FCA Business Plan 2019/20: looking ahead to post-Brexit future of regulation

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Unsurprisingly, Brexit remains the immediate priority for the Financial Conduct Authority (FCA) in its recently published Business Plan 2019/20. This year, other cross-sector work is divided into four continuing areas of focus and - with an eye to the post-Brexit regulatory landscape - three areas of forward-looking strategic challenge. It's pretty much "business as usual" for the sector-specific priorities, with much of the on-going or planned work for 2019/20 relating to familiar themes and existing projects.

The FCA's key industry-wide priorities are explored below, together with a brief overview of some of the continuing or planned activities for its sector-specific priorities.

Brexit – the immediate priority

Unsurprisingly, Brexit remains the FCA's immediate priority. Its on-going work on Brexit will include:

- Continuing to provide the government with technical advice and support;
- Strengthening its global strategic international engagement, as well as developing new relationships with the EU once the UK becomes a third country;
- Carrying on with its engagement with the wider financial services industry to assess the impact of Brexit on both the market and consumers and to monitor firms' contingency plans.

Other industry-wide priorities: continuing areas of focus

The FCA's other cross-sector priorities include four continuing areas of focus, namely firms' culture and governance, operational resilience, financial crime and anti-money laundering (**AML**), and fair treatment of existing customers.

Promoting and embedding good culture and governance

The FCA confirms its commitment to working with firms to create and consolidate healthy culture, as it strongly believes that good culture results in good conduct. The focus will be on four 'drivers of behaviour' – purpose, leadership, reward and managing people, and governance. This year, it will examine the concept of purpose in financial services in more depth via a new working group and industry roundtables, and it will review the remuneration and recognition practices of firms to ensure that approaches to rewarding and incentivising staff reinforce healthy cultures and do not drive behaviours that would lead to harm to consumers and/or the market. Specific activities also include the extension of the Senior Managers and Certification Regime (**SMCR**) to all authorised firms in December.

Operational resilience

The FCA seeks to develop policy proposals jointly with the PRA/Bank of England in response to feedback received on its July 2018 Operational Resilience Discussion Paper, and to consult on the proposals later in 2019. The proposals seek to provide clear expectations relating to firms' operational resilience.

The FCA will further develop its understanding of cybercrime and wishes to address areas where firms can improve their systems and controls. Specifically, it intends to investigate how firms detect cyberattacks on their key assets, and how they can better their resilience, and will publish findings and feedback by Q4 2019/20. It also intends to use CBEST testing (ethical hacking) on a larger number of priority firms, to test their cyber capabilities. The FCA says that cybercriminals are increasingly targeting smaller firms as they see them as "*weaker links*" in the financial system. In 2019 the FCA will develop further ways to communicate information to smaller firms.

The FCA will undertake work into assessing the risks posed by third party service providers, and "change management" (such as IT system upgrades or data transfers to a new system), both of which are identified as contributing to incidents of IT disruption. In line with the FCA's findings from its Strategic Review of Retail Banking Business Models, it will also consider whether co-ordinated action on system resilience and effective prevention of financial crime and fraud in retail banking is necessary.

Financial crime and AML

The FCA aims to become "*faster, smarter and more efficient*" in its delivery of AML work, using intelligence and data (for example data from its annual financial crime return, through which it can monitor trends, which it is considering extending to more firms) to enhance its understanding of risk. It will also be "more intrusive" in assessing the effectiveness of firms' own systems and controls, and will continue its work around new technology solutions for financial crime compliance.

The FCA supports the UK government's Serious and Organised Crime Strategy (published in November 2018), including the reform of the Suspicious Activity Reports regime, which is due to be announced later this year. It is keen to maximise its participation in the recently established National Economic Crime Centre and the Joint Money Laundering Intelligence Taskforce to further enhance its understanding of evolving financial crime threats.

Fair treatment of existing customers: spotlight stays on pricing practices

Following the recent Citizens Advice super-complaint to the Competition and Markets Authority (**CMA**) on excessive prices for disengaged consumers (the so-called "loyalty penalty") and resultant CMA recommendations to the FCA, it is prioritising its work on cash savings, mortgages and general insurance pricing practices in the year ahead. It's not ruling out price interventions if considered appropriate. Among the specific activities will be publication of the findings from its July 2018 discussion paper on price discrimination in the cash savings market, including further thinking on the idea of a basic savings rate. The extension of Open Banking to savings and collective switching is also up for consideration (see further 'From Open Banking to Open Finance?' below).

Other industry-wide priorities: forward-looking strategic challenges

The FCA also wants to "*anticipate and influence*" future market development by selecting three areas of strategic challenge across sectors. These are innovation, data and data ethics, demographic change, and the future of regulation.

From Open Banking to Open Finance?

One of the FCA's specific planned activities relating to innovation, data and data ethics is a call for input on the development of Open Finance, due later in 2019 and prompted by the growing data market and technological advances. The FCA points out the potential risk of anti-competitive behaviour by those market players with greater access to data and technological ability, and suggests that consumers may benefit from firms being required to share data more openly (as for Open Banking). It sees the savings sector in particular as an area where Open Banking/Finance infrastructure could be used to increase competition (a point which is also made in relation to fair treatment of existing customers – see 'Fair treatment of existing customers: spotlight stays on pricing practices' above). The findings from its Credit Information Market Study (see 'Sector-specific priorities – retail lending' below) and a review of the effectiveness of Open Banking will also form part of the FCA's Open Finance work. On data ethics, it is planning to publish its views on whether its approach to Treating Customers Fairly (**TCF**) is sufficient to cover data ethics in financial services.

Tackling the intergenerational challenge in financial services

On demographic change, the FCA highlights the connection with vulnerability issues and, more specifically, how to ensure that the financial needs of vulnerable consumers are met. The Business Plan refers to the FCA's intention to publish a discussion paper on intergenerational issues, and this has now been issued. The paper will be followed by a major conference to consider firm and regulatory responses to it. In addition, it refers to its forthcoming guidance for firms on identification and treatment of vulnerable consumers. There is also overlap here with the FCA's planned specific activities for the retail banking sector, in particular its acknowledgement that access and vulnerability remain priorities in the area of payment services, for example in relation to the declining use of cash (see 'Sector-specific priorities – retail banking' below).

A post-Brexit regulatory landscape fit for the future: duty of care issues are a key priority

The FCA sees its work to explore the possibility of introducing an obligation on firms to exercise reasonable skill and care in providing financial services as a key priority in its consideration of the future of regulation post-Brexit. This link to the wider context was supported by the comments of Andrew Bailey, FCA Chief Executive, in a speech made shortly after publication of the Business Plan and on the same day as publication of a feedback statement on the FCA's July 2018 duty of care discussion paper. Responses to the paper show that there is a lack of consensus on the options for change. A number of stakeholders do not support the idea of a statutory duty. Others propose that the FCA apply its Principles for Businesses (**PRIN**) more readily and more broadly instead, with increased transparency around what it considers to be good standards of customer treatment. The FCA will consult on potential options this autumn.

Sector-specific priorities

Some of the key continuing or planned activities for the FCA's sector-specific priorities are:

- In investment management, continuing to focus on implementation of Handbook changes made as a result of its Asset Management Market Study (due to come into effect in October 2019), consulting on bringing a number of remedies resulting from the CMA inquiry into investment consultancy and fiduciary management services into its Handbook, working with HM Treasury and the CMA to extend its regulatory perimeter to include investment consultancy services, consulting on introducing a new prudential regime for MiFID investment firms in the second half of 2019 (once the EU Investment Firms Directive and Regulation is finalised), publishing a policy statement with final rules and guidance aimed at improving the standards of liquidity management in firms managing funds that invest in illiquid assets, evaluating its Packaged Retail and Insurance-based Investment Products (**PRIIPs**) review, and cross-sector work on operational resilience;

- In retail lending, a number of follow-ups to its High-Cost Credit review including publishing policy statements on proposed overdraft pricing remedies and 'Buy now pay later', continuing its programme of work to increase the availability and awareness of alternatives to high-cost credit, continuing to implement its Mortgages Market Study remedies (including to help so-called "mortgage prisoners"), carrying out diagnostic work (including consumer research) to understand whether there are business models in the retail lending sectors that derive profits from unaffordable lending and consumers being unable to repay, launching its Credit Information Market Study looking at credit reference agencies' business models and how data and technology are changing the way the credit decisions are made and building on responses to its previous consultation on assessing creditworthiness in consumer credit to identify any necessary remedies, and concluding its work on the retained Consumer Credit Act provisions (subject to the government's decisions on the way forward following the FCA's final report on its review);

- In pensions and retirement income, publishing a second policy statement setting out the rest of its Retirement Outcomes Review remedies, starting a wide-ranging programme of activity with firms to improve Defined Benefit transfer outcomes, working on two new priority areas for joint action with The Pensions Regulator as set out in their joint strategy (namely a review of the consumer pensions journey and developing common principles and standards for delivering value for money), publishing a policy statement with new rules for Independent Governance Committees, and continuing to work closely with the Department for Work and Pensions (**DWP**) and the relevant industry delivery group to ensure that the new pensions dashboard can deliver good consumer outcomes.

- In retail investments, following on from its 2017 Assessing Suitability Review by carrying out a second review looking at, among other things, the advice and disclosure firms give to different consumers, across different product types and by different types and sizes of firms, starting to review the impact of the Retail Distribution Review and Financial Advice Market Review using indicators from a range of data (on which a call for input has now been issued), assessing industry progress in improving the speed of transfers and customer communications during the transfer process for investment platforms (by way of follow up on its Investment Platforms Market Study), and publishing its final rules on loan-based crowdfunding platforms after its 2018 consultation in this area.

- In retail banking, implementing its Payments Sector Strategy aimed at addressing the specific harms in the payments sector (eg fraud, and access and vulnerability issues) and considering the links between payments and retail banking, starting work on three key areas of follow-up from its Strategic Review of Retail Banking Business Models (namely a programme to analyse the value chain in new payments business models, monitoring retail banking markets using the Strategic Review's business model analysis approach and reviewing SME banking in more detail), continuing to implement PSD2 and Open Banking, leading the broader debate on the development of Open Finance, and cross-sector work on fair use of consumer data (part of the innovation, data and data ethics cross-sector priority) and price discrimination in the cash savings market (part of the fair treatment of existing customers cross-sector priority).

- In general insurance and protection, working with firms and trade bodies in the sector as firms deliver the changes required following the FCA's findings from its thematic reviews of value in the general insurance distribution chain and delegated authorities, publishing a policy statement on value measures data reporting across a wider scope of general insurance products, and cross-sector work on fair treatment of existing customers in relation to general insurance pricing practices (see 'Fair treatment of existing customers: spotlight stays on pricing practices' above).

- In wholesale financial markets, in terms of overlap with cross-sectoral work the impact of Brexit (as the primary focus in this sector) but also operational resilience, financial crime, SMCR and governance. Sector-specific work will include continuing to focus on market abuse (eg more work with issuers to increase their knowledge of the EU Market Abuse Regulation (**MAR**) and ensure systems and controls match market abuse risks for both issuers and investors, with the FCA warning that it will carry out enforcement investigations where harm has occurred), having LIBOR replacement as a key sector priority including widening its supervision of firms' transition from LIBOR and focussing on firms that are not effectively managing transition risks, continuing to prioritise monitoring the outcomes and reductions in harm from the various interventions brought in by MiFID II including more work on conflicts of interest in wholesale markets, and analysing access to and use of data in wholesale financial markets including launching a call for input.

FCA Research Agenda

The FCA's 2019/20 Research Agenda, published at the same time as the Business Plan, sets out the broad areas of research most relevant to its Mission. Research priorities for the year include: household finance and consumer behaviour; securities market microstructure, integrity and stability; competition, innovation, and firm behaviour and culture; technology, big data, and artificial intelligence; and regulatory efficiency and effectiveness. By way of example, for household finance and consumer behaviour the FCA will be focussing on issues facing different generations, consumer indebtedness and how this changes over time, income volatility and how this affects consumers’ use of financial services, and understanding the causes of vulnerability to determine how effective potential interventions might be.

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