

Annual Report

2020/21



FCA

Markets
Practitioner Panel



Chair's foreword

I am pleased to introduce this report, my second since becoming interim Chair of the Panel on 1 August 2020.

The FCA has a broad range of issues which sit within its regulatory remit and the decisions it takes on regulatory policy and practice have significant effects on financial markets. While the Panel has an interest across the broad spectrum of the FCA's work, in order to be of greatest value, the Panel has to prioritise and focus on areas where its input can be of most use to the FCA.

In 2020-21, the Panel's work has been focused on the future regulatory framework across wholesale sectors following the end of the Brexit transition period and EU withdrawal. The Panel continued to discuss the ongoing impact of the Covid-19 pandemic, particularly with a view to the challenges posed to economic recovery and recapitalisation. These and other major discussions are summarised in this report.

In April 2021, the Panel held its annual prioritisation exercise and revised its priorities to focus on the following areas of work in 2021-22:

- Recovery from the Covid-19 pandemic
- Future Regulatory Framework
- UK competitiveness
- Climate change and sustainable finance
- FCA transformation
- Investment and private markets

The Panel formally responded to the HM Treasury Future Regulatory Framework (FRF) Review and emphasised how the Panel's existing role as a 'critical friend' has fostered an environment where the FCA is able to bring proposals for consideration when policy thinking is at a formative stage. This approach ensures that consultation with the Panel is not a mere formality but a valuable opportunity for constructive challenge and an open, two-way, exchange of views.

Accordingly, the Panel's relationship with the FCA Board and Executive Committee continues to be strong and professional, and it looks forward to its regular engagement with the FCA Chairman, CEO and other Board and ExCo Members continuing in 2021-22.

I would like to thank all the FCA staff who have presented openly and thoughtfully to the Panel, the Secretariat who have supported the Panel over the last year, as well as Panel members for giving their time and sharing their expertise so freely in a particularly challenging period for industry and society at large.

Tim Waddell
Interim Chair,
FCA Markets Practitioner Panel

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Introduction

The Markets Practitioner Panel is a statutory panel of the FCA. It is one of a number of panels that the FCA is required to establish and maintain under the Financial Services and Markets Act 2000 (as amended), and represents the interests of practitioners who are likely to be affected by the exercise of the FCA's functions relating to financial markets. The Panel meets formally six times each year and also holds sub-group meetings on specific topics as required, as well as other strategy meetings. During the Covid-19 pandemic and end of the Brexit transition period, the Panel has held more frequent calls to take stock of market developments.

The Panel benefits from some of its members belonging to other panels. This broadens its understanding and encourages a closer working relationship across the panels. It has a constructive working relationship with the FCA Chairman and CEO. A number of FCA Executive Committee members attend Panel meetings regularly, and senior representatives from the FCA's Markets and Wholesale Policy team engage very closely and constructively with the Panel.

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The Covid-19 pandemic

The ongoing Covid-19 pandemic continued to test the resilience of the financial system and transform the market environment, bringing about considerable changes in ways of working. Despite having experienced increased volatility and volumes, acute stress in parts of the corporate sector and unprecedented levels of leverage, markets continued to function relatively well.

The Panel maintained a flexible approach to meetings throughout the pandemic and regularly engaged with the FCA to discuss a number of pressing issues in a rapidly evolving operational landscape. These discussions included potential measures to help businesses, particularly SMEs, to raise the capital they needed to manage and recover from the crisis.

The Panel noted that the FCA's regular engagement during the pandemic illustrated how their current relationship and informal dialogue could contribute to better decision and policymaking in fast-moving situations. It was impressed by the FCA's timely and proactive response to market issues.

As the UK addresses the challenges to economic recovery and market forbearance measures are unwound, the Panel will look to engage with the FCA on the logistical steps involved in exiting lockdown and how to ensure market stability during the process. The Panel's advice will continue to focus on the long-term impact of the crisis on firms, ways of working, culture and conduct, liquidity and markets.

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Future Regulatory Framework

The UK's future regulatory framework continued to be a priority for the Panel during the Brexit transition period and subsequent withdrawal from the EU.

The Panel discussed the potential opportunities presented by Brexit for the UK to set its own outcomes-based regulatory framework in the future while remaining a well-regulated financial centre. The Panel also emphasised its support for the FSMA-based regulatory model and the proposal for Parliament to delegate the detail of policy making to the regulators, whilst setting key objectives and considerations for them.

The Panel encouraged the FCA to consider pragmatically the potential costs, market inefficiencies and increase in operational barriers associated with divergence from EU and international rules, particularly for smaller firms. The Panel also continued to encourage the FCA to consider the attractiveness of the UK for global businesses and international listings in developing regulatory policy.

The Panel welcomed the FCA's emphasis on developing and maintaining collaborative relationships with its EU and global counterparts. This approach should help address the ongoing risks of market fragmentation and regulatory arbitrage.

Whilst there was relatively limited disruption following the end of the transition period, the longer-term impact of EU withdrawal on where trades take place and the geographical location of firms and people remains uncertain. The Panel will continue to monitor developments and work closely with the FCA as this becomes clearer.

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FCA transformation and the “Future of Regulation” initiative

The Panel welcomed the progress the FCA has made towards becoming a more outcomes-focused regulator and stressed the importance of measuring positive indicators of markets working well and competitiveness, as well as success in tackling misconduct.

The Panel supported the overall transformation objectives of defining a clear and measurable role for the FCA, with empowered and accountable staff taking data-driven decisions integrated across areas of responsibility. In order for the FCA to embed this wider cultural and organisational skills-based shift in focus, the Panel highlighted the importance of staff engagement and an emphasis on the positive drivers of change in a rapidly evolving regulatory environment.

The Panel encouraged the FCA to focus on the development of effective regulation for wholesale markets alongside assessing the costs of regulation relative to the benefits achieved. As an outcome, this should help the FCA better prepare for future market dynamics and along with the more effective harnessing of data, target its resources more closely on the largest potential sources of harm.

The Panel will continue to encourage the FCA to consider learnings from industry and looks forward to engaging further on this important initiative.

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Climate Change and Sustainable Finance

The Panel maintained its focus on this sector of growing strategic importance and welcomed the new requirement for the FCA to have due regard for the UK government's commitment to achieve a net-zero economy by 2050.

The Panel encouraged the FCA to work with the spectrum of relevant stakeholders and take a leading role at the international level to drive the development of common global standards for transparency. This approach would help reduce the risk of parallel regulatory frameworks adding unnecessary complexity and costs, thus hindering the growth of ESG-aligned capital markets, with the UK otherwise well placed to become a leading centre for sustainable finance.

The Panel reiterated its support for the FCA's efforts to develop a fuller and more accurate disclosure and transparency regime, particularly measures targeting inconsistencies in the criteria for "green" ratings and the risk of "greenwashing", which have the potential to undermine investor confidence and market integrity. The Panel emphasised the understandably subjective nature of "green" ratings and the critical need for industry to develop the capability to comprehend and interpret the information provided before actively engaging with investors. With this consideration, the Panel continued to encourage the FCA to introduce any new regulation in a stepped and proportionate manner.

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Culture and conduct

The Panel discussed the potential risks posed to the transformation of firms' culture and conduct in recent years. Panel members participated in subgroup meetings on the impact of the pandemic and Brexit on working arrangements for wholesale firms.

The Panel emphasised the value of the SM&CR in supporting positive cultural shifts in behaviour but raised concerns about the limitations imposed by remote working and the potential relocation of senior managers to the EU on valuable opportunities for "learning by observing". The Panel also recognised the clear benefits that the changes in ways of working have had for staff engagement and welfare, the prioritisation of servicing clients and ensuring that operational practices remain fit for purpose.

Whilst many firms are actively addressing the risks of changes especially for the onboarding of new and junior staff, the Panel encouraged the FCA to consider convening roundtables with industry to exchange knowledge on best practices on a more structured basis.

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FCA Strategic initiatives

The Panel has also advised the FCA on strategic initiatives such as the wholesale market strategy, primary markets effectiveness and listing reviews and LIBOR transition, amongst others.

The Panel welcomed the FCA's collaborative and flexible approach to developing its outcomes-based regulatory framework for wholesale markets, particularly given the significant challenges of Covid-19 and EU withdrawal.

The Panel reiterated its view that the FCA should always consider whether UK regulation is targeted and proportionate including the implications for the UK's attractiveness as a global trading and investment hub. The UK and firms operating in its financial markets benefit enormously from well-regulated capital markets being overseen by a world-leading regulatory authority. This environment is essential to supporting the success and growth of the UK as a leading financial centre.

Members of FCA Markets Practitioner Panel

(1 April 2020 – 31 March 2021)

Nikhil Rathi – Chair

(until 31 July 2020)

CEO, London Stock Exchange plc

Tim Waddell – Interim Chair

(since 1 August 2020)

Vice Chair, Global Corporate and Investment Banking for EMEA, BofA Securities; and member of the Takeover Panel's Code Committee.

Mark Austin

(since 1 August 2020)

Chair of the FCA's Listing Authority Advisory Panel; Corporate Partner, Freshfields Bruckhaus Deringer LLP

Philippe Le Barrois d'Orgeval

CEO, Amundi UK

Marisa Drew

Chief Sustainability Officer & Global Head Sustainability Strategy, Advisory & Finance, Credit Suisse

Suvro Dutta

Partner, Financial Services, KPMG LLP

Duncan Ford

Chief Operating Officer, Marshall Wace LLP

Richard Haas

Senior Advisor, CapeView Capital LLP

David Livingstone

(since 1 February 2021)

Chief Executive Officer for Europe, Middle East and Africa, Citi

Rachel Lord

(until 19 February 2021)

Senior Managing Director and Head of EMEA, Blackrock

Dermot McDonogh

EMEA COO and CFO, Goldman Sachs International

Hannah Meakin

Partner, Norton Rose Fulbright LLP

Bernard Mensah

(until 31 December 2020)

President for EMEA and Co-Head of Global FICC Trading, Bank of America Merrill Lynch

Stuart Williams

President, ICE Futures Europe, Intercontinental Exchange

Clare Woodman

(since 1 February 2021)

Head of EMEA and CEO, Morgan Stanley & Co. International Plc

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FCA

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