

**THE FINANCIAL SERVICES
PRACTITIONER PANEL**



**Smaller Businesses
Practitioner Panel**

Financial Services Authority

SUBMISSION TO THE TREASURY COMMITTEE

INQUIRY INTO ACCOUNTABILITY OF BANK OF ENGLAND

APRIL 2011

EXECUTIVE SUMMARY

1. This is a joint submission from the Practitioner Panel and the Smaller Businesses Practitioner Panel. The Practitioner Panel is a body set up under FSMA 2000 as an independent Panel to represent the interests of practitioners to the FSA. The Smaller Businesses Practitioner Panel (SBPP) was set up by the FSA to represent the interests of smaller firms and is due to become an additional statutory panel of the Financial Conduct Authority under the current Government proposals. Details of the role and remit of both Practitioner Panels are at Appendix 1.
2. As Panels with a remit to represent the interests of regulated firms, we will confine our comments in this Inquiry to the areas of the Bank of England which will be taking over responsibility for the regulation of financial services firms in the Government's current proposals. We do not have experience of interaction with the Court of the Bank of England and so we will not comment on this part of the Inquiry.
3. Our concerns focus on the lack of structured practitioner level engagement in the decision-making processes at the Bank. We believe it is vital to have some system for engagement – probably linked to the new FCA Panels – for the PRA, which will be a subsidiary of the Bank. We also believe it should be considered for the FPC, and a link to the FCA Markets Panel for the systemic infrastructure which will be supervised by the Bank.
4. We also question whether it is practical for the Governor of the Bank of England to have responsibility for so many different aspects of the new regulatory system, in addition to the duties which he has already.

TREASURY COMMITTEE QUESTIONS

What kind of decisions should be made by each body within the Bank?

5. In our response to the Government's ongoing consultations on the proposed new UK regulatory structure for financial services, and in our evidence to the Treasury Select Committee's previous Inquiry into regulatory reform, we highlighted the concentration of power in the Bank of England.
6. In the new system, decisions which impact on the regulation of firms are split between a number of different bodies within the Bank. However, the Governor provides a common role of chairing all of these bodies – FPC, PRA, Bank and other bodies such as the MPC. Although we appreciate the desire for coordination through this model, we question the potential conflicting objectives and other conflicts of interest inherent in this structure. One particular example is the concept of the Governor chairing the PRA when deciding if a firm should go into the Special Resolution Regime, as well as chairing the Bank, FPC and acting as Governor of the Bank which will take on this responsibility. Not only are we concerned about conflicts, but also the capacity for a single person to hold so many significant roles effectively.
7. For the FPC, we see that its decisions could have a huge impact not only on the financial stability of the UK, but at a detailed level, ultimately on the way that firms are run. We question the dominance of membership of the FPC by the Bank. We are also concerned that the independent members of the FPC as announced in February 2011, do not have recent direct experience of running financial services firms. We think that this experience is important to be added to the mix for appropriate decision making by the FPC. We would like to suggest that a specific requirement of the independent members of the FPC is that at least one has recent and senior executive director level experience in a financial services firm.
8. For the PRA, its decisions will mainly be in the context of implementing regulations as set by international and European regulatory bodies. However, it will be vital that the PRA plays a key role in representing UK interests in the debates within the EU structures. We believe that there should be a structured debate with practitioners on the UK's interests as they play out for firms. This is another argument for the engagement with practitioners through a cross-sector representative panel for the PRA as well as the FCA.

To whom should the Bank be accountable?

9. We believe the Bank should be accountable to Government and Parliament. However, we believe there is a clear role for engagement with the industry in respect of the functions of the FPC, PRA and the regulation of systemic infrastructure by the Bank.
10. In our responses to the HMT consultation published in February 2011, the Panels will argue for engagement with representatives of the Practitioner, Markets and Smaller Businesses Practitioner Panels as a means of ensuring effective regulation of financial services firms.

11. We believe that the Panels should provide structured practitioner-level engagement with the PRA. This is necessary to enable debate on any unintended consequences of regulation, as well as the most effective implementation of regulatory priorities. This is not only necessary for the PRA's work in supervising UK firms, but also in its work in representing UK interests in European negotiations: we believe there should be a system of ongoing dialogue with relevant firms to assist the PRA with its negotiations in Europe and internationally. We also believe that there should be some opportunity for debate on the cost effectiveness of the PRA itself, which is funded by the industry. To have a system of Panels, which publish annual reports on their activities, would provide the opportunity for structured debate and transparency and clear reporting of the debates which have taken place, in line with the government's wish for greater transparency overall.
12. For the FPC as well, we would like some consideration of a formal system of dialogue with the Panels. The FPC's control of macro prudential decisions and tools, means that their decisions could have major impact on firms and some significant socio economic consequences, which firms would need to take into account, and possibly adapt their business models from a wider perspective than first thought. We believe that the Panels could provide a useful function in dialogue with the FPC.
13. We would also like to suggest that the new FCA Markets Panel should represent the interests of those firms covered by the systemic infrastructure of the Bank. Whilst we recognise the rationale for the movement of the supervision of systemic infrastructure to the Bank, this split between the Bank and FCA in the regulation of markets introduces a weakness in the system. The ability for the Markets Panel to engage in dialogue with the relevant section of the Bank of England should work to assist in ensuring effective regulation of these essential functions.
14. For all of these areas of dialogue, it may be worth considering if the Panel should also be given powers to engage with the Bank, possibly through a similar power as that given to the current FSA Panels in Section 11 of FSMA¹.

What resources does the Bank of England need to carry out its functions?

15. We believe that the addition of access to a group of practitioners would provide a significant and worthwhile resource for those parts of the Bank of England whose work impacts directly on the regulation of firms, as set out above.
16. We will be suggesting in our response to the current Government consultation that, as a minimum, there should be a joint representation of the Practitioner Panel, Smaller Businesses Practitioner Panel and Markets Panel, which engages with the PRA and possibly FPC on a six monthly or quarterly basis.

¹ Financial Services and Markets Act 2000 – Section 11 **Duty to consider representations by the Panels.**
(1) This section applies to a representation made, in accordance with arrangements made under section 8, by the Practitioner Panel or by the Consumer Panel. (2) The Authority must consider the representation.
(3) If the Authority disagrees with a view expressed, or proposal made, in the representation, it must give the Panel a statement in writing of its reasons for disagreeing.

APPENDIX 1

ROLE AND REMIT OF THE PRACTITIONER PANEL

1. The role of the Practitioner Panel is to advise the Financial Services Authority on its policies and practices from the point of view of the regulated community. It has statutory status under the Financial Services and Markets Act 2000 (FSMA). As such, the Practitioner Panel is given access to the FSA's plans for new regulatory policies, and so is able to provide an important sounding board for the FSA before the ideas have been made public.
2. Members of the Practitioner Panel are drawn from the most senior levels of the industry, with the appointment of the Chairman being formally approved by the Treasury, to ensure independence from the FSA. The members are chosen to represent the main sectors of the financial services industry as regulated by the FSA. The Panel currently has senior practitioners from the retail and investment banks, building societies, insurance companies, investment managers, financial services markets, custodians and administrators.
3. The Chairman of the FSA's Smaller Businesses Practitioner Panel (SBPP) sits ex officio on the Practitioner Panel to ensure co-ordination, but debate on issues specifically affecting smaller firms are covered by that Panel.
4. The names of the members of the Practitioner Panel as at 1st April 2011 are as follows.

<i>Panel Member</i>	<i>Position</i>
Iain Cornish <i>Chairman</i>	Chief Executive, Yorkshire Building Society
Russell Collins	Head of Deloitte UK Financial Services Practice
Colin Grassie	Chief Executive Officer UK, Deutsche Bank
Mark Hodges	Chief Executive, Aviva UK
Simon Hogan	Managing director, Institutional Equity Division, Morgan Stanley
Garry Jones	Group Executive Vice President & Head of Global Derivatives for NYSE Euronext
Roger Liddell	Chief Executive, LCH.Clearnet Group Limited
Guy Matthews	Chief Executive, Sarasin & Partners [Chairman SBPP]
Helena Morrissey	Chief Executive Officer, Newton Investment Management
Andrew Ross	Chief Executive, Cazenove Capital Management Limited
Malcolm Streatfield	Chief Executive, Lighthouse Group plc
Paul Swann	President & Chief Operating Officer, ICE Clear Europe Ltd
Douglas Webb	Chief Financial Officer, London Stock Exchange Group
Helen Weir	Group Executive Director Retail, Lloyds Banking Group plc

ROLE AND REMIT OF THE SMALLER BUSINESSES PRACTITIONER PANEL

5. The Smaller Businesses Practitioner Panel (SBPP) was set up by the Financial Services Authority (FSA) to represent the views and interests of smaller regulated firms and to provide advice to the FSA on its policies and strategic development of financial services regulation.
6. Our members are drawn from smaller firms operating across the main sectors of regulated business.
7. We consider several factors when deciding on the definition of “smaller” businesses and take a flexible approach to the application of criteria. A firm may have – in relative terms – a minor market share or small number of employees in the context of its industry sector. In addition, the firm’s financial position and whether the firm is owner-managed may be relevant.
8. We work to ensure that the interests of smaller financial services firms are taken into account and their importance to a healthy, successful and vibrant marketplace are properly reflected in the policies of the FSA.
9. The names of the members of the SBPP as at 1st April 2011 are as follows.

Panel Member

Position

Guy Matthews <i>Chairman</i>	Chief Executive, Sarasin Investment Funds
Clinton Askew	Director, Citywide Financial Partners
Ian Dickinson	Director, The Brunsdon Group
Paul Etheridge	Chairman, The Prestwood Group
Peter Evans	Chief Executive, Police Credit Union
Sally Laker	Managing Director, Mortgage Intelligence
Fiona McBain	Chief Executive, Scottish Friendly Assurance
Andy Smith	Special Projects Advisor, TD Waterhouse UK
Ian Templeton	Managing Director, UIA (Insurance) Ltd
Andrew Turberville Smith	Chief Operating Officer and Finance Director, Weatherbys Bank Ltd