

FCA Statement of Policy on Panel Appointments

This document outlines the intended approach for appointing members to the Financial Conduct Authority's (FCA's) statutory panels in accordance with section 1RA of the Financial Services and Markets Act 2000 ("the Act").

Publishing this statement reinforces the FCA's commitment to transparency about how it gains access to wide-ranging expertise across its panels, which will contribute to achieving its statutory objectives.

HM Treasury has been consulted with respect to this statement and the FCA has had regard to their representations, as required by Section 1RA(6) of the Act.

Objectives of the recruitment process

The FCA's statutory panels are the:

- Consumer Panel
- Practitioner Panel
- Smaller Business Practitioner Panel
- Markets Practitioner Panel
- Listing Authority Advisory Panel
- Cost Benefit Analysis (CBA) Panel.

Information about the role of each of these panels is available on the FCA's website¹.

The aim of the FCA's recruitment process is:

- to enable it to appoint the best available candidates who will enable the panels to fulfil their statutory roles and maximise the value of the panels as a "critical friend" and to provide advice and recommendations to the FCA; and
- to do so in a way that also seeks to recruit from as broad a pool of candidates as possible to meet the diversity targets agreed for the FCA panels² and, more broadly, to achieve as diverse and inclusive a membership as possible.

¹ <https://www.fca.org.uk/about/how-we-operate/who-work-with/statutory-panels>

² In line with the FCA Board's decision in September 2021, the Panels now adopt similar "comply or explain" requirements to those that apply to listed company Boards, applied as follows:

- At least 40% of each Panel are women
- At least one of the senior positions (Chair, Deputy Chair or equivalent) across the Panels is held by a woman
- At least one member of each Panel is from an ethnic minority background.

The FCA takes into consideration a number of matters when determining panel membership, including, but not limited to, the following factors.

- The FCA regularly considers the skills and perspectives needed to ensure membership of each panel includes a representative balance of relevant stakeholders and interests. The Act also sets out more detailed requirements for composition of some of the panels.
- In certain cases, a member of one panel may also sit on another panel as an ex officio member or attend meetings which are of particular relevance, in order to foster cross-panel collaboration, and panels may meet jointly.
- Members of the statutory panels must be external to the FCA, Prudential Regulation Authority (PRA), the Bank of England (the Bank), the Payment Systems Regulator (PSR) or HM Treasury (the Treasury). Section 1MA of the Act prevents a person who receives remuneration from the FCA, the PRA, the PSR, the Bank or the Treasury from being appointed as a member of any of the FCA's statutory panels. This disqualification does not apply in respect of a panel if regulations made by the Treasury provide for it not to apply to that panel.

Members are appointed in an individual capacity and not as representatives of any organisation.

Appointments

The FCA's approach to recruitment to the panels will differ depending on the likely candidate pool, with the aim of meeting the objectives outlined above in the most efficient and effective way. Wherever practicable, recruitment to the FCA's panels will be open for public competition. In addition to open advertisement, the FCA, panel and/or secretariat may contact relevant people, organisations and /or networks to signpost them to the available opportunity. Consideration is given to engaging an executive search firm. In other cases where there is only a narrow range of suitable candidates (for example, where a particular market sector is required to be represented on a panel), the FCA may contact key organisations inviting them to put forward candidates, or identify them from its own information. More details about the approach for the individual panels are set out in the Annex to this statement.

Candidates for practitioner and consumer panels should demonstrate an understanding of the role of the FCA and its objectives. They are expected to understand the general viewpoint of the sector or perspective from which they are drawn, to articulate it clearly in discussions and in any written submissions, and be able to contribute constructively and fully from that perspective in panel discussions to support and challenge the FCA's thinking, as a 'critical friend' to the regulator. Panel members may receive confidential materials from the FCA in their panel roles, so are required to respect that confidentiality.

In relation to the CBA Panel, candidates should demonstrate an understanding of relevant markets and/or cost-benefit analysis approaches, and of the impact of regulation on a range of stakeholders, including businesses and consumers. They are expected to have strong analytical skills, be able to make sound judgements, and to deliver collaboratively as part of a senior team. Panel members are likely to receive confidential materials from the FCA in their panel roles and are required to respect that confidentiality.

The FCA will review candidates for panel membership, including undertaking due diligence taking into account information to which it has access for those from regulated firms, and may interview a number of shortlisted candidates. The FCA will aim to identify, as early as possible, any actual, potential or perceived conflicts of interest that would arise if a candidate were appointed as a panel member. Where possible, mitigants will be considered in order to manage the potential conflict.

Once the most suitable candidate for the available opportunity has been identified, they will be recommended for approval by the FCA Board (or under a Board delegation). The Treasury's approval will also be required for the appointment (or dismissal) of the Panel Chair, in line with the Act.

This approach is expected to be used on most occasions, but the FCA may, by exception, and where permitted by legislation, adopt a different approach if it considers that is the best way to attract suitable candidates.

Reappointments

Members are usually appointed for three-year terms and will usually serve a maximum of two terms. If a member has only served one term (or, in some cases, two terms), they may be considered for appointment for a further term, subject to approval by the FCA Board (and, for Panel Chairs, the Treasury), without following the recruitment process, based on the strength of their contribution as a panel member. This would include consideration of their participation in panel discussions and their attendance at meetings.

Annex: Appointment Process by Panel

Consumer Panel: Recruitment to the Panel will be open for public competition. In addition to open advertisement, the FCA, Panel and/or secretariat may contact relevant people, organisations and/or networks to signpost them to the available opportunity. Where resourcing allows, consideration will be given to engaging an executive search firm.

Practitioner Panel: For many sectors, there is likely to be only a very limited pool of suitable candidates. In these cases, the FCA may use a paper-based exercise drawing on the information it has available to identify a shortlist and select the best candidate.

Smaller Business Practitioner Panel: Wherever practicable, recruitment to the SBPP will be open for public competition. In addition to open advertisement, the FCA, Panel and/or secretariat may contact relevant people, organisations and/or networks to signpost them to the available opportunity. Where resourcing allows, consideration will be given to engaging an executive search firm. In other cases where there may be only a very limited pool of suitable candidates with a particular perspective, the FCA may adopt a ring-fenced competition process, whereby key organisations or firms will be invited to put names forward for consideration, or use a paper-based exercise to identify a shortlist.

Markets Practitioner Panel: When practicable, recruitment will be open for public competition. In addition to open advertisement, the FCA, Panel and/or secretariat may contact relevant people, organisations and/or networks to signpost them to the available opportunity. Where resourcing allows, consideration will be given to engaging an executive search firm. In other cases where there may be only a very limited pool of suitable candidates with a particular perspective, the FCA may adopt a ring-fenced competition process, whereby key organisations or firms will be invited to put names forward for consideration, or use a paper-based exercise to identify a shortlist.

Listing Authority Advisory Panel: When practicable, recruitment will be open for public competition. In addition to open advertisement, the FCA, Panel and/or secretariat may contact relevant people, organisations and/or networks to signpost them to the available opportunity. Where resourcing allows, consideration will be given to engaging an executive search firm. In cases where there may be only a very limited pool of suitable candidates with a particular perspective, the FCA may adopt a ring-fenced competition process whereby key organisations or firms will be invited to put names forward for consideration, or use a paper-based exercise to identify a shortlist.

Cost Benefit Analysis Panel: Wherever practicable, recruitment to the CBA Panel for remunerated panel members will be open for public competition. In addition to open advertisement, the FCA, Panel and/or secretariat may contact relevant people, organisations and/or networks to signpost them to the available opportunity. The FCA must also appoint to the CBA Panel at least two representatives from FCA authorised firms, with each one being employed by a different firm. These are unremunerated roles and will be open for public competition. Recruitment of remunerated independent panel members may follow a different process than for members from FCA authorised firms; for example, for the recruitment of independent members consideration will be given to engaging an executive search firm. In cases where there may be only a very limited pool of suitable candidates with a particular perspective, the FCA may adopt a ring-fenced competition process, whereby key organisations or firms will be invited to put names forward for consideration, or use a paper-based exercise to identify a shortlist.