Financial Services Consumer Panel
AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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Regulatory Coordination Call for Evidence
Financial Services Regulatory Strategy
1 Red
HM Treasury
1 Horse Guards Road
SW1A 2HQ

18 October 2019

By email: FRF.Review@hmtreasury.gov.uk

Dear Sir / Madam,

Financial Services Future Regulatory Framework Review Call for Evidence: Regulatory Coordination

The Financial Services Consumer Panel is an independent statutory body. We represent the interests of individual and small business consumers in the development of policy and regulation of financial services in the UK.

The Panel welcomes HM Treasury's future regulatory framework review. Britain's decision to leave the European Union is likely to have significant implications for the financial services industry, not least because, currently, much of UK financial services legislation emanates from the EU. How we ensure that the framework for developing new legislation, as well as how rules and regulations are amended or adapted in the coming years, face the same level of scrutiny and accountability as now, at the same time as keeping consumer interests at the forefront of policy makers' minds, is a key concern.

The Panel's concern is with financial services policy making and regulation, particularly in a 'post-Brexit' world. This includes how the interests of consumers, including SMEs, can be better integrated into policy development and decision-making across the sector to ensure that the UK retains strong consumer protection and takes the opportunity to structure a framework that deals with the tough to crack issues such as value for money and delivering information in a way that helps consumers make financial decisions.

We do not believe that the UK government will be judged on any particular future framework on its own, or on the model of its future relationships with the EU and other jurisdictions, but rather on what it delivers for its citizens: consumers and SMEs. This must be the driving focus of financial services culture, policy formation and regulatory architecture.

In its assessment of the post-Brexit regulatory architecture for financial services, the International Regulatory Strategy Group recommended that the role of the FCA and PRA statutory panels could be enhanced.[1]

The Consumer Panel is the only statutory group which focuses solely on advising and challenging the FCA and other stakeholders on the consumer interest in financial services policy. The other three FCA Panels, and the PRA practitioner Panel, all advise on industry interests. This raises a material risk that the regulators do not receive sufficient challenge from a consumer perspective on highly technical policies impacting consumers' access to, and value received from, financial services. Furthermore, it is possible that, post-Brexit,

[1] https://www.irsg.co.uk/assets/The-Architecture-for-Regulating-Finance-after-Brexit.pdf

EU consumer groups may no longer engage with UK consumer organisations to the same extent, leading to a potential material gap between UK and EU consumers.

Government, regulators and industry should work with consumer representatives to avoid industry and regulatory 'groupthink',[2] and drive better solutions for UK savers and end users of financial services. Consumers don't want more regulations that lead to pages and pages of highly technical terms and conditions: they want to protect their savings and gain access to imperative financial services on fair terms and prices, and better outcomes brought about by a market that meets their needs and which incorporates agile, responsive and pro-active independent governance and regulation. Consensus across government, regulators, industry and consumer groups provides a stronger foundation from which the UK can build its regulatory framework.

HM Treasury should review how consumer representation can be enhanced within UK regulators, trade negotiations and subsequent regulatory implementation. Likewise, the industry should consider introducing more consumer representation into its own governance processes and actively encourage challenge.

We believe that regulators should be more transparent in their actions to give clarity to firms and consumers alike. They should be clearer on what good looks like, as well as on highlighting poor practice. In particular, regulators should be bolder in intervening early, rather than letting detriment continue while they carry out more analysis or issue more guidance. There is also sometimes more that regulators could do in raising public policy issues.

We look forward to further engagement with HMT on this important topic.

Yours faithfully,

Wanda Goldwag
Chair, Financial Services Consumer Panel

[2] As highlighted by the Behavioural Insights Team, Government bodies are particularly susceptible to 'group reinforcement' when developing policy. The two main factors driving this is people involved in the policy-making process tend to conform to majority opinions as they may fear their opinion is not as well formed or substantiated by the same level of information as the majority and, second, because of social pressure. This phenomenon can be particularly pronounced in bureaucratic institutions that are often formal and hierarchical, which inhibits confrontation and dissent. Arguably, this is reinforced by staff making their career in the sector by moving between government and industry institutions.

Questions

The government welcomes views on the following topics, and in particular, welcomes views as to what currently works well and where there may be potential for improvement:

1. *How UK bodies, including the Treasury and regulators with jurisdiction over the financial services sector, work together to coordinate regulatory interventions for financial services firms ('regulatory interventions' includes regulatory changes, regulatory initiatives, publications, consultations and data/information requests), including:*
    a. *how UK bodies balance the benefits to consumers of financial services (both individual and businesses) of timely regulatory action against the impact on firms of meeting potentially challenging timeframes on requirements;*
    b. *how UK bodies understand and assess the overall impact of simultaneous regulatory interventions on firms, particularly in the way these are sequenced and how they consider the wider regulatory landscape;*
    c. *whether UK bodies request the right amount of information from firms as part of the policy-making process, and whether these processes provide an adequate opportunity for firms to highlight the impact of proposed changes.*

The UK has a robust regulatory framework which has helped to establish it as a global leader in the financial services sector. We would not like to see it lose its global competitive leadership position by compromising on consumer protection. The UK should aspire to maintain its leadership in consumer protection by keeping pace with changes brought by technology and innovation.

Generally speaking, we believe the present arrangements for regulatory co-ordination work well within the overall framework of regulatory objectives and powers and would like to see any proposals for change checked carefully to ensure co-ordination responsibilities do not hamper regulators' ability to:

- Ensure appropriate levels of consumer protection; and
- Intervene promptly to prevent or stop consumer detriment. The Panel often encourages the FCA to enact new protections quicker to stop detriment in the market spreading and increasing.

However, we do believe there is a need to address the jurisdictional overlap which exists between the Pensions Regulator (tPR) and the FCA, as well as between the Pensions Ombudsman (TPO) and the Financial Ombudsman Service (FOS). The former is partly addressed by the FCA/tPR joint strategy but we believe the inclusion of DWP and the various ombudsmen creates gaps in the occupational and non-workplace pensions space. The recent tailored review of TPO[3] noted that there can be different outcomes for consumers depending on which body they bring their complaint to. The review recommended more collaboration between TPO and FOS but also suggested they work together to provide data which DWP/HMT can consider in assessing whether further action is needed to reduce the overlaps.

The FOS and the Financial Services Compensation Scheme (FSCS) have an important role to play in preventing harm through sharing insights and informing FCA supervision and enforcement about trends, scams and specific firms' actions.

There is also a need for a cross-sectoral approach to consumer protection, as highlighted by the BEIS Smart Data Review[4] to avoid inconsistent protections for consumers where third-party providers (TPPs) provide services across multiple markets. As we said in our response to the BEIS Consumer Green Paper[5] the government should ensure there are no regulatory gaps when it comes to data sharing, which includes making sure each

[3] https://www.gov.uk/government/publications/the-pensions-ombudsman-tailored-review/tailored-review-of-the-pensions-ombudsman
[4] https://www.gov.uk/government/publications/smart-data-review
[5] https://www.fs-cp.org.uk/sites/default/files/fscp_response_modernising_consumer_markets_-_consumer_green_paper.pdf

organisation is clear on its role in delivering good customer outcomes and is adequately resourced.

2. *How firms and the regulators can work together to make authorisation, supervision and enforcement more efficient, including:*
    a. *how might firms and the regulators take advantage of new technology to make supervisory reporting more efficient, flexible and less burdensome;*
    b. *how might firms allow or facilitate data sharing between regulators to improve regulatory coordination;*
    c. *how firms go about making sufficient investment in their systems and controls to ensure these are fit for the future.*

We particularly support the use of RegTech to improve data flows from regulated firms to regulators with a view to make everything more timely, consistent and cheaper. It would be beneficial if something similar could be developed so that data can be shared among regulators.