

Peter Curtis,
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

9 October 2018

Dear Peter,

FCA Smaller Business Practitioner Panel response to DP18/19 – Introducing the Directory

The Smaller Business Practitioner Panel welcomes the opportunity to respond to this discussion paper on developing a new public register for checking the details of key individuals working in financial services.

We have discussed with the FCA the provision of information on individuals working in financial services, and the changes which will come about under the Senior Managers and Certification Regime (SMCR). Last year we raised the negative consequences for firms and consumers of not being able to access the same information about individuals as was previously available under the Register. Consumers used this information to gather information about individuals they were dealing with, and firms used it to check the particulars of individuals they were considering employing.

Relying on the Directory

In the context of the SMCR, we understand that responsibility for ensuring that individuals are fit and proper persons to work within the industry now lies with the relatively small number of people who are accountable within firms. It would be, therefore, the responsibility of the relevant senior managers, and not the FCA, to ensure that information in the new Directory is accurate and up to date.

There are two views on whether this is appropriate or not. On the one hand, there is the view that an information source which relies on a subjective judgement by another firm, as well as relying on that other firm to keep the information current, cannot be relied upon when checking the background of a new recruit.

On the other hand, there is the view that it is appropriate to rely on the SMCR to ensure that senior managers in firms take all reasonable steps to keep their submission to the directory up to date. Should there be any high profile indiscretions, this would publicly highlight a firm's failure to fulfil its obligations.

In any case, regulated firms will still need to carry out their own checks on potential employees in order to satisfy themselves of their employment history.

From a consumer perspective, it is not clear whether consumers will understand that the Directory is not maintained by the FCA, and they may assume the information has been endorsed by the regulator.

The cost of setting up the new Directory will not be trivial, and will fall back on the industry. Senior managers will be held responsible for keeping information accurate and up to date, for a system on which they cannot solely rely for due diligence processes.

Content of the directory

On the specific content of the proposed Directory, the FCA should take more account of the point that a significant amount of advice, especially in the mortgage and protection space, is carried out by phone and not on a face to face basis, therefore a geographical search is not always appropriate. There is also an opportunity to ensure that protection-only advisers are not overlooked as they provide a significant service to consumers.

Based on these points, whilst we recognise the potential value from a consumer perspective there are differing views on the benefits to smaller businesses. The costs seem very high, and therefore we encourage the FCA to consider its cost benefit analysis very carefully before taking it forward.

Yours sincerely,

[signed]

Craig Errington
Chair, FCA Smaller Business Practitioner Panel