

Annual Report

2015/16



FCA

Smaller Business
Practitioner Panel



Chairman's foreword

The FCA Smaller Business Practitioner Panel's role is to support and challenge the Financial Conduct Authority (FCA) and this year we have done so in an environment of formidable regulatory and legislative change. The FCA's agenda is driven not only by its own priorities but also by other environmental factors. This year it has faced fundamental changes to the pensions market, the challenge of taking on the regulation of consumer credit, and uncertainty in the political climate at UK and EU level. For the coming year the agenda will be driven by the consequences of the EU referendum result. The Panel has been pleased to be involved in the FCA's business planning and policy development at all stages in order to provide the vital perspective of smaller firms. The FCA has also been through a period of significant change in its leadership team this year. We have valued the opportunity for senior level engagement throughout this period and look forward to continuing our dialogue in future.

The Panel represents the vast majority of regulated firms and our role continues to be to highlight the impact of regulation on the day to day business of these firms. Given the pace of change and the sheer volume of regulation, we are concerned about the strain on resources required to implement such change. This applies to the FCA as much as it does to firms themselves. Concern about the increasing resource requirements needed to comply with regulation continues to be a key finding of this year's Practitioner Panel Survey. There is a danger that legislative changes which are rushed through will lead to poor regulation or unforeseen consequences, and additionally firm resources which are used to make changes to literature or put new processes in place are not available for innovation in products and services and limit firms' capacity for dealing with change.

This year the Panel has assessed the impact of the FCA's work through its key themes of proportionality, regulatory certainty, communication and engagement with firms and cost effectiveness and value for money. We have welcomed many developments in these areas, in particular the work being done to increase engagement with smaller firms, such as the Live and Local events. We have encouraged the FCA to advertise these further to increase participation as these are particularly valued by firms which have attended.

The FCA's competition objective was identified by both the 2015 and 2016 Practitioner Panel Surveys as needing to be addressed. Competition amongst smaller firms is as important as between the larger players in order to maintain a functioning market that works well for all participants and we will continue to engage with the FCA on its work in this area. We encourage the FCA to publicise more actively the work it is carrying out on competition in order to raise awareness within the industry and beyond.

This year the FCA has undertaken forward-looking and collaborative work in particular areas such as the financial needs of an ageing population. We have encouraged this type of approach, involving a wide range of stakeholders, as a constructive way forward on difficult and broad topics. We have also engaged with the FCA on its work on the indebted young, which we believe is also an important area for the regulator.

We encourage the FCA to continue to develop a positive and forward-looking approach as a counterbalance to excessive and burdensome regulation. We expect the FCA to play a key role in the post-EU referendum negotiations, and we urge it to use its influence and expertise to develop the foundations of sustainable regulation which will benefit consumers, the industry and the wider economy.

The Panel has been fully engaged on the Financial Advice Market Review and will be represented on the Working Group which has been given the task of taking forward many of its recommendations. This will be crucial in developing a fully-functional advice market that works for well for consumers and providers.

I would like to thank all the Panel members for their work this year, those who have left us and those new members who have joined throughout the year. We look forward to continuing a constructive dialogue with the FCA under its new leadership and to working together to improve the regulatory environment for smaller firms.

Clinton Askew
Chair, FCA Smaller Business
Practitioner Panel

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Introduction

The FCA Smaller Business Practitioner Panel (SBPP) is one of four statutory Panels for the FCA, and works alongside the FCA Practitioner Panel, FCA Markets Practitioner Panel and the Financial Services Consumer Panel. The main aim of the SBPP is to apply the experience and strengths of smaller firms to improve UK financial services regulation through representing to the FCA the views, interests and concerns of smaller regulated firms.

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Key Themes

This year the Panel identified four key themes for its activity, adding cost effectiveness and value for money to last year's themes of proportionality, regulatory certainty and communication and engagement with firms.

The issue of **proportionality** of regulation for smaller firms continues to be a priority for the Panel. The results of the Practitioner Panel's 2016 annual survey showed that firms feel one of the greatest levels of impact from regulation was an increase in resource requirements. For smaller firms in particular, with limited resources, requests for regulatory information, particularly within short timescales, are becoming increasingly onerous. We have asked the FCA to be cognisant of resource constraints when requesting information, particularly from small firms. This resource requirement, combined with the financial levies for the Financial Ombudsman Service (FOS) and Financial Services Compensation Scheme (FSCS), can result in an excessive regulatory burden. Smaller firms will, as a consequence, have little or no spare capacity to be able to produce more innovative products and services.

During the past year the FCA's new approach to supervision, with firms supervised on a fixed or flexible portfolio basis, has been bedding in. We have encouraged the FCA to ensure that the element of proportionality is maintained in the new regime and that the reality of the business environment for smaller firms is taken into account.

In last year's annual report we commented that the FCA's project to develop common views of the markets and sectors it regulates, in the form of House Views, should contribute to greater **regulatory certainty**. We have been closely involved in the development of the House Views which are both detailed and comprehensive and have appreciated the opportunity to engage at an early stage where we can provide most useful input.

We have noted over the past year that many of the items on the FCA's agenda are as a result of government and legislative intervention. The result of the EU referendum means that the UK in general, and the financial services sector in particular, faces an unprecedented period of change and uncertainty. The FCA, with its extensive expertise in European regulatory issues, will be well placed to participate and advise on negotiations and we encourage it to engage at the highest level to ensure good outcomes for the industry and consumers.

In other developments over the last year, the FCA has been required to implement decisions such as pension reforms, price caps in the consumer credit industry and ring fencing in the banking industry. We have recorded our concerns that the result of this volume of change is that firms and the FCA have to focus resources on implementing these changes rather than on innovation or more strategic issues.

We have seen a number of welcome developments over the last year

in the FCA's **communication and engagement with firms**. We are very supportive of its work on small firm engagement such as Positive Compliance workshops, which continue to be excellent in terms of both technical content and presentation. Panel members have also been involved in presenting some of the Live and Local events. We have strongly encouraged the FCA to promote these sessions more widely in order to encourage greater participation.

One area we have encouraged the FCA to address is the potential disparity between communication with fixed portfolio firms, which have a direct supervisory relationship, and flexible portfolio firms, which rely on FCA mass communications for their regulatory relationship. We have encouraged the use of the Regulation Roundup publication, which is widely read, to communicate key issues and to clarify the FCA's approach to supervision of firms.

We have encouraged the FCA to develop robust metrics and outcome measures to track progress against its Business Plan, in order to ensure that **cost effectiveness and value for money** are being achieved. Part of the Panel's role is also to discuss the Business Plans for the Money Advice Service and the Financial Ombudsman Service. We have encouraged all three members of the regulatory family to coordinate their activities, for the benefit of the industry, as it needs clarity of regulation. We also believe coordination of activity is necessary for the regulators themselves

in order to optimise their own strategies. We have also commented on the funding arrangements for the Financial Services Compensation Scheme, and have significant concerns that the current arrangements need to change for the future sustainability of small firms' business models.

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Priorities

For 2015-16 we set ourselves six key priority areas on which we would focus our attention:

Engagement with FCA House Views

Input to thematic reviews and market studies

Impact of regulation

Consumer credit

Individual accountability

Funding for later life

Engagement with FCA House Views

In its annual report for 2014/15 the FCA described how as part of its strategy it would be bringing together the intelligence it collects across the organisation to form a house view of each of the markets and sectors that it regulates. This intelligence – from firms, consumers, market research and other sources – forms a full picture of the markets it regulates and ensures that risks to each of its objectives are considered and assessed alongside each other.

All the statutory Panels were consulted during the process of creating the House Views and we have stressed the need for the SBPP to be engaged from an early stage, particularly to ensure the views of smaller firms are taken into account. We have provided expert input on both the scope and content of the House Views and have encouraged the FCA to release

an appropriate summary of the contents in the public domain as this would be helpful to industry participants to have an idea of the regulator's thinking in their sector.

Input to thematic reviews and market studies

The FCA takes a risk-based approach to identifying where it should take action. In order to do this, it undertakes thematic reviews to assess what is, and what could be, causing poor outcomes for consumers and market participants, drawing on data analysis, information from its financial crime and enforcement investigations, market intelligence and input from its supervisory work.

We appreciate how important thematic reviews are in driving supervision of smaller firms and therefore have set them as one of our priorities to ensure we have engagement with the FCA. Part of our concern is driven by the potential pressure put on smaller firms by information requests from the FCA that have significant resource requirements. Since there is huge potential for positive gains from the wider regulatory community if thematic work can be used to drive firm behaviours, we have encouraged the FCA to ensure that all thematic reviews include examples of both good and bad practice.

The Panel has discussed the work of the asset management market study, the mortgages call for inputs and the responsible lending reviews and the

work on the suitability of advice. One of its key messages is the importance of incorporating consumers' choices around social and environmental issues and the Panel has encouraged the FCA to take these into account in its analyses of these markets.

Impact of regulation on financial services and consumer outcomes

Throughout the year the Panel has considered a number of individual regulatory topics, including the following:

Financial Advice Market Review

The Financial Advice Market Review (FAMR) was launched in August 2015 in light of concerns that the market for financial advice in the UK was not working well for all consumers. The aim of the Review was to explore ways in which Government, industry and regulators could take steps to stimulate the development of a market to deliver affordable and accessible financial advice and guidance to everyone. The Review published its findings in March 2016, focusing on affordability, accessibility, and liabilities and consumer redress.

The Panel welcomed the launch of FAMR, although noted it was very wide in scope. We engaged directly with the Review as a Panel, and responded jointly to the public consultation with the Practitioner Panel. Panel member Robin Keyte was also a member of the FAMR Expert Panel.

The Panels' response to the consultation focused on the work which needs to be done to make the middle market for advice a viable option. The main message of the response was that there is a lack of clarity and consistency in regulation in the middle market for advice, which is leading to a restriction in supply. The Panel's view was that a good outcome of the Review would be that it is clear to the industry how far it can go with advice without overstepping the regulatory boundaries. This applies not only to the FCA but also to the rest of the regulatory family.

The Panel welcomed the outputs of the Review and the explicit recognition that we should be involved in taking the recommendations forward by being represented on the Financial Advice Working Group. The group will address recommendations relating to supporting employees' financial health, clarification of terms to describe advice and guidance and consumer behavioural work.

Smarter consumer communications

The FCA published a Discussion Paper in June 2015 to explore the ways in which firms communicate with consumers. The objective was to signal its appetite to explore opportunities and initiate change in how firms communicate key information to consumers.

The Panel agrees that there is scope to improve communication by firms with customers. We recognise that the industry has further to go in the area of

financial advice, where we believe the adviser status disclosure (independent or restricted adviser) is binary, overly simplistic and insufficient to help consumers choose good advisers. A bigger issue than adviser status is there is often a lack of clarity about how advisers will charge. This is a particular issue for consumers looking for a new adviser.

The Panel has looked into the use of Monroey stickers in the US automotive industry and suggested this concept could be transferred across to the financial services industry to lessen the information asymmetry between consumers, advisers and product providers, particularly when consumers are deciding on an adviser. Our views on a simplified status disclosure document, based on the 'Monroey sticker' were incorporated into the Discussion Paper.

Money Advice Service and Public Financial Guidance

The Money Advice Service (MAS) consults the Panel when producing its business plan. During 2015 it also consulted on its work on the UK Financial Capability Strategy. In the March 2016 Budget HM Treasury announced fundamental changes to the provision of public financial guidance which will affect the structure and operation of the sector and the future of MAS.

The Panel was encouraged by the work carried out by MAS on the UK Financial Capability Strategy, in particular the objective of delivering where

appropriate and partnering with other organisations in the financial capability environment to avoid duplication and target its resources effectively. Following the announcements of changes to the provision of public financial guidance the Panel hopes the work that MAS has already carried out on identifying gaps in financial provision can be used to help allocate resources appropriately. We also believe it is important that the industry is appropriately represented in the governance structure of the advice body which will take the place of MAS.

Indebted young and ageing population

The FCA published a Discussion Paper in February 2016 on the ageing population and financial services, including articles from a range of stakeholders.

The Panel has discussed the issues of young people in debt and the ageing population with the FCA, which published a Discussion Paper on the latter incorporating a range of thinkpieces from different stakeholders. We have encouraged the FCA to take on board this wide range of views. We believe it is a valuable approach that the organisation is focussing on issues at a broader level rather than on particular sectors in isolation. We have encouraged the FCA to identify areas where it is best placed to use its resources for such broad topics.

While we support the work on the ageing population, we have encouraged the FCA not to overlook the needs of

younger people, which we consider should be a priority not only for the FCA but for the Money Advice Service and its successor bodies.

PPI review

The FCA has consulted on changes to Payment Protection Insurance (PPI) complaint handling rules, and in particular on introducing a deadline for making payment protection insurance complaints.

This is an issue which impacts on smaller firms as well as large, both in driving consumer attitudes to financial services overall, and in the pressure it puts on the resources of certain firms. We have encouraged the FCA to draw the investigations into PPI mis-selling to a close as soon as possible, since clarity for the industry will ultimately benefit consumers.

Regulation of Credit Unions

In 2015 the FCA and PRA launched a reform of the legacy Credit Unions sourcebook (CREDS), one of the modules of the Handbook inherited by the two regulators from the Financial Services Authority (FSA).

The Panel provided expert input into the reform of the legacy Credit Union sourcebook exercise. We are supportive of the outcomes and pleased that the views of the industry were taken on board and that a workable solution was reached that maintained the viability of the industry for the benefit of its customers.

Consumer credit

The FCA took over regulation of the consumer credit market from the Office of Fair Trading on 1st April 2014, bringing over 50,000 consumer credit firms into its portfolio. The application period for firms holding interim permissions closed at the end of March 2016.

The Panel has followed the authorisations process closely and has taken an active interest in the FCA's progress in this area. Both the numbers of firms being authorised and the complexity of the cases have been challenging for the FCA, and it is our belief that there is still more work to be done to improve the authorisation process. The Panel has been kept informed on the number of firms withdrawing from the process, the range of activities being authorised and the types of permissions being requested.

The Panel considers the overall effect of FCA regulation of the sector so far has been beneficial and the FCA has made organisations much more aware of vulnerable customers. It does consider, however, that the huge amount of effort that has gone into authorisation has again effectively put a brake on innovation.

The Panel has encouraged the FCA to bring the rest of the Consumer Credit Act into the regulatory framework as a matter of urgency, and the call for evidence in this area is a welcome development.

Individual accountability

The FCA introduced a new Senior Managers Regime, Certification Regime and new conduct rules for the banking sector which came into effect from 7th March 2016. The objective of the new rules is to improve personal accountability within the banking sector.

The Panel considers the Senior Managers Regime to be a key area of work for the FCA in regulating conduct within the industry. We welcome the focus on outcomes with the introduction of the Senior Managers Regime and will engage closely as the regime is extended in future. It has encouraged the FCA to be mindful of the overall impact of regulation as the regime is being implemented at the same time as changes to other rules such as the credit union sourcebook and this will create an additional burden on small firms.

In the area of regulatory references, the Panel has concerns that the proposals may place a disproportionate burden on smaller firms, with recording, maintaining and checking references to the level of detail proposed adding further to administrative costs which are already significant.

Funding for later life

Over the past year there have been continued fundamental changes to the pensions and retirement income sector. The FCA has been working on adapting its existing rules and guidance to operate in the new environment, as well as considering new initiatives such as the development of a secondary market for annuities.

The Panel has welcomed the FCA's ongoing review of the pension rules which is being carried out to very challenging timescales. It has expressed concerns about the development of a secondary annuity market, as it considers there are very few consumers who will benefit from participating, and that there is a substantial risk of detriment for those who do. It has particular concerns about the availability of suitably qualified advice, in line with its views on FAMR. The Panel supports the FCA's work in regulating this difficult area and acknowledges the challenges involved.

Members of FCA Smaller Business Practitioner Panel

1 April 2015 – 31 March 2016

Clinton Askew

Director, Citywide Financial Partners

James Bawa

CEO, Teachers' Building Society

Phil Carey

Chief Executive, Kensington Friendly Collecting Society & Managing Partner of Careys Credit Services
Member from 1.9.15

Craig Errington

Chief Executive of Wesleyan Assurance Society

Neil Fung-On

Partner, BDO LLP
Member until 29.2.16

Gerald Grimes

Managing Director, Hitachi Capital Consumer Finance
Member from 1.8.15

Richard Haas

Chief Operating Officer of CapeView Capital LLP

Robin Keyte

Director of Keyte Ltd

Sally Laker

Managing Director, Mortgage Intelligence
Member until 30.9.15

Simon Lough

Executive Vice President, Heartwood

Fiona McBain

Chief Executive, Scottish Friendly Assurance
Member until 30.9.15

Peter Minter

Managing Director, Moneybarn

Phillip Monks

Chief Executive, Aldermore Bank Plc
Member from 1.8.15

Ashley Rogoff

Founder and Managing Director of Ashley Page Insurance Brokers Ltd

Marlene Shiels

Chief Executive of Capital Credit Union

Smaller Business Practitioner Panel

The FCA Smaller Business Practitioner Panel

25 The North Colonnade

Canary Wharf

London E14 5HS

Tel: +44 (0)20 7066 1000

Website: www.fca-sbpp.org.uk/

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