

Annual Report

2017/18



FCA

Practitioner Panel



Chair's foreword

This is my first Annual Report as Panel Chair and I would like to take the opportunity to thank my predecessor, António Simões, for his work in leading the Panel over the past two years. In his foreword last year António commented that the Panel had supported the regulator in its objective of making markets function well and this remains our key focus. The uncertainty around the UK's withdrawal from the EU has not diminished in the last 12 months, but the Panel remains closely engaged with the FCA as events evolve.

1. Work over the past year

Our main topics for the year have been grouped around the themes of consumer vulnerability, consumer and firm responsibility, sustainability of regulation, the ageing population and effective competition.

Our discussions on these themes have had three overarching priorities:

Evaluating the FCA as an effective regulator

Considering the strategic impact of regulation

Building on the Panel relationship with the FCA

Evaluating the FCA as an effective regulator

This year we have again carried out, in conjunction with the FCA, a survey of firms' views of the regulator.

We were encouraged to see that the direction of travel for all the key indicators is positive, with both the satisfaction and effectiveness scores

increasing slightly and confidence in the FCA's competition objective significantly improved. The main area for improvement is the perception of the FCA as a forward-looking regulator. This resonates with the Panel's view that the FCA should continue to adapt to the rapidly changing external environment, both politically and technologically to ensure the UK maintains its strong international reputation for regulation.

Considering the strategic impact of regulation

The UK's withdrawal from the EU has a major impact on the FCA's workload as it adapts its structure and skillset to the new regulatory environment. We understand that the FCA is working within a complex landscape and that there are many elements of the withdrawal process that are not within its control. Our overall message has been to encourage it to maintain lines of communication and continue its efforts to work with the EU, as well as the Prudential Regulation Authority and HM Treasury, to agree on a pragmatic approach to the regulation of financial services. We have also stressed the need to communicate with all firms in the industry on a regular basis as the process unfolds.

There have been many initiatives in the area of retirement savings this year. We have responded publicly to some of the consultations, stressing the urgent need to take a holistic approach to pension policy following an extended period of piecemeal legislation and subsequent regulation. The overlap between different regulatory and governmental

bodies creates confusion and complexity. We believe that a successful framework should be tackled at a cross-party level, and with a long-term, and coherent sustainable perspective, if the industry is to be able to work sustainably and in the interests of customers.

Building on the Panel relationship with the FCA

During the year the Panel has discussed with the FCA its work on innovation, including the work of the Innovate team and the Regulatory Sandbox. We have supported forward-thinking initiatives such as looking at the use of technology to improve regulatory reporting. As a result of this we have suggested that the regulator itself might benefit from using innovative approaches to the way it operates and we are working with individual areas of the FCA to take this forward.

2. Looking forward – Panel priorities

For the next year we are focussing on the following priorities:

- EU withdrawal. We will continue to work with the FCA to aid its engagement with the industry in planning for withdrawal in whatever form it takes, to minimise disruption for both customers and markets.
- Relationship with the regulator. Our objectives here are to encourage the FCA to take a sustainable, appropriate and proportionate approach to regulation, using its decision-making framework as described in its Mission document. We will encourage an approach that focusses on outcomes rather than processes, and a communications strategy that highlights good as well as bad practice.
- Culture. The FCA is carrying out a substantial discussion on reforming culture in financial services. We will continue to encourage the FCA to consider the issue of diversity and the development of a supervisory culture which drives the behaviours it wishes to see in firms to achieve good outcomes for customers especially vulnerable customers. We also look forward to working with the FCA on its planned discussion on the concept of duty of care, and have had positive engagement with the Financial Services Consumer Panel on this important topic.
- Technological innovation and data. As part of our drive to encourage the FCA to be a forward-thinking regulator we will be encouraging the use of technology, as well as using existing data in innovative ways to reduce the resources required in collecting and analysing new data. We will also be focussing on cyber resilience, and encouraging the FCA to work together with the industry to reduce risks in this area.
- Ageing population. The coming year will see the outcomes of the FCA's joint work with the Pensions Regulator on a pensions strategy, as well as further work on the at-retirement and transfer market and we will continue to recommend a high-level national strategy on pensions policy.

I would like to thank Andrew Bailey and the FCA Executive for their participation in the Panel's work which has been greatly appreciated. We also benefitted greatly from the involvement of John Griffith-Jones as FCA Chair, and wish him well for the future. We appreciate that the new FCA Chair Charles Randell took the time to engage with the Panel very early in his term of office and look forward to continuing our dialogue.

Finally, I would like to thank all the Panel members for providing their time and expertise to support the FCA in providing an important challenge to its work. I expect the next year to be no less testing for the industry and the regulator and we will continue to work on achieving our objectives together.

Anne Richards
Chair, FCA Practitioner Panel

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Introduction

The FCA Practitioner Panel is a statutory panel for the Financial Conduct Authority (FCA). It is one of a number of panels which the FCA is required to establish by the Financial Services and Markets Act. Alongside the Smaller Business and Markets Practitioner Panels it represents the interests of practitioners and provides advice to the FCA on the extent to which its general policies and practices are consistent with its general duties.

The Panel meets on a monthly basis to provide senior-level industry input into the FCA's policy and regulatory development, with membership selected to reflect the major sectors of the UK financial services industry. It focusses predominantly on issues with a strategic cross-sectoral impact, and provides advice and feedback directly to the FCA Board and Executive.

Last year the Panel identified several high-level themes, with the objective of considering these areas in detail and to bring an industry perspective to the FCA's work on these topics. The themes were consumer vulnerability, consumer and firm responsibility, ageing population, sustainability of regulation, and competition.

Overarching topics

There are two topics which cut across several of the Panel's priorities.

Culture

The FCA is in the process of carrying out innovative work to examine culture in financial services. It commissioned a series of essays from thought leaders in the area and hosted a conference to extend the scope of the discussion.

The Panel advised that the FCA should encourage diversity of all types within financial services as poor conduct and firm failures have often been as a result of a monoculture within both individual firms and within the industry. The Panel believes the shared objective of both the FCA and the industry is to be effective in the prevention of harm rather than resolving harm once it has occurred. The Panel's view is that the FCA should also consider how to build the right culture within its own supervisory activities, as that will drive the manner in which firms themselves respond. An example would be to encourage firms to focus on the outcomes achieved rather than the mechanical processes around reporting.

Cyber issues

The FCA's approach to cyber strategy has been welcomed by the Panel. It has provided input to the regulator about the best way to share information about breaches of cyber security, whether in the financial sector or elsewhere, so that other firms can best protect themselves. It recognises the challenges involved in identifying and sharing information quickly, the tensions involved in maintaining confidentiality of certain information while helping others, and role of government-led initiatives such as the cross-industry Cyber Security Information Sharing Partnership (CISP). It has also raised concerns about where responsibility lies for breaches of cyber security. The Panel believes the FCA should continue to consider how it can best play its part in sharing relevant information with financial services firms.

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Panel themes

2.1 Consumer vulnerability, consumer and firm responsibility

FCA Approach to Consumers

FCA published its Approach to Consumers in November 2017 focussing on how it can deliver better outcomes through its interventions and tackle the areas of greatest harm. In March 2018 it published a discussion paper and hosted a conference on transforming culture in financial services. One of the topics raised in the culture discussions was consumer and firm responsibility.

The Panel had an opportunity to discuss the FCA's consumer strategy at an early stage. Its main message was that a good consumer strategy should clearly articulate upfront what it is trying to achieve, and for whom, whether all consumers or specific groups. It believes the FCA has an important role in influencing and monitoring the work of the Money Advice Service and in due course the Single Financial Guidance Body. It has highlighted that more information and greater transparency alone are not necessarily the solution to improving consumer outcomes if people are not equipped to interpret the information that they receive: overwhelming customers with unnecessary paperwork has exactly the opposite effect to helping them understand their choices and actions.

The Panel has discussed the pros and cons of introducing a duty of care for firms towards their consumers, and how best to build trust in the industry.

It believes that firms have generally made good progress in ensuring they treat customers fairly and that this is beginning to be reflected in the FCA's findings from its thematic studies. It has suggested there is more work to be done to build on the work already underway to embed this positive behaviour within and across the industry.

The Panel also participated in the FCA's conference on transforming culture in financial services in March 2018.

Financial Capability

The Panel has discussed the need to improve consumer financial capability with the objective of contributing to better decision-making. It discussed the work of National Numeracy with its Chief Executive and supports the work the charity is doing to quantify and improve numeracy levels in adults as this is particularly important in influencing the way consumers interact with financial services. This work complements the actions being taken by the industry to improve financial capability and on their own communications to improve comprehension and usability.

2.2 Sustainability of regulation

Volume of regulation

The importance of clear prioritisation has been a major theme in the Panel's discussions. It has continued to comment on the volume of regulatory changes and initiatives faced by firms across the different sectors of UK financial services. Looking at the many ongoing initiatives in the last year, such as data requests for the strategic review

of retail banking business models, preparedness for MIFID II, and work in respect of the senior managers and certification regime, none may be viewed as overly onerous in isolation. The cumulative effect, however, of these and other initiatives is exceptionally challenging, particularly at a time when EU withdrawal considerations are looming large. The Panel was encouraged to see the Business Plan for next year focussing on fewer, more targeted priorities and hopes this will be reflected in less pressure on resources. It encourages the FCA to use its tools for pre-emptive identification of harm, as described in the Approach to Supervision, to focus on the areas where real harm may occur, and take a proportionate approach to action in order to avoid unnecessary and excessive regulatory change wherever possible.

Financial Advice Market Review

The FCA and HM Treasury published an update report in April 2017 of progress on completing the recommendations of the Financial Advice Market Review (FAMR). One of the recommendations made as a result of the review was that the market should adopt a single consistent set of consumer-friendly explanations for advice and guidance and in February 2018 the FCA published a consumer guide to differentiating between the two.

Panel members were actively involved in the Financial Advice Working Group which had the task of taking forward recommendations from the Financial Advice Market Review. The publication of the FCA's consumer guide to understanding the difference between 'advice' and 'guidance', which was published as a result of the FAMR work, was welcomed for the further clarity it provides, and the Panel has also recommended that the name of the Single Financial Guidance Body should reflect the activity it will undertake as it will not be regulated 'advice'.

FSCS funding review

The FCA consulted during 2017 on proposals for reforming funding of the Financial Services Compensation Scheme. Further consultation is taking place during 2018 relating to professional indemnity insurance with the objective of reducing the cost of the FSCS to other firms.

The detailed work carried out by the FCA, which acknowledged the practical challenges of implementing alternative options such as PII, was welcomed by the Panel. It recognises the inherent tensions in allocating the costs of the scheme across different sectors and while it is in favour of the incremental changes proposed it agrees that the system broadly works effectively to support confidence across the industry.

2.3 Ageing population

FCA ageing population strategy

In September 2017 the FCA published an Occasional Paper, outlining the findings from a project that explored how the ageing population would impact the financial services industry.

The ageing population work of the FCA was supported by the Panel which considered it to be both valuable and timely. It did, however, caution against automatically assuming age as a differentiator and treating older people as a homogenous group as this risks encouraging negativity. It encouraged the identification of areas where there are specific behavioural attributes of older consumers, common vulnerabilities and particular needs.

Retirement interest-only mortgages

The FCA consulted in 2017 on facilitating the market for retirement interest-only mortgages, loans for older consumers where the lender will not seek repayment of the loan until a specified life event (usually the customer's death or move into residential care).

The Panel recommended that advice should be required in all cases unless customers signed to say they were an expert in this area. They also recommended that further checks should be put in place at the point of sale and later in the process due to the potential vulnerability of customers as their circumstances change.

2.4 Competition

FCA Approach to Competition

The FCA is one of the few financial regulators in the world with a core objective to promote competition. It published its Approach to Competition document in December 2017, showing how it delivers its competition objective to promote competition in the interests of consumers.

The Panel responded to the approach to competition consultation. Its overarching point was that the FCA should be mindful of the fundamental changes the industry is facing, such as the introduction of open banking, the rise of distributed ledger technology and the use of Big Data. The Panel has advised that when considering its approach to competition the FCA should seek to regulate the industry as it is evolving, including new entrants from possibly outside the finance sector, and not simply as it has been structured historically. As the FCA is not a price regulator, the Panel has continued to emphasise that examination of industry competitiveness, such as the mortgage market study, should focus on efficient markets, not just low-cost markets. Price is important to consumers, but other factors are just as important.

The 2018 joint Survey of regulated firms showed a significant increase in the industry's confidence in the FCA's ability to meet its competition objective, which has in the past scored consistently lower than its other objectives.

Mortgage Market Study

The FCA is carrying out a study into the mortgage markets focussing on consumers' ability to make effective choices in the first charge residential mortgage market.

The view of the Panel is that the mortgage market is extremely price competitive. It has encouraged the FCA to look beyond the purchase element of the value chain in future to consider elements such as credit reference agencies, arrears and debt management. The Panel stressed the importance of including the intermediated sector, which was reflected in the study. The Panel suggested the interim report should include some of the types of harm being evidenced in the study and that this be linked back to the Mission.

Retail banking service indicators

In December 2017 the FCA published rules requiring providers of personal current accounts and business current accounts to publish information to help customers compare the service they could receive from different providers.

The Panel supported the core indicators originally proposed by the Competition and Markets Authority study in its 2016 investigation, reflecting whether a customer would recommend a particular bank to friends and family, and agreed they would be helpful in allowing customer to compare current account providers. It encouraged the FCA, however, to use existing data where possible to inform consumers to avoid unnecessary and additional costs being incurred by the industry.

Strategic Review of Retail Banking Business Models

The FCA is reviewing the business models used in the retail banking sector and evaluating the impact of changes on competition and conduct.

The FCA discussed the review with the Panel at an early stage. The Panel encouraged the use of the decision-making framework outlined in the Mission process to firm up the terms of reference and the scope of the work. It warned that too wide a scope could involve extensive data requests with little actionable output. A subgroup of the Panel has been advising the FCA on the review as it progresses.

Asset Management and Investment Platforms Market Studies

The FCA undertook a study of competition in the asset management market study (AMMS), publishing its findings in July 2017 and its first package of remedies in April 2018. As a result of the findings it launched a market study considering platforms and other firms that allow investors or their advisers to access retail investment products through an online portal.

Having challenged both the approach and tone in its early stages, the outcomes of the AMMS were broadly supported by the Panel. It welcomed the way the report was eventually communicated, considered the tone was balanced and that it encouraged the industry to engage with the issues raised. Both the Panel and the FCA engaged in a constructive dialogue during the market study process, without moving away from the core direction of travel. The Panel responded formally to the consultation, making points about fund governance, moving fund investors to better value share classes and extending the scope of the proposals to other retail investment products.

A general point made by the Panel is that the FCA should take a pragmatic approach to work such as the review of retail banking business models and the investment platforms market study, recognising that it may sometimes be more appropriate to make judgements drawing on readily-available information rather than seeking a perfect evidence base for its conclusions, particularly if this involves collection of large (and disproportionate) amounts of bespoke data.

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Panel priorities

3.1 Strategic impact of regulation EU withdrawal

The FCA has stated in its 2018/19 Business Plan that the UK's decision to leave the European Union (EU) has, and will continue to have, a substantial impact on the way it works. A significant proportion of its resources are already focussed on the forthcoming exit, including arrangements to implement the change. It anticipates focussing on working with the Government to provide technical advice, addressing future functions, working towards operational readiness and continuing to work with other regulatory authorities across the EU and globally.

The Panel has addressed the issue of EU withdrawal regularly throughout the year. The findings of the 2017 annual firms' survey showed a low level of satisfaction within the industry with the FCA's communications on the subject, although this improved in the 2018 survey findings. Although the Panel appreciates the FCA cannot provide a level of certainty where none exists, it has encouraged the FCA to use the different channels available to it to ensure that key messages relating to its remit are communicated clearly and effectively to industry.

Although the Panel appreciates competitiveness is not an explicit part of the FCA's remit it has raised concerns that, especially during a transitional period, EU27 regulators could implement measures that will put the UK at a competitive disadvantage.

It supports continuing close engagement with ESMA to ensure, to the greatest extent possible, a level playing field.

FCA Approach to Competition, Enforcement, Authorisations and Supervision

The publication of the FCA's Mission in 2017 was followed by publication of further documents with more details of the FCA's approach to its competition, enforcement, authorisations and supervision remits.

On a practical level, the Panel has found the clear articulation of the FCA's decision-making framework, first made explicit in the Mission document, to be useful in framing its discussions. It supports the use of the four stages from identification of harm, through diagnostic and remedy tools, to evaluation, and was encouraged to see this framework carried through to the approach documents. In particular, the Panel supports the clearer articulation of the supervisory process the FCA uses to identify and mitigate the risk of harm when evaluating firms' operating models, and the commitment to timely intervention when serious misconduct is detected. We agree that this will more easily reduce the consequences of misconduct on consumers, markets and firms.

The clarification provided by the publication of the approach documents and other consultations is welcomed by the Panel, but it has commented on the publication at the same time

of a significant number of documents which address substantial topics, as well as sizeable data requests. It has raised with the FCA the issue that responding to these requests continues to be a resource-intensive exercise for firms which are facing many other challenges, not least relating to EU withdrawal.

Pensions strategy

The FCA has consulted on a number of areas relating to pensions, including (in conjunction with the Pensions Regulator) its strategic approach to regulating the pensions and retirement income sector, improving the quality of transfer advice and effective competition in workplace pensions.

The Panel strongly believes in the urgent need to take a holistic approach to pension policy following an extended period of piecemeal legislation and subsequent regulation. The key risk in the pensions area is that consumers are not saving enough for their retirement, but frequent changes of rules have led to widespread confusion. The Panel has recommended that a successful framework should be tackled at a cross-party level, and with a long-term perspective, if the industry is to work sustainably and in the interests of customers.

3.2 The FCA as an effective regulator

Joint Panel and FCA survey of regulated firms

For the second time, the Panel and FCA carried out a joint survey of the views of regulated firms. The Panel has undertaken a similar survey to evaluate the industry's views every year to inform its work with the FCA.

2,613 firms took part in the main Survey. The mean score for overall satisfaction with firms' relationship with the FCA has continued to increase, and now stands at 7.6 out of 10, up from 7.5 last year and 6.9 in 2014, the first full year of the FCA. Effectiveness scores increased from 7.0 last year to 7.1 this year, up from 6.5 in 2014. 86% of firms believe the FCA delivers on its single strategic objective of ensuring financial markets function well, the highest score ever, and confidence in the competition objective has increased significantly from 60% last year to 72% this year.

Senior Managers and Certification Regime

The Senior Managers and Certification Regime (SM&CR) replaces the Approved Persons Regime, changing how people working in financial services are regulated. The FCA is extending the regime across the financial services industry having already put it in place for the banking sector.

The Panel supports the underlying concept of the SM&CR, and considers it to be a potentially useful governance tool if it is used to support an appropriate culture in the firm rather than treated as a 'box-ticking' exercise. It also believes that the culture within the FCA at all levels is important in driving the behaviours it wants to see in the firms it supervises. The Panel has also commented on the timing of the roll-out across the financial services industry. Clarity of timing is important to the industry, but visibility on the actual requirements even more so.

MiFID II and PRIIPs

The revised Markets in Financial Instruments Directive (MiFID II) is the EU legislation which regulates firms providing services to clients linked to financial instruments and the venues where those instruments are traded. It came into effect on 3 January 2018. The Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation came into force at the same time, requiring firms to provide specific disclosure material to consumers. The FCA later published a statement on communications in relation to PRIIPs which related to performance scenarios.

In the run-up to implementation of MiFID II the Panel raised concerns around disclosure, particularly relating to changes in fund values. It consistently raised issues about the format of the Key Information Document required by the PRIIPs rules, including inconsistencies with the MiFID II regime and considers

the rules around the disclosure of past performance require firms to issue information which may be potentially misleading. The FCA has subsequently issued a statement which clarifies firms may provide explanatory materials to put the calculations in context and to set out their concerns for investors to consider. The Panel still considers it to be an unsatisfactory position and that the relevant bodies should seek to improve a poor piece of legislation.

High cost credit review

The FCA is addressing the high-cost credit market, following up on a call for input in 2016 and its subsequent decision to retain for a further three years the cap on high-cost short-term credit.

The Panel acknowledged that the FCA had undertaken a substantial amount of work to understand and analyse whether the price cap was achieving its objectives and agreed with the decision to leave the price cap unchanged. It was encouraged that the FCA is seeking to intervene only where systemic consumer detriment is identified, and in a way that is tailored to the specific situations and products, taking into account financial inclusion issues.

3.3 Panel relationship with FCA Innovation

The Panel has discussed the work of the FCA to promote innovative solutions in financial services. In December 2017 the FCA held a TechSprint event with HM Treasury which was followed by a call for input looking at using technology to achieve smarter regulatory reporting. The FCA has also been continuing with its Sandbox initiative, which allows businesses to test innovative products, services, business models and delivery mechanisms in the real market.

During discussions with the FCA about Project Innovate the Panel expressed its support for the work. The Panel has also discussed the Sandbox work, and in particular has encouraged the FCA to publicise the lessons learned by firms going through the process to use their experiences to give general guidance to others facing similar challenges.

Taking this theme further the Panel spent some time considering where the FCA itself can use the experience of regulating innovative firms to improve its own practices and has suggested a list of areas where this could be tackled first. As an example of this approach it welcomed the FCA's TechSprint event which explored the possibility of making regulatory reporting requirements machine-readable and executable.

List of Practitioner Panel members

Anne Richards

Chief Executive, M&G
Panel Chair from 01.08.17

António Simões

Chief Executive Officer, HSBC Bank plc
Panel Chair until 31.07.17 and member
until 30.09.17

David Bellamy

Chairman, International Advisory Board,
St. James's Place plc
Deputy Chair

Steven Cooper

Chief Executive Officer, Barclaycard
Business Solutions, Barclays PLC

Peter Crook

Chief Executive Officer,
Provident Financial plc
Member until 23.08.17

Michael Dobson

Chairman, Schroders
Member until 18.10.17

Craig Errington

Group Chief Executive, Wesleyan
Chairman, FCA Smaller Business
Practitioner Panel

Paul Feeney

Chief Executive Officer, Quilter plc

Jayne-Anne Gadhia

Chief Executive Officer, Virgin Money UK

Joe Garner

Chief Executive Officer,
Nationwide Building Society

Adrian Grace

Chief Executive Officer, Aegon UK

Steve Lewis

Chief Executive Officer,
UK and Western Europe, RSA

Les Matheson

Chief Executive Officer,
Personal & Business Banking, RBS
Member from 01.10.17

Tulsi Naidu

UK Chief Executive,
Zurich Insurance Group

Nikhil Rathi

Chief Executive Officer, LSE plc and
Director of International Development,
LSEG

Michelle Scrimgeour

Chief Executive Officer, EMEA,
Columbia Threadneedle Investments
Member from 01.10.17

Practitioner Panel

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Practitioner Panel

