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20 October 2021

Dear Paul,

I would like to thank you for your input and continued engagement since taking on the role as Chair at the start of 2021, and for all Panel members' insights during a challenging year.

We welcome your interest and support for our transformation programme and Consumer Duty work and look forward to working with you over the next year.

In line with our statutory requirement, I would like to respond to some of the key issues you raised in your 2020/21 Annual report.

Post-pandemic priorities

In your report, you asked us to consider the aftermath of the crisis, stressing the importance of not falling into the potential trap of regulating by hindsight.

We will continue to take a forward-looking and strategic approach in both proactive and reactive supervisory work. This includes looking both at the conduct of individual firms and, more widely, at how retail and wholesale markets are evolving. To supervise effectively, we need a thorough understanding of the business models and strategies of the firms we regulate.

We will continue to monitor how retail lending firms provide tailored support and tackle areas of greatest harm. We will undertake proactive firm work to assess whether consumers are getting fair and appropriate outcomes, including customers with characteristics of vulnerability. This will shape our next steps, including targeted action against firms not meeting expectations.

Financial futures

You encouraged us to focus on mechanisms which support good decision-making when considering the future financial landscape. You also recommended working with other agencies such as the Money and Pensions Service, to put appropriate structures in place for consumers.

We want to look at ways to increase early engagement with debt advice, to ensure that the quality of this advice meets consumers' needs, is clearly communicated and that consumers on long term debt solutions are supported throughout.

We are in regular contact with the MaPS which monitors demand for its debt advice services and estimates future demand and capacity within the sector.

We have previously encouraged firms to explore using technology to increase efficiency and introduce digital advice products. We will continue to support firms that want to do this in line with our rules and guidance. We also liaise closely with MaPS as they look to utilise increased debt advice funding to improve their digital money guidance and widen access to digital debt advice.

We have also focused on the risk of debt packager firms providing poor quality advice. We have recently completed multi-firm work in this market and identified concerns that firms failed to sufficiently take into account consumers' circumstances and vulnerabilities, including mental health issues and economic abuse.

We subsequently wrote to 5 firms identifying significant concerns over their practices and our concern that they continued to offer advice to consumers while those issues remained unresolved.

Linked to this is our work on a new Consumer Duty (NCD), which I discuss later in this letter.

Business Interruption (BI) Insurance test case

You raise concern that the perception of BI insurance as unnecessary or unsuitable will discourage firms from using it and create gaps in coverage.

As a result of the pandemic, insurers of all sizes will face some difficult challenges and commercial decisions. Some insurers have exited particular product lines or sectors of the market altogether. How the impact of this will be felt will depend on the type of customer or class of business.

We communicated at an early stage that most BI products would not respond to losses caused by Covid-19, as they are limited to business interruption caused by damage to the property, such as a fire or flood. These policies would never have responded to losses caused by Covid-19 and thus we do not consider that these policyholders should be discouraged from continuing to renew their products.

Some consumers may be disappointed, particularly if they cannot find another product or if their premium increases significantly. Insurers should clearly explain why prices may have increased or why their product may no longer be able to service consumers, due to change in contracts.

Our Insurance Distribution Directive (IDD) rules set out that firms must identify customers' insurance demands and needs, and ensure that products offered are consistent with them.

Future Regulatory Framework (FRF)

We note the comments in your report on FRF about the regulatory perimeter, taking a holistic approach to regulation and the Panel's role in the process.

The FCA's perimeter is set by the Government and Parliament through legislation. We publish an annual Perimeter Report, which is key to providing clarity on our approach, contributes to the public debate around perimeter issues and promotes transparency around our work with Government in reviewing the perimeter.

We have worked with partner regulators to develop and publish 3 iterations of the Regulatory Initiatives Grid ('the Grid') since its inception in May 2020. The Treasury's latest remit letter to us recognised the Grid's role in supporting regulatory coordination with benefits for proportionality, transparency and competitiveness.

All the FCA's statutory Panels play a crucial role in providing challenge and input to our work. We are committed to ensuring that the role of the Panels in our policy and rule-making process is transparent, effective and well-understood, while still allowing confidential discussion to take place as necessary. We continue to work with the Treasury as it considers the role of the statutory Panels in its work on the FRF.

Non-workplace pensions (NWP)

You raised concerns about overly prescriptive rules for Non-workplace pensions.

We welcome your support of the general direction of our work and, before consulting, we have been keen to engage with industry. We have discussed possible proposals in industry roundtables, as well as meeting with you. We acknowledge your concern about requirements for choice architecture. For NWPs in accumulation, consumers have the common objective of building a pension pot for future access. We have discussed requiring a single standardised investment strategy for non-advised consumers, without the need for a prescribed choice architecture. We also acknowledge your concern about a possible extension of the IGC regime and your suggestion of a de minimis level for communication of costs. On encouraging consumers to consider moving out of cash and into investments, we agree on the need for caution during periods of significant market volatility. We will shortly be consulting on our proposals and would welcome your further input.

Consumer Investments

We welcome the Panel's input and the points raised on compensating customers for poor advice. We agree that capital set aside can sometimes be insufficient to pay for redress for investment complaints, with many adviser firms needing to have only £20,000 of capital. Putting right even a single complaint for poor advice can be expensive, which is reflected in the limit on a single Financial Ombudsman Service award being set at £355,000. As explained in our recent Consumer Investments Strategy and Feedback Statement, we propose to consult on changes to our prudential requirements to improve the financial resilience of personal investment firms so that they are better able to meet their redress liabilities.

The PII market has also hardened, both in terms of reduced access and increased prices, making it difficult for some firms to access adequate PII cover. The number of insurers active in this market has fallen from around 15 to 5 in the last 5 years and we understand that PII costs for firms that have previously advised on Defined Benefit pension transfers have increased from around 1-1.5% to 3-6% of firm income.

We also agree that relatively few firms can give rise to significant consumer harm and compensation costs which are paid for by other firms in the industry if the firms are unable to pay and costs fall to FSCS. This is not acceptable and addressing poor advice, tackling scams and addressing misconduct are key focuses for our authorisation, supervision and enforcement work. In 2020/21 alone we opened over 1,700 supervisory cases involving higher risk investments or scams. This is a large market, with nearly 6,500 authorised firms, and we agree that data is key to risk-based supervision. Our data strategy aims to harness the power of data and advanced analytics to improve our ability to supervise this market.

New Consumer Duty (NCD)

You encouraged us to take into account the economic impact of our proposals on firms and consumers.

We appreciate your engagement and support on our Consumer Duty, including the research work you have shared. We want to see a higher level of consumer protection in retail financial markets, where firms are competing vigorously in the interests of consumers. We proposed a new Duty because we know that consumers don't always get the products and services that meet their needs, or the outcomes they might reasonably expect, because of the way that financial services markets operate.

Having considered the feedback on the overall approach, we will consult on detailed rules in December and publish a Cost Benefit Analysis. This consultation will set out the wording of the new Principle, as well as the cross-cutting Rules and Outcomes. It will explain how the new Consumer Duty will set a higher standard of consumer protection and that we expect a significant shift in culture and behaviour by firms to deliver our new higher expectations. Firms will need to focus consistently on consumer outcomes and put their customers in a position where they can act and make decisions in their interests. I look forward to detailed engagement with the Panel as we work together to secure the right outcomes for consumers.

Data Collection

We note your comments on our data collection and understand the pressures on industry to supply data. As outlined in our 2021/22 business plan, we will be an even more innovative regulator, led by data and technology. There are numerous ways we are doing this, and plan to do more:

- Our new RegData system will support more efficient collections of data.
- In collaboration with the Bank of England and industry we will transform how we collect data, the way in which we specify our reporting requirements and streamline collections.
- We identify our priority data needs, review these against possible sources and ensure we collect from the most appropriate source.
- Our data foundations will improve how we manage and use the data we collect. They will allow us to bring together different sources of data with advanced analytical techniques to generate intelligence insights, spotting harm earlier.
- We will also automate more of our data collections and make better use of our data, continuously reviewing existing collections and ensuring new collections are challenged through our Information Governance Board (IGB).
- To minimise the burden on firms, we have a team of data specialists that provide advice on whether we already hold the information or if we can get the information another way or from elsewhere.
- We also look at how we are collecting the data. This year all of our IGB approved ad hoc information requests have been collected using a survey tool which provides a more consistent experience for those submitting data to us, with an increase in response rates.

We are grateful for your ongoing support and challenge and look forward to your continued engagement over the next year.

Yours sincerely,

Nikhil Rathi

Chief Executive