Financial Conduct Authority

Cost Benefit Analysis Panel

Interim Annual Report

(May-September 2024)

FCA

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Cost Benefit Analysis Panel
Financial Conduct Authority
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Chair’s foreword

“Cost Benefit Analysis? That’s a bit of a throwback!”
Such was the reaction of one ex-regulator I know when he heard that I had been appointed to chair the new, independent Cost Benefit Analysis (CBA) Panel for the Financial Conduct Authority (FCA) and Payment Systems Regulator (PSR).

What he meant was that the term transported him back to the heady days of his youth when the UK was one of the first countries to mandate the systematic consideration of costs and benefits when formulating new financial regulation.

The 2000 Financial Services and Markets Act (FSMA) established the UK’s first independent financial regulator – the Financial Services Authority (FSA) – and simultaneously made it a statutory requirement that all material new rules should undergo formal CBA prior to public consultation.

The UK’s financial services sector has undergone many dramatic changes since then. The global financial crisis of 2008, the increasing role of capital markets relative to banks in intermediation, the growth of Defined Contribution pensions, and the ongoing impact of the information technology revolution are just a few of the profound developments the last two and half decades have witnessed.

The institutional and legal framework for UK financial regulation has also been transformed. The unitary FSA was divided up into the FCA and the Prudential Regulation Authority (PRA) in 2013. The PSR was created in the same year. The UK’s 2016 vote to leave the European Union (EU) then resulted in a need for UK institutions to take over what had previously been EU responsibilities. The result was a significant revision of the 2000 FSMA, enacted in 2023.

It should not surprise anyone that this pace and depth of change led to lively debate over how to ensure that UK continues to benefit from world-class financial regulation during the consultation on the 2023 FSMA. Ultimately, what emerged from that debate was a consensus on refocusing attention on the fundamental principles of proportionality and evidence-based policy-making.

Fortunately, one obvious tool with which to do that was already available: the statutory requirement for all material, new regulation to undergo CBA. The question was how to maximise the ability of the CBA process to improve the quality and proportionality of rule-making.

The solution devised in the 2023 FSMA was a simple but powerful institutional innovation: the creation a new, independent, expert panel to review and advise the FCA and PSR on their CBA of new regulation. Transparent, independent, and objective feedback on proposed policy provides a valuable public good: evidence and analysis which enables consultations with stakeholders to take place systematically, constructively, and on common ground.

My fellow panel-members and I are delighted to have been chosen to serve as inaugural members of the new CBA Panel, and thereby to have an opportunity to contribute this valuable service to the FCA and PSR and to their stakeholders. We look forward enormously to doing so.

My reply to my friend the ex-regulator, meanwhile, was simple: CBA may indeed sound like a throwback – but in this case, as so often, the old tunes are still the best.

Dr Felix Martin
Chair, FCA Cost Benefit Analysis Panel

Background

Cost Benefit Analysis (CBA) is a standard tool used globally to ensure that policy-making is evidence-based, proportionate, and accountable to stakeholders. Internally, CBA can help improve the quality and proportionality of public policy, by providing a key analytical tool for policy-makers. Externally, it can help build the credibility and effectiveness of policy, by providing stakeholders with a clear account of the trade-offs involved. Submitting draft policy decisions to high quality CBA helps to ensure that: (i) the overall costs and benefits of proposed policies are assessed on the basis of the best available evidence and clear causal reasoning; (ii) there is common ground on which consultation with interested parties over the proportionality of proposed policies can take place; and thus (iii) policy is made in the best interests of society as a whole. In the UK, standard frameworks for the use of CBA are set out in HM Treasury's *Green Book* and the *Better Regulation Framework*.

CBA has therefore been a central part of FCA and PSR policy-making for many years. Because of its power as an analytical, explanatory, and accountability tool, CBA is a key part of the policy-making cycles of both the FCA and the PSR.
A requirement for the FCA to undertake and publish a CBA when consulting on proposals to make or amend rules was introduced by the Financial Services and Markets Act (FSMA) 2000. Likewise the Financial Services (Banking Reform) Act 2013 requires the PSR to undertake and publish CBAs of significant proposed policies.

Independent, expert bodies that provide feedback on policy-making prior to public consultation are a central element of the UK's public policy architecture.
Transparent, independent, and objective feedback on proposed policy provides a valuable public good by improving the quality and credibility of the evidence and analysis on which consultations with stakeholders can take place. It increases the chances that such public debate occurs systematically, constructively, and on common ground. Over the past quarter-century, numerous panels, boards, and public bodies have therefore been established to provide independent, expert review of and advice on proposed public policy prior to consultation or parliamentary debate. The Office for Budget Responsibility (OBR) and the Regulatory Policy Committee (RPC) are two high-profile examples.

The CBA Panel exists to provide such independent, expert review and advice on the FCA's and PSR's CBA of proposed policies. The CBA Panel was established by the Financial Services and Markets Act (FSMA) 2023 as a panel of independent experts tasked with reviewing and advising on the FCA's and PSR's CBAs of proposed policies, and of the FCA's and PSR's use of CBA generally. The purpose of the Panel is thus (i) to provide transparent, independent, expert and practitioner feedback to the FCA and PSR prior to public consultation as is done in other UK policy-making contexts; (ii) focusing specifically on the deployment of CBA; (iii) with the ultimate objective of strengthening the quality and credibility of their policy-making.

Set-up

Why the CBA Panel was established

The government saw the UK's departure from the EU as an important opportunity to review the financial services regulatory framework arrangements, to ensure that the overall approach to regulation of financial services was right for the UK. In 2020, as part of its consultation on Financial Services Future Regulatory Framework Review[1] HM Treasury consulted on proposals to create a new external independent committee to scrutinise the regulators' (Financial Conduct Authority, Payment Systems Regulator and Prudential Regulation Authority) rule proposals and the evidence upon which they are based, including CBA. Following a further consultation by HM Treasury in 2021[2], in 2022 the government set out its plans to bring forward legislation to require the FCA and PRA to establish statutory panels to advise on CBA, to improve the production of regulators' CBA and increase stakeholders' confidence that there is regular, independent input into the regulators' CBA[3].

Statutory basis and obligations

The FCA Cost Benefit Analysis (CBA) Panel is a new independent panel, established by the Financial Services and Markets Act 2023 (FSMA) to provide review and advice to the FCA and PSR on their use of CBA. The Panel became operational in May 2024, prior to the statutory duty for the FCA and PSR to consult with the CBA Panel on the preparation of CBAs, which came into effect on 1 August 2024.

Unlike the FCA's other independent statutory panels (for example, the Financial Services Consumer Panel; the Markets Practitioner Panel; etc.), the CBA Panel is not a representative panel intended to represent the interests of a one stakeholder group to the FCA Board. Instead, the CBA Panel is an independent, expert panel with a statutory role in the policy-making cycle.

The FCA has legal obligations under the Financial Services and Markets Act 2000 (as amended) to undertake and publish a CBA when consulting on a proposal to make or amend rules, and when final rules differ significantly from the draft rules.

The PSR also has legal obligations under the Financial Services (Banking Reform) Act 2013 to undertake and publish CBAs, but these are limited to 'generally applicable requirements', which in practice mean 'general directions' or 'generally imposed requirements', or where a final requirement differs significantly from the draft requirement.

1 141020_Final_Phase_II_Condoc_For_Publication_for_print.pdf (publishing.service.gov.uk)
2 FRF_Review_Consultation_2021_-_Final_.pdf (publishing.service.gov.uk)
3 FRF_Review_-_Proposals_for_Reform__Government_Response_-_July_2022_.pdf (publishing.service.gov.uk)

Under FSMA, the FCA is then obliged to refer to the CBA Panel for review all CBAs which the FCA deems meet the materiality threshold[4], and are not subject to the exemption criteria, as set out in the FCA's Statement of CBA Policy. The PSR has no materiality threshold, and is required to refer all CBAs accompanying a consultation on a generally applicable requirement to the CBA Panel.

The statutory duties of the CBA Panel are then to:

- Provide the FCA and PSR with advice in relation to the preparation of CBAs to be published with FCA rules and with PSR's "generally applicable requirements" upon which it has been consulted,
- Provide the FCA and PSR with advice in relation to the preparation of their respective Statements of Policy on CBA,
- Keep under review how the FCA and PSR are performing generally in carrying out their duties to undertake CBA,
- Provide the FCA and PSR with recommendations the CBA Panel considers appropriate as a result of such review, and
- Produce an annual report, which will be provided to HM Treasury.

The FCA then has a statutory duty to "consider representations that are made to it" by the Panel.

This is the first (interim) Annual Report of the CBA Panel. It covers the CBA Panel's activities since it came into operation in May 2024 until 30 September 2024. It has been produced and provided to HM Treasury in accordance with the FSMA (Panel Remuneration and Reports) Regulations 2023[5] which requires the CBA Panel to produce its first annual report within one year of the date upon which these Regulations came into force, on 26 December 2023. This report will be laid before Parliament.

Membership

Members of the CBA Panel (shown in the Appendix) are senior level specialists and include a combination of CBA experts, those with experience in financial services, economists and at least 2 of the 9 members are individual members employed by FCA authorised firms (as required by FSMA). Members are recruited through open competition and are formally appointed by the FCA Board, and the Chair's appointment must also receive the formal approval of HM Treasury. All members must comply with the FCA's conflicts of interest policy.

4 The FCA materiality threshold is +/- £10m expected equivalent annual net direct cost to business which is used in the current Better Regulation Framework.

5 SI 2023/1273 Financial Services and Markets Act 2023 (Panel Remuneration and Reports) Regulations 2023 (SI 2023/1273).

Principles of operation for the CBA Panel

The CBA Panel has adopted four guiding principles for its work:

Independence. The CBA Panel is panel created by statute and independent of both the FCA and PSR and of external stakeholders. Its independence is important to ensure that its input helps build accountability and credibility.

Objectivity. Unlike the FCA's and PSR's other statutory panels, the CBA Panel is not a representative panel. Rather than to represent the interests of stakeholder groups, its members are expected to contribute their individual expertise and experience, in order to enhance the ability of the CBA process to mean that policy is made on the basis of objective consideration of its costs and benefits.

Transparency. Summaries of the Panel's reviews of CBAs of new policies are published in parallel with Consultation Papers, and the Panel reports to Parliament on its obligation to keep under review how the FCA and PSR are performing generally in carrying out their duties to undertake CBA in its Annual Report.

Constructiveness. The CBA Panel operates as a 'critical friend' to the FCA and PSR. Its work is intended to help improve the quality and accountability of policy-making, without imposing unnecessary delays or costs.

Terms of reference

The Terms of Reference (ToR) agreed by the inaugural CBA Panel Chair with other Panel members, and approved by the FCA Board on 27 June 2024, provides the overarching governance framework for the CBA Panel, including its scope, statutory duties, membership, and functioning. It also lays out the FCA's and PSR's duties in relation to CBAs as set out in relevant legislation, and the way that the Panel should interact with the FCA and PSR to comply with FSMA 2023. The work of the CBA Panel is supported by a secretariat provided by the FCA.

Individual CBA referred to the CBA Panel

The CBA Panel provides advice to the FCA on individual draft CBAs which meet the materiality threshold, and are not subject to the exemption criteria, set out in the FCA's Statement of Policy on CBA, published in July 2024[6]. The materiality threshold of -£10m and +£10m in expected equivalent net annual direct costs to business, has been calibrated to ensure the regulatory changes which have the largest impact on businesses are subject to the Panel's scrutiny. As the PSR Statement of Policy on CBA does not include a materiality threshold, the PSR is required to refer all CBAs accompanying a consultation on a generally applicable requirement to the CBA Panel. The Panel also provides early informal advice during the development of CBAs if requested by the FCA or PSR.

6 Further information on the materiality threshold is available in the FCAs Statement of Policy on Cost Benefit Analysis.

For the purposes of advising and making recommendations on individual CBA, or providing early informal advice, the CBA Panel operates a flexible model, where smaller groups of members[7] may be convened by the secretariat to make initial recommendations for the overall Panel to subsequently review and ratify through its formal recommendation report to the FCA or PSR. This approach allows for efficient allocation of Panel members to review individual CBAs, based on their areas of expertise and for the provision of timely advice to the FCA and PSR. This allows the CBA Panel to provide high quality advice to the FCA and PSR for proper consideration, while not materially impacting the pace of policy-making. The FCA and PSR provide a feedback statement to the CBA Panel setting out how it has decided to approach its recommendations (and the reasons for it) in the final CBA before it is published with the associated Consultation Paper.

To ensure maximum transparency to external stakeholders, the CBA Panel independently publishes a summary of its advice on individual CBAs referred to it. This is uploaded to the Panel's website around the time that the FCA or PSR publishes the relevant Consultation Paper and final CBA.

CBA Panel quarterly meetings

The CBA Panel meets in person, where possible, quarterly to discuss how the FCA and PSR are performing generally in carrying out their duties, make recommendations, consider thematic issues, and discuss other general Panel business, such as the preparation of the Annual Report. These meetings are attended by the full Panel and may be attended by the FCA's Chief Economist (or their representatives) in their capacity as the CBA Panel's Director Sponsor, the PSR's Chief Economist (or their representatives), the FCA/PSR Chair, the FCA/PSR CEO, and/or other senior FCA/PSR staff as appropriate to the meeting's agenda. The Panel also holds other meetings remotely as required by its underlying business.

7 Each group includes FCA authorised Panel member/s as required by FSMA.

The CBA Panel's work programme during the reporting period and forward look

Preparatory work

The first few months of the CBA Panel's work focussed on establishing the CBA Panel's 'ways of working', shaping the CBA review processes with the FCA and PSR, and reviewing the FCA and PSR Statements of Policy on CBA. Panel members attended an induction with senior members of the FCA and PSR for introductory sessions from Legal, Policy and Economics teams. The Chair held introductory discussions with the FCA Chair, FCA CEO and FCA senior executives, the PSR Chair and Managing Director, Chair of the FCA Practitioner Panel and FCA Financial Services Consumer Panel. Regular meetings between the Chair and the CBA Panel Secretariat were used to discuss the administration and functioning of the CBA Panel, alongside Panel meetings where appropriate.

FCA and PSR Statements of Policy (SOP) on CBA

The CBA Panel has been consulted by both the FCA and the PSR on their respective SOPs regarding their approach to CBA. Detailed feedback was provided to both institutions and is summarised in Annex 1. The Panel's strategic recommendations arising from these consultations are set out in Section 4 below.

Review of Individual CBAs

The statutory obligation for the FCA and PSR to consult the Panel came into force on 1 August 2024. Between 1 August and 30 September 2024 (the end of the current reporting period) one CBA was deemed by the FCA to meet the materiality threshold for consultation and was therefore referred to the Panel for review " Changes to the safeguarding regime for payments and e-money firms". Detailed feedback was provided to the FCA, and a summary of it and the Panel's recommendations were published alongside the Consultation Paper[8], which was published on 25 September 2024, and are available on the Panel's website[9]. A summary of the Panel's recommendations is at Annex 2.

At the request of the PSR, the Panel also provided informal early advice on the development of two potential CBAs during the reporting period.

Forward Look

The CBA Panel Secretariat, alongside the FCA and PSR Economics department, manage the pipeline of CBAs which will be referred to the Panel for advice in accordance with the duty to consult. It is also their role to facilitate any early engagement on CBAs that the FCA or PSR may wish to have with the CBA Panel. In Q1 2025, the CBA Panel is expected to review several FCA and PSR CBAs.

8 CP24/20: Changes to the safeguarding regime for payments and e-money firms

9 CBA Panel Advice on changes to the safeguarding regime for payments and e-money firms

Provisional recommendations

The CBA Panel is required by FSMA 2023 to keep under review how the FCA and PSR are performing generally in their use of CBA. The Panel deems this Annual Review to be the most appropriate document in which to summarise its findings and recommendations in respect of this general obligation.

The CBA Panel has been in operation for less than six months, and has therefore had limited opportunity to see the FCA and PSR's use of CBA in action. As described in Sections 2 and 3, the Panel held its first meeting at the end of May 2024.
It has only completed one statutory review of a CBA, undertaken by the FCA, to date. It has however been consulted and provided recommendations on the new Statements of CBA Policy published by both the FCA and PSR, as required by FSMA 2023.

The Panel's recommendations in this interim Annual Review should therefore be treated as provisional, and have been kept deliberately limited. The Panel sets out below a limited number of strategic recommendations relating to the FCA's and PSR's use of CBA, based principally on their new Statements of CBA Policy. These recommendations should be treated as provisional, however, since the Panel has not yet had the opportunity to review either institution's deployment of CBA in practice to any significant degree.

FCA use of CBA

The FCA's use of CBA is currently designed closely around meeting its minimum statutory obligations. FSMA 2000 imposes a statutory obligation on the FCA to undertake CBAs of draft rules (subject to certain thresholds). It also specifies required features of such CBAs in terms of (i) their staging within the policy-making cycle (i.e. FSMA requires that a CBA must be prepared when a Consultation Paper is prepared), and (ii) their scope and methodology (e.g. FSMA states simply that the CBA "must present an assessment of the costs and benefits of new rules if they are made").

This results in some important differences between the FCA's policy on the use of CBA and the guidance set out by HM Treasury in its Green Book. HM Treasury's standard guidance for the appraisal of policies, programmes and projects, is set out in the *Green Book*; and although the FCA is not statutorily required to follow it, the FCA's Statement of Policy explains that its CBA methodology "is broadly consistent with recommendations in the *Green Book*". Nevertheless, because the FCA's use of CBA is designed closely around the minimum specification set out in FSMA, it does not align fully with the *Green Book* in some important respects. One important example (see below) is that the *Green Book* places importance on the use of CBA to compare different policy options, describing it as a tool for assessing "the impact of different options on social welfare". The FCA's policy, meanwhile, is to undertake early assessment of policy options (which lies outside its statutory obligations) separately, and then to undertake CBA for the option which is chosen (as required by FSMA).

The Panel believes that the resulting approach does not take full advantage of CBA's potential to improve the quality and credibility of policy-making.
It is clear that the FCA Board's first priority must be to ensure that the institution's use of CBA meets its statutory obligations. In the Panel's view, however, confining its definition and use of CBA to the minimum specification set out in statute carries a number of risks:

- One is that CBA does not deliver the added value that it could to the FCA's policy-making.
- A second is that the FCA's use of CBA departs from UK and international best practice.
- A third is that there is a gap between what stakeholders expect of CBA based on its use in other UK public policy contexts and the way it is deployed by the FCA.
- The overall risk is that too narrow a conception of CBA fails to provide credible common ground of evidence and analysis for public consultation, defeating one of its central objectives.

The Panel therefore recommends that the FCA develop its use of CBA to build from the minimum specification set out in statute towards UK and international best practice. The Panel recommends that the FCA view its statutory requirements as a starting point, and then designs and adopts a policy which best enable its use of CBA to improve the quality and credibility of policy-making. This will enable the FCA to use the full potential of CBA as a practical tool to ensure that it is evidence-based, proportionate, and accountable to stakeholders.

Three examples of specific strategic areas where the Panel recommends that the FCA's CBA policy and practice should be developed are:

1. Using CBA at earlier and later stages of the FCA's policy development cycle **The paradox of evidence-based policy-making is that real-world evidence of the impact of policies is not available until they are already in place.** It is only after a proposed policy has been introduced and bedded in that its true costs and benefits can be observed and compared, and hence its effectiveness and proportionality assessed based on real-world evidence.

Nonetheless, the statutory requirement for CBA of proposed policies prior to public consultation provides a valuable evidence base for decision-making. Surveys, expert estimation, econometric or statistical forecasting analysis, and evidence from comparative examples can all provide valuable information on which to base policy at the pre-consultation stage. The FCA has much experience in this area and its CBA policy is sophisticated and effective in this respect.

Use of CBA earlier in the policy development cycle as a systematic framework for the assessment of plausible options can also add significant value. UK and international experience as summarised, for example, in the HM Treasury *Green Book* suggests that there are two other stages in the policy-making cycle where CBA can provide valuable guidance, however. The first is at the initial stages of policy development. At this point in the process, CBA can be a valuable framework for understanding market failures and ensuring that all prospective categories of costs and benefits are taken into account, even if they are hard to quantify accurately at such an early stage. It also provides a valuable framework for understanding market failures and ensuring that all prospective categories of costs and benefits are taken into account, even if they are hard to quantify accurately at such an early stage. CBA can then serve as a systematic framework within which decision-makers can compare broad plausible policy options before narrowing down to preferred proposals so-called 'options analysis' as per the guidance of the HM Treasury *Green Book* referred to above.

The use of CBA to monitor and evaluate policies after they have been introduced is also a valuable tool. The second extra stage of the policy-making cycle where CBA can add significant value is in post-implementation monitoring and evaluation. At this stage, estimated and survey-based evidence on costs and benefits can be replaced by observed and reported impacts, and the results of CBA and other analysis used to formulate policies at the pre-consultation phase thereby checked against real-world outcomes. The ROAMEF cycle set out in HM Treasury's *Green Book* provides a detailed framework for such evaluation that the FCA may wish to consider applying more systematically to help inform future CBAs.

The Panel recommends that the FCA considers how it might use CBA more systematically both at the initial stages of its policy-making cycle and in its monitoring and evaluation of policies once they have been introduced.

2. Expanding the scope of CBA in the FCA's appraisal of proposed policy

The FCA's current use of CBA risks leaving potentially important gaps in the economic appraisal of proposed policy. As discussed above, it is clearly appropriate that the first priority of the FCA's use of CBA is that minimum statutory obligations are met. The Panel's preliminary view is, however, that constraining the deployment of CBA too rigidly to the specific minimum required by statute exposes the FCA to the risk that policy is made without best-practice economic analysis of costs and benefits.

The cumulative impact of policy, for example, is hard to capture in the statutorily required CBA of individual proposed rules alone. Evaluating the costs and benefits of individual rules on a stand-alone basis will very often miss cumulative and interactive effects, whether they be, for example, vicious circles of compliance costs for firms, or virtuous circles of benefits for consumers. The FCA has been proactive in devising more general publications in which it offers assessments of such systemic impacts for example its Our Positive Impact 2024 report but the link between these and the CBA of new policy remains to be developed. Expanding the scope of the FCA's use of CBA to evaluate the cumulative effects of proposed policies would thus increase the credibility of policy-making.

Likewise, under the FCA's current CBA policy it is possible for very impactful policy changes not to undergo CBA at all. Due to the specific circumstances in which CBA is statutorily required by FSMA 2000, the FCA currently may not undertake CBA for potentially impactful policy changes. An example is where the FCA changes the guidance it issues regarding how it will exercise its supervisory discretion under an existing rule. FSMA 2000 requires the FCA to undertake CBA for new rules, but not for guidance. The FCA's policy is to undertake CBA for guidance at its discretion. In practice, the absence of a clearly specified threshold (such as exists for new rules) means that while CBA is undertaken for some impactful guidance changes, it is not for others. The obvious risk is that if CBA is not done for guidance changes which lead to costs and benefits that are ultimately significant, the credibility of the CBA undertaken for the underlying rules themselves is eroded.

The Panel recommends that the FCA consider how it might expand the scope of its use of CBA in policy-making in particular:

(i) to evaluate the cumulative impact of proposed policies; and

(ii) to apply CBA to all changes of policy expected to have sizeable impact on markets and consumers even if not statutorily required.

3. Clarifying how the FCA's use of CBA relates to its statutory objectives

Parliament has given the FCA a specific set of statutory objectives and regulatory principles which it is obliged to target in its policy-making. The FCA has three primary statutory objectives:

(i) to secure an appropriate degree of protection for consumers,

(ii) to protect and enhance the integrity of the UK financial system, and

(iii) to promote effective competition in the interests of consumers.

FSMA 2023 gives the FCA a further, Secondary International Competitiveness and Growth Objective (SICGO):

(iv) to facilitate the international competitiveness of the UK economy and its growth in the medium to long term.

In addition, statute gives the FCA a number of "regulatory principles", to which it is required to have regard in making policy. These include, for example, considering net zero emissions and other environmental targets.

Standard guidelines for CBA are not typically focused on such specific objectives but rather on appraising policy in terms of its contribution to overall societal welfare. At its simplest, CBA typically focuses on how to appraise policy in terms of its overall contribution to societal welfare. HM Treasury's *Green Book*, for example, takes this approach, as do other standard guidelines such as those produced by the OECD. In this respect, the FCA's Statement of Policy is largely based on the *Green Book*, and thus adopts this standard methodology.

Reflecting the FCA's supplementary statutory objectives such as the SICGO in CBA is therefore both a conceptual and a practical challenge. The FCA's Statement of Policy indicates that CBAs of new proposals will include an assessment of their impacts for the SICGO where possible whilst acknowledging that doing so may in practice represent a significant practical challenge. The Panel concurs that how best to reflect the FCA's specific statutory objectives and regulatory principles in its use of CBA is a technically challenging question. Developing a comprehensive answer should be a key focus for the FCA. The Panel notes that comparative experience is available from other UK policy contexts where policy-makers must balance the proportionality of policies' costs and benefits with additional strategic priorities (e.g. defense; health). It also notes that this challenge is unlikely to be met in the context of CBA for individual rules alone. Many individual rules will have a minimal marginal impact against the statutory objectives, necessitating a more holistic view of the collective impact of current and past rules. Developing a coherent method of incorporating the SICGO and other statutory objectives into the FCA's broader use of economic analysis to inform policy-making is also essential.

The Panel recommends that the FCA develops further a clear policy on how its use of CBA takes into account its specific statutory objectives and regulatory principles, drawing on UK and international best practice. The Panel recommends that this policy is included in the next iteration of the FCA's Statement of CBA Policy.

PSR use of CBA

The PSR's use of CBA is designed both to meet its statutory obligations and to take advantage of CBA's potential to improve the quality and credibility of policy-making. The PSR's new Statement of CBA Policy both clearly explains its statutory obligations regarding CBA, and distinguishes these from the PSR's own, more expansive policy regarding the use of CBA. In the Panel's view, making this distinction is important and will be useful to ensure clear understanding by stakeholders.

The PSR's CBA policy represents an ambitious effort to take account of international best practice in the use of CBA in policy-making, and to adapt it appropriately to the PSR's specific context. The PSR's Statement of CBA Policy sets out why, when, and how the PSR has decided to use CBA in the policy-making process. It explains clearly what the PSR Board sees as the benefits of deploying CBA, from both internally (improving decision-making) and externally (improving engagement and accountability). It makes appropriate reference to UK and international practice in use of CBA (including the *Green Book* and HMG's *Better Regulation Framework*), and usefully sets the PSR's policy in the context of these existing frameworks. It also, and equally usefully, acknowledges the limitations of CBA, and explains how it is integrated with other disciplines in the PSR's decision-making process.

The PSR opts to use CBA throughout its policy-development cycle, rather than only when it is statutorily required to do so. The Panel's view is that deciding when and in what format to use CBA based on when and how it can be most useful, rather than simply when it is legally required, makes excellent sense. The Panel commends the PSR for this approach. In this context, the PSR has already requested two informal (i.e. non-statutory) consultations of the Panel on CBA of proposed policies at early stages of conside~ration. The Panel was delighted to provide feedback, and believes this was a very useful exercise, which it will be pleased to continue, within its resource constraints and allowing for the obvious priority of its statutory obligations.

The PSR is obliged to target a specific set of statutory objectives and regulatory principles: reflecting these multiple objectives in CBA represents a conceptual and practical challenge. Similar to the FCA (see above), the use of CBA to evaluate proposed policies is complicated by its obligation to target specific statutory objectives and regulatory principles, beyond the general principle of proportionality in terms of general societal welfare. How best to reflect these objectives and regulatory principles into CBA is a technically challenging question, which should be a focus for the PSR.

The Panel therefore recommends that the PSR, like the FCA, develop a clear policy on how its CBA reflects its various statutory objectives and regulatory principles. The Panel recommends that this policy is included in the next iteration of the PSR Statement of CBA Policy.

5. Operational recommendations

As discussed above, the Panel has been in operation for less than six months and has completed only a single statutory consultation for the FCA so far. The Panel is not therefore in a position to offer any comment or recommendations on operational matters such as the timing and resourcing of the review process, or its resourcing more generally.

The Panel proposes that it provides its first commentary on operational matters in the next Annual Review.

Annex 1

FCA SOP

The CBA Panel commented that the SOP appeared to blend elements of an operational handbook for an internal audience with those of a strategic document intended for external stakeholders. The CBA Panel suggested that a high-level document summarising the key aspects of FCA CBA would be helpful.

The CBA Panel considered that going beyond the legal minimum requirements of CBA presents an opportunity to provide a more ambitious approach, which could lead to even better decision-making and enhanced external credibility.

CBAs traditionally focus on the impact of individual policies, yet the cumulative and interactive impact of policies is also an important factor in assessing proportionality. The CBA Panel suggested that the SOP could explain how the cumulative impact of FCA rules (i.e., interactions and cumulative effects) is considered.

PSR SOP

The CBA Panel considered that the SOP was well structured, clearly explained, comprehensive, and easy to understand. In particular, the distinction between the statutory obligations to conduct CBA and the PSR's own policy made it very useful to improve the understanding of stakeholders.

The SOP clearly sets out why, when, and how the PSR has decided to use CBA in the policy-making process, explaining clearly what it sees as the internal (improving decision-making) and external (improving engagement and accountability), benefits of deploying it.

The CBA Panel appreciated the PSR's approach of being deliberately open-ended about the methodology providing flexibility. However, it comes at a trade-off meaning the detail of how individual CBAs will be undertaken is described relatively concisely. The CBA Panel suggested that the PSR consider augmenting the SOP with a more detailed Statement of Practice in the future as its CBA methods develop to address this.

Annex 2

Payments safeguarding CBA – Executive Summary

Payments Firms (e-money institutions (EMIs), credit unions that issue electronic money and payment institutions) are used by consumers and businesses (jointly referred to as clients) across the UK for day-to-day transactions and money transfers. Businesses rely on such firms to accept and process card payments, while some consumers use e-money accounts in lieu of current bank accounts to receive salaries or pay household bills. At least 7% of UK consumers hold an account with a Payment Firm and many more use their services. Certain Payment Firms are required to safeguard funds received from clients to protect them in the event of insolvency. The 630 Payment Firms required to safeguard, in a sector of over 1,000 firms, hold almost £22bn of client funds and process almost £2tn of transactions a year.

CBA Panel Advice

Category	CBA Panel comments
The market	The CBA provides a good indication of the harms in the market and the firms in scope. The transparency of rationale given for implementing the end-state proposals is a valuable feature of the CBA and will enable it to provide a clear basis of the public consultation. The analysis of the overall market in which the intervention is proposed could be more comprehensive. In addition, it would be helpful if the analysis extended to consideration of how foreseeable technological innovations and/or existing capabilities of firms currently not active in the market might change the market dynamics in future and/or in response to the proposed intervention.
Baseline and counterfactual	The baseline is defined by the current high-level obligations that make it difficult for some firms to identify where their safeguarding practices may fall short of expectations, justifying the FCA's intervention. It appears that recent insolvencies are the basis of the estimated costs and benefits under the status quo, despite recent market growth in this sector. The CBA should consider that an increase in new firms raises insolvency risks as well as benefits, while growth in firm size presents an ambiguous impact, balancing more money at risk with potentially reduced insolvency for larger firms.
Evidence and data	The CBA makes good use of evidence but there could be further thinking going forward on dealing with unrepresentative samples given over-sampling of firms with agents and incomplete response rates (which may vary by types of firms).

Category	CBA Panel comments
Assumptions	Most key assumptions are outlined, but the audit trail for the numbers is unclear, making relationships between them difficult to follow. Clarification on specific assumptions is needed, such as the unlikely scenario that fees will not increase for firms switching from NDSAs (non-designated safeguarding accounts) to DSAs (designated safeguarding accounts), and the rationale for all current shortfalls being returned, even if firms are insolvent. The full list can be seen in the detailed comments below.
Uncertainty	The CBA lacks sufficient sensitivity analysis, which would have allowed clearer identification of key assumptions driving costs and benefits, such as the types of firms needing to switch and the benefits from returning funds. Instead, it includes hypothetical examples of a large firm's failure, but does not discuss its likelihood. Sensitivity analysis should highlight which assumptions significantly affect cost and benefit estimates and provide a range of estimates.

Annex 3

List of Panel members

Dr. Felix Martin
Non-Resident Senior Fellow at the Center for Global Development in Washington, DC
Chair

Professor Mark Freeman
Professor of Finance and Associate Dean of the Faculty of Social Sciences University of York)
Deputy Chair

Peter Andrews
Senior Adviser at Oxera Consulting LLP
Panel Member

Stephen Gifford
Economist, Member of the Regulatory Policy Committee & Office for the Internal Market Panel
Panel Member

Alan Trotter
Chief Financial Officer EMEA at Invesco
Authorised firm panel member

Professor Sarah Smith
Professor of Economics (University of Bristol)
Panel Member

Dr. Daniel Fujiwara
Director of Economics and Social Value, Social Value Portal
Panel Member

Ed Harley
Head of Legal and Compliance, Global Platform Solutions, Fidelity International
Authorised firm panel member

Frances Haque
Chief Economist for Santander UK Dual regulated firm panel member

Panel diversity statement

The FCA has agreed to adopt diversity targets for all the FCA's Independent Panels. These targets reflect those introduced by the FCA in April 2022 for the board and executive management of listed companies:

- 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 Panel supports the FCA in its objectives of improving diversity in the appointments it makes to all the Independent Panels.

Against these targets, we can report that as of 17 December 2024:

- 17% of Cost Benefit Analysis Panel survey respondents are women.
- Across all the Independent Panels, at least one of the senior positions (Chair, Deputy Chair or equivalent) is held by a woman.
- The Cost Benefit Analysis Panel meets the target of at least one panel member from an ethnic minority background.

The Panel supports the FCA in its objective of improving diversity in the appointments it makes to all the independent Panels.

Cost Benefit Analysis Panel
Financial Conduct Authority
12 Endeavour Square London
E20 1JN
Tel: +44 (0)20 7066 1000
Email: enquiries@fs-cp.org.uk
Website: https://www.fca.org.uk/panels/cost-benefit-analysis-panel

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