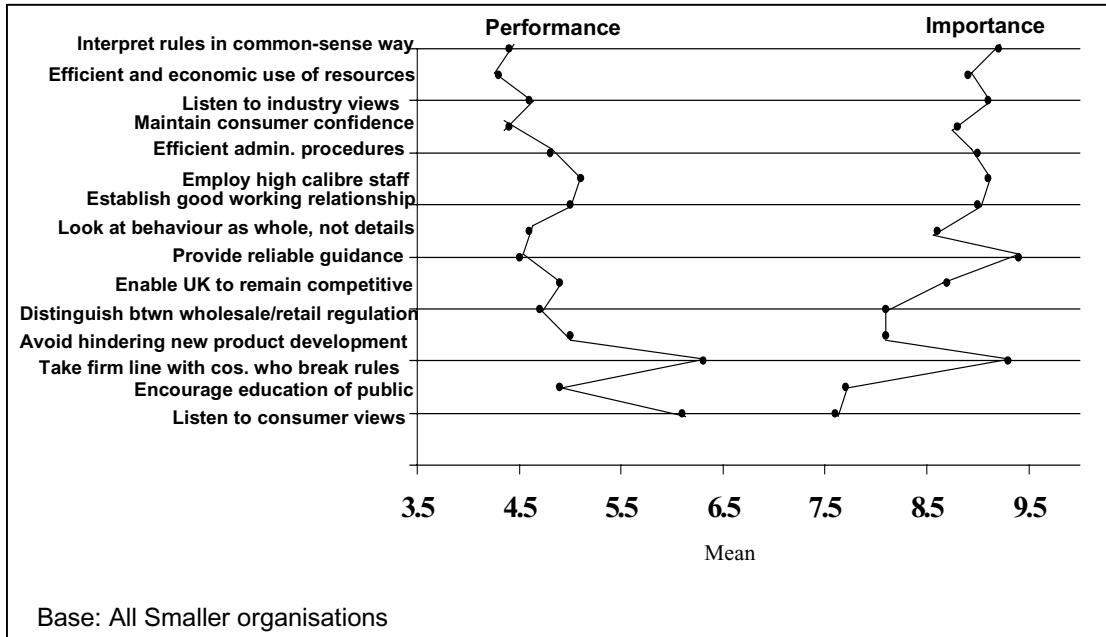
In spite of the improved scores in some areas, smaller organisations were still more negative overall in their perceptions of the FSA's performance than the other practitioner groups, as were their counterparts in the 1999 survey.

The relative distance between what is most important to smaller organisations and how the FSA performs can be seen by plotting the mean scores for both importance and performance on the same chart.

For smaller organisations, the largest gaps between importance and performance were for 'Interpret rules in a flexible common-sense way' 'Listen to industry views when deciding policies and procedures' and 'Be efficient and economic in use of its resources'. Mean scores for importance were around 9 but the mean scores in terms of perceived performance were around 4.5. Again, smaller organisations differ from chief executives and compliance heads, for whom the largest gaps were for 'Interpret rules in a flexible common-sense way', 'Provide reliable guidance when needed' and 'Have efficient administrative procedures'.

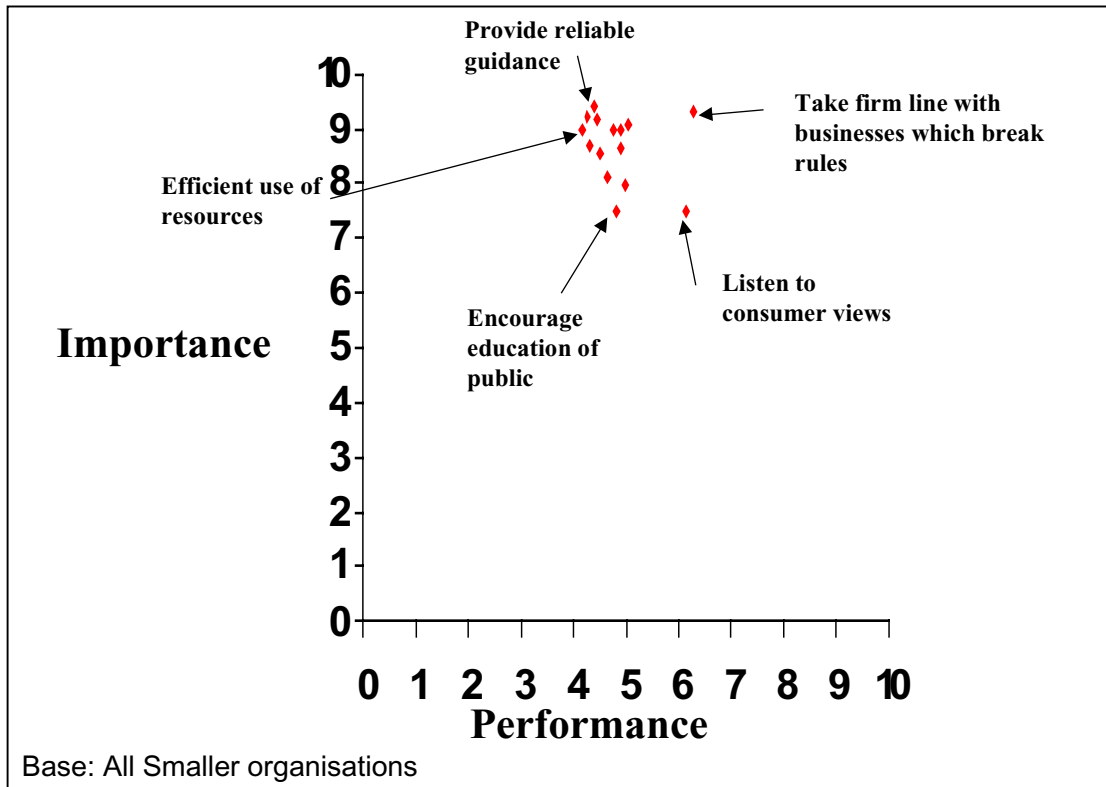
However, the smallest gaps between mean scores for importance and perceived performance were the same as for other practitioner groups: 'Take a firm line with businesses which persistently break the rules', 'Encourage the education of the public about financial products and services' and 'Listen to consumer views when deciding policies and procedures', although the gaps themselves were wider, at around 2-3 points.

Chart 3.17: Importance vs performance Smaller organisations 1



As for chief executives and heads of compliance, mean scores for both importance and performance can be plotted onto a quadrant to show the relative dispersion of the aspects.

Chart 3.18: Importance vs performance Smaller organisations 2



The outliers from the cluster are very similar to the outliers for chief executives and heads of compliance.

For smaller organisations, the aspects of most concern to practitioners were 'Provide reliable guidance when needed' and 'Be efficient and economic in use of its resources', both of which had relatively low performance, but were of high importance.

4. CONSULTATION PROCEDURES

4.1. Attitudes towards consultation procedures

In spite of numerous complaints about receiving mountains of paper, all of the practitioners interviewed in the **qualitative study** felt that the consultation process had been a good idea. It had shown that the FSA was willing to communicate with firms. Although some people had found the papers badly structured, the majority of practitioners commented that the documents had been to the point. Their criticism was that they had often been too long and that there were too many of them to read during the course of running a business. Sometimes, indeed, it had been difficult for businesses to respond to the consultation papers as they had other things to do, and smaller firms in particular simply had not had the time.

“I question...how many people do read them...As an IFA I have never actually responded to any consultation paper.”

CEO/IFA

“We don’t, or at least we rarely do it in time, because we don’t have the time.”

HOC/Brokers

“Completely overwhelmed!...There’s never enough time to consider FSA consultation documents.”

CEO/Exchange

Although some people at the qualitative stage did not really know whether the FSA had taken account of their or their sector’s views during consultation, many felt that the FSA had made some changes to what they had originally proposed as a result of consultation with practitioners, although not on all matters.

“Yes, it does work reasonably well. I have seen on a number of occasions that there’s been fairly significant changes between what was in the consultation paper and what was in the final version.”

HOC/Friendly Society

“Yes, we’ve won the market abuse argument.”

CEO/Exchange

Others believed that the FSA had made up their mind in advance and had not been open to arguments for change.

“There was an impression that I was left with... we’ve already made up our mind what is going to happen, even though the industry is saying there are issues here.”

Partner/Lawyers

“I suspect that they listen less...They just won’t listen to the industry about.... derivatives.”

HOC/Brokers

Overall, consultation had left good residual feelings among practitioners towards the FSA, suggesting that they were open and willing to listen.

“The people that work at the FSA, they’re pretty good listeners”
CEO/Retail bank

“There are signs that the FSA senior people are certainly prepared to come and speak to the industry. They’re doing a good job coming out and trying to communicate.”

HOC/Insurance

People had communicated their business’s views to the FSA by various means. Some had done so directly, either face to face, or by telephone, letters or e-mail. They all had named contacts for day-to-day or wider ranging issues. Smaller firms, not surprisingly, had less personal contact with the FSA.

“I don’t. You fill in the forms. Other than specific enquiries.”

CEO/Accountants

Chief executives and compliance heads of large institutions networked through the higher echelons at the FSA.

“I have a pretty good network of people down at the FSA that I know and they know me. So they bounce things off me.”

HOC/Asset Management

"I will speak to x and y and discuss it ...Knowing who to talk to. In the City it's done through the networks."

CEO/Exchange

Indeed, most people felt that they did have a good dialogue with their FSA team, except when it came to the problems on guidance.

Many also communicated their views through their trade associations or professional bodies who appeared to have been active in lobbying the FSA during the consultation period on their sector's behalf, since they had the time to do so. In any case, there was felt to be more power in the large numbers of practitioners represented by the trade associations or professional bodies.

"IFAs are using trade organisations to represent their views."

CEO/IFA

"Our trade body, LIBA are good at it, picking on the consultation papers... LIBA circulates it and I sit on their committee."

HOC/Asset Management

Quite a number of people had attended conferences about the new proposals and had found them useful. This was in direct contrast to practitioners' expectations in 1999 before consultation started.

"Conferences, generally speaking pretty good."

HOC/Asset Management

"I've been to one of them but I have people who have been to them. I think they've been effective... They're a good process."

CEO/Insurance

Some, particularly heads of compliance, had looked at the FSA web site and had found this useful, especially for downloading consultation documents.

"Put it on the web. The only problem that one hundred pages is a lot to download!"

CEO/Accountants

“I download the consultation documents”

HOC/Asset Management

Each method of communication was found useful, depending on the type of issues that were being raised.

“They’re all effective for their particular purposes. The web site’s good for documentary material. The conversations with the individuals are very good for that broader picture.”

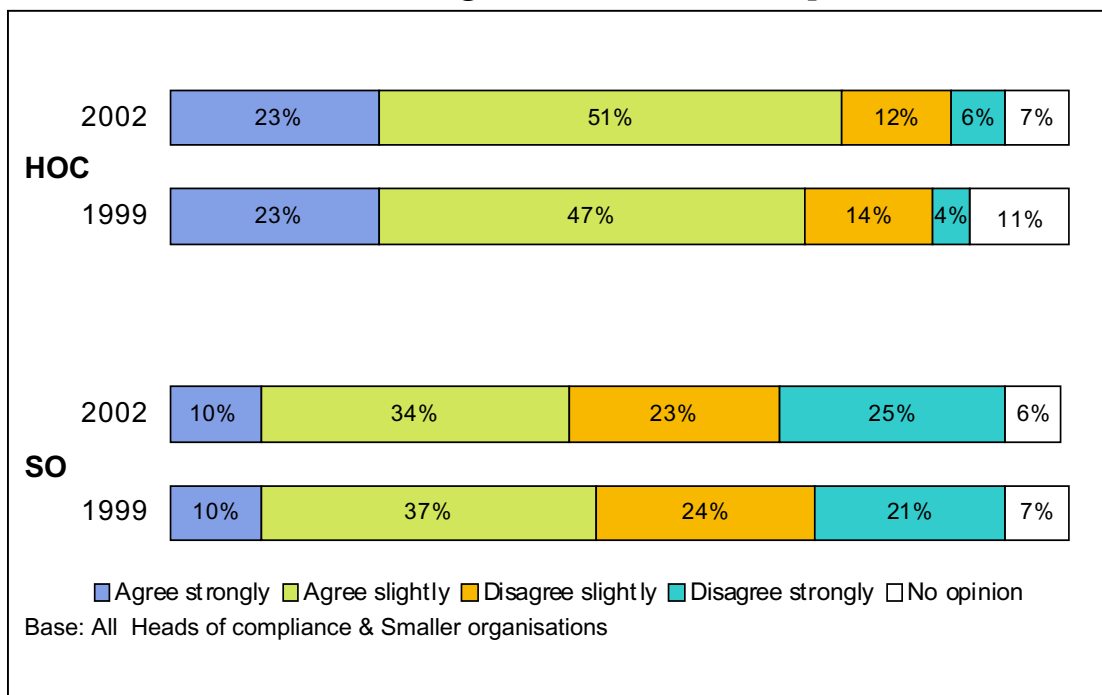
HOC/Insurance

Thus, overall, the consultation methods were felt to be effective and no one could suggest any alternative methods for the future. It should be pointed out here that practitioners hoped that consultation would continue in the future, but at a somewhat less hectic pace!

In the **quantitative survey**, compliance heads and smaller organisations were asked their views on a number of aspects of the FSA’s consultation procedures; the effort made to consult those in industry; the feedback of results from consultation exercises; the extent to which industry views were taken into account; the length of consultation papers; the time needed to respond; and the explanation of reasons behind policy decisions following consultation. All but the last of these were also measured on the 1999 survey.

In most cases, heads of compliance were much more positive than smaller organisations about the effectiveness of the consultation process. The exceptions were the two statements about the size of consultation papers and the time taken to respond to them. In these cases, as suggested by the qualitative results, the vast majority of practitioners said that papers needed to be more concise and their businesses did not have sufficient time to respond to them. These proportions have risen since 1999. The only other change of attitude in this time is an increase in the proportion of firms agreeing they get sufficient feedback following consultation exercises. These results are given in more detail below.

Chart 4.1: “The FSA is making a lot of effort to consult practitioners”

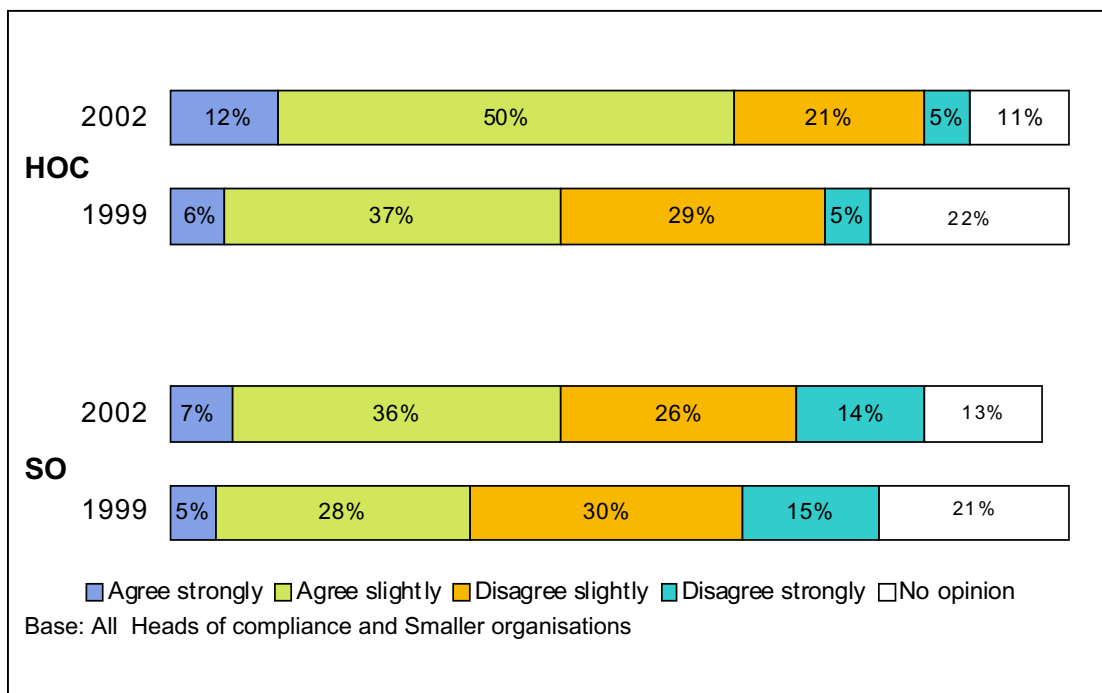


Three quarters of heads of compliance agreed that the FSA made a lot of effort to consult practitioners, with around one in five disagreeing. Smaller organisations were about as likely to disagree with this statement as to agree with it – 44% agreed, 48% disagreed.

The highest levels of agreement were seen among retail/ personal banks of all sizes, and heads of compliance in insurance companies. IFAs were most likely to disagree that the FSA made a lot of effort to consult practitioners.

Overall levels of agreement were very similar to those seen in the 1999 survey.

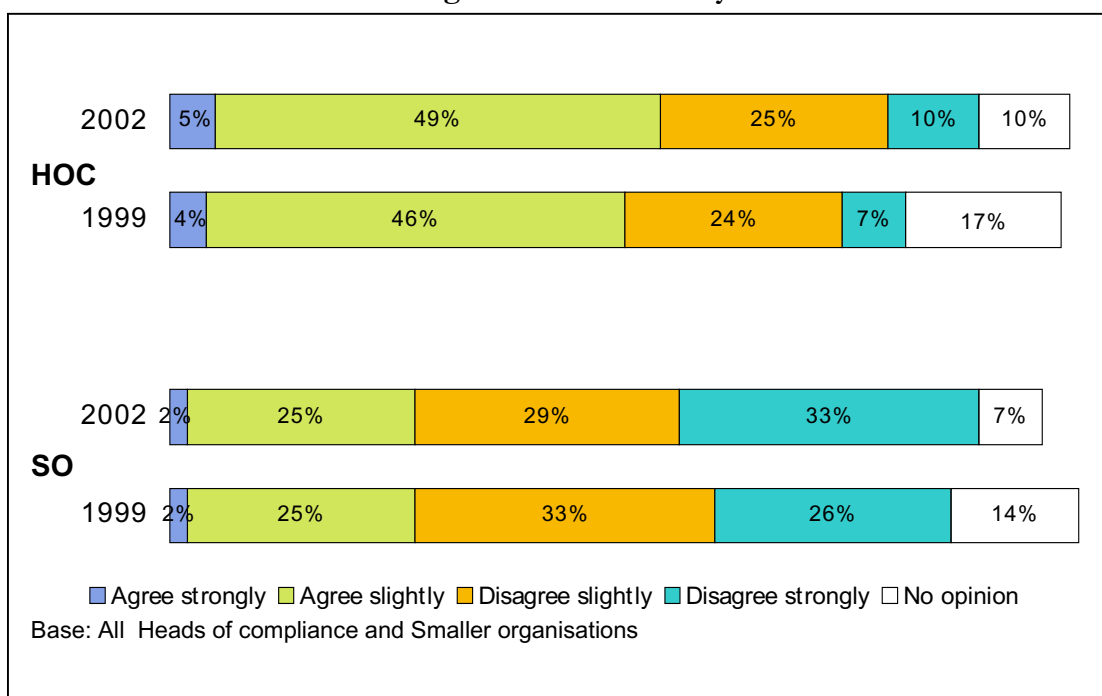
Chart 4.2: “There has been sufficient feedback of the results of consultation exercises”



The majority of heads of compliance thought there was sufficient feedback on the results of consultation exercises, although one in four disagreed. Smaller organisations were again less positive than compliance heads, being about as likely to disagree as to agree this was the case. IFAs and legal firms were least likely to agree there had been sufficient feedback.

Practitioners were more positive about receiving sufficient feedback than was the case in 1999 – an increase of one in five compliance heads and one in ten smaller firms. The proportions who disagreed had fallen, but not by as much, with the remainder of the difference being made up by more firms being able to express an opinion in 2002.

Chart 4.3: “The FSA is taking account of industry views”

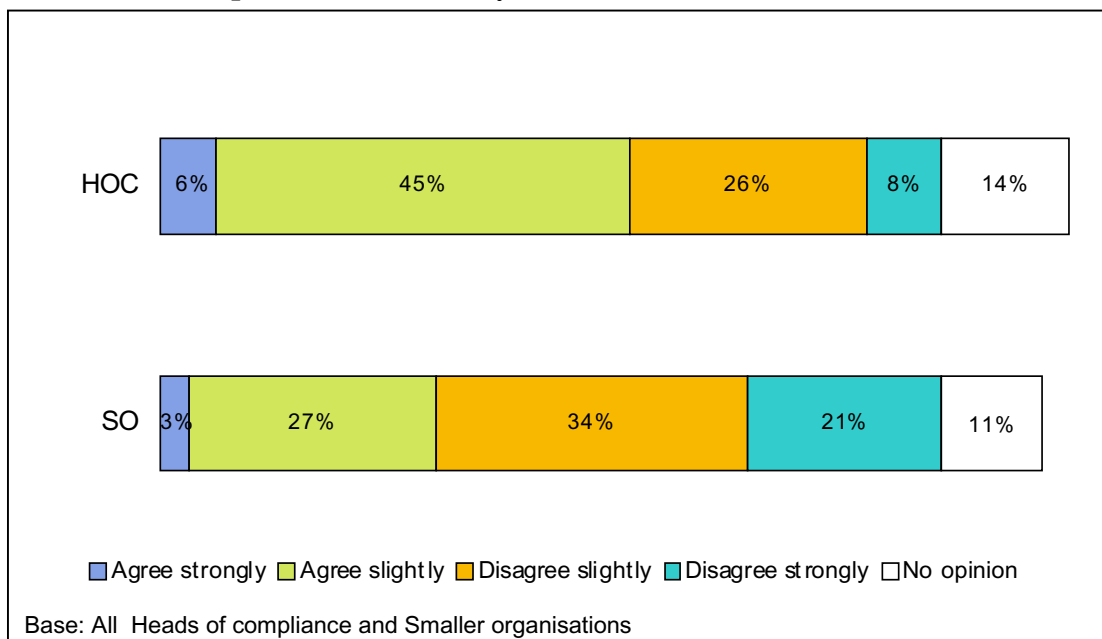


Heads of compliance were again more likely than smaller organisations to agree that the FSA took account of industry views – half agreed and a third disagreed - whereas over six in ten smaller organisations disagreed.

Higher levels of agreement were seen among retail/ personal banks, investment management and securities and derivatives businesses. There was more disagreement from IFAs and firms with life and pensions business.

As with the previous statement, a higher proportion of firms felt able to give an opinion in 2002; in this case, this resulted in higher levels of disagreement with this statement, with agreement remaining at its original level.

Chart 4.4: “Reasons for policy decisions following consultation have been explained satisfactorily”

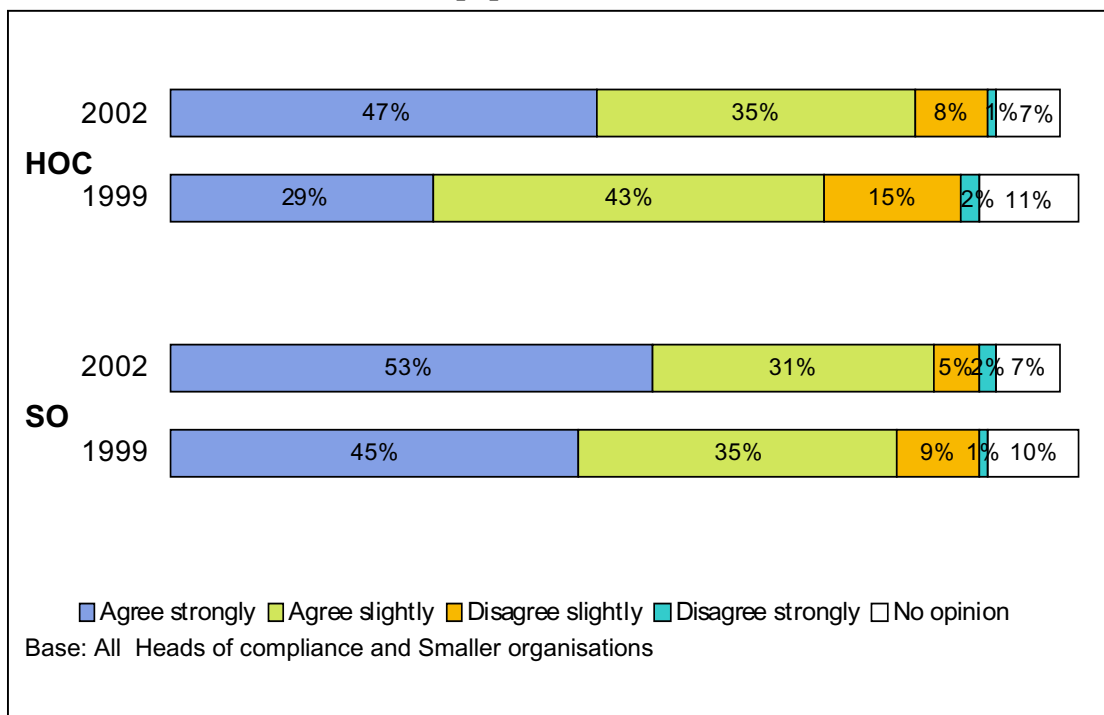


Half of compliance heads agreed that reasons behind policy decisions following consultation were explained properly, with a third disagreeing. For smaller organisations the reverse was true, with just over half disagreeing with this statement (21% disagreeing strongly), and less than a third agreeing.

Agreement was higher than average among practitioners in investment management companies, and lowest among IFAs and smaller firms with life and pensions business.

This question was not asked in the 1999 survey.

Chart 4.5: “FSA consultation papers should be more concise”

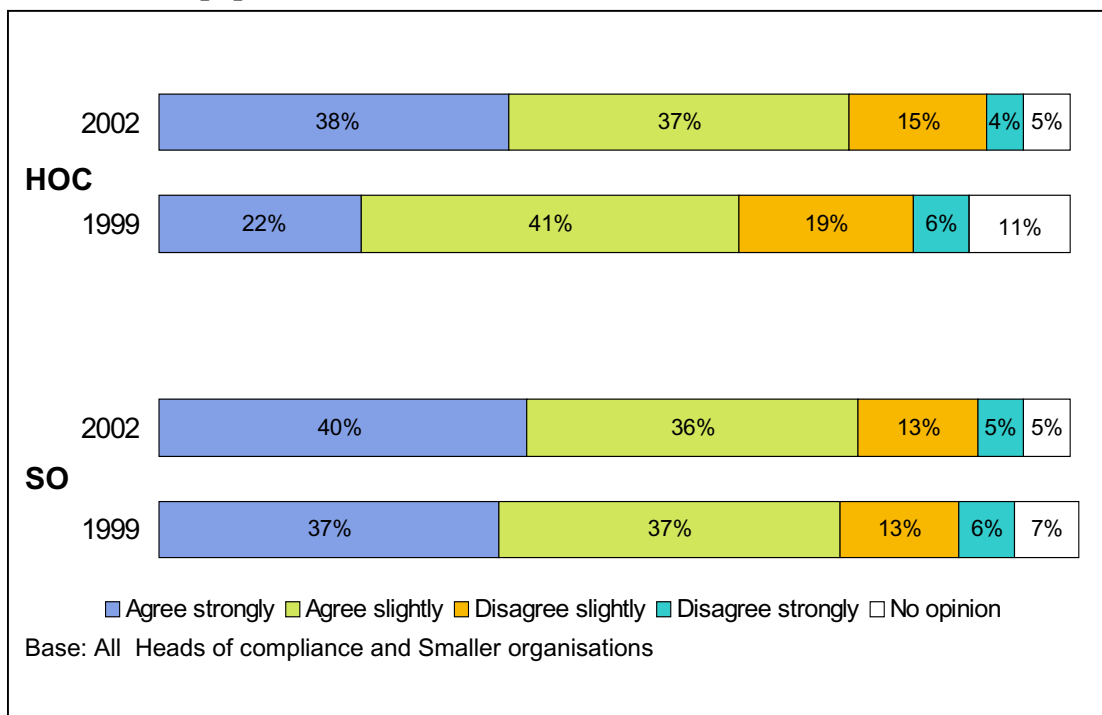


The majority of practitioners thought that FSA consultation papers should be more concise; half agreed strongly that this was the case, and a further third agreed slightly (83% of each group in total).

Practitioners from IFAs and firms with life and pensions business were most likely to agree strongly with this, and retail/ personal banks and smaller corporate/ investment banks were least likely to do so (although the majority in each case still thought papers should be more concise).

Compared with the 1999 survey, practitioners were generally more likely to agree, and in particular to agree strongly, that FSA consultation papers should be shorter.

Chart 4.6: “Your business does not have time to respond to FSA consultation papers”



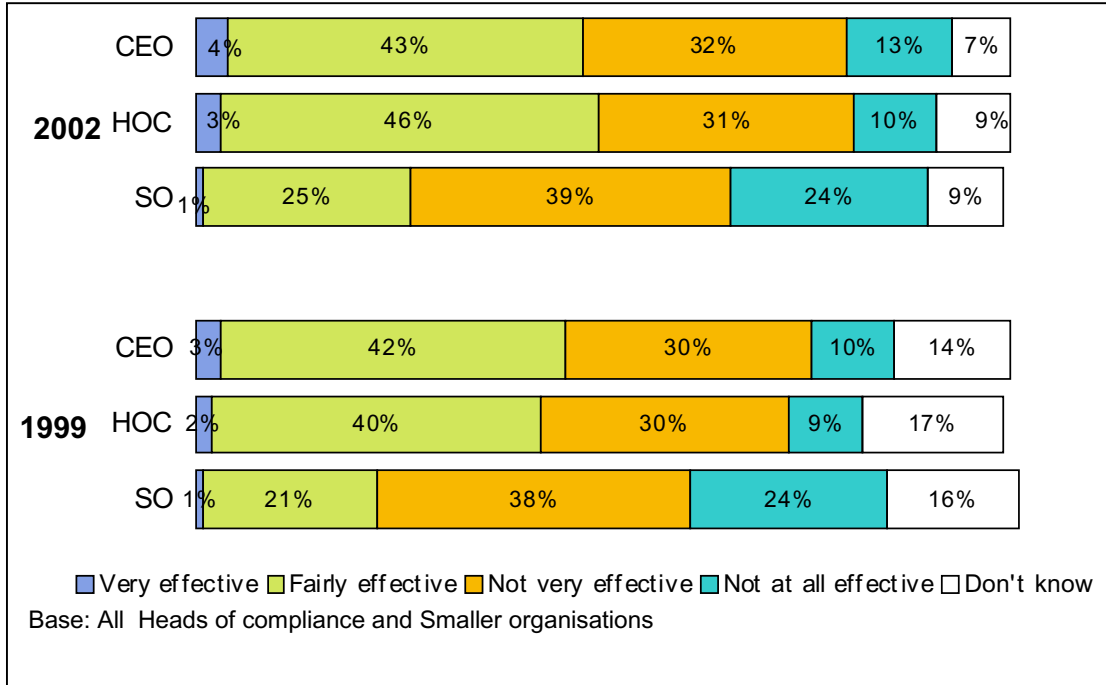
High proportions of practitioners also felt their business did not have time to respond to consultation papers. Three quarters agreed this was the case, with about half of those agreeing doing so strongly. IFAs were the most likely to agree that they did not have time to respond.

Compared with the 1999 results, agreement with this statement has risen among compliance heads to reach the same level as for smaller organisations, while the latter has remained at a similarly high level in each year. This change probably reflects the large number of consultation papers that firms have received over the last three years.

4.2. Effectiveness of consultation process

All practitioners, including chief executives, were asked how effective they felt the FSA consultation process had been as a way of collecting their business's views.

Chart 4.7: Effectiveness of consultation process in collecting business's views



For chief executives, opinion was divided, with 46% saying the process had been effective and 45% saying it had not been effective. Heads of compliance were slightly more positive, with 49% saying it had been effective against 41% saying it had not. In line with the results seen on the attitude statements, smaller organisations were much less positive, being over twice as likely to say the process was not effective (62%) as to say it was effective (27%) – one in four said it had not been effective at all.

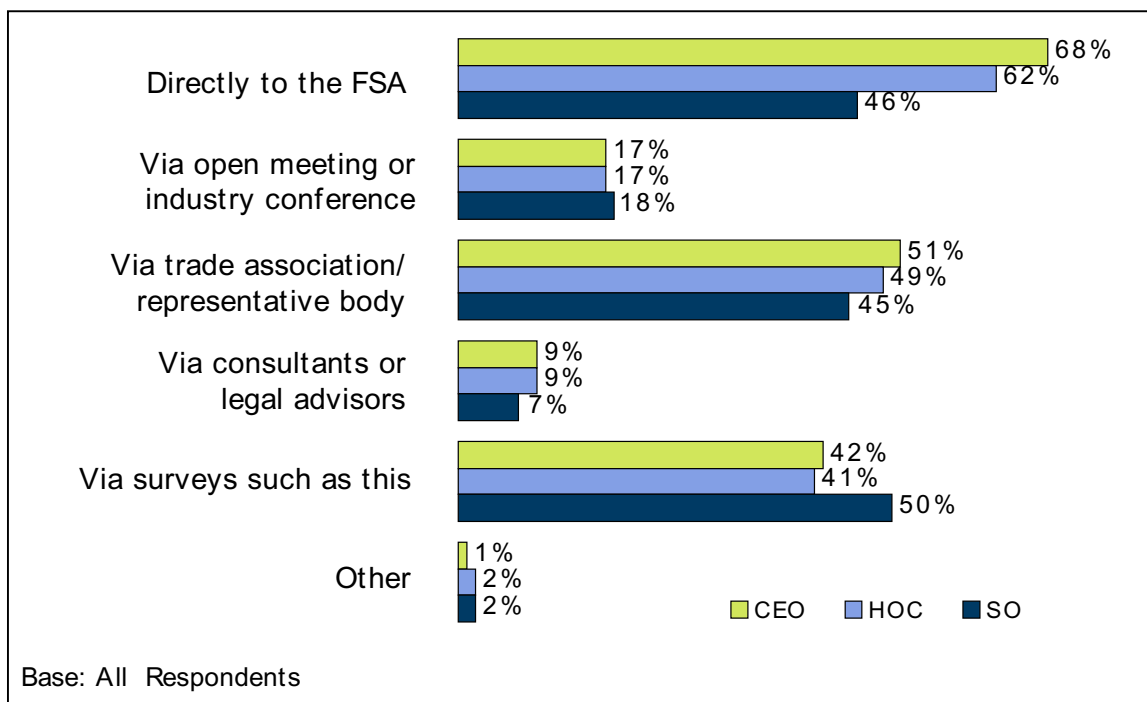
Practitioners in retail/ personal banks were more likely than average to consider the process effective, whereas IFAs were more likely than average to say it was not effective. Heads of compliance in general insurance companies and chief executives in firms with life and pensions business were also particularly likely to say that this was the case.

The major shift in response since 1999 was an understandable decrease in the proportions saying they didn't know how effective the process (at that time quite new) had been. For chief executives and smaller organisations, this has meant roughly equal increases in the proportions believing the process to be effective and ineffective. For heads of compliance, there has been a net increase in the proportion saying the process is effective (from 42% to 49%), mainly in terms of those saying it is fairly effective.

4.3. Preferred method of communication to FSA

Finally in this sequence of questions on consultation, practitioners were presented with a list of methods of communication and asked to say which they would prefer to use in communicating their business's views to the FSA. More than one option could be selected, including an "other" category.

Chart 4.8: Preferred method of communicating business's views to FSA – 2002



Chief executives and heads of compliance preferred to communicate directly to the FSA, with at least six in ten choosing this option. The second most popular choice for these practitioners was via trade associations or representative bodies, chosen by half of each group. Their third choice was "via surveys such as this"; this latter option was the first choice for smaller organisations, being slightly more popular than direct communication and communication via trade associations/ representative bodies for these businesses.

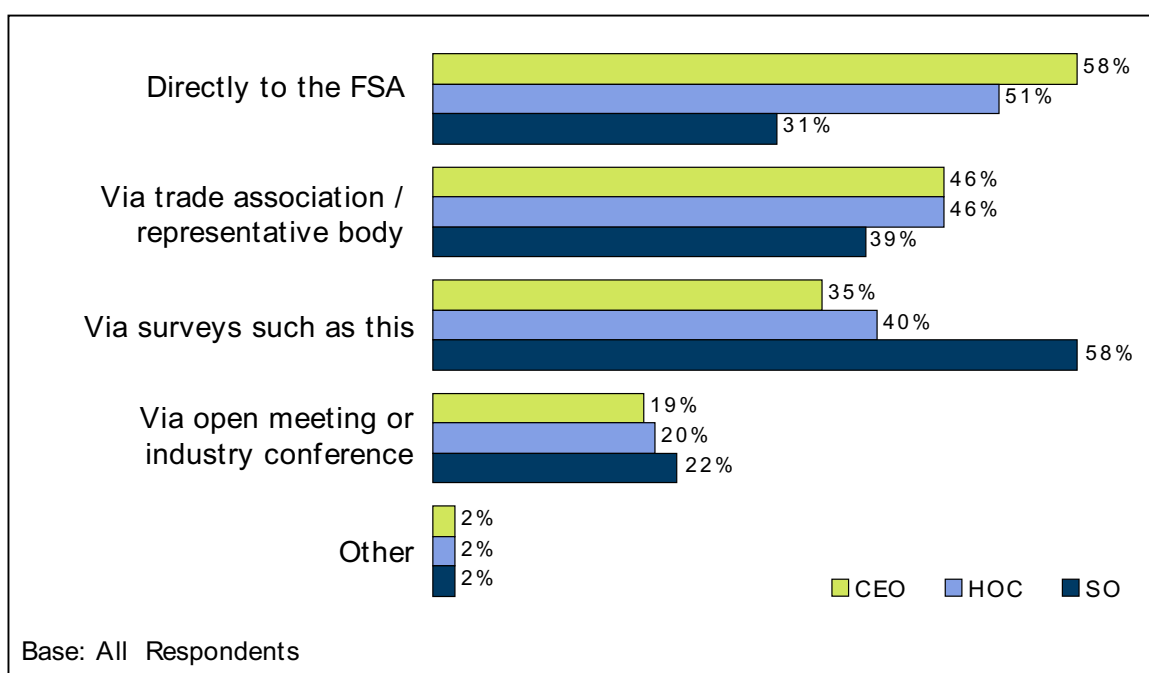
For firms of all sizes, these three communication routes were all more likely to be preferred than open meetings/ industry conferences (around one in five of practitioners in each group said they preferred this method) or via consultants or legal advisers (only around one in ten preferred this). A small number said they would prefer a route different from all those indicated above.

We can compare these results to those from 1999, in which the same question was asked but without the answer category "via consultants or legal advisers". Since the proportion choosing the "other" code was no higher in 1999, and since the majority of the results are

consistent for the two surveys, we can assume this has had little effect on the comparability of the remaining results.

The most notable change since 1999 is an increase among all types of practitioner group in the proportion expressing a preference for direct communication with the FSA, an increase of at least 10% in each case. This has not affected preference for the other routes to any major degree, with the exception of “via surveys”. Preference for this method among smaller organisations has dropped from 58% to 50%, although it is still their first choice; it is unchanged for heads of compliance, and has increased slightly for chief executives.

Chart 4.9: Preferred method of communicating business’s views to FSA – 1999



5. PROVISION OF GUIDANCE

5.1. Experience of seeking guidance from the FSA

Many practitioners at the **qualitative stage** had experienced considerable problems when seeking guidance. In this respect, many of those interviewed complained that it was very difficult or took too long to obtain guidance from the FSA on a range of issues which varied from interpretation of certain rules, to guidance on new products that a company was offering, or what to include in new brochures or stationery. This had caused problems for these practitioners and had held up their businesses.

“One of the main clearing banks told me last year that they had tried and tried for three months to get somebody to get back to them from the FSA on a query...The FSA will not give people a steer...It’s very, very frustrating for the firms themselves.”

Partner/Lawyers

“It is very, very difficult to actually get a definition of what is breaching or breaking a rule.”

CEO/IFA

“It used to be very good, the staff at the SFA. They’re still learning themselves but for the last year it’s been almost impossible to get any form of guidance from the FSA about what was and wasn’t acceptable or about how to apply the rules....The response time has become protracted almost to the detriment of the business, because you can’t get any definitive ruling.”

CEO/Brokers

Some also complained that the FSA expected firms to produce information very quickly but were themselves slow to reply or act.

“They impose tight deadlines on us but they miss deadlines.”

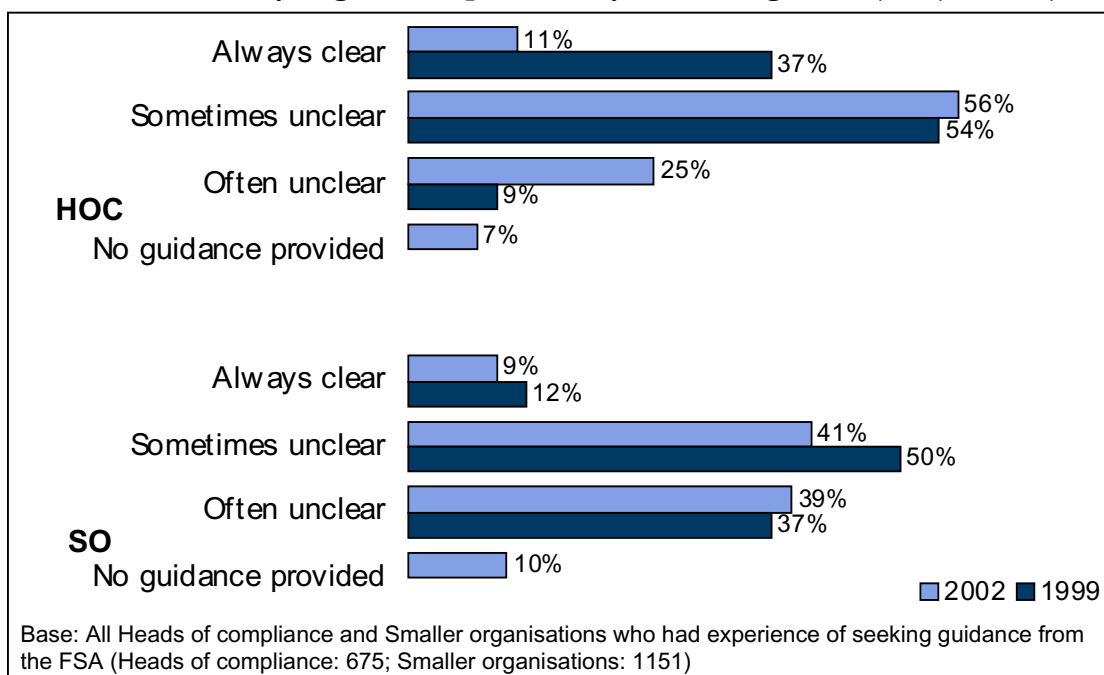
HOC/Investment bank

At the **quantitative stage**, compliance heads and smaller organisations were asked if they had sought guidance on rules and regulatory policy from the FSA: 68% of compliance

heads and 59% of smaller organisations had done so, compared with 85% and 72% respectively who had sought guidance from their regulator in 1999. Experience of seeking guidance was more prevalent among corporate/ investment banks, and among smaller securities and derivatives firms; it was less prevalent among legal and accountancy firms, and among friendly societies.

Those who had experience of seeking guidance were asked to comment on the clarity and consistency of the guidance provided. It should be remembered that, in the 1999 survey, these questions were asked in terms of the firm’s current regulator, in most cases not the FSA at this time. This should be kept in mind when considering trend data.

Chart 5.1: Clarity of guidance provided by current regulator (1999)/ FSA (2002)



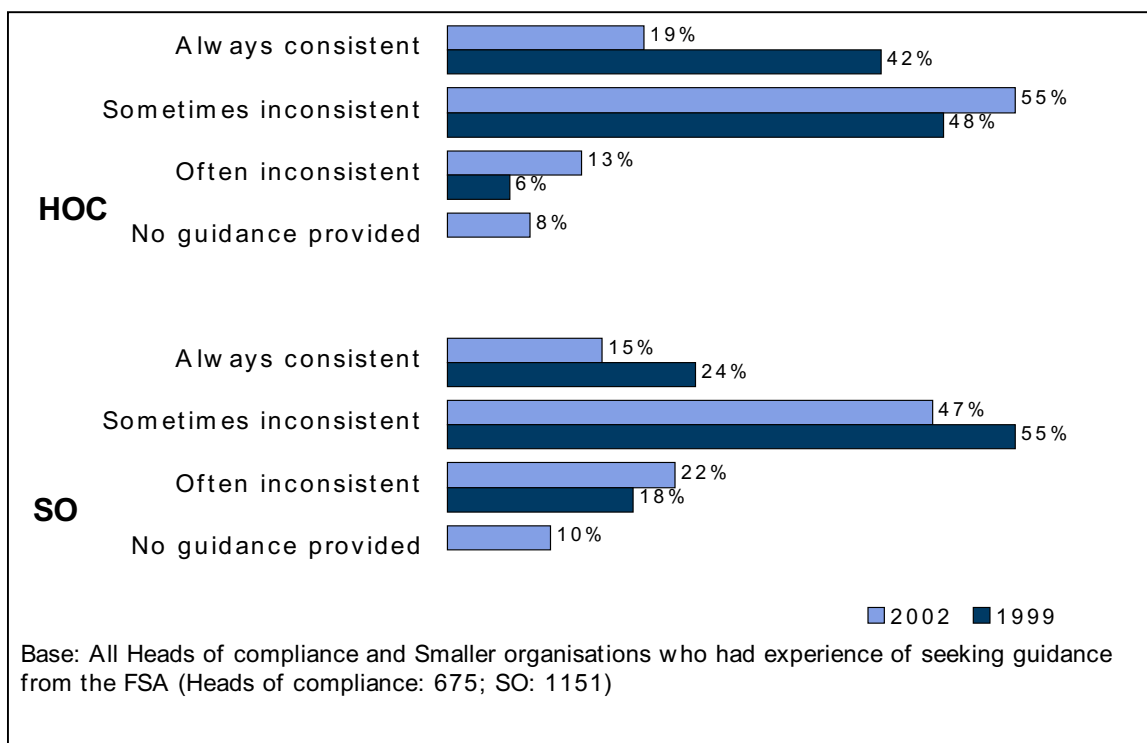
Only around one in ten of those who had sought guidance from the FSA said the guidance they received was “always clear”. Of the remainder, heads of compliance fared better than smaller organisations: for two in five smaller organisations, but only one in four compliance heads, such guidance was “often unclear”. Around one in ten of each group had not received any guidance at all in response to their request.

IFAs and smaller firms with life and pensions business were the most likely to say the guidance they received was “often unclear”.

The question asked in 1999 is not completely comparable, both because of the change in regulator already mentioned, and also because the “no guidance provided” answer was new in 2002. However, it is notable that the pattern of results for smaller organisations is

broadly similar for the two surveys (with a shift from the “sometimes unclear” category from 1999 into the “no guidance” result for 2002). The pattern for heads of compliance is different. It shows a large decrease in the proportion finding the information they received from their regulator to be “always clear”, from 37% in 1999 to just 11% of those seeking information from the FSA in 2002, with a corresponding increase in the proportion finding the guidance “often unclear”. This suggests that the change of regulator to the FSA has resulted in a perceived fall in the clarity of guidance given to larger organisations.

Chart 5.2: Consistency of guidance provided by current regulator (1999)/ FSA (2002)



The guidance received from the FSA was seen as inconsistent, at least on occasion, by around two thirds of practitioners. Only one in five heads of compliance and one in seven smaller organisations who had sought guidance said that the guidance they got was “always consistent”. Around half said it was “sometimes inconsistent”. Smaller organisations were almost twice as likely as heads of compliance to find such guidance “often inconsistent”.

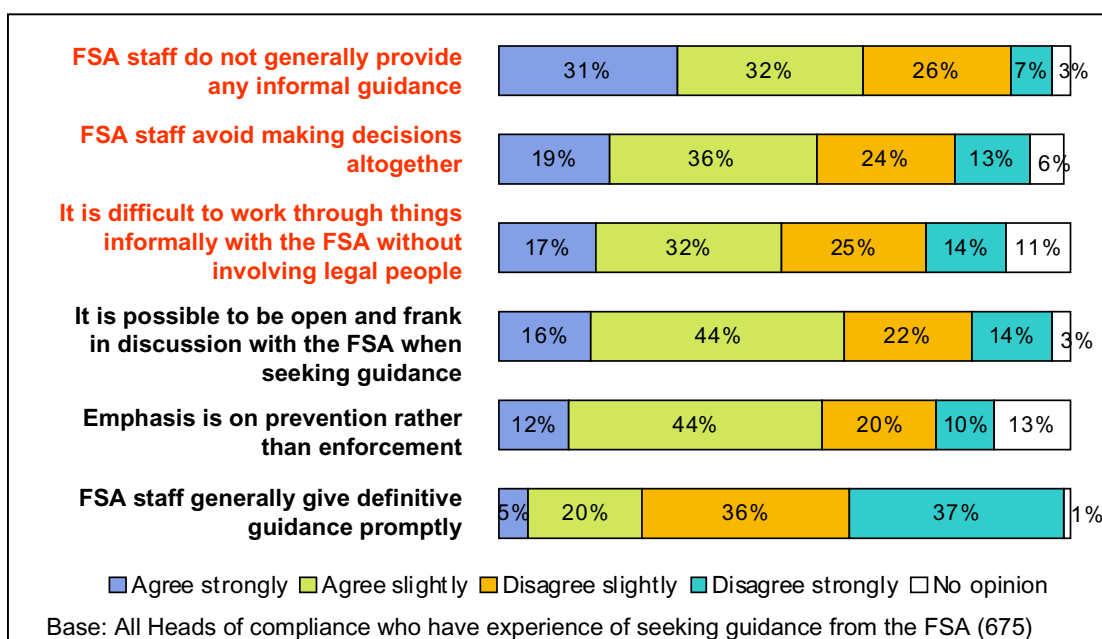
IFAs and smaller firms with life and pensions business were the most likely to say the information they received was “often inconsistent”.

As for the previous question, results are not exactly comparable to 1999. However, particularly for compliance heads, there is a definite shift away from saying that guidance provided by the regulator is “always consistent”. In particular, compliance heads were only

half as likely in 2002 to say guidance from the FSA was always consistent as they were to say this of their regulator in 1999. They were also twice as likely in 2002 to say guidance was “often inconsistent” as was the case in 1999.

A new question about guidance was asked in 2002. Heads of compliance and smaller organisations with experience of seeking guidance from the FSA were asked to indicate their levels of agreement with a series of statements about the guidance provided. Charts 5.3 and 5.4 give the results. The first three statements in the charts are negative (so disagreement indicates a positive view), and the last three are positive.

Chart 5.3: Views on guidance given by FSA – Heads of compliance



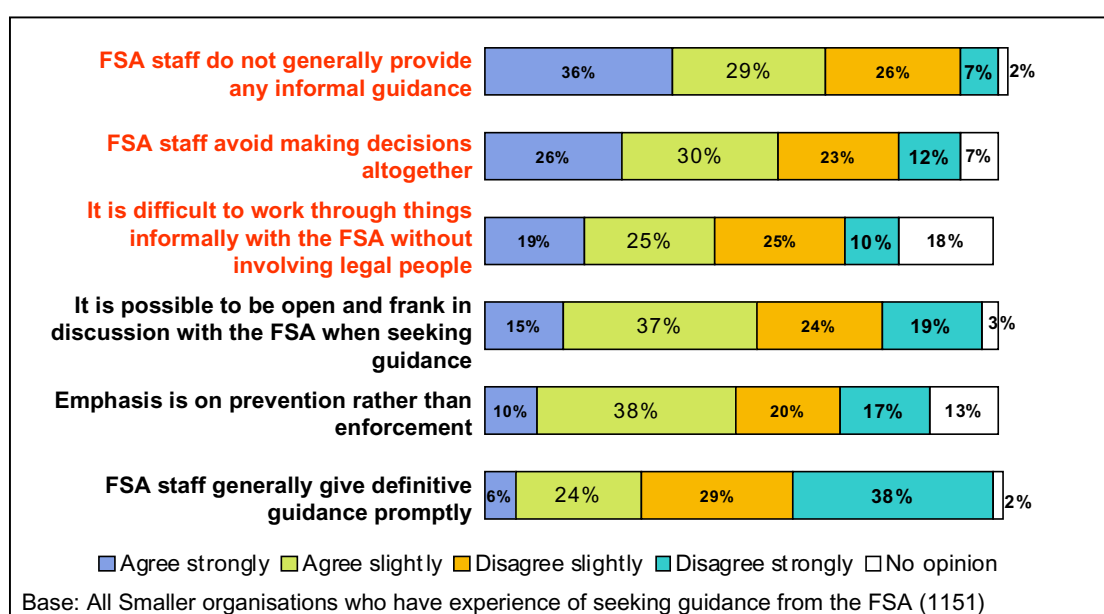
The majority of compliance heads (60%) agreed that it was possible to be open and frank with the FSA when seeking guidance. However, as the qualitative results suggested, they were less positive about the outcome of such discussions, particularly in terms of informal advice. Around a third strongly disagreed that FSA staff generally gave definitive guidance promptly, with three-quarters disagreeing in total, and over half said staff avoided making decisions altogether. A third agreed strongly that FSA staff did not generally provide any informal guidance with almost two-thirds agreeing in total, and about half agreed it was difficult to work things through informally without legal people being involved. However, the majority did agree that the FSA’s emphasis was on preventing problems rather than enforcement.

Heads of compliance in general insurance firms were more positive than average about the FSA’s provision of guidance. They were less likely to agree the FSA did not provide

informal guidance, and that it was difficult to work through things informally without involving legal people, less likely to say the FSA avoided making decisions, more likely to say they provided definitive guidance promptly (although still only 31% agreed with this), and more likely to say it was possible to be open and frank in discussion.

More negative than average views were held by heads of compliance in the larger IFAs and securities and derivatives firms: both were more likely than other practitioners to say informal guidance was not generally provided. Higher proportions of IFAs also felt that the FSA avoided making decisions, and that it was not possible to be open and frank in discussion with them. Securities and derivatives firms tended to feel it was difficult to discuss things informally with the FSA, without involving legal people.

Chart 5.4: Views on guidance given by FSA – Smaller organisations



Views among smaller organisations were broadly the same as those of compliance heads. The majority (67%) did not agree that the FSA gave definitive advice promptly. This is lower than the proportion of compliance heads who were of this opinion (73%), but smaller organisations were just as likely to agree that the FSA avoided decisions altogether (57%, compared with 55% of compliance heads). The proportions saying the FSA did not generally provide any informal guidance, and that it was difficult to avoid involving legal people in informal discussions, were also similar to those for heads of compliance (65% and 44% respectively, compared with 63% and 48% for heads of compliance).

Although half of smaller organisations agreed it was possible to be open and frank in discussion with the FSA, this is lower than the comparable proportion of heads of compliance (60%). Smaller organisations were also somewhat less likely than compliance

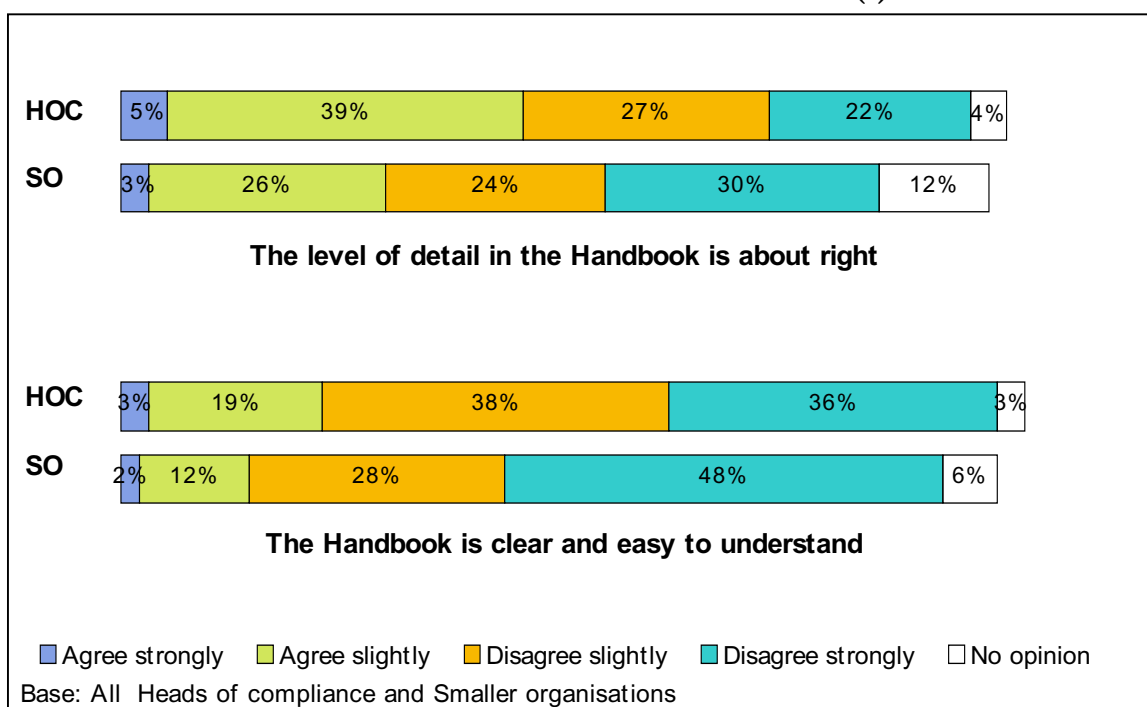
heads to say that the FSA emphasised prevention of problems over enforcement (48% agreed, compared with 55% of heads of compliance).

Again, general insurance businesses were more positive than average about FSA guidance. They were more likely than average to say it was possible to be open and frank in discussion, and that the FSA’s emphasis was on prevention rather than enforcement; they were less likely than average to say the FSA offered no informal guidance, or that it was difficult to discuss things informally without involving legal people.

5.2. Views on FSA Handbook of Rules and Guidance

Regardless of whether they had sought guidance from the FSA or not, practitioners were asked their opinions of the new FSA Handbook of Rules and Guidance, in terms of levels of agreement and disagreement with four statements. On all four dimensions, heads of compliance held a more positive view of the Handbook than did smaller organisations, although among both groups opinions were fairly negative.

Chart 5.5: Views on the Handbook of Rules and Guidance (1)

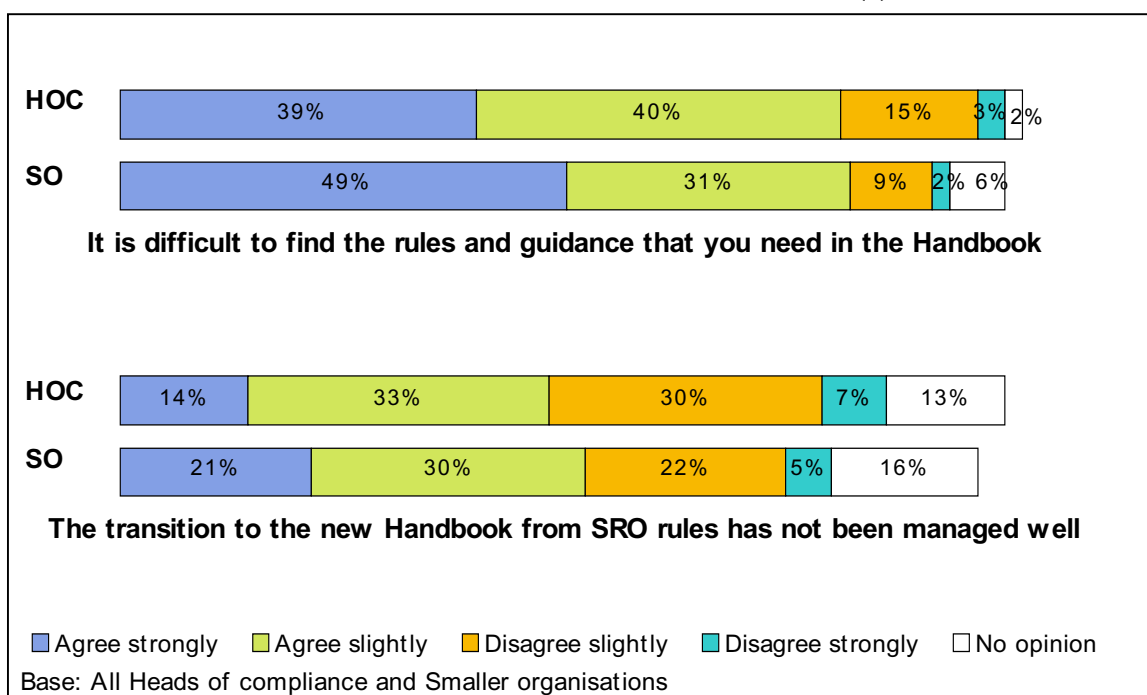


Only 44% of compliance heads agreed that the level of detail in the Handbook was about right, with 49% disagreeing this was so. Among smaller organisations, only 29% thought the level of detail correct; 55% thought it was not, with 30% expressing strong disagreement with the proposition.

There was some variation between different areas of operation on this statement, with securities and derivatives firms being more likely than average to say that the Handbook had the right level of detail, as were smaller corporate/ investment banks. IFAs and legal firms held the most negative views.

When asked whether the Handbook was clear and easy to understand, around three quarters of practitioners disagreed. Only one in five heads of compliance and one in seven smaller organisations agreed with this statement. Heads of compliance from IFAs were less likely than average to say this was the case.

Chart 5.6: Views on the Handbook of Rules and Guidance (2)



Four out of five practitioners agreed it was difficult to find the rules and guidance that they needed in the Handbook. Half of smaller organisations strongly agreed with this statement.

There was less variation on this statement than on others between different areas of operation. However, IFAs once again held more negative views of the Handbook than others, as did practitioners from smaller securities and derivatives firms.

Around half of each group agreed that the transition to the new Handbook from the old SRO rules had not been managed well. Smaller proportions disagreed (37% of compliance heads and 28% of smaller organisations), with over 10% of each group holding no opinion on this issue.

IFAs and smaller firms with life and pensions business were the most likely to maintain that the transition had not been handled well. The reverse was true for retail/ personal banks, heads of compliance in general insurance companies, and smaller corporate/ investment banks and investment management businesses.

5.3. Priorities for FSA in future provision of guidance

This sequence of questions concluded with an open-ended question asking “what do you see as the most important priorities for the FSA, in their future provision of guidance for the industry?”

When this question was first asked in 1999, very full answers were given, with several answers being given by large proportions of practitioners. Replies in 2002 were much less comprehensive. Although 54% of compliance heads and 58% of smaller organisations gave some answer to this question, few answers were given by significant numbers from either group.

This probably reflects the different relationship between practitioners and the FSA at the time of the two surveys. In 1999, they were listing the hopes and expectations that they would want the new regulatory body to meet, starting from scratch; in 2002, they were giving recommendations for the future development of an incumbent regulator, of whose strengths and weaknesses they already had some experience. In the first survey, they were setting an agenda; in the 2002 survey, they were commenting on the status quo.

For example, in 1999 34% of compliance heads and 29% of smaller organisations gave as a priority “providing clear and concise guidance”. In 2002 almost no one gave this answer. Either this is no longer considered a priority for the FSA (which seems unlikely), or it is now taken for granted as a function of the FSA and therefore is no longer flagged as a concern for “future provision”.

What the 2002 answers show, therefore, is that while practitioners have a large number of suggestions on future priorities for the FSA, reflecting the diverse nature of their operations, there are only a few which are put forward by more than a small minority. The answers most commonly given can be seen in Charts 5.7 and 5.8.

By far the most common answer from both groups is to promote or bring back *caveat emptor*, given by one in four compliance heads and one in five smaller organisations. This answer was most common among IFAs, and rose to 37% of the larger IFAs.

No other answer was given by more than one in ten of either group. The next most common priority in each case was to understand the diversity of regulation needed (8% of

compliance heads, 7% of smaller organisations). Other practitioners mentioned improvements to the Handbook, including use of “plain English”/ simpler terminology, and having separate or abridged versions of the Handbook for specific sectors. Combining these answers together, in total 8% of compliance heads and 9% of smaller organisations mentioned some aspect of the Handbook as a priority.

Chart 5.7: Priorities for FSA in future provision of guidance – Heads of compliance

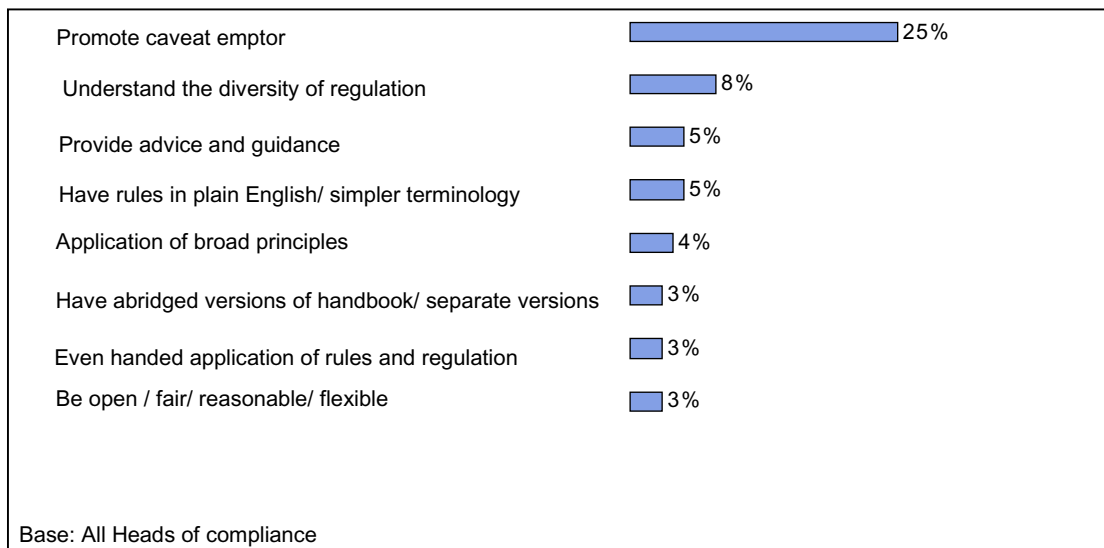
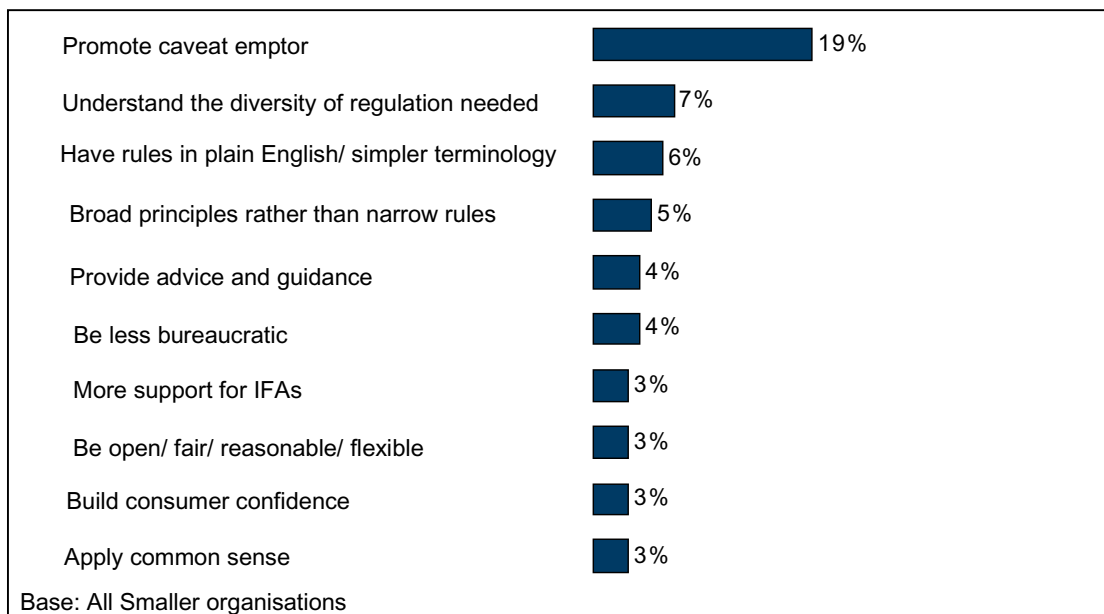


Chart 5.8: Priorities for FSA in future provision of guidance – Smaller organisations



6. SUPERVISION AND INVESTIGATION

6.1. Opinions of the FSA as a supervisory and investigative body

As with many other issues, many practitioners who were interviewed at the **qualitative stage** expressed the view that it was still early days to have formed a strong opinion about how the FSA were performing in terms of supervision. Some had not yet received any visits or indeed had much contact with FSA personnel since N2. Some had only received “ARROW” risk assessment visits rather than actual supervisory visits. People tended to anticipate that the frequency of future FSA visits would depend on what type of business they were running and whether they were deemed to be high or low risk. However, they were unable to predict what this would be before they found out what their risk rating was going to be. This had often not yet been decided at the point when these interviews took place. People who expected their firms to be assessed as low risk did not anticipate having very frequent supervisory visits.

“The last visit was five years ago. I’m not expecting to have many visits, not for people like us.”

CEO/Friendly Society

Those firms who had already received supervisory visits generally felt that the number had been acceptable and only one complained that there had been too many. The visits themselves had also gone well overall with practitioners feeling that the FSA team had concerned itself with relevant issues. Some believed that the FSA team had applied the more risk-based approach, looking at broad issues and outputs, which they had found an improvement on their previous regulator(s).

“He’s very pragmatic and he’s much less rule book constrained. Not check list based, more risk based. Not rigidly that you must answer every box, more flexible.”

HOC/Asset Management

“There was more focus on outputs.”

HOC/Friendly Society

However, other firms complained that the FSA team had been too checklist-orientated rather than looking at whether the basic principles had been followed.

“Our smaller companies are regulated by the RED team, the Regulatory Events Division...They regulate in more of a box ticking approach. We’d probably want to see the broader regulatory approach where we can discuss things.”

HOC/Insurance

Some firms also complained that the FSA personnel had asked for too much unnecessary detail.

“They are concerning themselves with relevant issues but they are going into too much detail.”

HOC/Retail bank

The closing meetings were felt to have gone well. When it came to reporting, many had not yet received any reports or letters relating to supervisory visits and no one had been asked to produce any reports for the FSA. Of those who had received letters or reports after visits, all were felt to be in line with the closing meetings during the visits. Some did complain, however, that the FSA had taken too long between the visit and sending back a report or letter about the findings from the visit.

In the **quantitative survey**, practitioners were asked how flexible they thought the FSA was in applying the rules for the Conduct of Business Standards and for Prudential Standards.

Results relating to both sets of Standards were fairly similar, with the tendency being to see the FSA as rigid in its application of these rules. In each case, practitioners were more likely to describe the FSA as rigid (either “fairly rigid” or “highly rigid”) than as flexible; indeed, although “highly flexible” was presented as an option, almost no one (less than half a percent of each group) chose this answer for either set of Standards. Less than one in ten described the FSA as flexible in applying each set of Standards. One in five chief executives said they had no experience of the FSA’s application of these rules, as did one in four heads of compliance and smaller organisations.

Focussing on rules for the Conduct of Business Standards, 40% of chief executives, 30% of compliance heads and 36% of smaller organisations considered the FSA to be rigid in their application. A quarter of chief executives and a fifth of heads of compliance and smaller organisations said the FSA’s application was “about right”.

Practitioners tended to see the FSA as slightly less rigid in its application of Prudential Standards rules, although they were still more likely to see them as rigid rather than flexible or “about right”.

Chart 6.1: Flexibility of FSA in applying rules for Conduct of Business Standards

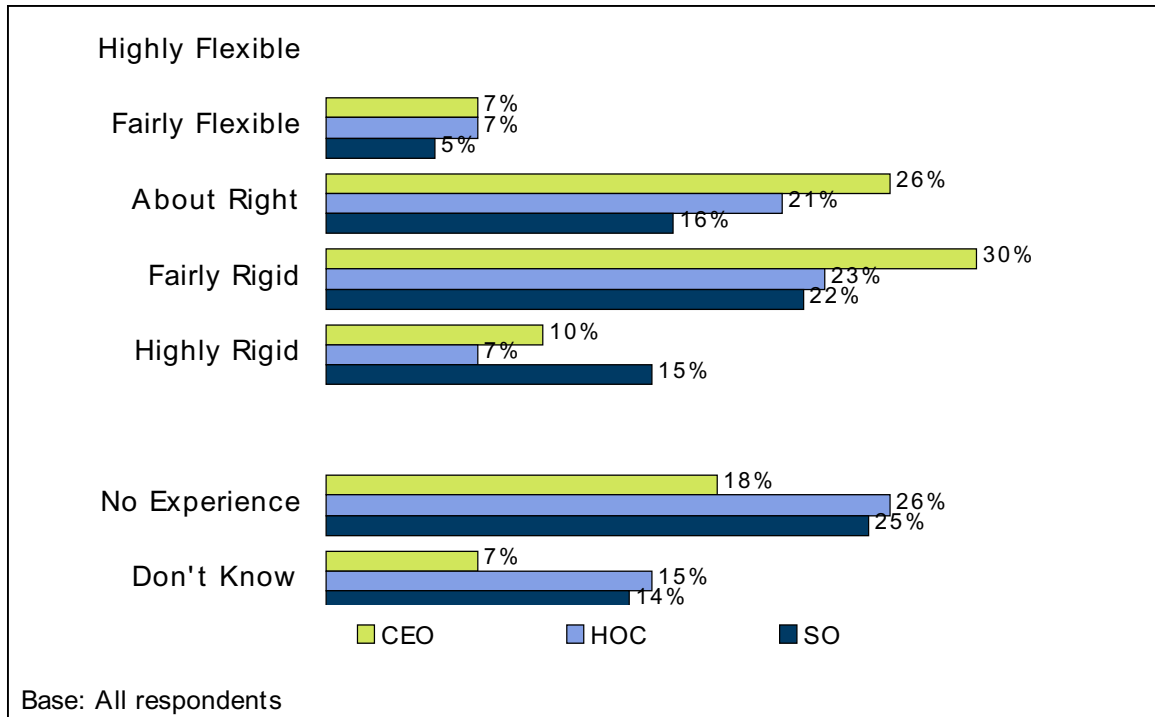
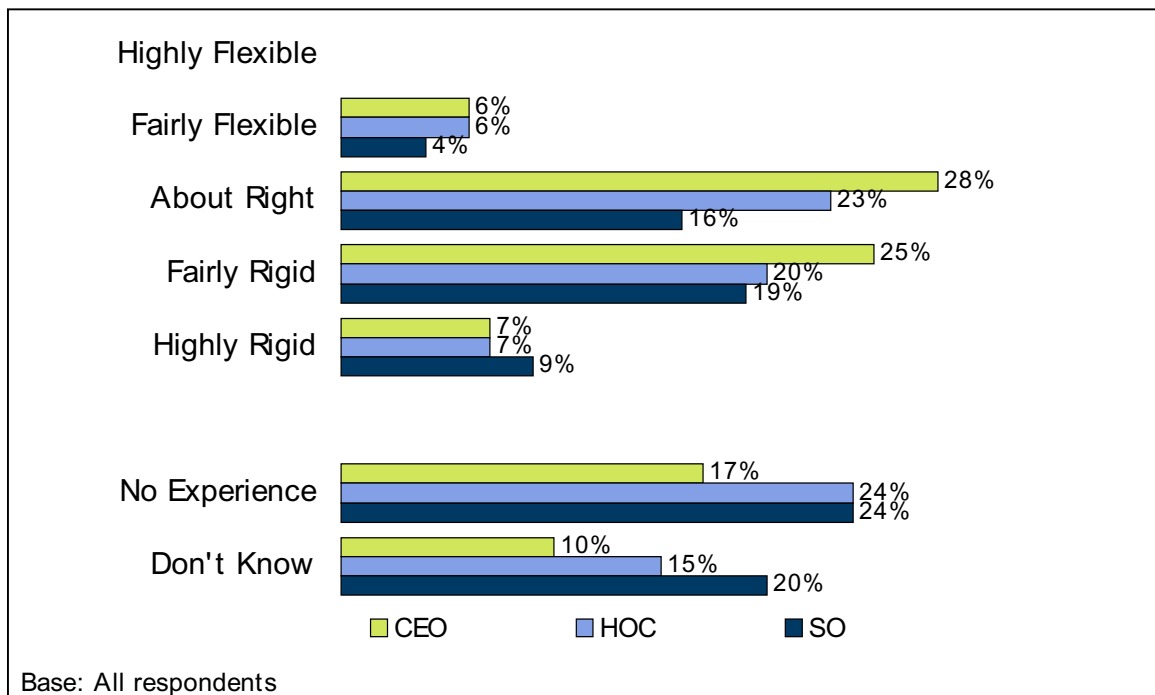


Chart 6.2: Flexibility of FSA in applying rules for Prudential Standards



6.2. Opinions of FSA’s approach to supervision

Practitioners were presented with ten statements about the FSA’s supervision of their business and asked how much they agreed or disagreed with them.

Eight of the ten statements were also asked in 1999. Again, it should be noted that the answers from 1999 were asked in terms of the business’s regulator(s) at the time, in most cases not the FSA. The most obvious change in results between the two surveys is an increase in the proportions feeling unable to give an opinion about their regulator on each of these statements. This is presumably due to a relative lack of familiarity with the FSA as a supervisory body (in line with the qualitative research results at the start of the chapter).

Chart 6.3: Opinions of current regulator’s (1999)/FSA’s (2002) approach to supervision – Chief executives (1)

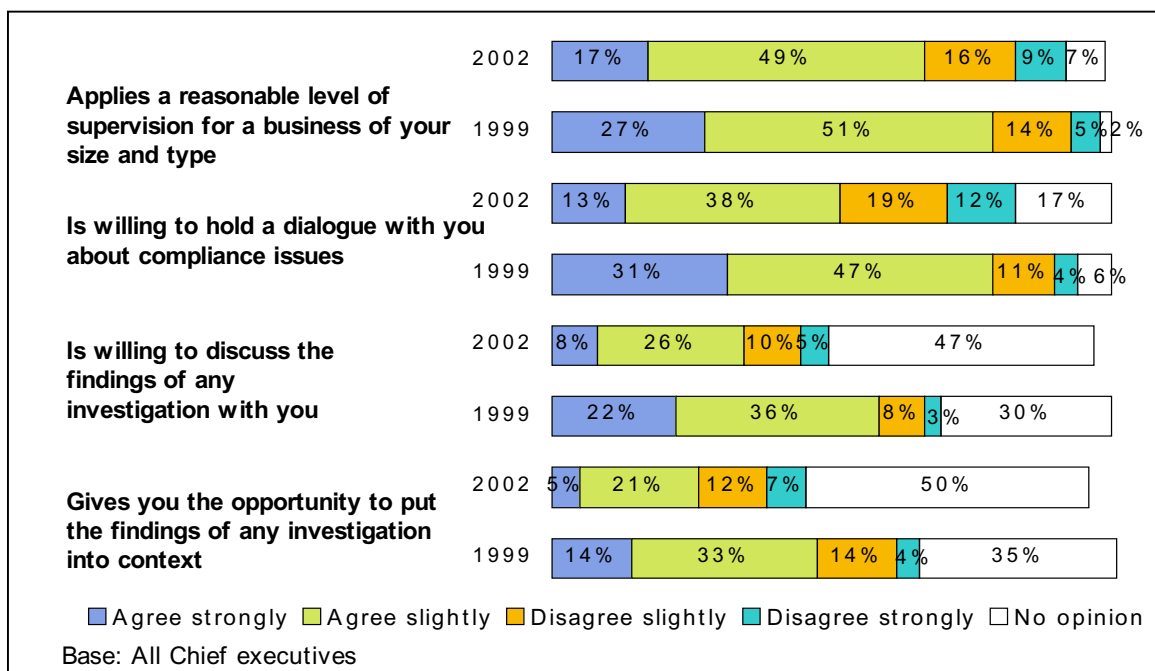


Chart 6.4: Opinions of current regulator's (1999)/FSA's (2002) approach to supervision – Chief executives (2)

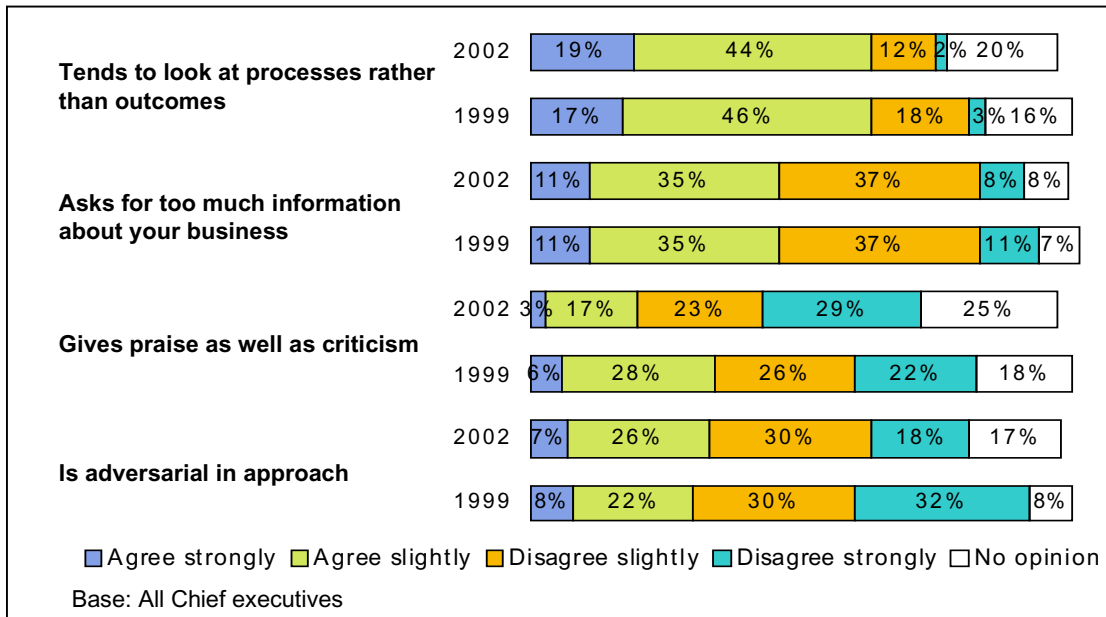
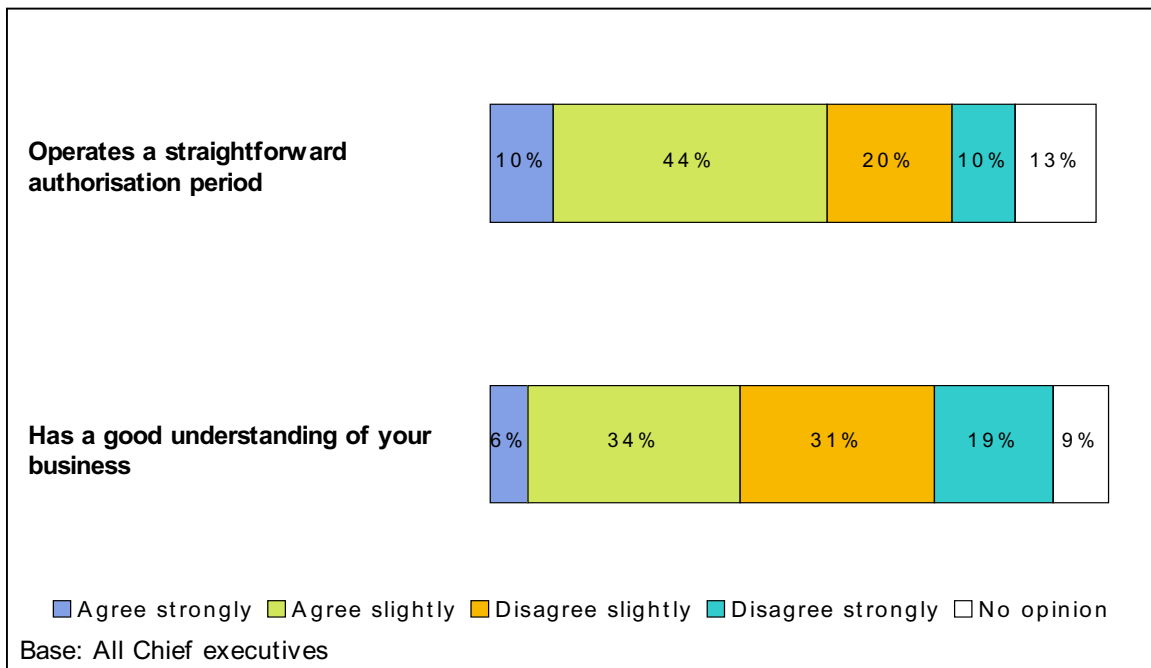


Chart 6.5: Opinions of FSA's approach to supervision – Chief executives (3)



Around three-quarters of chief executives who gave an opinion agreed that the FSA applied a reasonable level of supervision. Two thirds felt the FSA was willing to hold a dialogue with them about compliance issues, to discuss the findings of any investigations with them, and operated a straightforward authorisation process. Around six in ten of those expressing an opinion agreed the FSA gave them the opportunity to put the findings of investigations into context.

However, there were some less positive opinions. Four out of five chief executives who gave an opinion thought the FSA tended to look at processes rather than outcomes, and half thought they asked for too much detailed information about their company. Fewer than half thought the FSA had a good understanding of their business, and only three in ten agreed that the FSA gave praise as well as criticism. Four in ten found the FSA adversarial in approach.

The most positive views were expressed by chief executives in retail/ personal banks; they were more likely than average to agree with each of the positive statements, and to disagree with each of the negative ones. IFAs were more negative than average, and frequently the most negative practitioner group, on almost all of these statements.

In most cases, chief executives' opinions about their regulator's supervision were more negative than was the case in 1999 (even factoring out "no opinion" answers). In other words, chief executives in 2002 were less positive about the FSA in terms of these statements than chief executives in 1999 were about their regulator at the time, being less likely to agree with the positive statements, and more likely to agree with the negative ones. The only exception to this is opinions of regulators "asking for too much detailed information", where agreement remained at the same level as in 1999.

The views of heads of compliance were very similar to those of chief executives. The principal difference was a slightly higher proportion in each case saying they had no opinion on each statement; once these are factored out, levels of agreement and disagreement were very similar for the two groups (for both 2002 and 1999). There were a couple of variations: in 2002, heads of compliance were slightly less likely than chief executives to consider the FSA to be adversarial in its approach to supervision, although they were also slightly less likely to believe the FSA had a good understanding of their business.

Chart 6.6: Opinions of current regulator's (1999)/FSA's (2002) approach to supervision – Heads of compliance (1)

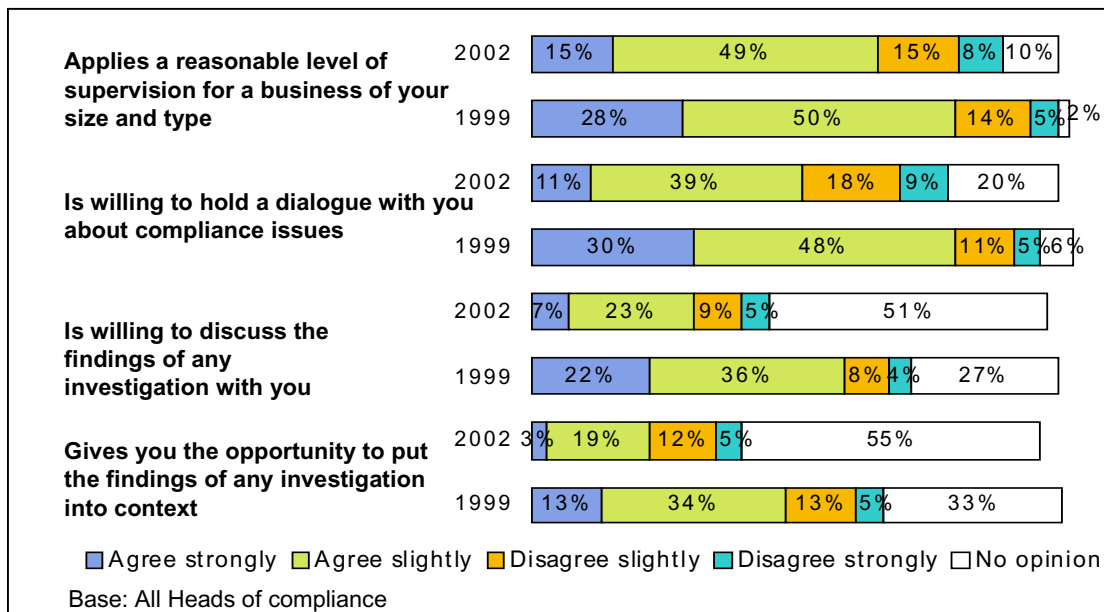


Chart 6.7: Opinions of current regulator's (1999)/FSA's (2002) approach to supervision – Heads of compliance (2)

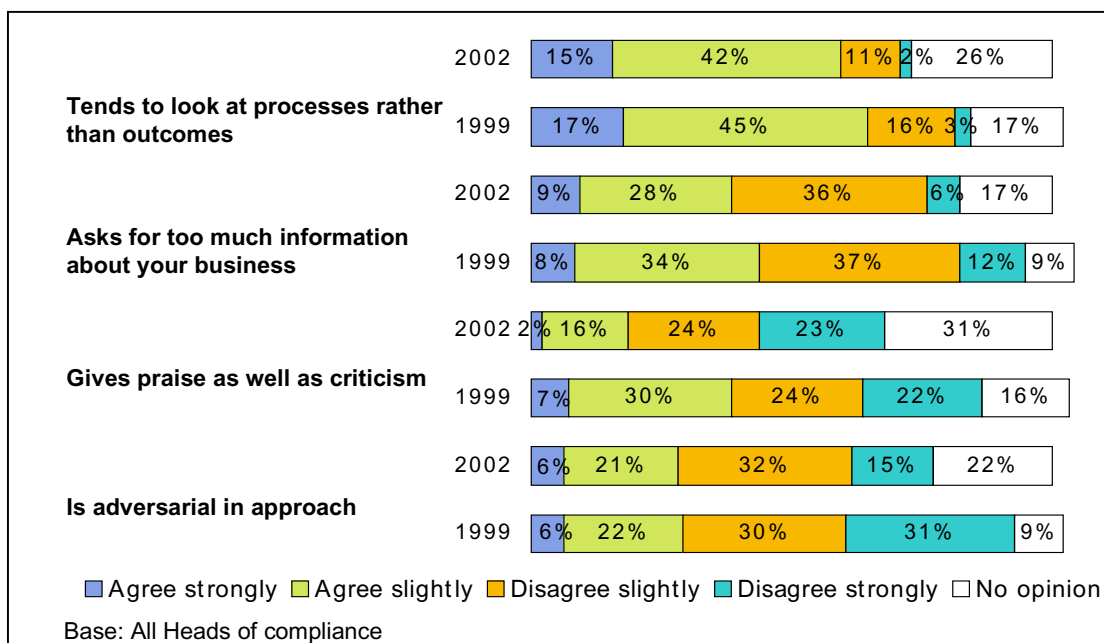
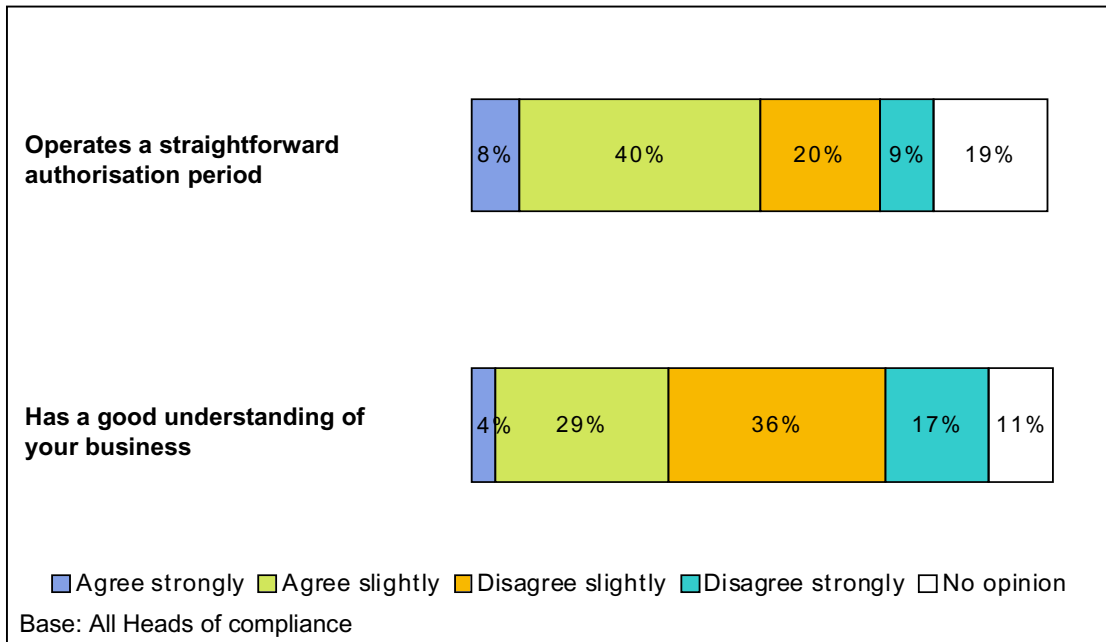


Chart 6.8: Opinions of FSA’s approach to supervision – Heads of compliance (3)



As among chief executives, heads of compliance from retail/personal banks were among the most positive (agreeing with positive statements and disagreeing with negative ones), as were those from general insurance companies. The most negative were IFAs, again in line with the chief executives’ results.

Chart 6.9: Opinions of current regulator’s (1999)/FSA’s (2002) approach to supervision – Smaller organisations (1)

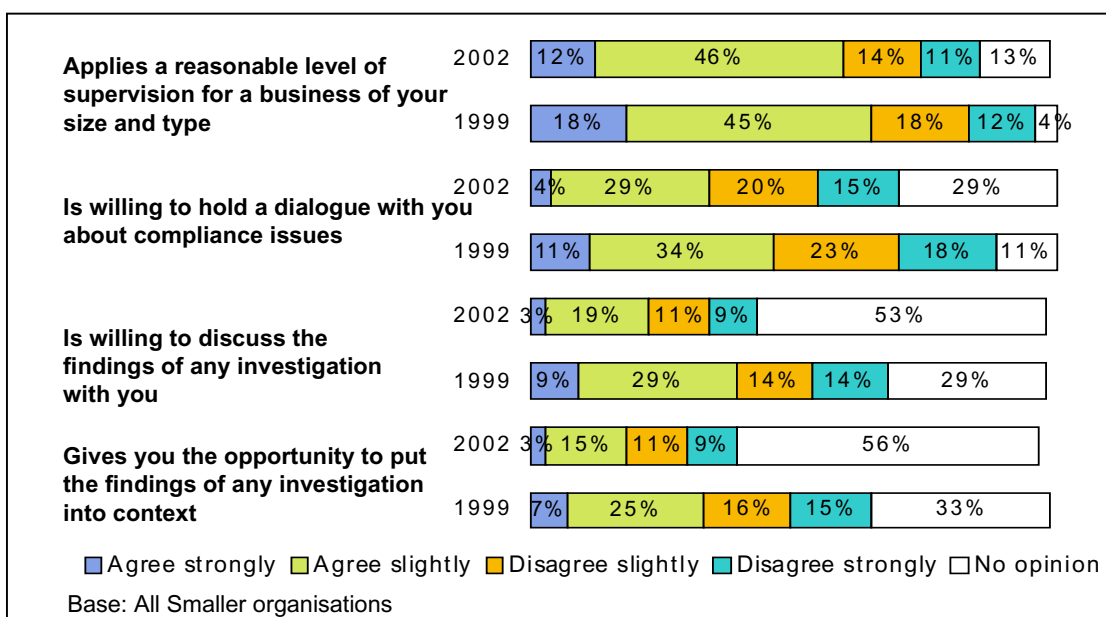


Chart 6.10: Opinions of current regulator's (1999)/FSA's (2002) approach to supervision – Smaller organisations (2)

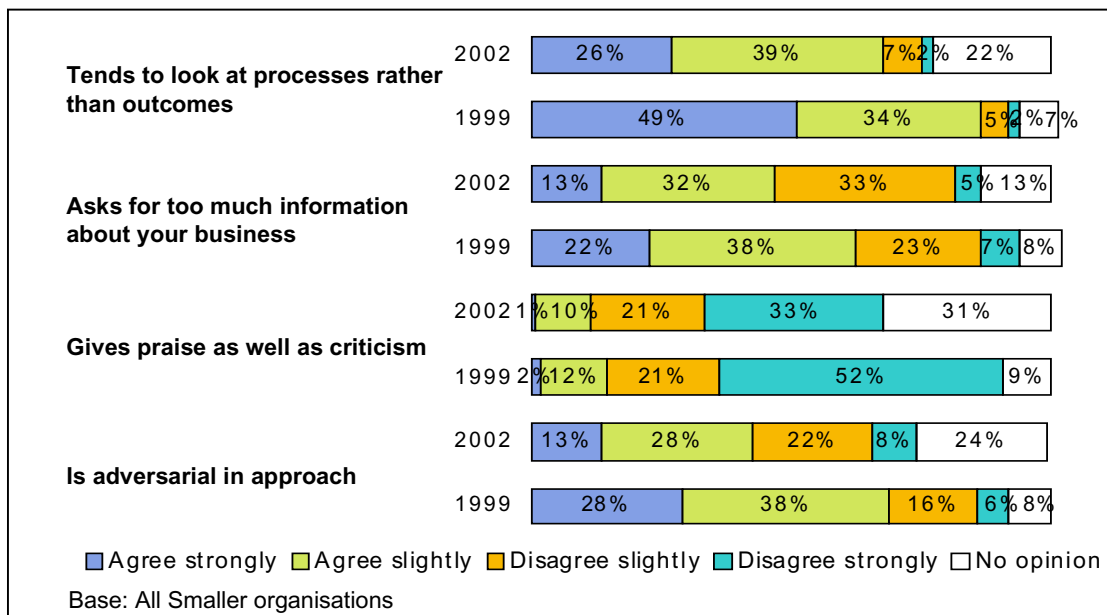
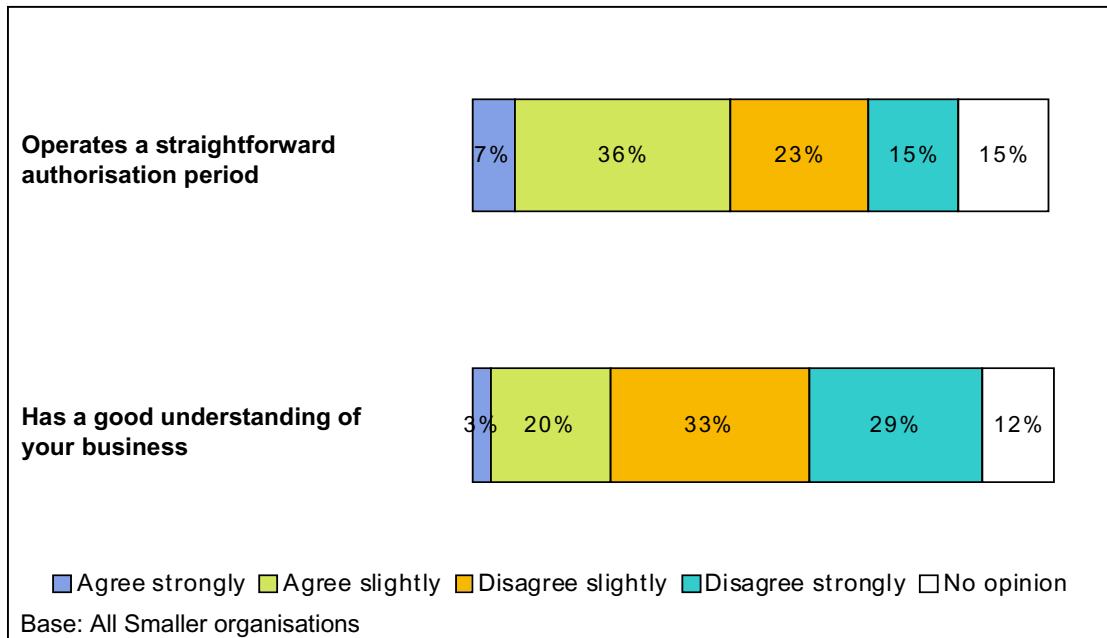


Chart 6.11: Opinions of FSA's approach to supervision – Smaller organisations(3)



Smaller organisations were the least positive about the FSA's approach to supervision. They were less likely to agree with any of the positive statements, and more likely to agree

with the negative statements than either chief executives or heads of compliance (factoring out 'no opinion' answers). The exception was "the FSA applies a reasonable level of supervision"; smaller organisations were as likely to agree with this as were the other two groups.

Only half of smaller organisations giving an opinion agreed that the FSA was willing to discuss investigative findings, put findings into context, or hold a dialogue about compliance issues, or that it operated a straightforward authorisation process. Only one in four of those giving opinions thought the FSA had a good understanding of their business, and only one in five agreed they gave praise as well as criticism. Over half said the FSA asked for too much information, and that they were adversarial in approach. Nine out of ten of those giving opinions agreed that the FSA looked at processes rather than outcomes.

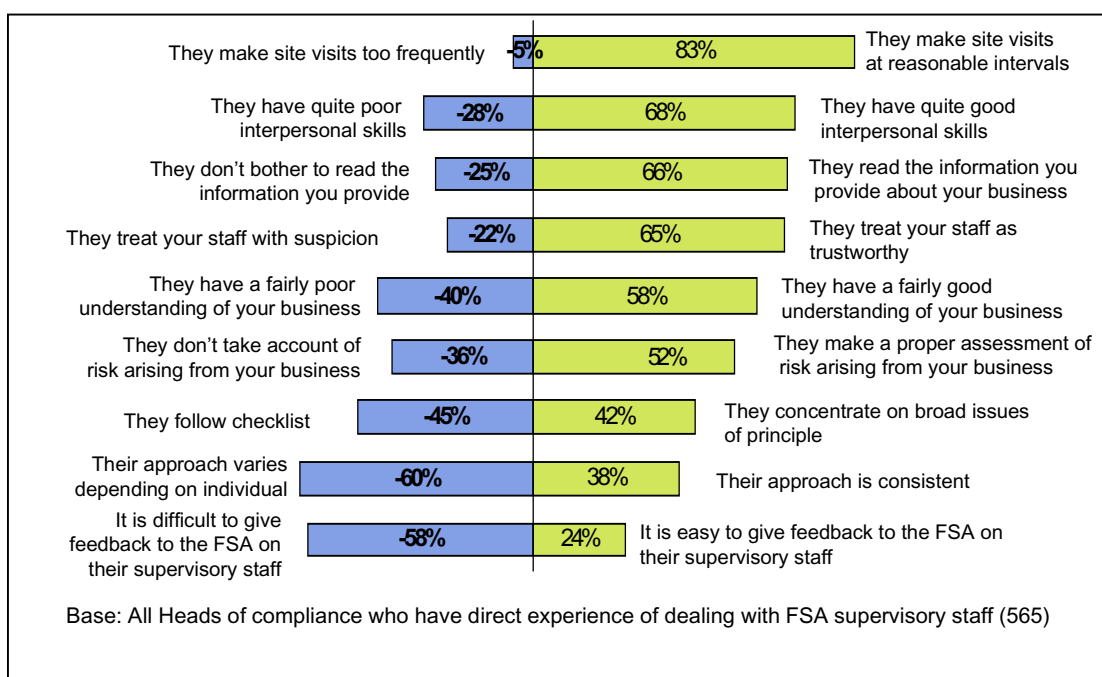
There was considerable variation between smaller organisations in different sectors, with smaller corporate/ investment banks (and such retail/ personal banks as there were in this group) being the most positive about the FSA as a supervisory body. Smaller IFAs were again, in most cases, more negative than average, as were smaller firms with life and pensions business.

Although results for smaller organisations are less positive than those of other practitioners, they are in some cases more favourable to the FSA than the comparable results for small organisations in 1999. Belief that their regulator was adversarial in approach has fallen from three-quarters of small organisations in 1999 to three in five in 2002, and belief that the regulator asked for too much information fell from two-thirds to just over half of smaller organisations in this period. Agreement on other statements remained fairly constant between the two surveys.

6.3. Experience of dealing with FSA supervisory staff

The 55% of compliance heads and 42% of smaller organisations who had direct experience of dealing with FSA advisory staff were presented with a series of pairs of contrasting statements, and asked in each case to select the statement most closely matching their own experience of these staff. Results are presented in order of the proportion selecting the positive statement from each pair.

Chart 6.12: Opinions of FSA’s supervisory staff – Heads of compliance

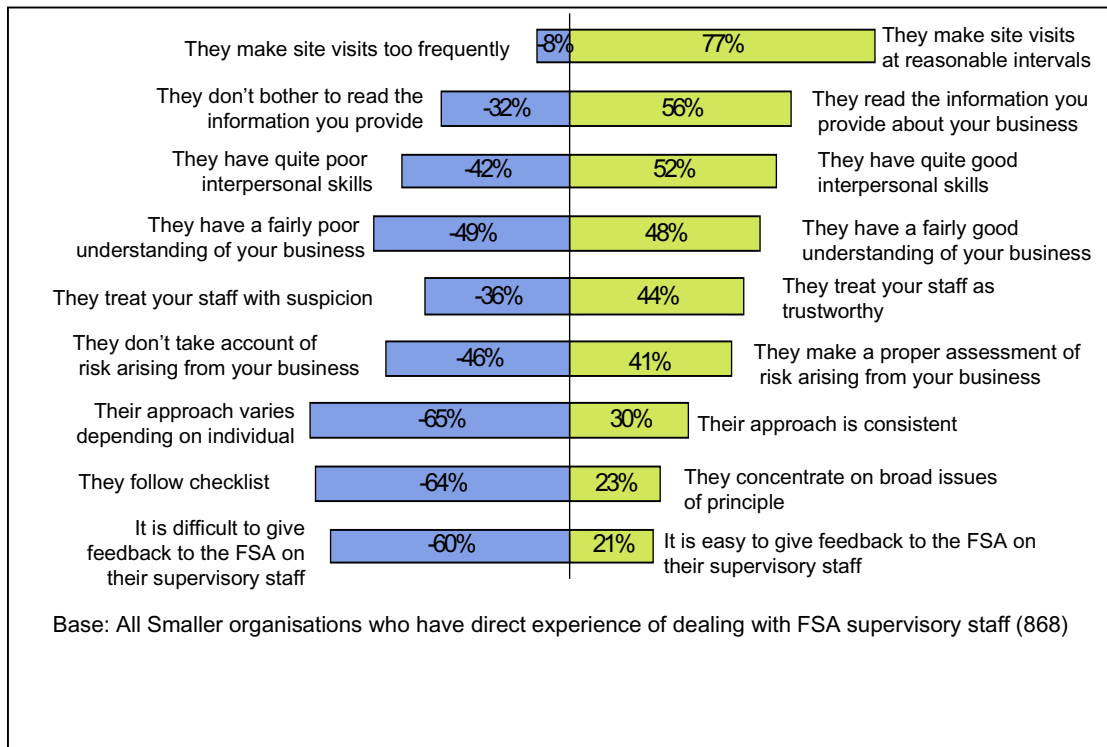


Heads of compliance with experience of FSA supervisory staff tended to be positive about them, being more likely to choose the positive statement from each pair in all but three cases. Four-fifths thought they made site visits at reasonable intervals rather than too frequently, and two-thirds said they had quite good interpersonal skills, read the information the firms provided, and treated their staff as trustworthy. Three in five felt they had a fairly good understanding of their business.

Only half said the staff made a proper assessment of risk, but this was higher than the third who said the staff didn't take account of the risk arising from their business (the remaining heads of compliance did not choose either statement). Opinion was fairly evenly divided between those saying that staff concentrated on broad issues of principle, and those saying they followed a checklist. Four in ten found their approach consistent, with six in ten finding their approach varied depending on the individual. Heads of compliance were most negative about FSA supervisory staff in terms of feedback: three in five said it was difficult to give feedback to the FSA on their supervisory staff, with only one in four saying this was easy.

In the majority of cases, heads of compliance from general insurance companies and retail/personal banks were the most likely to select the positive statement from each pair, whereas those from IFAs were generally the most likely to select the negative statements.

Chart 6.13: Opinions of FSA’s supervisory staff – Smaller organisations



Smaller organisations with experience of FSA supervisory staff were much less positive than their counterparts in larger organisations, being in each case less likely to select the positive statement in each pair.

As with heads of compliance, the most positive rating was for frequency of visits, with three-quarters saying these were at reasonable intervals. Around half said that FSA supervisory staff read the information the firms provided, had quite good interpersonal skills, had a fairly good understanding of their business, and treated their own staff as trustworthy. On the remaining paired statements, smaller organisations were more likely to choose the negative statement. Almost half thought FSA supervisory staff didn't take account of risk arising from their business. Six in ten said it was difficult to give feedback to the FSA on supervisory staff, and two thirds said that such staff tended to just follow a checklist, and that their approach varied from supervisor to supervisor.

As was the case for compliance heads, for almost all pairs of statements practitioners from smaller general insurance companies and banks were more likely than average to select the positive statement, and those from smaller IFAs were the most likely to select the negative ones.

7. ENFORCEMENT

7.1. Experience of enforcement or disciplinary action by regulators

Nobody at the **qualitative stage** had experienced any enforcement action from the FSA, although one firm was in the process of a FSA investigation. In this particular case, complaints were made that the investigation was taking too much time to resolve and that too many of the staff had been interviewed about the problem/misdemeanour.

This was reflected in the **quantitative survey**; about three quarters of practitioners (77% of chief executives, 74% of compliance heads and 78% of smaller organisations) said their businesses had never been subject to enforcement or disciplinary action by either the FSA or any previous regulator, to the best of their knowledge. Although around one in five chief executives (19%) and heads of compliance (21%) and one in seven smaller organisations (15%) had experienced enforcement at some point, in most cases this was over a year ago, and as such before the N2 period. This means that the results presented below on opinions of enforcement procedures are based on very small numbers of practitioners, making analysis less reliable. Consequently, results have only been presented in fairly broad terms.

Those who had experience of enforcement were asked whether they felt their regulator was justified in starting such procedures. Heads of compliance and chief executives tended to believe procedures were justified – around half of such practitioners said this. Smaller organisations were less likely to say this was the case; over half said the procedures were not justified. Smaller organisations who had experienced enforcement in the last 12 months were less likely than chief executives and heads of compliance to give answers to each of the questions in this section (being more likely to leave the questions unanswered).

As is perhaps understandable, opinions of the behaviour of regulators during enforcement procedures were not high. Only a third of practitioners who gave an opinion said that the FSA had completed the investigation and enforcement process within a reasonable time scale. On the remaining issues, heads of compliance were somewhat more positive than chief executives and smaller organisations. Half thought the FSA imposed a reasonable penalty (compared with a third or less of chief executives and smaller organisations), and two-thirds said they had made the rationale for the penalty clear (less than half of chief executives and smaller organisations who gave an opinion thought this). Only half of compliance heads who had been disciplined in the last year and who gave an opinion thought the FSA had treated their business fairly, and no more than a third of chief executives and smaller organisations thought this was the case.

7.2. Priorities for FSA in approach to supervision and enforcement

All heads of compliance and smaller organisations, whether they had experienced enforcement or not, were asked in an open-ended question to say what they saw as the most important priorities for the FSA in their approach to such matters. Answers were given by 59% of smaller organisations and 55% of compliance heads, which were then coded into categories.

The answer most commonly given, expressed in several slightly different forms, was that the FSA should prioritise flexibility and openness in its approach. In particular, one in ten (9% of smaller organisations, 11% of heads of compliance) said the FSA should understand the needs of individual firms, working with them rather than against. This was closely followed by opinions that the FSA should prioritise understanding the diversity of the industry and using an approach suitable to the size and remit of each business (8% of smaller organisations, 9% of compliance heads). Seven per cent of each group said the priority should be to take a pragmatic approach, with the use of broad principles rather than narrow views. About one in 20 (5% of smaller organisations, 6% of compliance heads) said that the FSA should be even-handed in its application of rules and regulations, providing a level playing field.

One in ten made a general request that the FSA should be fair, open and reasonable in enforcement (9% of each group). Another general plea was to prioritise punishing those who violated the rules, particularly persistent offenders (9% of smaller organisations, 7% of compliance heads).

8. TRANSITION TO N2 AND BEYOND

Most practitioners in the **qualitative study** maintained that a lot of work had been involved for firms in the changeover period before N2 and that this work had still not been completed at the time of interviewing. This work had taken up a lot of senior management time as well as that of compliance departments.

“A lot of extra work, extra costs...The diversion of senior management time.”

HOC/Insurance

“It was a massive exercise and inevitably was seen as something which to some extent inhibited our business plans last year.”

CEO/Building Society

Some people blamed the FSA for this.

“It’s gross impertinence of the FSA to impose a deadline of N2 at the end of November and expect its members to be fully compliant.”

HOC/Asset Management

However, some other practitioners made reference to the fact that it was the government who had imposed time pressures on the FSA to get the new regulatory system up and running and so they did not blame the FSA for the heavy workload imposed on them and their firm.

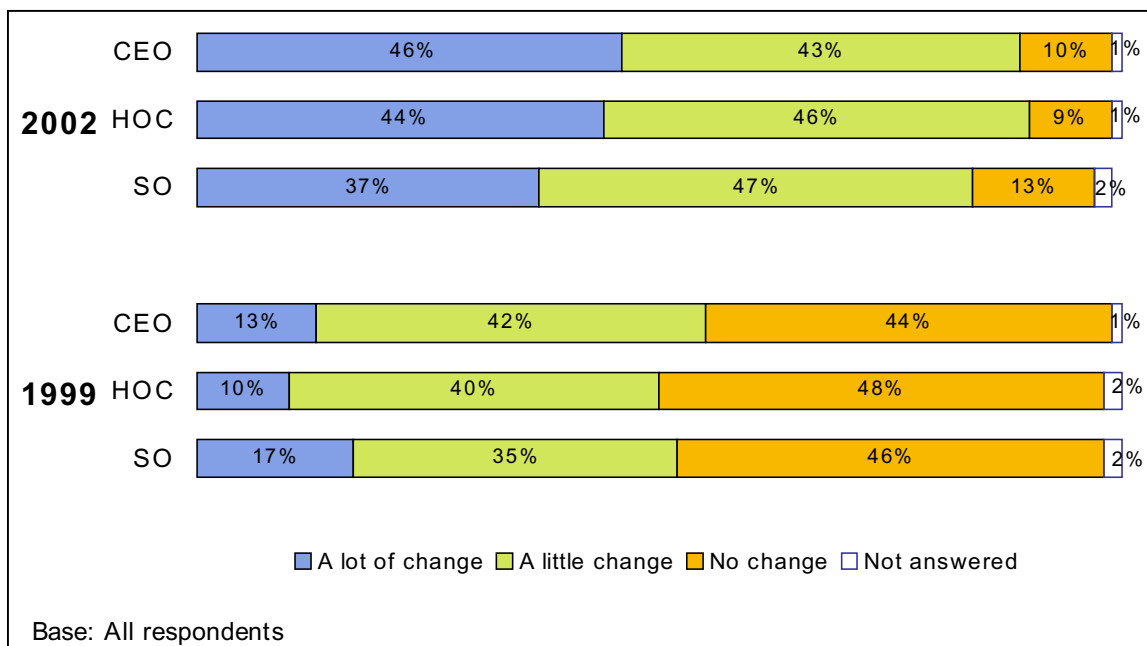
Most people interviewed in the qualitative study felt that N2 had gone well. But they hoped that this would be the last major upheaval for some time.

Overall, as mentioned previously, many practitioners felt that it was too early to say whether the new regime would result in major changes to their business. Some believed that it would make no difference. Others felt that it would be better than the previous regulatory regime. This was because they perceived that a) a single regulator would be simpler than having lots of different regulators supervising their business, and b) the new risk based approach would be more flexible than the previous regime.

When asked in the **quantitative survey** whether they had noticed any change in the regulation of their business attributable to the creation of the FSA, the vast majority (nine out of ten chief executives and heads of compliance, and only slightly fewer smaller organisations) said they had. In particular, almost half of chief executives and compliance

heads said they had seen a lot of change. Two-fifths of smaller organisations had seen a lot of change to the regulation of their business.

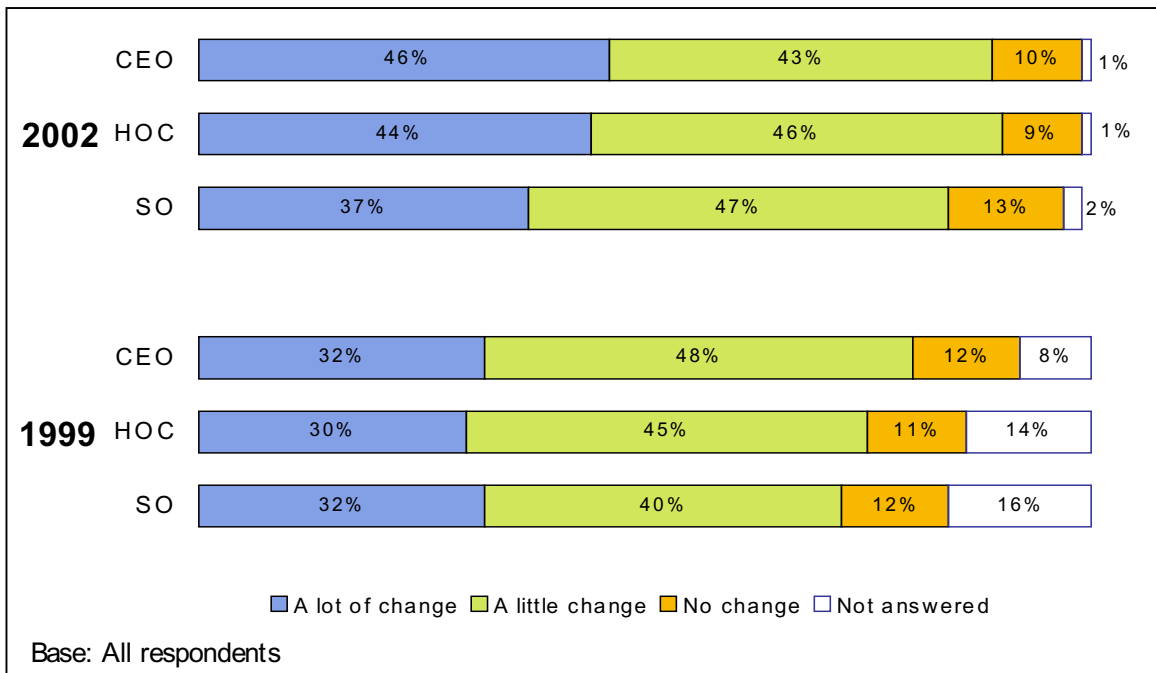
Chart 8.1: Level of change noticed in regulation attributable to creation of FSA



Businesses in all industry sectors were more likely to have noticed some degree of change rather than no change. However, there was some variation in the degree of change noticed. Friendly societies were more likely than other areas to say there had been no change (around one in five said this); retail/ personal banks and building societies were most likely to say there had been a lot of change. Chief executives and heads of compliance of corporate/ investment banks and of firms with life and pensions business were also more likely than average to report a lot of change.

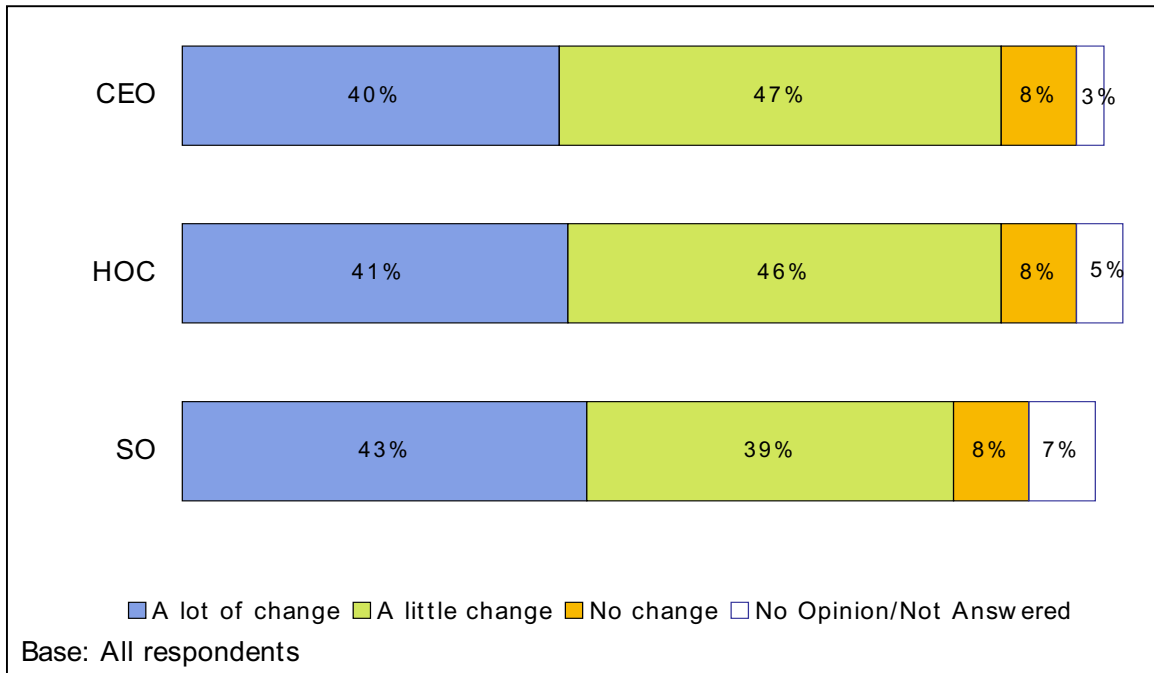
Comparing results to those in 1999, it is not surprising to find that in those early days far fewer businesses had been affected by the creation of the FSA. In 1999, almost half said the FSA had had no effect upon their business (although one in ten chief executives and heads of compliance and one in five smaller organisations said it had already had a large effect). What is more pertinent is to compare the 2002 figures for the level of change experienced, with the 1999 figures for how much firms *expected* regulation to change as a result of the creation of the FSA.

Chart 8.2: Expectation of change in 1999 vs. actual experience reported in 2002



As would be expected, fewer people answered the speculative question about the future than answered the specific question about the past (i.e. there were higher proportions of “not answered” entries on the question about potential change). If we exclude these answers, the expectations in 1999 were similar for all three groups. Just over one in ten anticipated no change, which is similar to the proportion in 2002 who said that they had not experienced any change. Around a third of each group anticipated a lot of change in 1999, while half expected only a little. These expectations matched the experience of smaller organisations, as can be seen in the 2002 results, but both chief executives and heads of compliance had experienced more change than their counterparts in 1999 had anticipated.

Chart 8.3: Expectation of further change in regulation now FSA has taken over



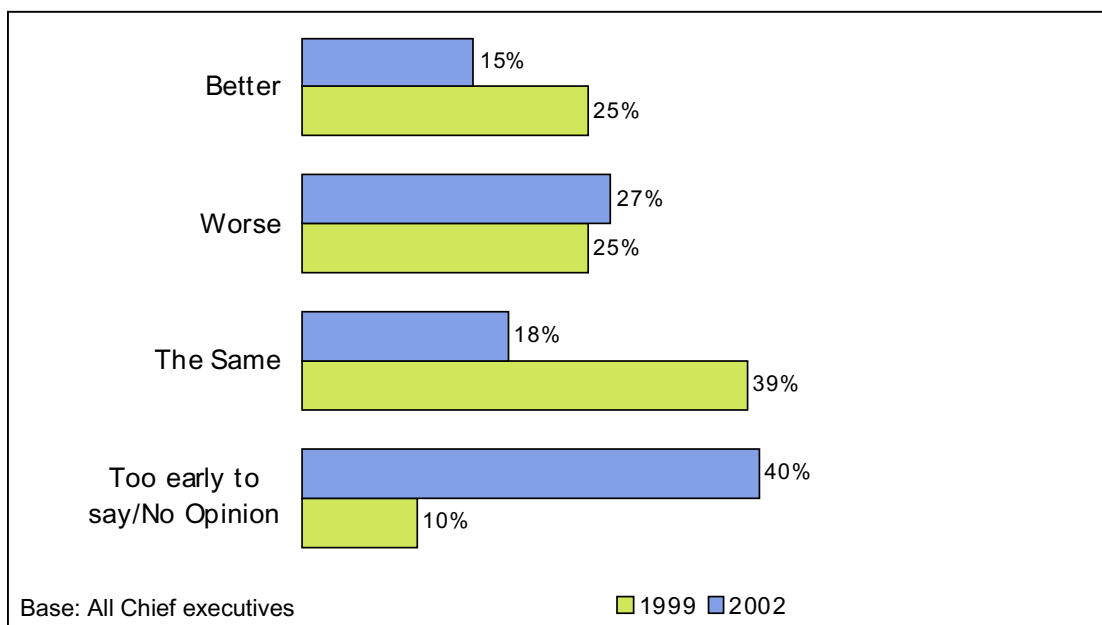
Looking at the question on expectation of future change on the 2002 survey, the large majority (almost nine out of ten chief executives and heads of compliance, and eight out of ten smaller organisations) expected further change to the regulation of their business now that the FSA had taken over. Two in five expected a lot more change. This varied between business areas, with IFAs and insurance businesses most likely to expect a lot of change, and corporate/ investment banks, investment management and securities and derivatives firms more likely to expect only a little. Friendly societies were the most likely overall to expect no further change.

Comparing these results with those from 1999 (shown in Chart 8.2), we can see a decrease in the proportion falling into the “no opinion/ not answered” category, despite the fact that “No opinion” was only included on the questionnaire as a pre-defined option in 2002. This shows again a much greater level of familiarity with the FSA than in 1999. What is perhaps more surprising is that there has been an increase (even factoring out the non-responses) in the proportions expecting change in the future, and in particular expecting a lot of future change; six months after N2, the transition is seen as far from complete, in line with the views expressed in the qualitative research.

A further reflection of the incompleteness in the transition to FSA regulation is the high proportion who said it was too early to say (or did not express an opinion) as to whether the new regime was better, worse, or the same for their business. Results were very similar for all types of practitioner, with two in five giving this answer. Those who gave an opinion were about twice as likely to say things had got worse than better; around a quarter of all practitioners said the new regime had made things worse, and around one in seven

said it had made things better. For the remaining one in seven, things were about the same.

Chart 8.4: Whether new regulatory regime better, worse or same for respondent's business – expected (1999) vs. actual (2002) – Chief executives



Results varied considerably between industry sectors, both in terms of the proportion giving an opinion, and the proportions who felt the new regime was better or worse. Taking as a measure the ratio of those saying it was better to those saying it was worse (excluding those not giving an opinion or saying things were about the same), IFAs were the most positive on this measure. Least positive were those from securities and derivatives firms, being about five times more likely to say things had got worse rather than better.

The question which was asked in 1999 was not completely comparable to that in 2002. First, in 1999, practitioners were asked about their expectations, not their experience of, the new regime; secondly, “Too early to say” was only offered as an answer category in the second survey. A much higher proportion of practitioners felt unable to give an opinion about their experience of the new regime in 2002. What is also notable, however, is that when an opinion was given, practitioners in 1999 were as likely to say they expected the new regime to be better for their business as to say they expected it to be worse, and were more likely to say they expected things to remain the same than either of these. Among those who gave opinions, therefore, views of the impact of the new FSA regime have

become less positive since 1999. Opinions were similar for all three groups of practitioners in 1999, as in 2002.

Heads of compliance and smaller organisations who felt that the new regime had made things either better or worse than before were asked in an open-ended question what impact it had had. Looking first at those who said things had got better, the most commonly cited reason was a more common-sense, pragmatic approach; 22% of both practitioner groups said this. This was followed by around one in seven saying the new regime was less complicated (17% of compliance heads, 14% of smaller organisations) and more efficient (16% of compliance heads, 18% of smaller organisations). One in ten complimented FSA staff on a good level of understanding.

Where the change was considered to have made things worse, several of the reasons given directly opposed those given by the more positive practitioners. Among heads of compliance, the most common reason for saying things had got worse was poor understanding or lack of advice from FSA staff (28%), followed by claims of increased bureaucracy (26%), things being more complicated (19%), or increased and excessive regulation (13%). For smaller organisations, increased bureaucracy was the answer most commonly given (31%), followed by increased costs (18%), poor understanding from FSA staff (17%), increased regulation (14%) and increased complexity (13%).

9. COSTS OF REGULATION

In terms of actual fees paid, there was a variation in experience among firms interviewed in the **qualitative study**. In rare cases fees had actually gone down. Otherwise, some had experienced an increase in fees and others felt that they had stayed the same. In fact, although some of the smaller firms were concerned about fees, this was not really an issue for the bigger firms, since fees were only considered to be a relatively small part of overall compliance costs. Again here, there was a division in response about overall costs. Although some felt that the costs had remained the same, others maintained that the overall costs had gone up.

“There’s a lot of processes that have been established to meet the specific requirements, to meet the structural changes that have been demanded and on an ongoing basis, you know, we’ve had to invest and not only from a human resource perspective but also a technology perspective, a procedural perspective.”

CEO/Investment Bank

“What is unbelievably expensive is the ancillary requirements of the rules and the costs of compliance and the costs of having certain instructions in place which are obligatory under the rules... The cost of making changes and amendments to our working practices in terms of business letters, the way we conduct and report and write letters to clients runs into tens of thousands of pounds.”

CEO/IFA

Some mentioned that this was not only due to the FSA taking over regulation but also because government reviews of their industry sector had produced a lot of extra work for senior management and compliance departments. Many on the retail side felt that the high costs of compliance that they had incurred were often not justifiable in terms of giving any real benefit in terms of consumer protection.

“From my perspective, it’s probably too expensive. The costs of regulation run ahead of the benefits to the consumer.”

HOC/Insurance

Moreover, they believed that since they would pass on their increased costs to consumers, the consumer would ultimately have to pay more for financial products and services.

“Ultimately it’s the clients will pay for it.”

CEO/Investment Bank

“Much higher costs, much more time spent on compliance issues than on business issues. What is the benefit to the public of doing that? If my costs go through the roof, the public will have to pay more for their advice. If it’s a relatively small issue, what is the benefit to the public?”

CEO/Accountants

This seemed to be a particular issue when it came to firms providing advice on financial services.

Firms that operated internationally believed that the overall costs of regulation were higher in the UK than other countries in which they operated.

“Doing business in the UK is more expensive and it’s more complicated than it is in certain other parts of the world.”

CEO/Investment Bank

“It’s more expensive, sure it is.”

CEO/Retail Bank

“We have a more costly regime in the UK.”

CEO/Insurance

Many practitioners at the qualitative stage were aware of the cost benefit analysis that the FSA had to carry out when suggesting changes to regulatory rules and practices. Attitudes to this were split. Some people felt that this was a good idea since it meant that the FSA had to justify why it was making changes, and prove that particular changes would be beneficial.

“Their duty is to do cost benefit analysis... the costs of increasing the burden of regulation... It’s a good thing they have to do it.”

HOC/Asset Management

“They are required to do cost benefit work on new initiatives. Sound in principle.”

CEO/Insurance

Others were more cynical about these types of cost benefit exercises, because they believed that they inevitably came to the conclusion that there were benefits to be gained.

“I’m slightly sceptical about it.”

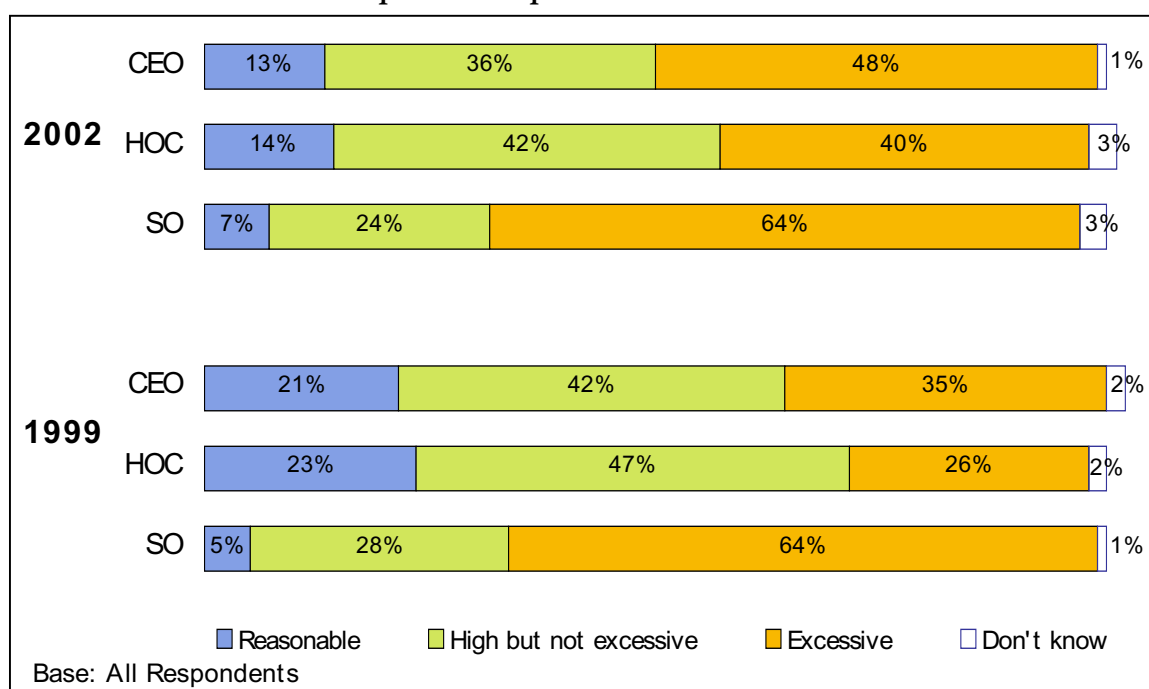
HOC/Investment Bank

“This business of them having to do cost effectiveness is a nonsense. They’re going through the motions. They’re never going to come up with something and then say it’s too expensive.”

HOC/Asset Management

In the **quantitative survey**, only a minority of practitioners considered the costs involved in compliance (taking both fees and internal and external identifiable costs into account) to be reasonable. Heads of compliance were as likely to consider costs to be high but not excessive as they were to consider them excessive – around four in ten in each case – but chief executives and smaller organisations were more likely to consider costs to be excessive rather than simply high. Half of chief executives and two-thirds of smaller organisations considered costs excessive.

Chart 9.1: Costs of compliance for practitioner’s business

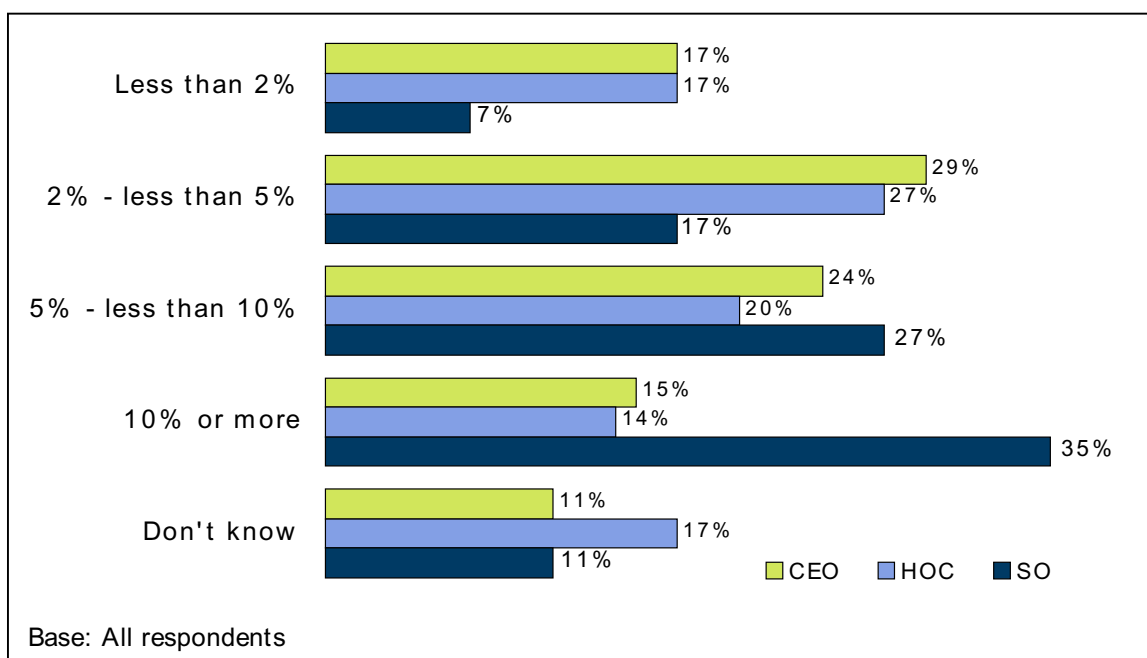


IFAs were most likely to consider costs excessive, followed by friendly societies. Banks (particularly retail/ personal banks), general insurance companies, investment management and securities and derivatives firms were less likely than average to do so.

The views of smaller organisations on this issue have not altered from those held in 1999. However, heads of compliance and chief executives in 2002 were less likely to consider costs to be reasonable, and more likely to consider them excessive, than was the case in 1999.

Practitioners were asked to estimate the total internal and external identifiable current costs of compliance for their business as a percentage of total costs, using the bands shown on Chart 9.2.

Chart 9.2: Total internal and external identifiable current costs of compliance, as a percentage of total costs



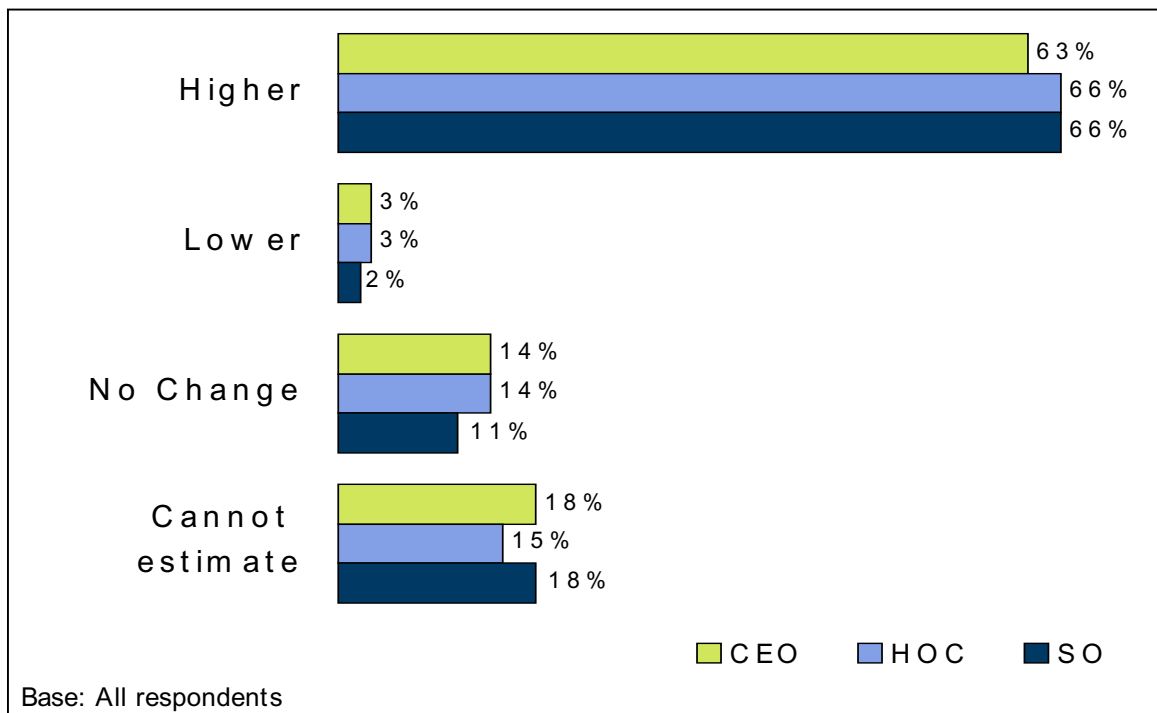
Results from chief executives and heads of compliance were similar. However, for smaller organisations such costs were said to form, on average, a notably higher percentage of total costs. A third of smaller organisations said such costs accounted for 10% of costs or more, and nearly two-thirds in total said they were 5% or more. For heads of compliance and chief executives, just over a third said compliance accounted for 5% or more of total costs.

Comparing results from different industry sectors, those sectors most likely to have said they found the costs excessive at the previous question also claimed on average the highest proportional costs, and those least likely to find costs excessive reported the lowest proportional costs.

The initial one-off costs of transferring to the FSA regime during the N2 transition period were referred to as the “N2 bulge”. To determine whether there was an expectation that associated costs would settle down once the transfer to the new regulator was completed, practitioners were asked:

“After the end of the N2 transition period, do you expect the ongoing internal and external identifiable costs of compliance for your business to be higher or lower than in 1999, i.e. excluding the N2 ‘bulge’?”

Chart 9.3: Expectation of ongoing internal and external identifiable costs of compliance

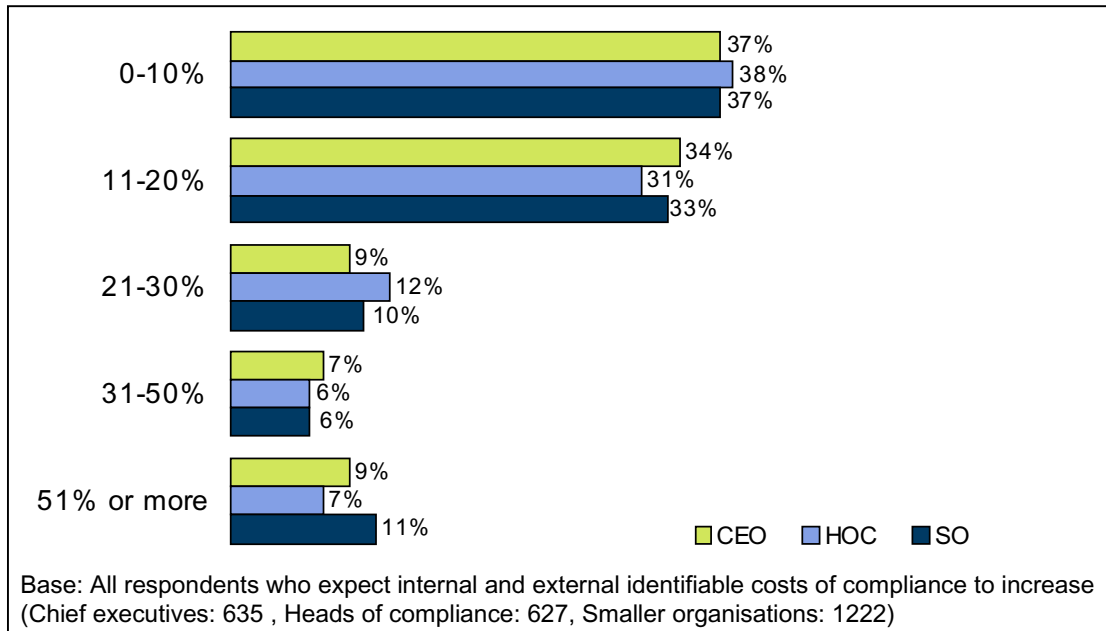


In fact, two out of three practitioners expected their costs of compliance to be higher after the end of the N2 transition period than in 1999, and almost no-one expected costs to be lower. Only 14% of chief executives and heads of compliance, and 11% of smaller organisations, thought that costs would remain the same.

Opinion did not vary much between businesses in different sectors on this measure, except that practitioners from smaller corporate banks, investment management and securities and derivatives firms were more likely than average to say that costs would not change.

Those who expected costs to be higher following the N2 transition period were asked to estimate the magnitude of increase.

Chart 9.4: Expectation of level of increase in internal and external identifiable costs of compliance



In all three practitioner groups, a little over a third expected an increase of 10% or less, and a third expected an increase of between 11% and 20%. This left one in four of those who expected costs to be higher anticipating their ongoing compliance costs to rise by over 20%.

A similar question about the expected percentage decrease in costs was asked of those who expected costs to fall. However, only a very small number of practitioners fell into this category, and there were too few answers for reliable analysis.

10. KNOWLEDGE AND VIEWS OF THE FSA

Moving to a single regulator

When discussing the benefits of having a single regulator, as on many other issues, many practitioners in the **qualitative study** felt that it was early days yet to make a judgement. However, they were positive about the idea, particularly those who had previously had more than one regulator for their business. They believed that having a single regulator would simplify the compliance process. There were several aspects to this. Firstly, they would only have one team of people to deal with and keep informed. Secondly, there would be less duplication of work, with one set of rules, one set of forms and correspondence.

“Undoubtedly from a supervisory point of view we have one team that deals with the whole of our group... Pulling together the regulatory standards into one reasonably coherent block is a benefit.”

HOC/Investment Bank

“We have one rule book to follow. Consistency of approach on a supervisory enforcement side is a good thing. One process. You can have the same supervisory team that covers right the way through your empire and within that specialists on different areas.”

HOC/Asset Management

“It’s a big advantage. I was burdened under a multi-regulated jurisdiction... all with their own views, all with their own ideas, all of them asking for forms, crazy. It’s a good idea to have them all under one place.”

CEO/Retail bank

Practitioners also hoped that a single regulatory team would understand their business better as they would have an overall picture of how they operated. Complex groups in particular hoped that the FSA would be able to co-ordinate their groups better than a myriad of different regulators.

“They understand the structure of the group and how it ticks and the infrastructure questions better than if they were in separate and you can have a discussion with them about business developments that go across corporate structures.”

HOC/Investment Bank

“I think it’s easier for them to understand more about us.”

HOC/Friendly Society

Within this single regulator framework, firms who were involved in the UK Listing Authority felt that it was acceptable and logical to place the UKLA under the aegis of the FSA.

Although practitioners were broadly in favour of the idea of moving to a single regulator, there were, however, some concerns expressed. Firstly, some felt that the FSA was not yet joined up in practice as a single regulator. In this respect, there were some remarks made that the FSA might have taken on too much too quickly.

“They are a single regulator in name and I’m not sure they would argue that they are a fully joined up regulator. They are still showing the dividing lines from where they all came.”

HOC/Insurance

A few practitioners were worried about a potential loss of expertise by having all regulation within a single body, whose staff might know about all the different types of businesses operating in the financial services industry, but not enough about any one sector. Occasionally this led to a concern that the single regulator might not be able to understand such diverse types of businesses or that small companies might get lost in the new large structure.

“I wonder if it’s not too much for one financial regulator because of the different types of business that they have to regulate. So many different types of businesses, they don’t understand how I operate.”

CEO/Accountants

“The Friendly Society movement is very small. We’re even smaller within the FSA and I believe our arguments are going to be diluted even further.”

CEO/Friendly Society

“I suppose the concern that we would have from that is that the regulator could become detached from the firms for which it is responsible, particularly as a smaller organisation... We will be looking to deal with people who will be used to dealing with much larger organisations... and perhaps won’t have the understanding that we felt was there with our previous regulator, which obviously, as the Building Society Commission, knew about building societies.”

CEO/Building Society.

Because the FSA was founded by government statute, there were isolated worries that it might be less flexible than the old self-regulatory bodies.

Government and the FSA

Although firms interviewed in the qualitative study realised that the FSA is now a legally independent entity, many regarded the FSA and the government as very much intertwined. This was because the FSA had been set up by a statute introduced by the government, and also because many practitioners felt that the FSA was following the political agenda of the government, particularly regarding consumer protection. Many felt that the FSA would be influenced by the government.

“I think that the FSA at the moment, to be fair to them, are somewhat subservient to the government and have a political agenda.”

CEO/IFA

“I see the FSA as implementing government policy.”

CEO/Friendly Society

“They are potentially liable to their lords and masters... Ultimately the FSA are accountable to the Treasury so if the government don’t like something the FSA’s doing, I think they’ll lean on them hard.”

HOC/Asset Management

Some felt that the government had been responsive to the financial services industry in its decisions about the FSA. However, many others maintained that this had not been the case.

“Not responsive to the industry. The government has been all over the industry like a rash!”

HOC/Insurance

“No, the government’s understanding of the financial services industry and what it is doing for consumers and the benefits to the UK economy is little understood. There is little contact, little understanding.”

CEO/Insurance

Powers of the FSA

The powers of the FSA were seen as very considerable and some people were concerned that they were too extensive.

“They’re extensive and quite worrying. If you get something wrong, you’re guilty of a criminal offence and you could go to prison.”

CEO/Accountants

However, the majority of those interviewed were not worried about this. Although they reiterated that the jury was still out about how the FSA would use its powers, they were not expecting the FSA to wield the big stick in terms of enforcement and discipline. They expected them to place their prime emphasis on prevention of anything going wrong and to have a relationship of amicable co-operation with firms rather than confrontation.

“They have significant powers but these powers would be used only in the right circumstances and there would be appropriate channels for challenging whether the exercise of the powers was going to be... There’s a confidence that says well the power wouldn’t be abused.”

CEO/Building Society

“Huge. The most important thing is how they use those powers... I think or I hope that the new FSA will be more, we think there’s an

abuse here, this is what you should do in the future. You mend your ways, but if it happens again in the future we will take enforcement action... We expect most action to be taken by the supervisory team rather than by the enforcement team."

HOC/Asset Management

Some practitioners knew that there was a Right of Appeal against FSA decisions relating to enforcement and discipline.

The jury's out. But I think there are plenty of safeguards through the Appeals Process and the separation of prosecutors from the investigators."

HOC/Investment Bank

Others were not aware of this. Whilst some practitioners were happy that enough safeguards had been put in place to ensure that the FSA accounted for its activities, others were not so sure. Furthermore, some of the larger firms who were aware that the idea of Public Tribunals was under discussion were worried about this. They believed that Public Tribunals would damage an individual firm's reputation by "washing dirty linen in public" and might also affect confidence in the financial services industry as a whole.

"I think the Public Tribunal aspect is a big, is a bad idea... I just think it discourages firms from going down that route... the papers are not going to let that go and no firm is going to want to really air that, so they'll just take it on the chin and that doesn't strike me as fair... There should be an ability to say no, it's in camera."

HOC/Brokers

"The problem with that is the word public. One of these issues would be of a highly sensitive commercial nature and you don't want to air that stuff in public."

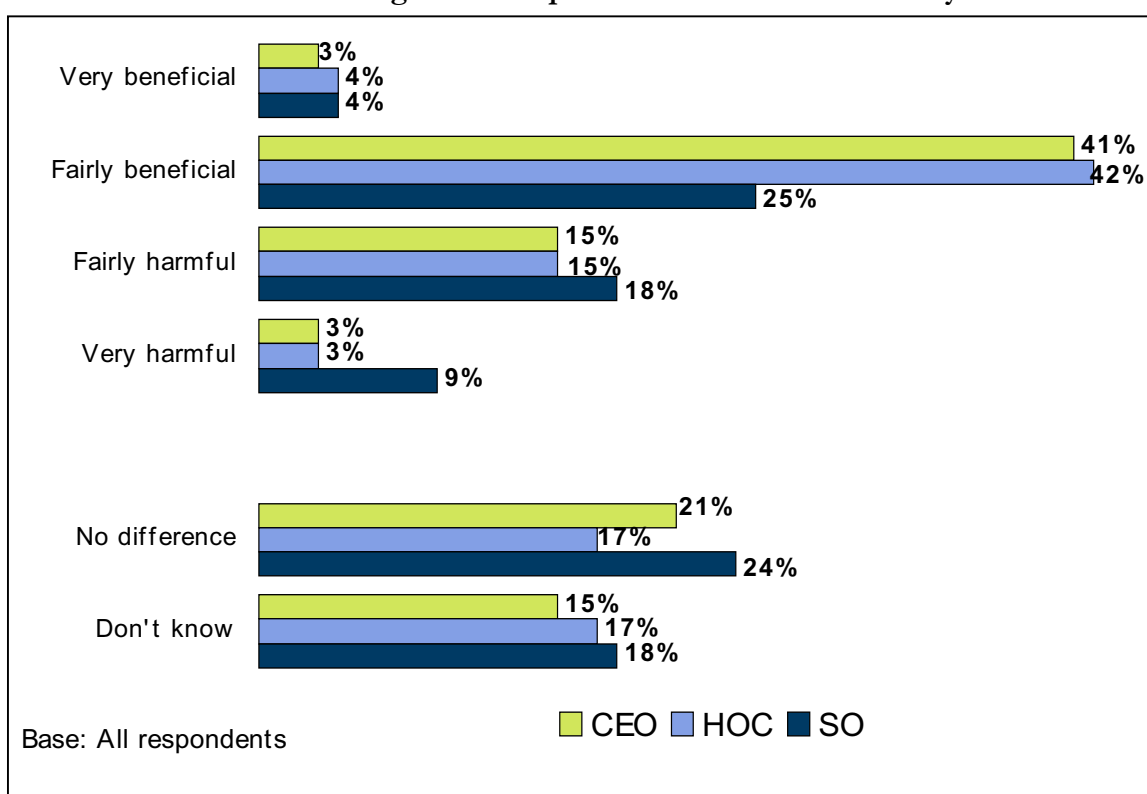
CEO/Retail Bank

10.1. Effect of change to the FSA

When asked in the survey how they thought the change to the FSA as a single regulator had affected the financial services industry as a whole, overall impressions from chief executives and heads of compliance were positive, with both groups being over twice as likely to say it had been beneficial as to say it had been harmful. Smaller organisations were more divided in their opinions, with equal proportions saying the change had been beneficial or harmful. One in five chief executives and heads of compliance and one in four smaller organisations said that the change had made no difference.

Practitioners from retail banks were the most positive about the change, with three in five saying it had been beneficial to the financial services industry.

Chart 10.1: Effect of change to FSA upon financial services industry as a whole



In 1999, the comparable question asked practitioners how they **expected** the change to affect the financial services industry. We can compare these questions to give us a measure of expected against actual change.

Chart 10.2: Effect of change to FSA upon financial services industry as a whole – actual (2002) vs. expected (1999) – Chief executives

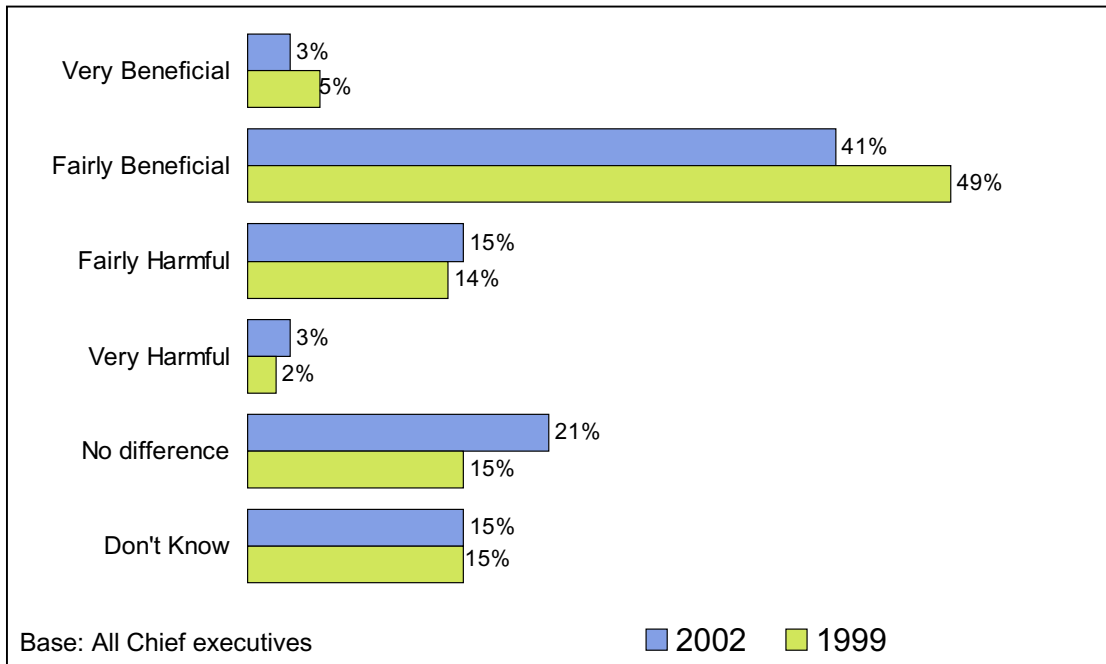


Chart 10.3: Effect of change to FSA upon financial services industry as a whole – actual (2002) vs. expected (1999) – Heads of compliance

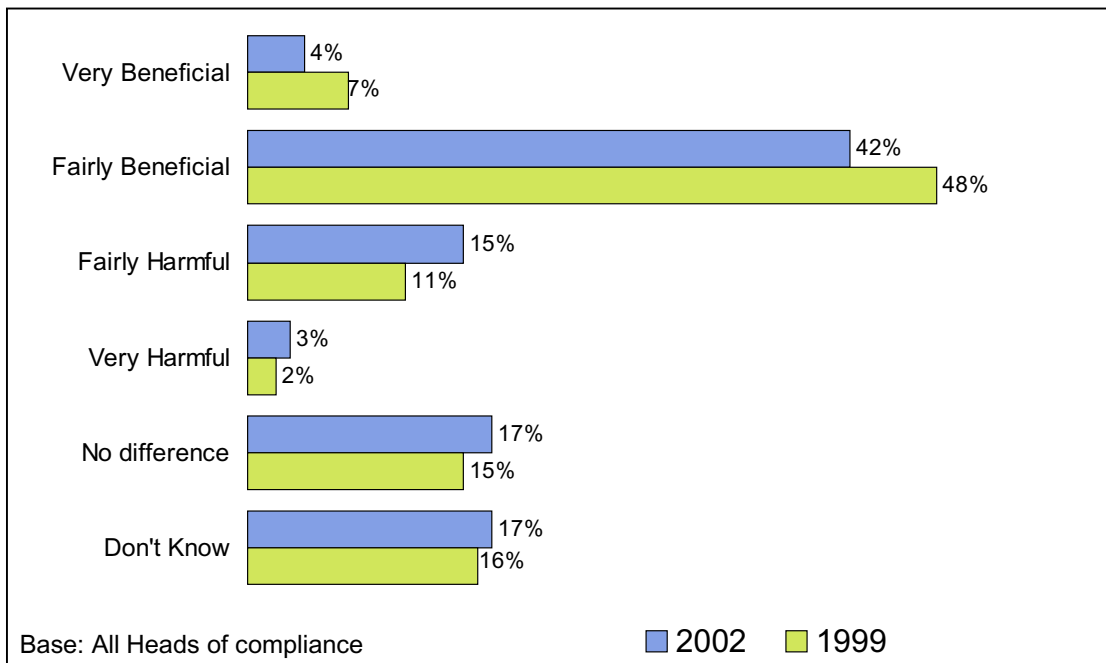
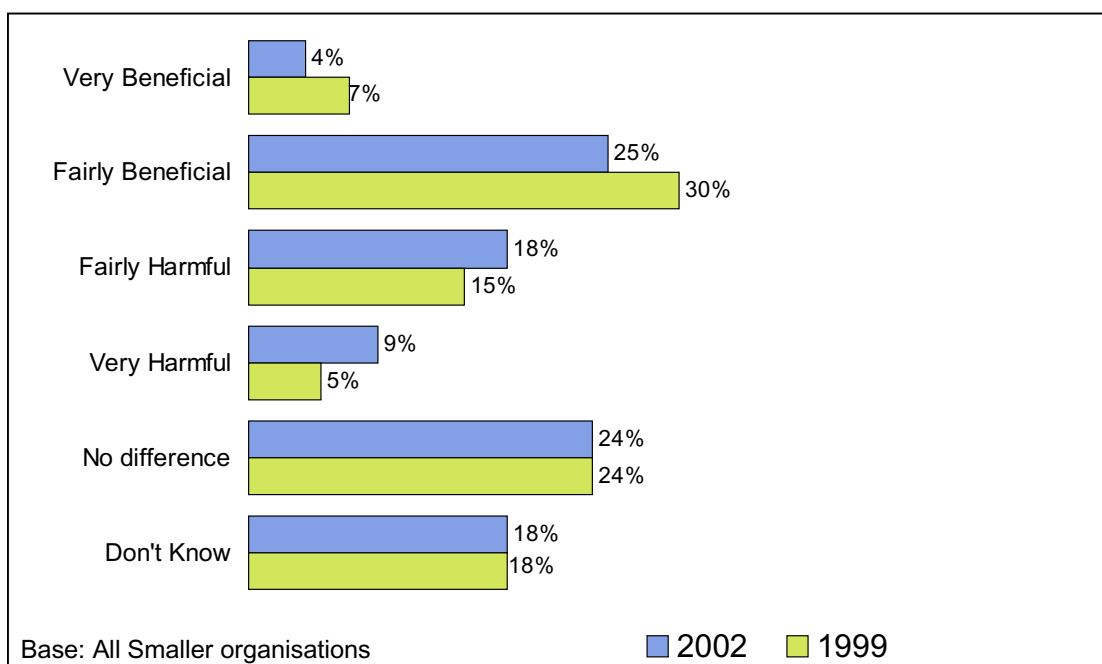


Chart 10.4: Effect of change to FSA upon financial services industry as a whole – actual (2002) vs. expected (1999) – Smaller organisations

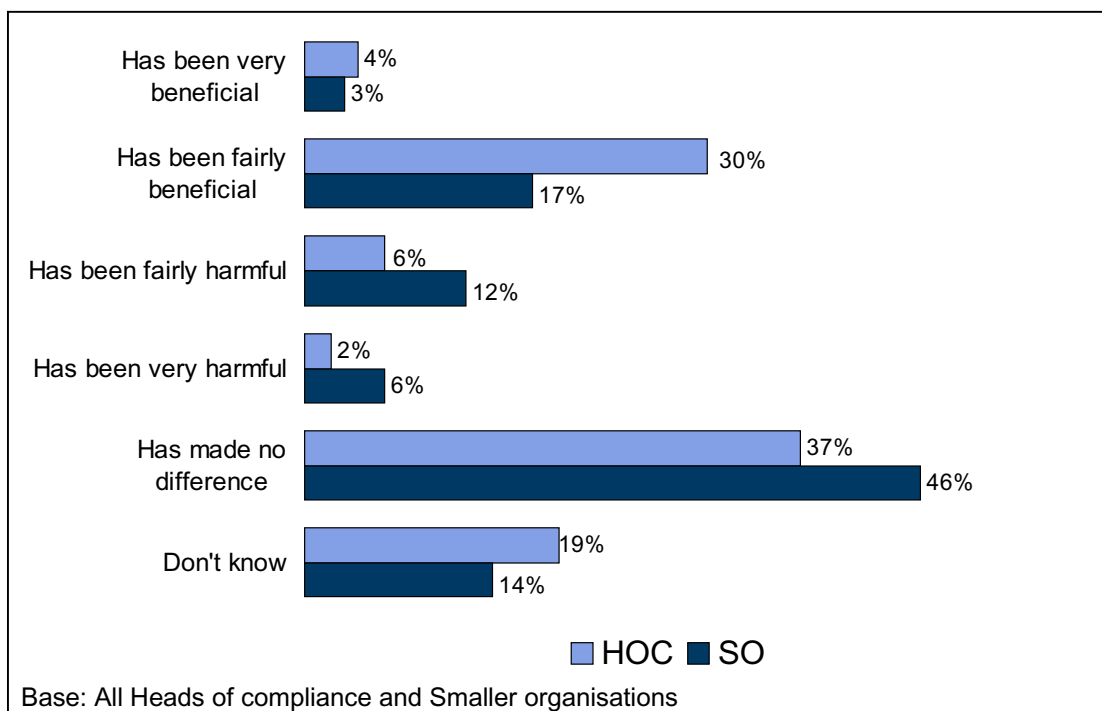


In each case the balance of opinion has shifted somewhat away from the “beneficial” side of the scale, by around one in ten practitioners; in other words, the actual change to the financial services industry is now perceived as less beneficial than was anticipated. This change is particularly important for the smaller organisations, as it alters the situation from one where practitioners were twice as likely to anticipate the change as being beneficial as harmful, to one where they are as likely to say the change has been harmful as beneficial.

Heads of compliance and smaller organisations who thought the move had been beneficial were asked to say why this was the case, in an open-ended question. The answers most commonly given were that the new regime was simpler, with less confusion (three in ten practitioners who said the move was beneficial gave this reason), and that the new system was fairer, with a standardised, “one rule for all” approach (two in ten gave this reason). These were the only reasons given by at least one in ten practitioners.

Among those who said the move had been harmful, a greater number of reasons for this were cited. Those given by more than 10% of such practitioners were: that it had increased costs (one in five of each group gave this answer); that it had increased bureaucracy or paperwork (one in four heads of compliance, one in seven smaller organisations); that it had resulted in stricter, inflexible regulation, or an inappropriate use of the “one rule for all” approach (one in seven of each group gave each of these answers).

Chart 10.5: Effect of change to FSA upon consumers of financial services



When asked to consider the effect of the change to the FSA upon **consumers** of financial services, the most common response from both heads of compliance and smaller organisations was that it had made no difference. Among those who did think it had made a difference, heads of compliance were again more likely to say this had been beneficial rather than harmful (about four times as likely), whereas smaller organisations were as likely to say it had been harmful as that it had been beneficial.

Practitioners from IFAs were most likely to believe the move had had a harmful effect on consumers, whereas those from investment management and securities and derivatives firms were more likely than average to believe the move had had a beneficial effect.

Where the change was perceived to be beneficial, the most commonly given reasons for saying this were the creation of a single point of contact/ easier for consumers to raise concerns (a quarter of practitioners who said the move was beneficial to consumers gave this reason), and better controls leading to greater protection (around one in seven said this). Reasons why the change had been harmful to consumers included: increased bureaucracy; the passing on of increased costs to the client; and a negative effect upon consumer confidence and trust in the industry.

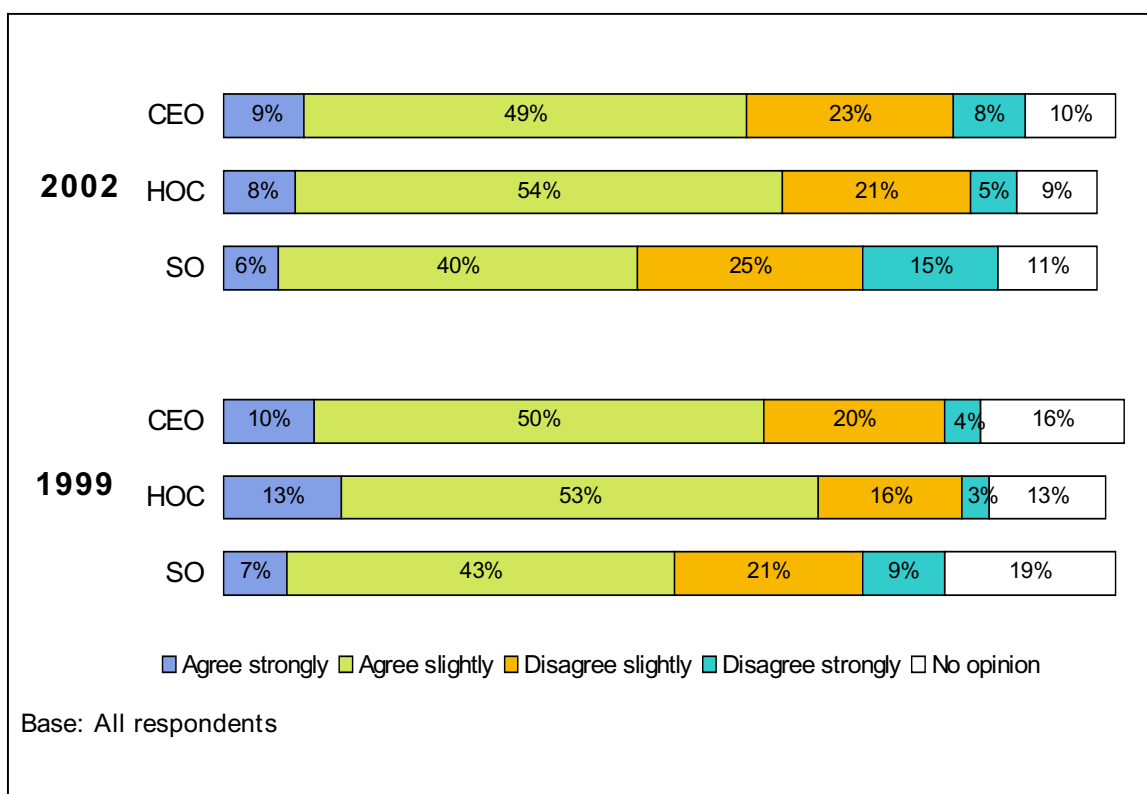
10.2. Views of the FSA

Practitioners were asked to indicate their level of agreement with six statements about the FSA. In most cases, the majority opinion was negative towards the FSA, the only positive view being a tendency to agree that the FSA was being as open and responsive as possible. Practitioners were also more likely to agree than disagree that the government was listening to consumer views in decisions about the FSA, but this is counter-balanced by the negative opinion of practitioners as to whether the government considered industry views in the same way.

In general, heads of compliance and chief executives gave responses that were more positive towards the FSA than those of smaller organisations. IFAs and firms with life and pensions business were particularly negative about the FSA in most cases.

Chief executives and heads of compliance were more likely to agree than disagree that the FSA was being as open and responsive as possible in the way it was currently operating, and smaller organisations were as likely to agree as disagree. However, this still leaves at least one in four practitioners in each group who believe the FSA could operate in a more open or responsive fashion.

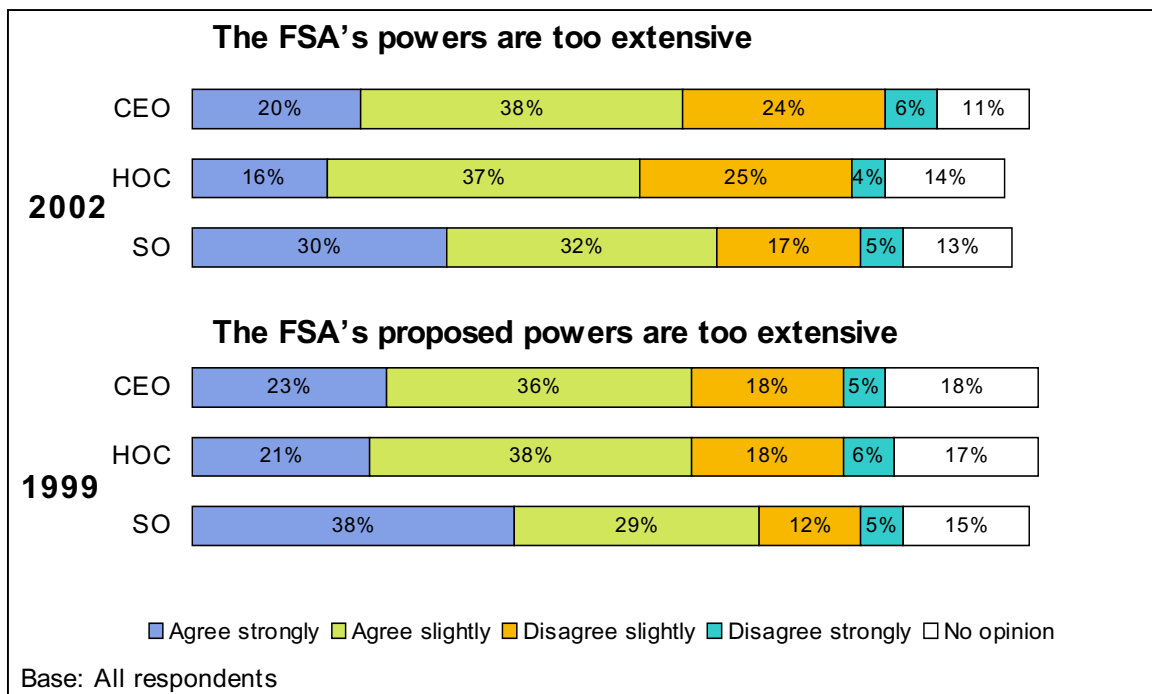
Chart 10.6: “The FSA is being as open and responsive as possible in the way it is currently operating”



Practitioners from retail/ personal banks were the most likely to agree that the FSA was open and responsive; and those from firms with life and pensions business and IFAs were the most likely to disagree.

The proportion who felt able to give an opinion has increased since 1999. Of those practitioners who gave an opinion, the level of agreement has fallen by around one in ten in this time.

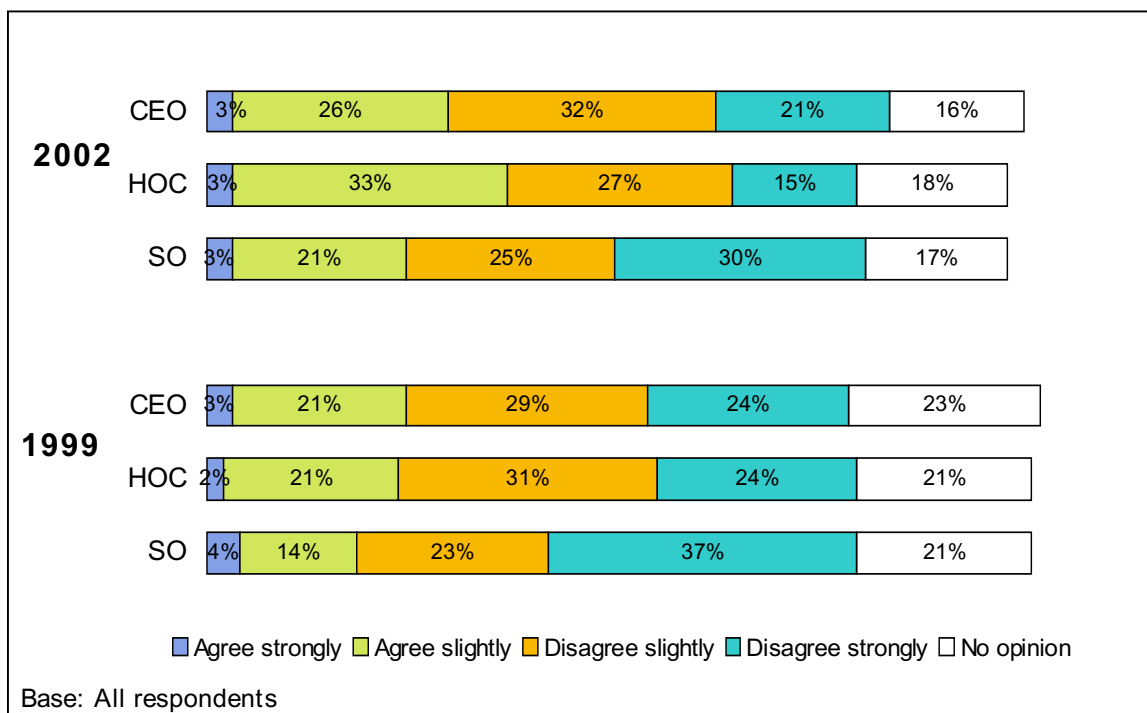
Chart 10.7: “The FSA’s powers (2002)/proposed powers (1999) are too extensive”



The majority of practitioners (two thirds of chief executives and heads of compliance who expressed an opinion, three quarters of smaller organisations who did so) felt that the FSA’s powers were too extensive. In particular, practitioners were more likely to strongly agree with this statement than with any other in this section. The ratio of agreement to disagreement was highest among IFAs and smaller firms with life and pensions business, and lowest among chief executives and heads of compliance of general insurance companies.

The question was asked in 1999 in terms of the proposed powers of the FSA; at that time, practitioners were slightly more likely to agree that these were too extensive than was the case in 2002 with regard to its current powers.

Chart 10.8: “There are sufficient safeguards in place to ensure that the FSA is accountable for its activities”

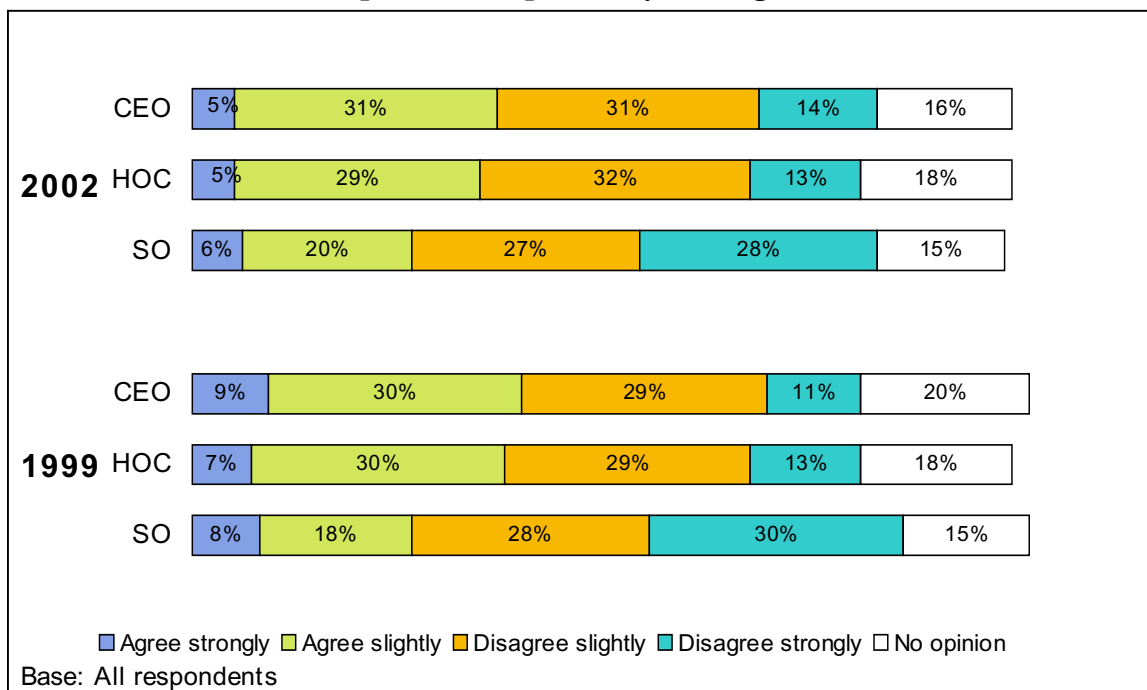


Only a minority – about one in three smaller organisations and chief executives who gave an opinion, and under half of heads of compliance who did so – agreed that there were sufficient safeguards in place to ensure the FSA was accountable for its activities. Practitioners were quite likely to disagree strongly that this was the case, in particular smaller organisations (two in five of smaller organisations who expressed an opinion disagreed strongly).

Agreement was highest among friendly societies (the only sector where practitioners were more likely to agree than disagree with this statement) and retail banks. Highest proportional levels of disagreement were given by IFAs and firms with life and pensions business.

Although low, levels of agreement had still risen since 1999. This was particularly the case for heads of compliance, who in 1999 were no more likely than chief executives to agree that sufficient safeguards existed.

Chart 10.9: “The FSA operates independently of the government”



Chief executives and heads of compliance were slightly less likely to agree than to disagree that the FSA operated independently of the government, with just over two in five of those who gave an opinion agreeing. Smaller organisations were less convinced – only a third of those who gave an opinion agreed this was the case, and a third disagreed strongly.

Practitioners from corporate/ investment banks were most likely to agree that the FSA operated independently; this was the only sector where practitioners were more likely to agree than disagree with this. Highest levels of disagreement were seen among IFAs, firms with life and pensions business and building societies.

Levels of agreement are very close to those seen in 1999.

Chart 10.10: “In its decisions about the FSA, the government has listened to industry views”

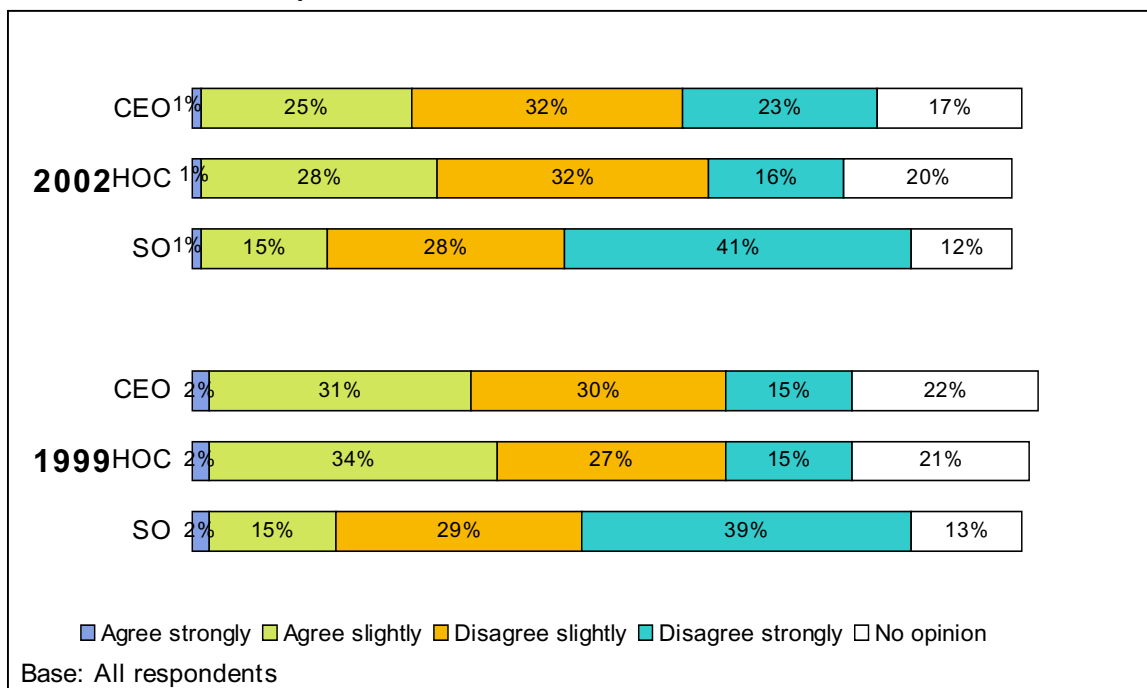
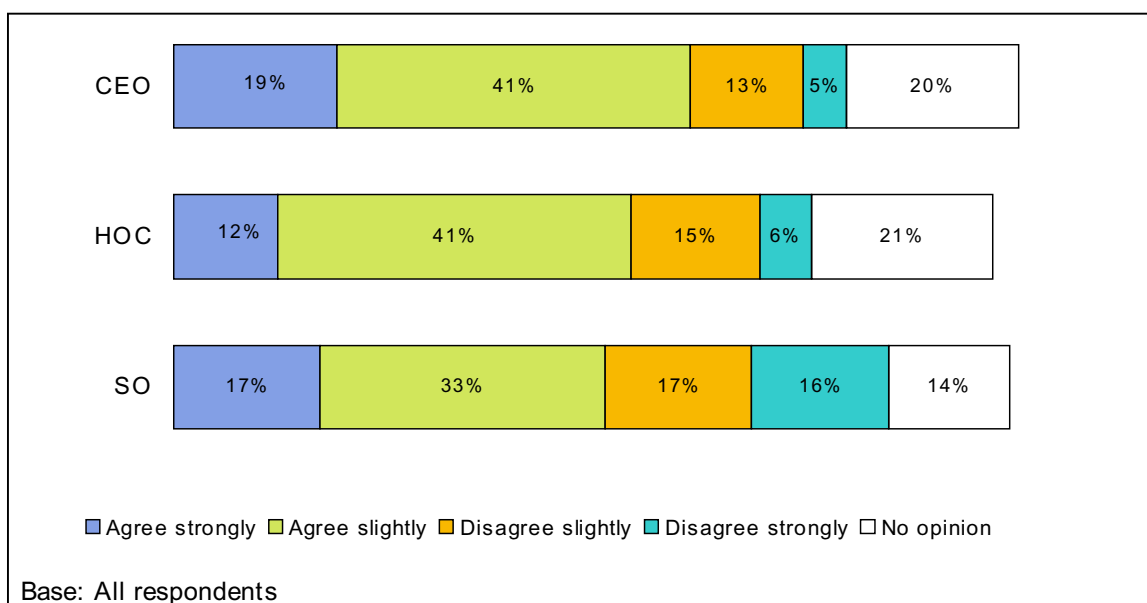


Chart 10.11: “In its decisions about the FSA, the government has listened to consumer views”



The lowest levels of agreement were with the statement “In its decisions about the FSA, the government has listened to industry views”. Only one in five smaller organisations who gave an opinion agreed with this, and half strongly disagreed. Agreement was slightly higher among chief executives, where one in three of those expressing an opinion agreed,

and highest among heads of compliance (two in five of those expressing an opinion agreed).

It is interesting to compare these results with those of the similar statement about listening to consumer views, where practitioners in all areas were much more likely to agree. Of those expressing an opinion, three in five smaller organisations and around three-quarters of heads of compliance and chief executives agreed. Clearly practitioners think that the government has listened more to consumers than to the financial services industry in its decisions about the FSA.

As on several of the previous statements, practitioners from IFAs and firms with life and pensions business were most likely to disagree that the government took industry views into account. Those from retail banks and smaller corporate/ investment banks were most likely to agree. In terms of consumer views, the highest levels of agreement that the government listened to consumers were seen among practitioners from building societies and chief executives of retail banks, general insurance companies and larger IFAs.

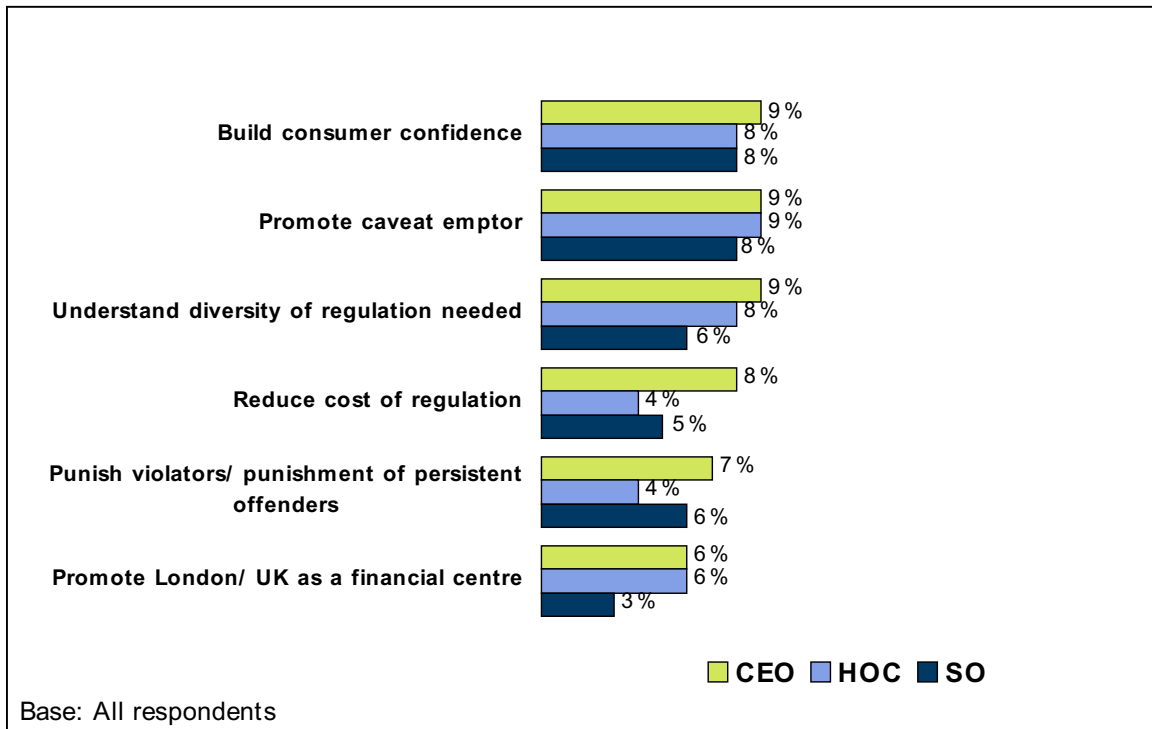
Among chief executives and heads of compliance, levels of agreement that the government has listened to industry views have fallen since 1999. It is possible that the juxtaposition of the statement about consumer views, not included in 1999, has encouraged polarisation of views across the two statements but, if so, the results for smaller organisations have not been similarly affected.

10.3. Overall priorities for the FSA

All practitioners were asked what they saw as the most important overall priorities for the FSA to address as the single regulator for the financial services industry. Practitioners answered this final open question in their own words. Most of the issues mentioned had already been identified in answers to earlier questions, but this question provided an opportunity for practitioners to sum up their priorities overall.

This question was asked in the previous survey in 1999, however, practitioners were asked to think to the future and say what they thought were the most important priorities for the FSA to address once it had taken over the role of single regulator for the financial services industry.

Chart 10.12: Important priorities for the FSA to address 2002



The most important priorities for the FSA to address, mentioned by around 8 or 9% of practitioners across all groups were building consumer confidence and promoting caveat emptor or ‘buyer beware’. Although similar proportions of practitioners in the previous survey raised the issue of ‘building consumer confidence’; ‘promoting caveat emptor’ was mentioned by a greater proportion of practitioners in the 2002 survey.

Building consumer confidence was seen as a particular priority among IFAs. Among chief executives, those from firms with life and pensions business saw this as a particular priority.

Among chief executives, promoting caveat emptor was seen as a particular priority by those in firms with life and pensions business and IFAs.

The most important priority for the FSA in the 1999 survey, mentioned by about one in five practitioners was a style of regulation that involves the application of broad principles, rather than narrow rules. In the 2002 survey, this was only mentioned by around 5% of practitioners, perhaps suggesting that the FSA, compared to practitioners’ previous regulators, is seen as already applying broad principles rather than narrow rules.

The next most important priority mentioned in the 2002 survey was the need to ‘understand the diversity of regulation needed’ with 9% of chief executives, 8% of heads of compliance and 6% of smaller organisations mentioning this point.

Several other issues of importance to practitioners were all mentioned by 4-6% of practitioners. The priorities were not exactly the same for all three practitioner groups -

chief executives wanted the FSA to give priority to reducing the costs of regulation. For all groups, top priorities included:

- Reduce the cost and administrative burden of regulation for organisations
- Punish violators/ punish persistent offenders/ take a firm line with persistent offenders/ weed out rogue firms
- Do not restrain the development of London as a financial centre/ promote UK as an international financial centre/ maintain a stable and confident financial market

10.4. Sources of information about the FSA

In the **quantitative survey**, heads of compliance and smaller organisations were presented with a list of possible sources of information about the FSA, and asked to say where they had seen or heard most of their information about the FSA. Results are given below from both the 1999 and 2002 surveys, ranked in order of selection in 1999.

Chart 10.13: Main sources of information about FSA – Heads of compliance (1999)

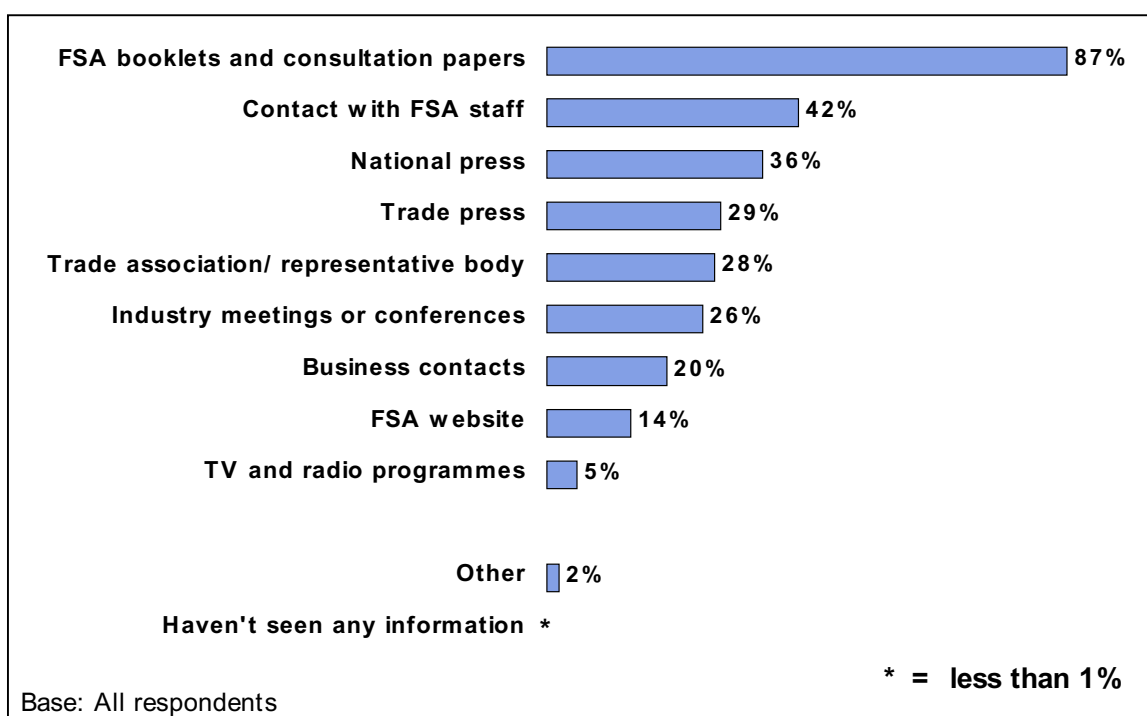
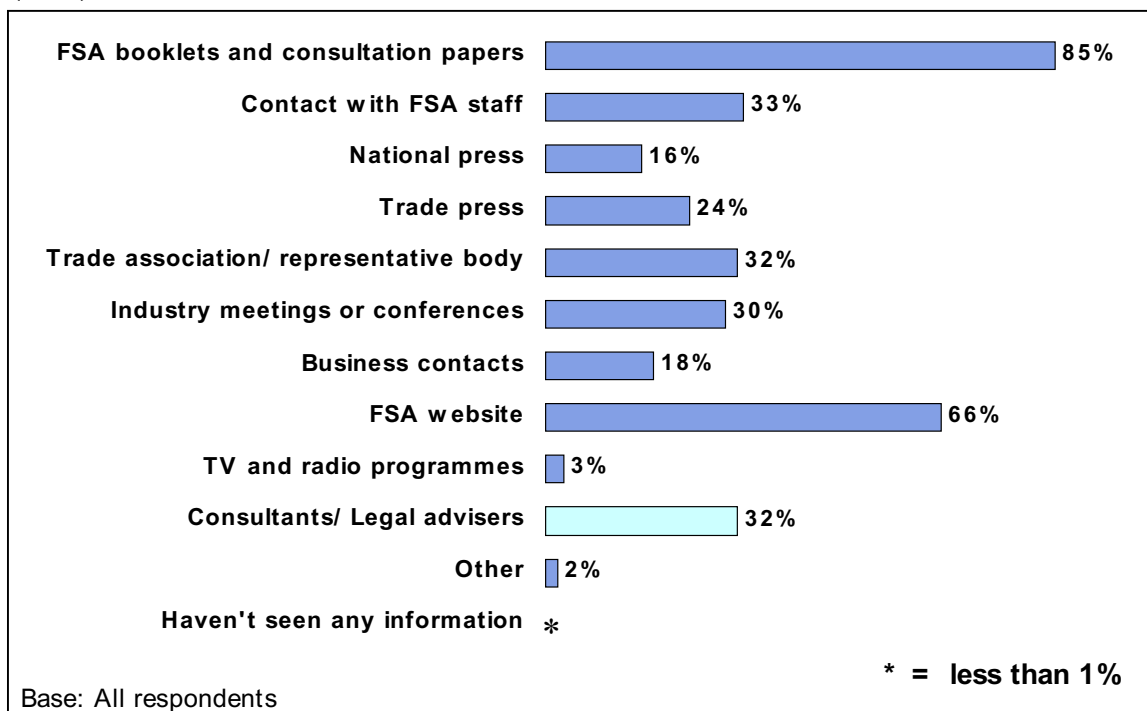


Chart 10.14: Main sources of information about FSA – Heads of compliance (2002)



For heads of compliance, the most commonly cited sources were those originating from the FSA itself. The most commonly used were FSA booklets and consultation papers; most (85%) said this was one of their biggest information sources. Second most commonly mentioned was the FSA website – two thirds (66%) used this as one of their main information sources.

The next most common choices were only used half as often, with around a third mentioning each of: contact with FSA staff; trade associations/ representative bodies; consultants/ legal advisers (this code was provided for the first time in 2002); and industry meetings or conferences. Trade press came next, mentioned by one in four heads of compliance.

In all areas, the two most commonly used sources remained FSA booklets/ consultation papers followed by the FSA website. After these, choice of information sources varied depending on the area of operation.

The most notable shift since 1999 is in the proportion of heads of compliance using the FSA website as a principal source of information; use of this source has increased more than fourfold in the last three years, taking it from almost last choice to second most common. This increase probably accounts for the decline since 1999 in usage of FSA staff as a primary source of information. The proportions using both trade press and, in particular, national press as a major information source have fallen, reflecting the greater press coverage of the FSA when first introduced.

Chart 10.15: Main sources of information about FSA – Smaller organisations (1999)

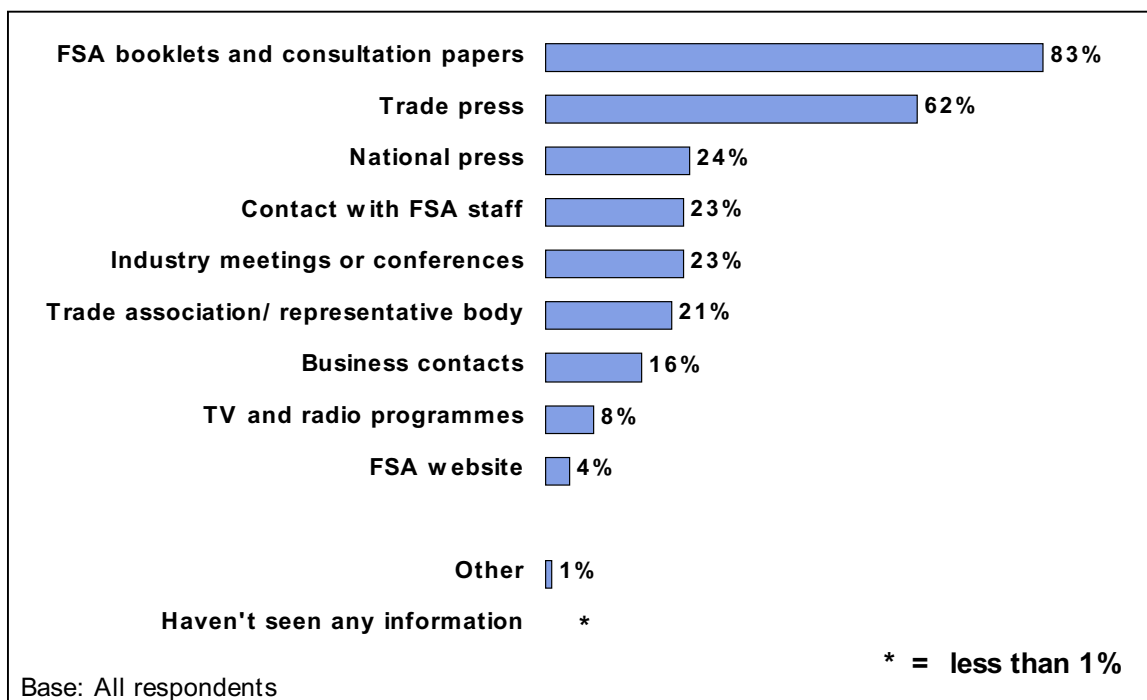
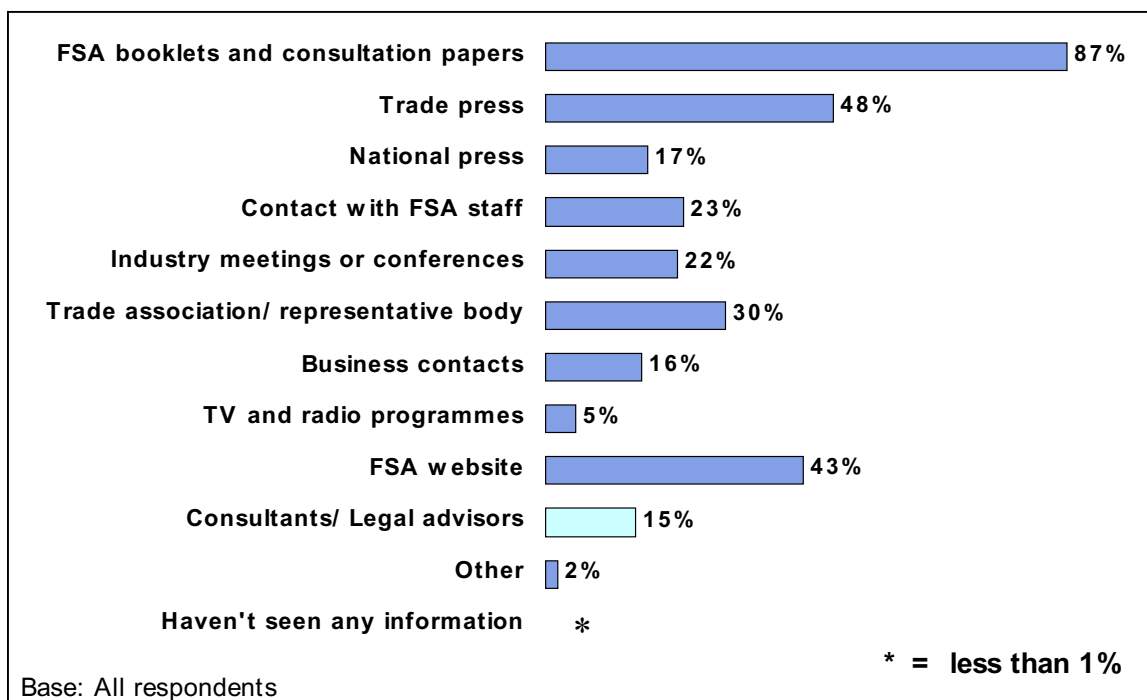


Chart 10.16: Main sources of information about FSA – Smaller organisations (2002)



FSA booklets and consultation papers were also most commonly cited as a main source of FSA information by smaller organisations, with 87% choosing this option. However, the second most common option was trade press rather than the website; half of smaller

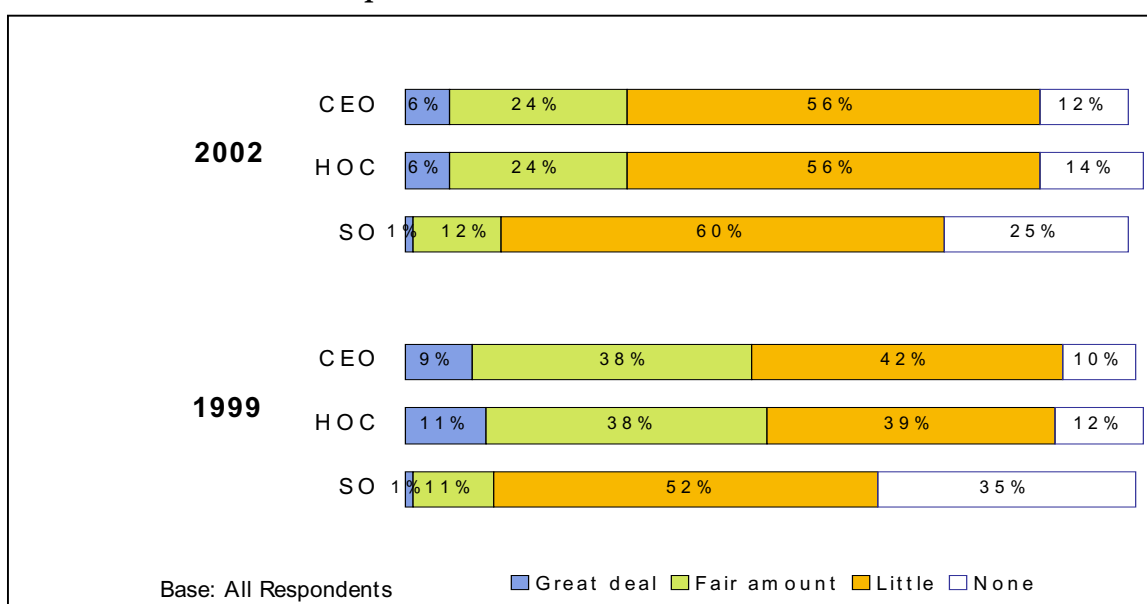
organisations said the trade press was one of their main sources of information, twice as high as the level seen for heads of compliance. The FSA website was the third most common choice; smaller organisations were much less likely than heads of compliance to prioritise this source (43% vs. 66%). Smaller organisations were also less likely than heads of compliance to mention contact with FSA staff, industry meetings or conferences, and consultants/ legal advisers as main information sources.

As with heads of compliance, there was considerable variation in preferred sources between different industry sectors, although FSA booklets and papers remained the most common source for every sector.

As with heads of compliance, the largest change since 1999 was the increase in the proportion citing the FSA website as a preferred source – in the case of smaller organisations, a ten-fold increase – reflecting the rapid growth in Internet usage. The proportions using national and trade press as sources have dropped. This shows a similar trend to the results for heads of compliance, although interestingly the proportion mentioning contact with FSA staff has not dropped for smaller organisations as it did for heads of compliance. There has also been an increase since 1999 in the proportion of smaller organisations getting information about the FSA from trade associations and representative bodies; they are now as likely as heads of compliance to favour this source.

All practitioners were asked to indicate how much face-to-face or telephone contact they and/or their senior colleagues had with frontline FSA staff. Overall, representatives of larger companies had a greater degree of contact than did those from smaller organisations.

Chart 10.17: Level of telephone/ face-to-face contact with frontline FSA staff



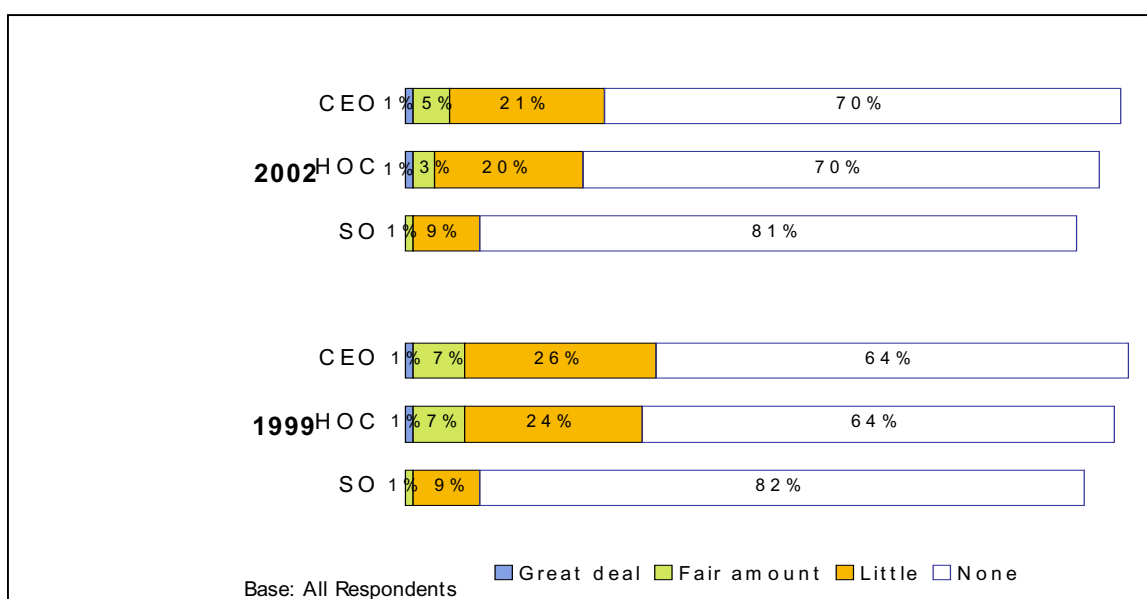
Only a minority of each group – 6% of chief executives and heads of compliance, 1% of smaller organisations – had a great deal of contact. However, chief executives and heads of compliance were twice as likely as smaller organisations to say they had a fair amount of contact (24% vs. 12%). Similar proportions of each group said they had just a little contact (this was the most common answer in each group), but smaller organisations were twice as likely as others to say they had no contact with frontline FSA staff at all – one in four said this.

Higher than average levels of contact with frontline staff were reported by chief executives and compliance heads in retail banks, corporate banks and insurance companies.

There were considerable changes in these results compared with those from 1999. Although still more likely than other practitioners to report this at all, the proportion of smaller organisations who had no contact at all with frontline FSA staff was smaller in 2002, with a corresponding increase in the proportion having a little contact. Heads of compliance and chief executives, on the other hand, were less likely in 2002 to report having a great deal or a fair amount of contact and more likely instead to say they only had a little contact. Overall, therefore, although smaller organisations still report a lower level of contact with frontline FSA staff than other practitioners, the gap is smaller in 2002 than in 1999.

Contact with FSA policy makers was understandably much rarer. The large majority of practitioners in all sectors of the industry reported no face-to-face or telephone contact with FSA policy makers. Chief executives and heads of compliance were more likely than smaller organisations to say they had any contact. Around one in four of these groups had some degree of contact, although in most cases this was just a little; only one in ten smaller organisations had any degree of contact, almost always only a little.

Chart 10.18: Level of telephone/ face-to-face contact with FSA policy makers



Practitioners from retail banks and insurance companies were more likely than those in other sectors to have had contact with FSA policy makers. Smaller accountancy firms were particularly unlikely to have had any such contact.

As with frontline staff, chief executives and heads of compliance were less likely to have contact with policy makers than was the case in 1999, although since levels of contact were fairly low in each case, the degree of change is not as great. There was no change seen in the levels of contact for smaller organisations.

11. THE WIDER ENVIRONMENT

Regulatory reviews

Among industries that were under governmental review of their sector, like life and pensions insurance and retail banking, this was a cause for concern. The main reason for this was that both the FSA and government departments were carrying out reviews on the same topics, and there was a fear that they might come to different conclusions. In this respect, practitioners believed that these reviews should have been a remit for the FSA alone, because the FSA would have more specialised knowledge about these industries than government departments like the Treasury.

“There’s a possibility of different conclusions being taken by reviews outside the Financial Services Authority and those within. I would have liked to see the reviews happening within the FSA itself.”

CEO/ Insurance

“It’s constantly under review. There are some concerns there are some reviews being conducted on how insurance is regulated both by the Treasury and by the FSA. The main concern of the industry is that they reach differing conclusions...Generally it’s unhelpful...Overall, I’d rather have the FSA. They have the staff within them who have developed a reasonable amount of knowledge of what the insurance industry is about. The Treasury doesn’t have the expertise.”

HOC/Friendly Society

Financial Ombudsman

Many practitioners in the qualitative study were not really aware of what the boundaries were between complaints handling by the Financial Ombudsman and policy setting by the FSA. There were some comments however that there needed to be a good liaison between the two organisations but that their remits did need to be kept separate.

“I do think that it is important that the Ombudsman does not overstep the mark and I do think there needs to be very good liaison between the Ombudsman and the FSA.”

CEO/Building Society

“They’ll see the results of his cases...The FSA is collecting the costs of the Financial Ombudsman which is a great idea...You have to be careful, if there are too close links, will they be independent?...If there’s any influence of the FSA on the Ombudsman I wouldn’t like it.”

CEO/Accountants

Money laundering rules

Firms generally felt that the rules on money laundering were clear and not overly bureaucratic. Although these rules were perceived as expensive to administer, practitioners did not mind this as they understood the reasons behind the rules and believed that it was their duty to implement the money laundering provisions and “keep the bad guys out”.

“We will do anything we can. We don’t want that business.”

CEO/Retail Bank

“It is important that we do try to track down money laundering”

CEO/Insurance

“It’s a cost to our business but we do it willingly in the belief that we want to see financial crime contract.”

CEO/Brokers

Some practitioners believed that the money laundering rules were effective. Moreover, firms with a small client base like private wealth management personally vetted all potential clients.

“We get the usual letters from Nigeria, someone has twenty three million who wants to lend it to us! There’s considerable experience and a culture in the company as to what business we want to do...If we don’t like it, we don’t do it.”

CEO/Brokers

Others like smaller friendly societies did not see themselves as likely candidates for money launderers. However, other people believed that dedicated money launderers would always be clever enough to slip through the net whatever rules and processes were put in place.

“The danger is that it doesn’t work. That it will not be strong enough to stop criminals opening bank accounts”

HOC/Investment Bank

“All of the things we’re putting in place are not going to stop, the committed money launderer will be, using a firm like ours, will be doing it for legitimate business. We wouldn’t be able to spot it; we’re not going to catch it... Osama bin Laden is not going to put money through a wire transfer in the name of Osama bin Laden!”

HOC/Brokers

Nonetheless, no one wanted any more rules or guidance on this.

FSA Co-ordination with other countries’ regulators

Those who had businesses where the FSA had to co-ordinate with regulators in other countries felt that they did this well, better than the old self-regulatory bodies.

“They do visit our branches overseas and they do attempt to meet the local regulators in the countries where we’ve chosen to set up camp. So you know, more so ever than the Bank of England.”

CEO/Investment Bank

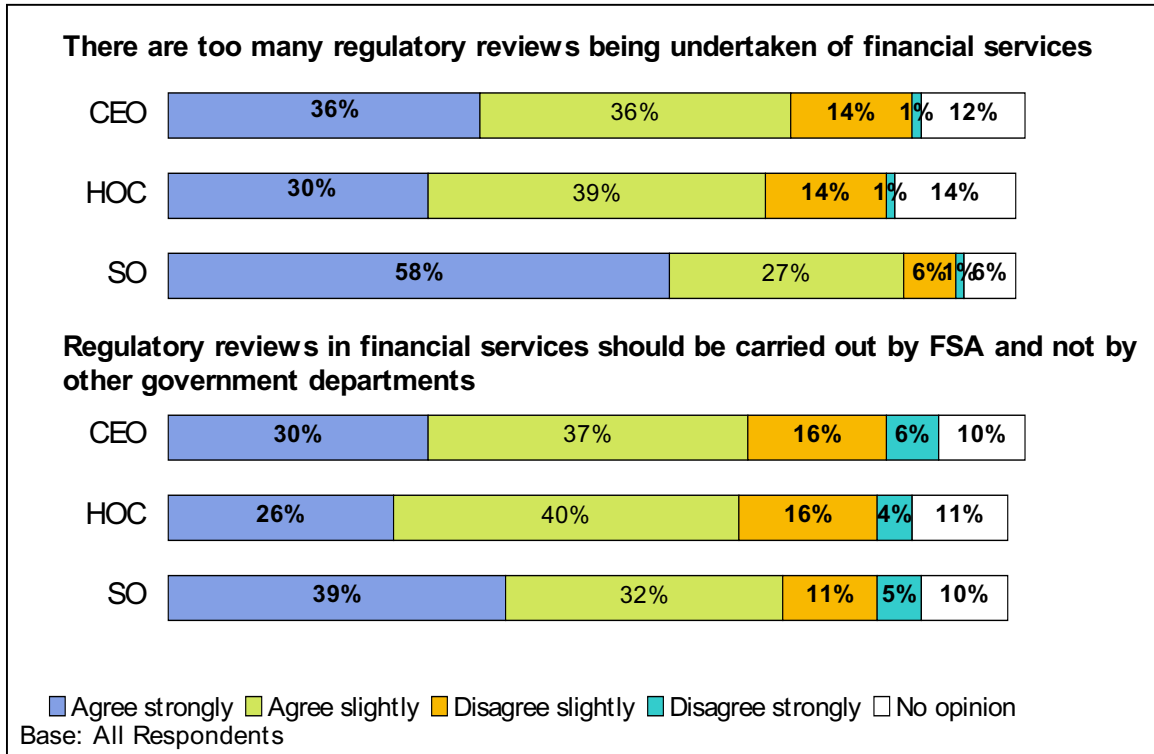
“They liase with the SEC. There’s an understanding between the FSA and the SEC and the one in Hong Kong and Singapore.”

HOC/Asset Management

A new set of questions was added to the **quantitative** survey to cover broader issues, under the title of ‘Wider environment’. These questions were developed taking into account the issues raised during the qualitative research.

Practitioners were asked to indicate how much they agreed or disagreed with five statements about the ‘wider environment’ in which the FSA was operating..

Chart 11.1: The FSA and the wider environment 1



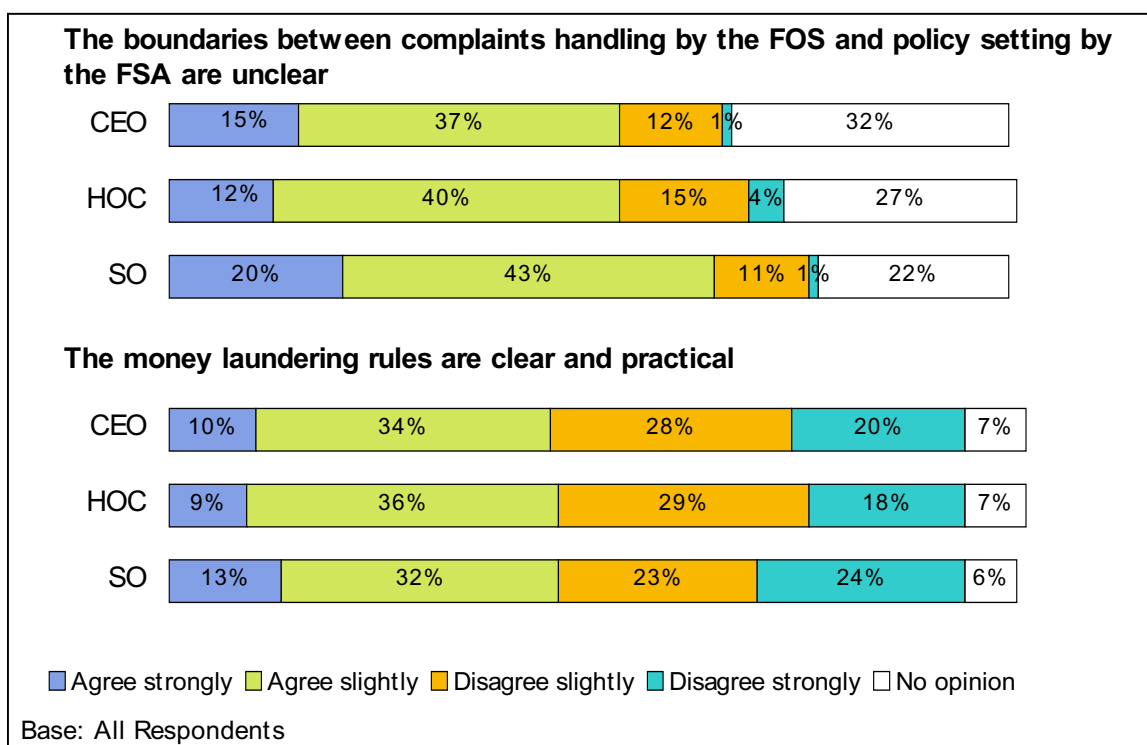
Around 70% of chief executives and heads of compliance and 85% of practitioners from smaller organisations agreed that ‘there are too many regulatory reviews being undertaken of financial services’. This rose to over 90% among IFAs and the smaller firms with life and pensions business.

Those least likely to agree were the smaller corporate/ investment banks and securities and derivatives firms, and compliance heads of general insurance firms (53-56%).

Around two-thirds of practitioners agreed that ‘Regulatory reviews in financial services should be carried out by the FSA and not by other government departments’. The proportion agreeing was higher in smaller organisations, with 71% agreeing, and rose to over 80% among chief executives of building societies and general insurance firms, and over 90% among heads of compliance in building societies.

Those least likely to agree were the smaller securities and derivatives firms (48%) and the smaller investment management firms (54%).

Chart 11.2: The FSA and the wider environment 2



Around half of chief executives and heads of compliance, and almost two-thirds of smaller organisations agreed that ‘The boundaries between complaints handling by the Financial Ombudsman Service and policy setting by the FSA are unclear’. The remainder did not so much disagree, as generally did not have an opinion.

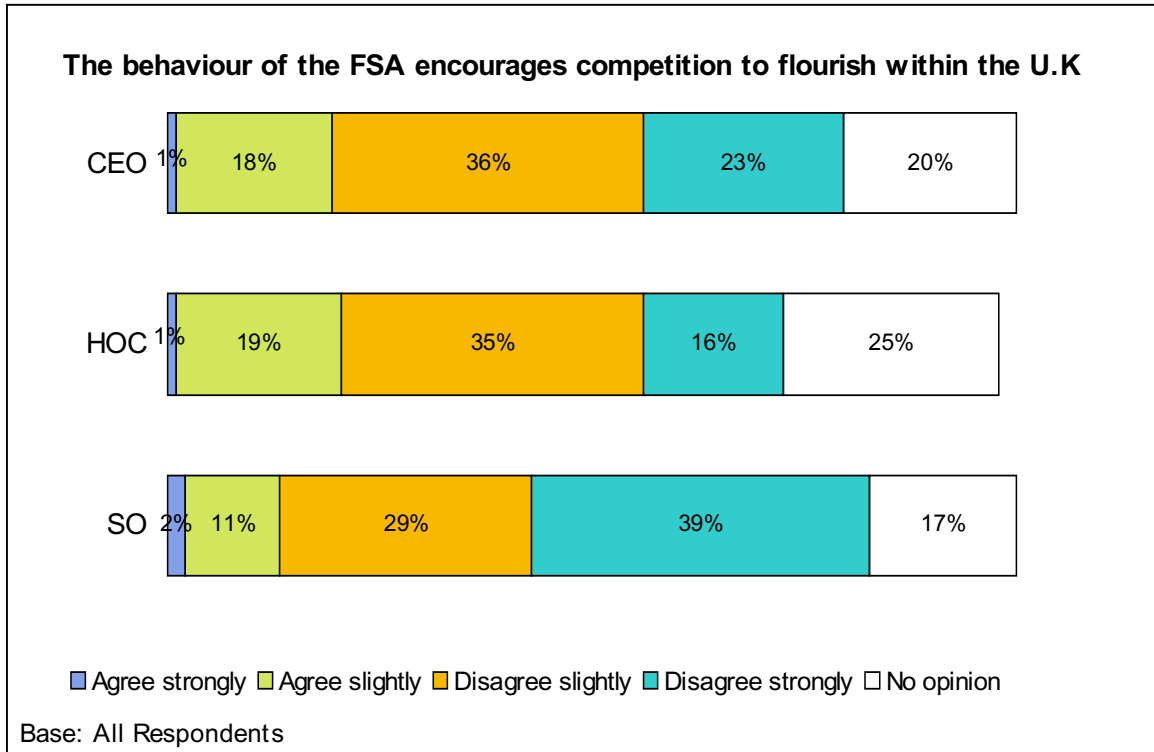
The proportion agreeing rose to 97% among compliance heads of building societies, 89% among chief executives of building societies and 78% among smaller firms with life and pensions business.

Those least likely to agree were the smaller securities and derivatives firms (40%), smaller corporate/ investment banks (40%) and compliance heads of friendly societies (41%).

There was no clear consensus as to whether ‘the money laundering rules are clear and practical’, with around 45% across all three practitioner groups agreeing and a similar proportion disagreeing. Fewer practitioners had no opinion compared with some of the other issues reported in this section.

The proportion agreeing rose to 59% among smaller corporate/ investment banks, 56% among chief executives of firms with life and pensions business and 56% among compliance heads of building societies.

Chart 11.3: The FSA and the wider environment 3



The final statement at this question asked practitioners the degree to which they agreed or disagreed that 'the behaviour of the FSA encourages competition to flourish within the UK'. Answers tended towards the negative with only around one in five practitioners agreeing with this statement. Over half of chief executives and heads of compliance and 68% of practitioners in smaller organisations disagreed. Around one in five had no opinion.

The proportion agreeing rose to 32% among both compliance heads and chief executives of building societies, and 29% among chief executives of retail/ personal banks.

Those least likely to agree were practitioners in firms with life and pensions business, IFAs, and legal firms (9-12%).

This section went on to ask practitioners how well they thought that the FSA co-ordinates its activities with regulators in EU institutions, individual EU countries, the United States and the rest of the world. With all four questions, between 70% and 80% either had no opinion or had no experience. Of the remainder, most practitioners tended to answer 'fairly well'.

12. THE FINANCIAL SERVICES PRACTITIONER PANEL

At the **qualitative stage**, practitioners claimed that they had been aware of the Financial Services Practitioner Panel prior to receiving the letter from them preceding the survey. When asked about whether they felt that the Panel was representative of the financial services industry, they looked at the names and companies that were included in the letter. In this respect, practitioners were divided as to whether they felt that these people and the companies they worked for could represent the industry as a whole. The larger more mainstream types of financial institutions perceived the Panel to be representative of the industry. However medium or smaller sized firms, or companies in less mainstream sectors did not feel that they were represented on the Panel. These included sectors like accountants, lawyers, friendly societies and smaller IFAs.

“The first is that you’ve got an accountant, why haven’t you got a lawyer?”

Partner/Lawyers

“There is a big difference between what goes on within an IFA community and what goes on with the big boys.”

CEO/IFA

However, all practitioners wanted the Panel to represent their views to the FSA and try and influence policy and procedures. They all felt that this was an important role.

“To act as an advisory council to the regulators on behalf of the practitioners.”

CEO/Investment Bank

“A counterbalance to the consumer voice.”

Partner/Lawyers

“As one of the few bodies that has potential to influence what the FSA does.”

CEO/Exchange

However a few were concerned that the FSA would not listen to the Panel. In fact, most practitioners did not appear to know very much about the Panel. Nor did they know about what it was doing either to help the FSA understand industry views or to influence FSA policies and decisions. The problem here appears to be that there is very little dialogue

between the Panel and individual practitioners unless they are on the networking circuit. In the future practitioners would like the Panel to give them some feedback about what issues they had raised with the FSA and what the outcome of this had been.

“Providing feedback on how the FSA is perceived and what it’s doing and what it’s recently done from a practitioner viewpoint.”

CEO/Building Society

“But I don’t know what the FSA does with the Panel. If there was something that came out that said the following issues were debated at the Practitioners Panel and these recommendations were put to the FSA on this matter, I would find that interesting.”

CEO/Retail Bank

“The Practitioners’ Panel, in the future, could give the industry a bit more information on what it’s done through the year. I read the report of the Practitioners’ Panel and it seemed a bit thin on detail...A bit more detail on what the Practitioners’ Panel has achieved.”

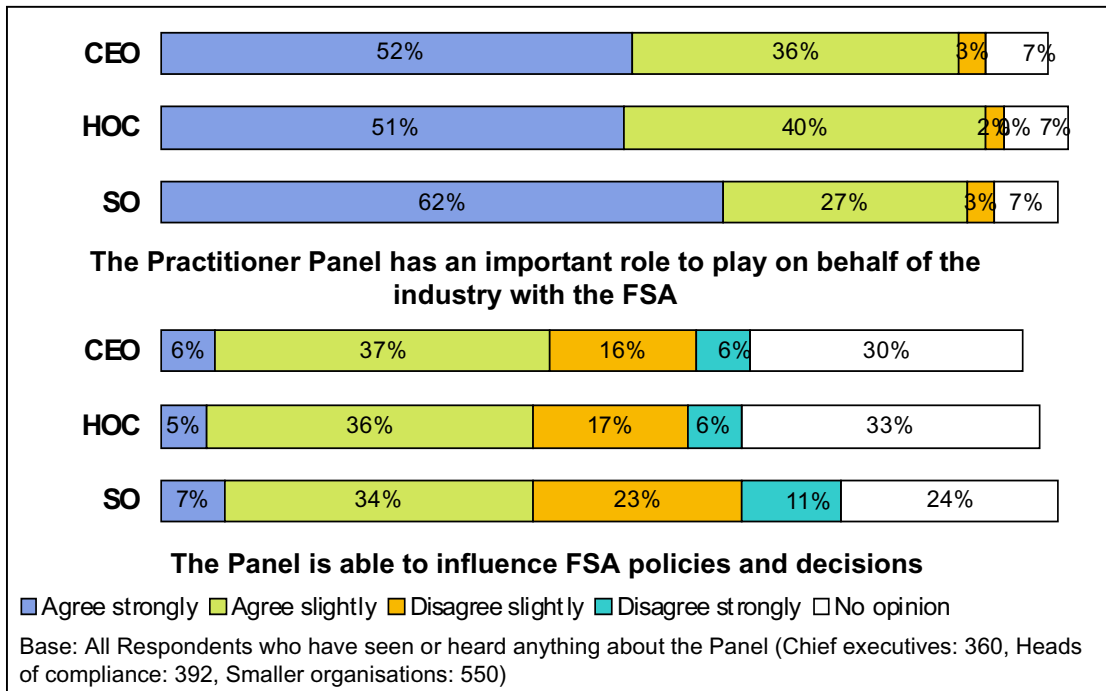
HOC/Friendly Society

The **quantitative survey** results were very much in line with the qualitative findings. Practitioners were asked whether they had seen or heard anything about the Financial Services Practitioner Panel before they received the letter informing them of the survey. Over a quarter of smaller organisations, around one in three chief executives, and four in ten heads of compliance in larger organisations had seen or heard of the Financial Services Practitioner Panel before the survey. This was a similar proportion to the previous survey.

Those who were aware of the Financial Services Practitioner Panel were asked how much they agreed or disagreed with six statements about the role of the Financial Services Practitioner Panel.

Although these questions appeared in the previous survey, they were asked of all practitioners, therefore comparisons with the previous survey are not possible.

Chart 12.1: Opinions on the role of the Financial Services Practitioner Panel 1



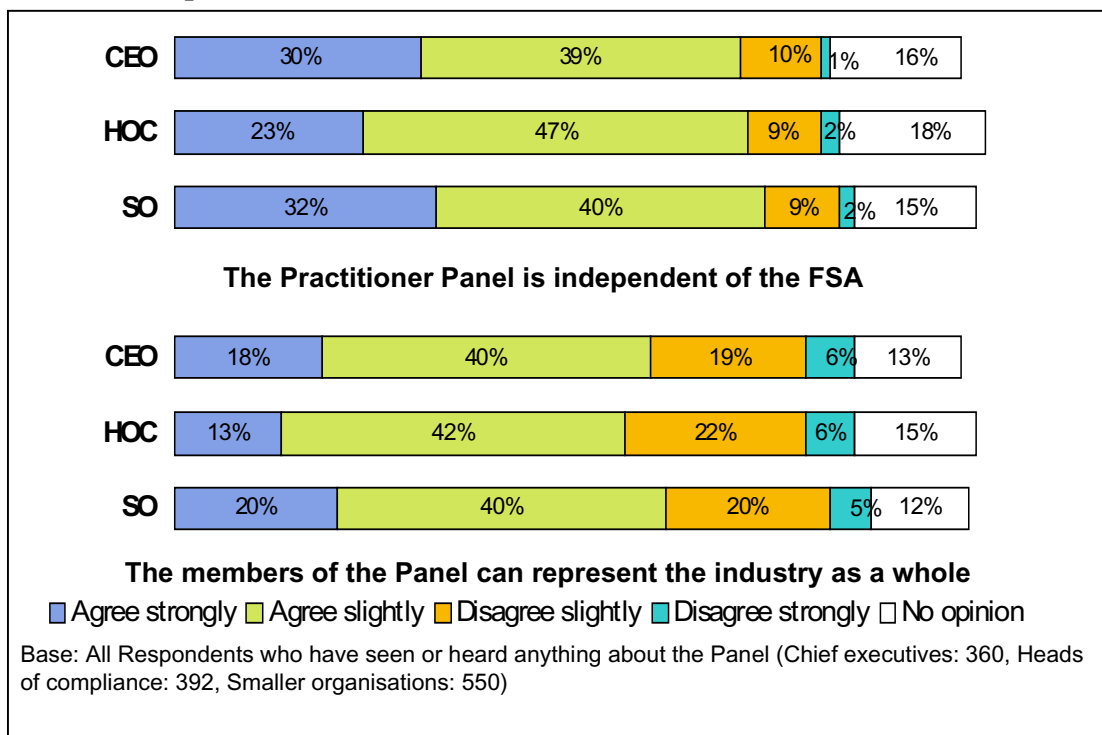
Around 90% across all practitioner groups agreed that ‘the Practitioner Panel has an important role to play on behalf of the industry with the FSA’, with over half agreeing strongly (62% within smaller organisations).

Even higher levels of agreement were found among IFAs and of the larger securities and derivatives firms (95-96%).

As indicated in the qualitative findings, there was some uncertainty about the role that the Panel could play in influencing the FSA. Around a third of chief executives and heads of compliance and around a quarter of smaller organisations said they did not know whether ‘the Panel is able to influence FSA policies and decisions’. Of the remainder, the majority agreed with this statement (around 40% of all practitioners), with similar levels of agreement across each group.

The proportion agreeing rose to 57% among chief executives of corporate/ investment banks, 53% among chief executives of IFAs and 50% among heads of compliance of investment management firms.

Chart 12.2: Opinions on the role of the Financial Services Practitioner Panel 2

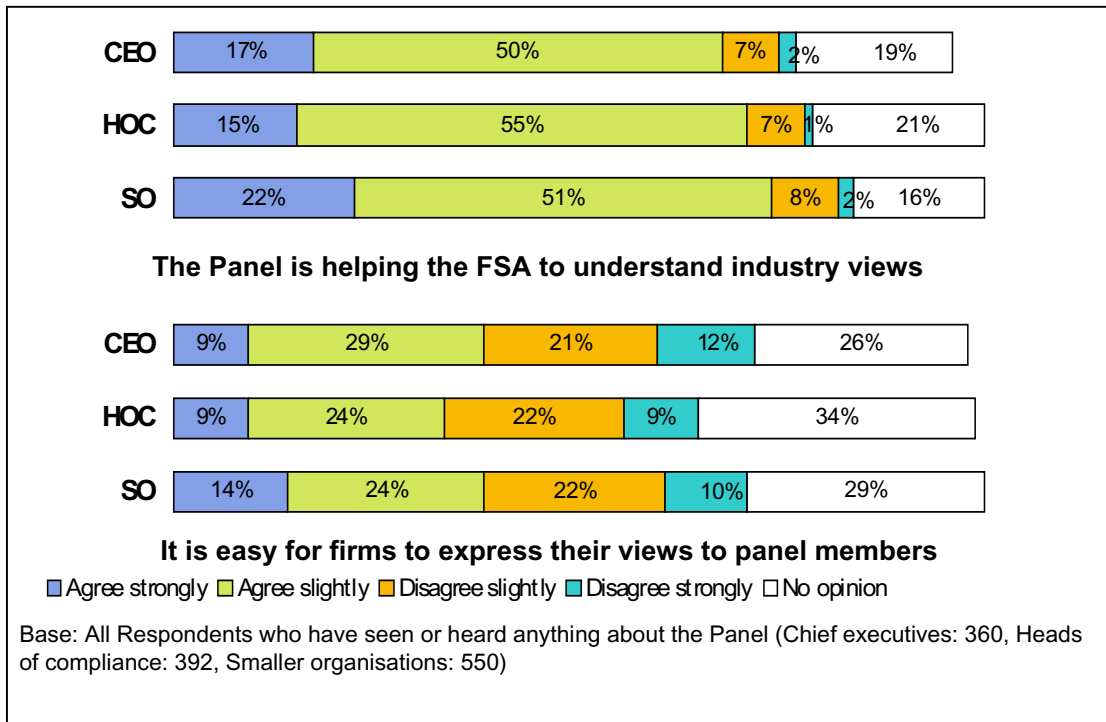


Around 70% of practitioners felt that ‘the Practitioner Panel is independent of the FSA’, with the majority of the remainder unable to express an opinion.

The proportion agreeing ranged from 92% among chief executives and compliance heads of building societies to 59% among smaller general insurance firms.

Around 60% of practitioners agreed that ‘the members of the Panel can represent the industry as a whole.’ The proportion agreeing ranged from 82% among smaller firms with life and pensions business and 80% among compliance heads of building societies to 44% among compliance heads of securities and derivatives business firms and 45% among chief executives of securities and derivatives firms.

Chart 12.3: Opinions on the role of the Financial Services Practitioner Panel 3



Around 70% of practitioners agreed that ‘the Panel is helping the FSA to understand industry views’. Again there was a relatively high level of ‘no opinion’ responses.

The proportion agreeing ranged from 79% among chief executives of IFAs to 61% among compliance heads of securities and derivatives firms.

There were more mixed views about whether it is easy for firms to express their views to Panel members, and there was an even higher level of ‘no opinion’. Of those that expressed an opinion, similar proportions agreed and disagreed.

The proportion agreeing ranged from 50% among chief executives of IFAs and 41% among compliance heads of investment management firms, to 24% among compliance heads of corporate/ investment banks and 26% among chief executives of investment management firms.

Technical Appendix

RESEARCH METHODS

Qualitative study

Staff of BMRB Qualitative, using qualitative methods undertook the developmental component of the research. The research was exploratory in nature and consisted of 25 in-depth interviews with a mix of Chief Executives and Heads of Compliance from large, medium and small firms and including both UK only and international companies.

The sample on which the developmental study was based was constructed from databases provided by the FSA. Twelve interviews were conducted with chief executives, and thirteen with compliance heads. Ten industry sectors were included in the study: banks, asset management firms, firms with life and pensions business, building societies, exchanges, brokers, independent financial advisers, friendly societies, accountancy firms and law firms.

Interviews were undertaken at the respondent's place of work. Each interview lasted about an hour and a topic guide was used to structure the interview. Interviews were tape recorded and transcribed for analysis.

The qualitative results have been invaluable both in identifying issues that needed to be explored in the survey, and in enhancing our understanding of how regulation affects practitioners and firms in the industry. However, as with any qualitative investigation, the study was not designed to provide a representative picture of the industry as a whole and results should not be interpreted in this way.

Survey questionnaire design and piloting

The findings of the qualitative research helped to identify the key issues to be included in the survey questionnaire. Two versions of the questionnaire were drafted, a short version for completion by chief executives, and a longer version for completion by compliance heads and by smaller organisations. Both versions of the questionnaire contained the same core set of questions, but the Compliance version covered some additional topics and obtained fuller information using more open-ended questions.

The questionnaires were developed over a number of drafts with guidance from a sub-committee of the Panel, appointed to oversee the research process. Draft questionnaires were completed by ten pilot practitioners, with BMRB researchers present as observers to note any difficulties with instructions or question wording, and to conduct follow-up interviews with practitioners. Pilot interviews were carried out during June, three with CEOs and seven with compliance heads in a range of sectors. The questionnaires were then revised and final versions agreed with the Panel sub-committee.

Sampling frame

For the 2002 survey, a comprehensive central listing of all regulated firms was available within the FSA, known as the TARDIS database. The names and addresses of firms and individuals were taken from this database. However, it was discovered that there was a certain amount of duplication, particularly where firms had more than one area of operation, and had appeared on more than one source database. De-duplication was undertaken by the FSA prior to a single database being sent to BMRB. BMRB undertook a small amount of further de-duplication when checks discovered further instances where the same individual appeared more than once. In such instances, one record was selected at random.

The net result was a single database with readily identifiable contacts for each firm. Unlike the 1999 survey, the exact number of individuals and firms to whom questionnaires were sent was therefore known.

Survey sample

It was decided that the survey should include all regulated firms, with the exception of the smaller IFA firms (less than 10 registered individuals) and accountancy and legal firms, where the total number of firms was very large and a random sample of one in three firms was therefore selected. The under-representation of these firms in the sample was corrected by weighting at the analysis stage. The number of registered individuals had to be used as a proxy for the size of firms, as the number of employees in each firm was not available from the FSA database. Similar sampling procedures were applied in 1999 with smaller IFA firms, but this was done on the basis of the number of employees in each firm rather than the number of registered individuals.

Most firms were sent both versions of the questionnaire, for separate completion by the Chief Executive and the senior person responsible for compliance. Both versions of the questionnaire contained the same core set of questions, but the Compliance version covered some additional topics and obtained fuller information using more open-ended questions.

Recognised professional bodies (mainly accountancy, legal and actuarial firms), IFAs with less than 20 registered individuals, and some other small businesses for which only one contact was given on the FSA databases were only sent the Compliance version of the questionnaire. These form the sample group 'smaller organisations' in the report. The equivalent group in the 1999 survey included friendly societies, ex-IBRC firms (see below for definition) and smaller IFAs.

Correspondence was usually addressed to the named contact taken from the FSA databases. However, in some instances this information was not available, in which case

‘Senior Partner/ Chairman’ was used for recognised professional bodies, ‘Principle Operating Officer’ if not a recognised professional body firm, or ‘Head of Compliance’ was used.

Profile of achieved sample

The survey results shown in this report are based on an achieved sample of **1,017 Chief Executives** (CEOs), **967 Heads of Compliance** (HOCs) and **1906 Smaller Organisations** (SOs).

The table that follows shows the composition of the three samples by the main business area of the firm, as identified by the survey respondents. A few practitioners named more than one main business area, so some figures add to slightly more than 100%. The percentages are based on weighted figures - that is, after the sample profile had been corrected for under-representation of certain groups in the sample, and for differential non-response.

Firm's main area of business	<i>Chief Executives</i>		<i>Heads of Compliance</i>		<i>Smaller organisations</i>	
	2002	1999	2002	1999	2002	1999
Unweighted base	1017	1440	967	1565	1906	990
Weighted base	1017	1440	967	1565	1906	990
	%	%	%	%	%	%
Banks	12	18	10	20	3	-
Insurance	14	22	13	21	13	26
Investment management	27	23	27	24	4	2
Securities + derivatives	9	18	9	17	6	*
Complex group	1	2	1	1	*	1
Building Society	3	2	3	2	*	1
Friendly Society	6	3	7	3	*	5
IFA	16	4	16	5	59	71
Lloyd's	1	n/a	2	n/a	*	n/a
Professional firms	9	n/a	10	n/a	20	n/a
Other	7	9	7	10	3	1
Total	100	100	100	100	100	100

* less than 0.5%

Changes to the population from 1999

It is inevitable that there will be some differences in the population of regulated financial firms between 1999 and 2002 as new firms come into existence and some firms cease to trade. However, there are other differences that are commented on below.

In 2002, complex firms were dealt with separately by the MFGD (Major Financial Group Division) of the FSA. Each group was contacted individually by this division and asked for a chief executive and head of compliance contact for each firm that came under the group structure. This procedure was not followed in 1999 hence an MFG firm may have only provided a single response for the group in 1999.

RPBs (Recognised professional bodies) were not included in the 1999 survey because their regulation would then have been the responsibility of their professional body (Law Society, ICAEW etc). However, in 2002, where such firms provided financial advice, they were regulated by the FSA. Such firms constituted 20% of the 'smaller organisations' sample group in 2002.

At the time of the 1999 survey, the FSA had interim responsibility for some firms previously regulated by the Insurance Brokers Registration Council (IBRC), while they were waiting for authorisation by the PIA. These were generally insurance brokers who gave financial advice. By 2002 this responsibility no longer existed, so these firms were not included in the 2002 survey. Such firms constituted 11% of small organisations in 1999.

It should also be noted that Lloyd's firms were not listed as a separate business category in 1999.

These real differences in the population of regulated firms, and in the structure of the databases from which they were selected, have resulted in some changes to the profiles by main area of business, as shown above. Nevertheless, although there are differences in the populations - and therefore in the samples - of regulated firms between years, both populations are representative of firms who were subject to regulation at the time. As such, results from each year can be compared with confidence. The overall picture is unlikely to be affected by changes in the composition of the populations.

Fieldwork procedures

At the end of June, sample members were sent an advance notification about the survey from the Chairman of the Practitioner Panel. The questionnaires were sent out one week later, on 2nd July. The questionnaires were sent with a covering memorandum from the Chairman of the Panel, requesting co-operation. Practitioners received one of six versions of this memorandum, dependent on their status and the type of firm. A reminder letter was sent two weeks later to all sample members who had not returned their questionnaire or

informed BMRB that it was a duplicate. A second reminder was sent out on 12 August which included a second version of the questionnaire for completion in case the original one had been mislaid. Completed questionnaires were accepted up until 4 September 2002.

Non response follow up postcard

In order to understand the reasons why some firms did not respond to the survey, at the end of the fieldwork period a postcard was sent to firms who had not responded. This postcard asked firms to indicate, from a pre-coded list, the reasons why they did not respond. Practitioners were able to give more than one reason if they wished. The postcard also asked what type of business they were so that the relationship between reason for non-response and type of business could be analysed. Practitioners were then asked to send the postcard back to BMRB.

5,522 postcards were sent, and 1,269 postcards were returned (23% response). This was a high response for a non-response exercise. The table below shows the proportions choosing each reason.

Reason for non response	No. of postcards	%
We don't have enough contact with the FSA to give an informed response	329	17
We get too many surveys sent through like this	316	16
I don't have time to complete the document	316	16
We get too many documents from/ concerning FSA	232	12
We received two version of the questionnaire and only returned one	212	11
I do not feel it is an effective way of voicing my opinions	144	7
We received two questionnaires but one person fulfils CEO and Head of Compliance functions. One questionnaire returned	97	5
I did not feel it was relevant to me/ my company	95	5
Company ceased trading	75	4

I was worried that my answers wouldn't be confidential	53	3
Named person no longer working at this company/ at this address	48	2
Company no longer at address	31	2
Company not regulated by FSA	26	1

The table shows that the top three reasons given for non-response were “we don't have enough contact with the FSA to give an informed response”, “we get too many surveys sent through like this” and “I don't have time to complete the document”. Each of these was mentioned by around 16% of non-practitioners who returned a postcard. The answer category “We get too many documents from/ concerning the FSA” was mentioned by a higher proportion of IFA and accountancy firms, compared to other types of firms.

Response rate

The overall response rate for the survey was **42%**. This compares to a response rate of 58% in 1999. The previous section describes the efforts made to identify the reasons for non-response and presents the results from a non-respondent follow-up stage of the research.

As stated earlier, most firms were sent two versions of the questionnaire, and the non-response exercise suggested that many firms felt it appropriate to complete only one version of the questionnaire. If response is analysed in terms of the proportion of **firms** who have responded to the survey, the overall response rate becomes **50%**.

Response rates differed by type of organisation, ranging from 63% for the chief executives of banks to 16% for practitioners from smaller accountancy firms.

Weighting

As in 1999, separate analyses were carried out for the three practitioner groups: Chief Executives, Heads of Compliance, and Smaller Organisations.

The data were weighted to the profile of the issued sample, based on the FSA database from which sample members had been taken, with all duplicates removed. In the case of the IFAs, and the professional firms from which a sample of one in three was selected, the weighting was adjusted to take account of this fact.