

FCA

Smaller Business
Practitioner Panel

THE FCA SMALLER BUSINESS PRACTITIONER PANEL:

**RESPONSE TO FSA DISCUSSION PAPER 13/1
'TRANSPARENCY'**

APRIL 2013

Introduction

The FCA Smaller Business Practitioner Panel welcomes the publication DP 13/1 on Transparency. We have previously engaged with the regulator on this topic on a number of occasions and have appreciated the interaction to date.

Overall, the Panel supports initiatives to increase transparency, although it is important that information published is not easily liable to misinterpretation or difficult to understand. As such, the regulator should remain sensitive to how information is likely to be received when published and always ensure data is provided with appropriate contextualisation. Our detailed comments are provided below.

Executive summary:

- The Panel supports initial FCA thinking around greater publication and transparency regarding:
 - Providing greater feedback to individuals regarding whistle-blowing
 - Publishing more detail around thematic reviews, early intervention and the redress process
- We would also encourage the regulator to consider:
 - The importance of communications channels and strategy in providing relevant information to smaller firms/supporting them in fulfilling their obligations
 - Releasing aggregated industry/sector information back to firms to allow them to benchmark themselves against industry averages
- We do however have concerns around:
 - The proposed publication of insurance claims data

Detailed response:

How the FCA could be more transparent

The Panel supports the regulator's intention to be transparent about its work, the decisions it makes and the actions it takes. We agree that regulatory transparency is an important aspect of ensuring accountability of the FCA.

Whistleblowing

We would strongly support policies that would provide more feedback to those in industry who have alerted the regulator to breaches or misconduct in specific firms or across sectors. As a Panel, we have tried to play a constructive role by making the regulator aware of where we believe there have been specific market/firm failures. The regulator rightly notes the importance of providing adequate protection for those who do the right thing, but in order for individuals to have confidence in this system and that the regulator is taking their concerns seriously, non-confidential information should be fed back as a matter of routine. We would also support the publication of aggregate data around whistleblowing. Such data could indicate the general confidence industry participants have in the process and be useful to assess whether further measures are required to encourage information sharing.

Likewise, as a Panel we have often not had information or updates back on specific issues we have brought to the FSA. We hope the FCA will be more willing to feed back progress on these issues to provide us with greater comfort that action is being taken. In order for this more pro-active and interventionist regulator to fulfil its objectives, it will need to encourage all channels of useful information going forward.

Means of external communication

The Panel has had positive engagement with Zitah McMillan and her team in the past year. We have had regular conversations around communication channels and strategy, including the development of the new FCA web-site. We continue to believe that, in terms of transparency of the regulator and in the spirit of sharing relevant information, it is key that information going forward is presented in a clear and detailed format to assist smaller firms to comply with regulation.

For instance, we are supportive of the regulator's intention to continue sending out weekly regulatory e-mail round-ups to smaller firms. We have previously also suggested the regulator should consider additional sign-posting to firms regarding what information is relevant to them. Greater assistance in understanding and interpreting relevant regulatory information will remain key for those smaller firms who cannot rely on large compliance departments or expensive consultants. The majority of firms want to ensure they meet requirements and do the right thing, but need to know what is expected of them.

Information the regulator could release about firms, individuals and markets

The Panel would welcome the regulator sharing more information with industry and the general public in relation to the firm and market data it collects.

Transparency around authorisations and thematic reviews

The Panel would strongly support the FCA disclosing greater detail around both the authorisations process and its key priorities/activities in relation to thematic work and early intervention.

We agree information should not be published on a firm-specific basis (and also recognise the legal constraints in this area) but would support anonymised and aggregated publication. We welcome the intention to publish instances of good practice to help guide firms. We would also encourage the FCA to do more to signal to the industry the areas where it has the most concern/will focus going forward.

Release of aggregated/industry information

It would also be very helpful for the regulator to provide aggregated industry/sector information which it collects, in order to allow firms to form a better understanding of the markets in which they operate, as well as enabling them to benchmark themselves against industry averages.

Given the extensive information provided by individual firms to the regulator, it should be possible for the FCA to share in an anonymised and aggregated fashion, information back to the industry. We believe this would be helpful both for firms in managing their own businesses, and for the FCA to achieve better regulatory outcomes.

Transparency around the redress process

The Panel expressed strong concerns earlier this year in relation to the information made available after the failure of the Arch cru funds. The FSA arranged a settlement in relation to the failings of HSBC, Capita and BNY Mellon who acted as the depositaries and Authorised Corporate Director for the funds; as well as instituted a redress scheme for affected consumers to claim from their advisors. We did not oppose advisors paying redress in cases where there had been mis-selling, but responsibility needs to be fairly shared.

We would thus be strongly supportive of the regulator taking steps to provide greater transparency around such settlement and redress schemes in the future. Without it, there is a lack of accountability of the regulator (in ensuring that there has not been preferential treatment provided to larger firms) and a lack of trust amongst the industry at large that the right thing will be done.

Information the FCA could require firms to release

Annuity scheme

The Panel agrees with the regulator that there is currently not enough transparency in the annuity market. We would support the regulator exploring options in this area, and whether or not more could be done to ensure providers make customers aware of alternative options in obtaining the best rate available.

Publication of claims rate

The Panel supports the consumer having access to relevant information to enable them to buy products that are good value for money. We are also in general supportive of efforts to establish a market whereby competition is focused on the right indicators for the consumer – i.e. not just the price of a product, but also whether the policy actually offers the coverage which the consumer would need. We have previously highlighted concerns in relation to the role of price comparison web-sites, which we have sometimes felt have played a role in distorting the market to focus excessively on price rather than value-for-money.

However, we would urge the regulator to exercise caution in deciding what indicators to use to determine whether markets function effectively. We would be concerned to see the regulator publish, as proposed, premiums vs. pay-out ratios, and are not sure what the publication of such indicators would achieve. As long as the customer receives all relevant information, customer preference and risk profile will determine what events they wish to insure against. For some customers, purchasing insurance against events that are relatively unlikely to occur still provide them with a peace of mind and comfort for which they are willing to pay (e.g. natural disasters insurance). The low probability of occurrence by itself would not make it a low-value product.

We believe there is a high risk in general that the publication of claims data can be mis-understood. Having said that, we are not opposed in theory to the publication of indicators where they clearly demonstrate the quality of complaints processes in firms. It is however important that the right indicators are chosen, and that these are appropriately contextualised so as not to be mis-understood by consumers and the media.