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### **Our Mission 2017 - How we regulate financial services**

Financial Conduct Authority (FCA)

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## **Our Mission 2017**

How we regulate financial services





# Our Mission 2017

## Contents

	Foreword	3
1	Introduction	5
2	Public value	6
3	How we make regulatory decisions	10
4	Our remit: Interpreting our objectives	18
5	Assessing our impact and measuring our performance	21
6	Considering user needs	24
7	What consumers can expect	25
8	What firms can expect	27
9	Next steps	29



## Foreword by Andrew Bailey



This Mission is the result of a number of critical factors coming together which affect financial services, consumers and regulators. Demographic and economic changes, evolving technology, increasingly complex consumer needs and the FCA's finite resources require us to be very clear about what we prioritise and why.

In the consultation that preceded this Mission we asked some hard questions about how we regulate. I am grateful to the many organisations, firms and individuals who took the time to give us their views. Their comments have provided critical challenge in important areas and useful confirmation in others. Both have been equally valuable in clarifying our final approach.

I hope this Mission makes it clear that the FCA serves the public interest through the objectives given to us by Parliament. They are the basis on which we are held to account. Importantly, I also hope it gives firms and consumers greater clarity about how and why we prioritise, protect and intervene in financial markets. Above all, our goal is to serve the UK public interest through our regulation.



**This Mission provides the framework for the strategic decisions we make, the reasoning behind our work and the way we choose the tools to do it.**



This Mission is a high-level document. It sets out the framework for the strategic decisions we make, the reasoning behind our work and the way we choose the tools to do it.

Much of what the Mission describes is current practice within the FCA; other aspects will be given greater emphasis and focus in the future.

Alongside the Mission, our Sector Views describe the sectors we regulate, our priorities and the important issues and developments we see. Our annual Business Plan gives details of the specific areas of work we have prioritised for the period ahead in all the sectors we regulate. It sets out our view and strategy for each, as well as highlighting the cross-sector issues our work has identified. Our Annual Report, published later this year, will explain how we have performed against our objectives, providing more detailed explanation of the areas we have tackled and how we did so.

We will also publish further detail, explaining how the approach outlined in this document will be reflected in most of the core areas of our activity – authorising and supervising firms, taking enforcement action, encouraging competition and influencing market design.

Taken together, these documents reflect our aim for the FCA to be more transparent and accountable to the UK public.

A handwritten signature of Andrew Bailey in dark red ink, written in a cursive style.

**Andrew Bailey,**  
Chief Executive,  
Financial Conduct Authority





# Chapter 1

## Introduction

### Who we are

The FCA was created by Parliament in 2013 as the regulator of the conduct of financial services in the UK. Our remit is broad. We regulate over 56,000 firms that undertake a wide range of financial activities, including 18,000 firms we regulate prudentially. From providing financial advice to arranging capital investment, the range of these activities shows how important financial services are for the UK economy and everyone in it.

Parliament has given us a single strategic objective – to ensure that relevant markets function well – and three operational objectives to advance:

**Protect consumers** – to secure appropriate protection for consumers

**Integrity** – to protect and enhance the integrity of the UK financial system

**Promote competition** – to promote effective competition in consumers' interests

### The aim of FCA regulation

As a public body our aim is simple: to serve the public interest by improving the way financial markets work and how firms conduct their business. By doing this, we provide benefit to individuals, businesses, the economy, and so the public as a whole.

To deliver our objectives, Parliament has given us a range of tools. It has also given us independent powers to make decisions about how best we should use these tools. We can use them to

serve the public interest in different ways, but we must be targeted when we decide when, where and how to act.

Regulation is not cost free. The FCA is funded by fees paid by market participants, and both direct and indirect regulatory costs are likely to be passed on to individuals and businesses through higher prices. So our aim is to use our tools efficiently and cost-effectively, in a way that delivers the greatest value to the public.

### The FCA Mission

Effective regulation relies on consent, trust and confidence from the public, including consumers and the regulated, that powers are used consistently, transparently and proportionately. When we make regulatory judgements, we aim to be transparent about how we reached them. We must also make clear not just the benefits of regulation, but also the costs.

The FCA Mission sets out a framework for the way we will take these decisions and thus serve the public interest. The FCA Mission builds on the analysis set out in *Our Future Mission* in October 2016. We will follow the Mission with more detailed explanations of how we deliver specific regulatory functions – Authorisations, Supervision, and Enforcement – as well as how we interpret our Competition duties and consider the needs of consumers.

The FCA Mission is accompanied by a feedback statement on our website, which give more detail on the responses to *Our Future Mission* consultation.



# Chapter 2

## Public value

The FCA's objectives, set by Parliament, ensure that we act in the public interest. We authorise 56,000 firms and approve 140,000 individuals. With over two million people employed in financial services in the UK, the financial sector is a leading UK industry.

The activities of regulated firms range from global institutions offering highly complex products to individual financial advisers giving advice on a customer's financial position. Given this diversity, we believe it is neither possible nor desirable to specify exactly what we expect from every market participant against detailed rules. Our regulation will always be principles-based. We do not regulate to favour particular groups, but rather to promote the public interest.

Public value is the collective value that an organisation contributes to society. This is in contrast to private or market value, which is the value of a good or service to an individual customer and provider. Our aim is to add public value by improving how financial markets operate, to benefit individuals, businesses and the UK economy.

We explore the way that we make decisions on how to add the most public value in Chapters 3-6. Here we outline in simple terms five illustrations of what we do to add public value, and explain how we do it. Essentially, we enhance trust, improve how markets operate, deliver benefits through central regulation, prevent harm from occurring where possible and put things right when they go wrong.

### 1. Enhancing trust in markets

Trust between users and providers of services is necessary for a market to function well. We define trust as a set of beliefs about the honesty and validity of ongoing commitments, which reinforce the belief that future actions will be predictable and reliable. Our aim is to create a framework that allows fair, open and competitive markets to develop, in which firms' actions create well-justified trust in their products and services.

Trust ensures users and providers have the confidence to make transactions that benefit both. It is particularly important in financial services markets, given the inherent uncertainty of financial products, how long financial contracts can last and the different levels of knowledge between users and suppliers in many financial transactions.

Money invariably acts as a magnet for criminal activity. So effective regulation also creates trust that crime in markets will be prevented and acted against if found.

Effective regulation can create public value by increasing trust and confidence in the market. To do this, we:

- **Set clear rules and standards** that, for example, ensure that providers correctly describe the product they are selling.
- **Authorise firms and individuals**, so that consumers can be assured that providers must abide by a common set of rules and standards, and users are confident that criminals are kept out of markets.
- **Supervise, monitor and investigate** authorised firms and individuals to ensure, for example, that they meet principles and rules on consumer protection and can face sanctions if they don't. This both creates confidence that standards are being met and helps to deter firms and individuals from poor behaviours and market abuse.
- **Seek to ensure and promote clean and competitive markets** so that participants can be confident that markets are fair, transparent and open. This supports competition, creating value for consumers and increasing productivity across both the industry and the wider economy.
- **Ensure effective access to redress**, so that users are confident that if they are not treated fairly they can get compensation and know who to complain to.



## 2. Improving how markets operate

Through our principles and rule-making powers, we influence how markets are set up and the parameters in which firms and individuals operate. By influencing how markets operate and evolve, we can ensure they serve the public, business and the economy better. We do this in five ways:

- **Promoting competition.** We make judgements on whether competition is working well as a result of the way markets are structured and/or the relationships between consumers and providers in the market. Where this is not happening, our intervention can help or force a change in these dynamics. This may be, for example, acting to address pricing and value in markets, as this can be a good indicator of whether competition in markets is working well for consumers.
- **Taking consumer behaviour into account.** We make judgements on whether consumers may be susceptible to 'biases' or otherwise likely to make unsuitable decisions. We use insight from a variety of academic fields, including economics and psychology, to understand consumer and firm

behaviour. Based on this, we can adjust market design, in line with our objectives, to nudge consumers towards choices that evidence suggests are better for their needs and provide better outcomes.

- **Adjusting provider behaviour.** We make judgements on whether the incentives and governance of both providers and individual employees are aligned with user interests. For example, the Senior Managers and Certification Regime and the Remuneration Code help to align the incentives of individual employees with their customers. In wholesale markets, conflicts of interest may weaken the incentives to choose the best-value option for the end consumers. In these markets, setting out clear principles and rules can help to better align firms' incentives to users' needs, for example, imposing 'best execution' duties.
- **Directly protecting consumers.** We make judgements on whether consumers would be better off protected from particular products or market developments. These protections may include restricting firms' ability to market complex products to retail customers or through directly intervening in the market, such as capping the price of

high-cost short-term credit ('payday lending').

- **Encouraging innovation.** We can use our convening powers to bring participants together and explore innovative ways of improving market effectiveness, such as developing FinTech (using technology to deliver financial services) to reduce the cost of financial services or to extend access to vulnerable consumers. We can also help both new and established businesses bring innovative financial services and products to the market through the support which our Innovation Hub and Regulatory Sandbox give to firms. This support covers both help in terms of our authorisation requirements and by providing a safe regulatory space to test new innovative products. We also consider the impact of innovation in wholesale markets – for example, the extent to which it would be in the public interest to allow the development of trading in dark pools.

### 3. Delivering benefits through a common approach to regulation

As a public authority, we can undertake activities that would be expensive or impossible for market participants or users of markets to undertake individually. In doing so, we can significantly reduce transaction costs and benefit the public. We create economies of scale in a number of ways, by:

- **Setting policies and standards.** For example, setting clear requirements for disclosure in issuing securities, reducing the costs for potential investors in carrying out their own due diligence. The robust regulatory framework underpinning the UK's listing regime ensures that issuers disclose the information needed by investors to make fully informed investment decisions. These markets play the important role of bringing together investors seeking investment opportunities and issuers that want to access capital to finance their businesses. The listing regime ensures that these markets have integrity and that they serve the interests of all users.
- **Authorising firms.** We use our Authorisations powers to ensure that firms without the required threshold of systems and controls, or individuals who do not pass the 'fit and proper' rules cannot enter the market. We also ensure that the firms that we regulate prudentially have sufficient capital thus reducing the due diligence individual market participants who want to use such firms need to undertake themselves.
- **Enforcing market discipline,** rather than relying purely on the market to discipline itself, particularly in cases where firms' underlying incentives are not aligned with good outcomes for users.

### 4. Working to prevent harm from occurring

As a supervisory authority, we do more than simply set principles and rules and act when things go wrong. We aim to:

- maximise the degree and extent to which firms and market participants comply with our rules, so the harm those rules are designed to mitigate occurs less frequently
- anticipate potential problems in individual firms and markets by monitoring activity in financial markets, and
- intervene to prevent them from occurring

We expect firms to identify and rectify problems themselves. We work with them to help ensure their systems and controls, governance and culture enable them to comply fully with our rules.

When we discover that harm is happening, we aim to act swiftly and decisively to prevent it going any further. For example, when we fined six firms for attempts to manipulate the foreign exchange market in 2014, we also set up a wider programme involving 70% of the total market to help them identify root causes. We subsequently published the findings to help drive tangible market-wide improvements.

### 5. Helping put things right when they go wrong

Experience shows that market participants can make mistakes or act in bad faith. It is first and foremost a firm's responsibility to treat customers fairly, handle complaints fairly and, when necessary, provide redress.

If an individual customer is not satisfied, Parliament has established a framework, involving the FCA, Financial Ombudsman Service and the Financial Services Compensation Scheme (FSCS), for retail consumers

to be compensated for losses they have suffered as a result of firm misconduct or failure.

In UK retail markets, consumers may be awarded redress by firms in response to individual complaints to a firm as part of a voluntary redress scheme set up by a firm or following determination by the Financial Ombudsman Service. The FCA can provide additional routes to redress, such as a statutory redress scheme. A statutory redress scheme established by the FCA can add value where:

- it can achieve significant economies of scale – for example, where large numbers of consumers are affected or many firms are involved
- we can help all affected consumers get consistent outcomes
- the consumers affected are vulnerable and less able to pursue redress through usual routes
- firms do not have the resources, expertise or willingness to design and/or establish a voluntary scheme
- a proposed voluntary scheme is seen as being unfair to consumers or does not offer them appropriate protection

We may take action to set up a redress scheme alongside other actions including statutory investigations or enforcement actions. Where a firm has chosen to set up its own scheme we will take this into account in deciding what further action is needed.

In wholesale markets, firms are more likely to have the knowledge and resources to seek redress through legal action themselves. We are therefore less likely to commit resources to trying to get appropriate redress for them where there has been misconduct.



**It is first and foremost a firm's responsibility to treat customers fairly.**

## Chapter 3

# How we make regulatory decisions

Our aim is to use our tools efficiently and cost-effectively to deliver the greatest public value. To ensure we do this, we have adopted a decision-making framework that guides our decisions on where we use our resources. This will help us make consistent regulatory judgements and publicly explain how we make them.

The judgements we make within this framework will mean that some users of financial services get more protection than others and that we aim to remedy some types of harm ahead of others. Given this, it is important to ensure that our decision-making process is transparent. We will base our external communications on the decision-making framework outlined below. However, for firm-specific remedies, confidentiality requirements restrict what we can say publicly.

This framework will underpin our decision-making, including:

- decisions on **prioritising** within and across the different sectors we regulate
- how we respond to **specific issues** within markets or firms
- decisions on how our **individual functions**, such as policy, competition, authorisation, supervision and enforcement, operate

The framework applies to both strategic decisions and decisions we make on a daily basis.

We take strategic decisions about our approach to different financial services sectors. These decisions are based on in-depth analysis at all stages of the decision making framework. We publish assessments of sectors – our Sector Views – and set out our strategic approach for each sector in our annual Business Plan.

We must also act quickly on many issues to prevent harm occurring or to tackle actual harm. We will take daily decisions using the same framework. Sometimes we need to act before we have all the facts. We always seek to make timely decisions.



**We must act quickly on many issues to either prevent potential harm or tackle actual harm.**





Figure 1:  
**The decision-making framework**



## Stage 1 – Identification of harm, potential harm or markets not working as well as they could

The decision-making framework begins with us clearly defining the issue involved and how it may harm users of the relevant financial service. We identify instances where financial services markets or firms are harming users, have the potential to do so, or where they are working poorly and not providing sufficient benefit to users. We also take into account our tolerance of risk to our objectives.

We group harm in financial services into five types, which often overlap.

Type of harm	Relevant FCA operational objective(s)
1. Confidence and participation threatened by unacceptable conduct such as market abuse, unreliable performance or by disorderly failure	Market integrity Consumer protection Effective competition
2. Buying unsuitable or mis-sold products; customer service/treatment	Consumer protection Effective competition
3. Important consumer needs are not met because of gaps in the existing range of products, consumer exclusion, lack of market resilience	Consumer protection Effective competition
4. Prices too high or quality too low	Effective competition
5. Risk of significant harmful side-effects on wider markets, the UK economy and wider society, eg crime/terrorism	Market integrity

We gather information from a range of activities to identify potential harm. These include day-to-day supervisory contact with firms, calls from consumers to our contact centre, analysing intelligence from whistleblowers and analysing complaints data. Early identification enables us to take action swiftly to reduce or prevent harm to users.

However, simply identifying potential harm does not necessarily mean that we will act. Undertaking further work will incur costs, which can increase the costs of our fees that firms then pass on to consumers through higher charges or lower value products.

Our regulatory judgements are made within the FCA risk framework. We use our risk tolerance framework to inform our prioritisation by understanding trends in the risk of harm and therefore threats to our statutory objectives. The risk framework thus underpins the decision-making framework by enabling the FCA to focus on potential harm, through analysis of trends and emerging risks to our objectives.

## Stage 2 – Diagnostic tools

After identifying potential harm, we aim to diagnose its cause, extent and potential development. To do this, we must decide whether we already have enough information to assess the issue properly or if we need to carry out specific work, using a range of diagnostic tools, to get a better understanding.

While using these diagnostic tools is a necessary step before taking regulatory action, the process is not cost free and involves a direct cost to the FCA. It also creates a cost to firms. For example, answering our information requests and responding to investigations places costs on firms. These costs may be passed to users through higher prices and poorer value products. So we use a combination of these tools to diagnose potential harm in the most cost-effective way.

Diagnostic tool	Description
<b>Individual firm analysis</b>	We work with individual firms, focusing on their conduct. In doing so, we assess their governance and management, systems and controls and overall culture, as these are good indicators of how firms treat customers.
<b>Section 166 FSMA powers</b>	We have the power to obtain a view from an independent third party (a 'skilled person') about aspects of a regulated firm's activities if we are concerned or want further analysis.
<b>Data analysis</b>	We analyse data we receive from firms, market intelligence, research and third-party sources to understand market trends, emerging risks and new products.
<b>Investigations</b>	We have wide-ranging powers to investigate potential breaches of our rules, including requiring firms and individuals to provide us with information. When we open an investigation, we have not concluded that there have been breaches. Rather, we investigate the evidence and then form a view about whether there has been misconduct.
<b>Multi-firm work and thematic reviews</b>	Where we think that actual or potential harm is occurring, or is likely to occur, in more than one firm then we can investigate across a number of firms simultaneously.
<b>Market studies</b>	Market studies are the principal way we investigate markets to see how well they are working for consumers.
<b>Policy work</b>	We use a range of policy tools such as calls for input, Discussion Papers, dialogue with other national and international regulators, industry bodies and market participants to understand harm that is present, or may arise in future.

When using these tools, we will make it clear that they are part of a diagnostic process, rather than suggesting that they automatically assume wrongdoing or that action will necessarily follow. For example, a market study may result in a regulatory intervention that significantly changes market design, or it may also result in little or no change. Starting an enforcement investigation is a diagnostic tool and does not mean a sanction is inevitable or even likely. We do not pre-judge outcomes and many of our final decisions, relating to enforcement and supervisory actions, are independently scrutinised by the Regulatory Decisions Committee.

## Stage 3 – Remedy tools

Once we understand potential harms, we then consider whether they can be resolved entirely or only reduced (mitigated). To do this we assess the range of our available regulatory tools and make a judgement about whether these tools can remedy or mitigate the harm cost-effectively.

To get the best results, we must understand the dynamics of the relevant financial market 'chain', for example, poor conduct by issuers and providers in the primary market affects the integrity of investments made by retail market participants. In the same way that the market is 'inter-linked', so too is our diagnosis of, and approach to, issues of harm.

The tools we use most often to deliver remedies are:

Intervention tools	Examples
<b>Rule changes</b>	By changing our rules, we set new market standards and remove unnecessary regulatory barriers. We do this to enhance competition, to protect consumers and to enhance market integrity.
<b>Guidance</b>	Published guidance often follows diagnostic reviews of specific issues, for example, guidance on the treatment of long-standing customers in the life insurance sector.
<b>Communication to firms</b>	We communicate to firms directly in a range of circumstances, for example, through our 'Dear CEO' letters. These can serve to remind firms what is expected of them e.g. compliance with FCA principles.
<b>Communication to customers</b>	On occasions we seek to communicate directly with customers, such as through our ScamSmart campaign.
<b>Control of entry</b> <ul style="list-style-type: none"> <li>• individuals</li> <li>• firms</li> </ul>	We use our authorisations approach to ensure that firms without the required threshold of systems and controls, or individuals who do not pass the 'fit and proper' rules, cannot enter the market.
<b>Variation/removal of permissions</b>	We can vary or remove the permissions of firms to carry out certain activities if we are concerned about the negative consequences of the behaviour of a firm.
<b>Censure, suspension, financial penalty or criminal prosecution</b>	<p>Where we have found a firm breaching our rules we will decide whether it is appropriate to issue a public censure, suspension or a financial penalty.</p> <p>We also have powers to enforce EU and UK competition law and against breaches of consumer protection law, as well as criminal prosecution powers.</p>

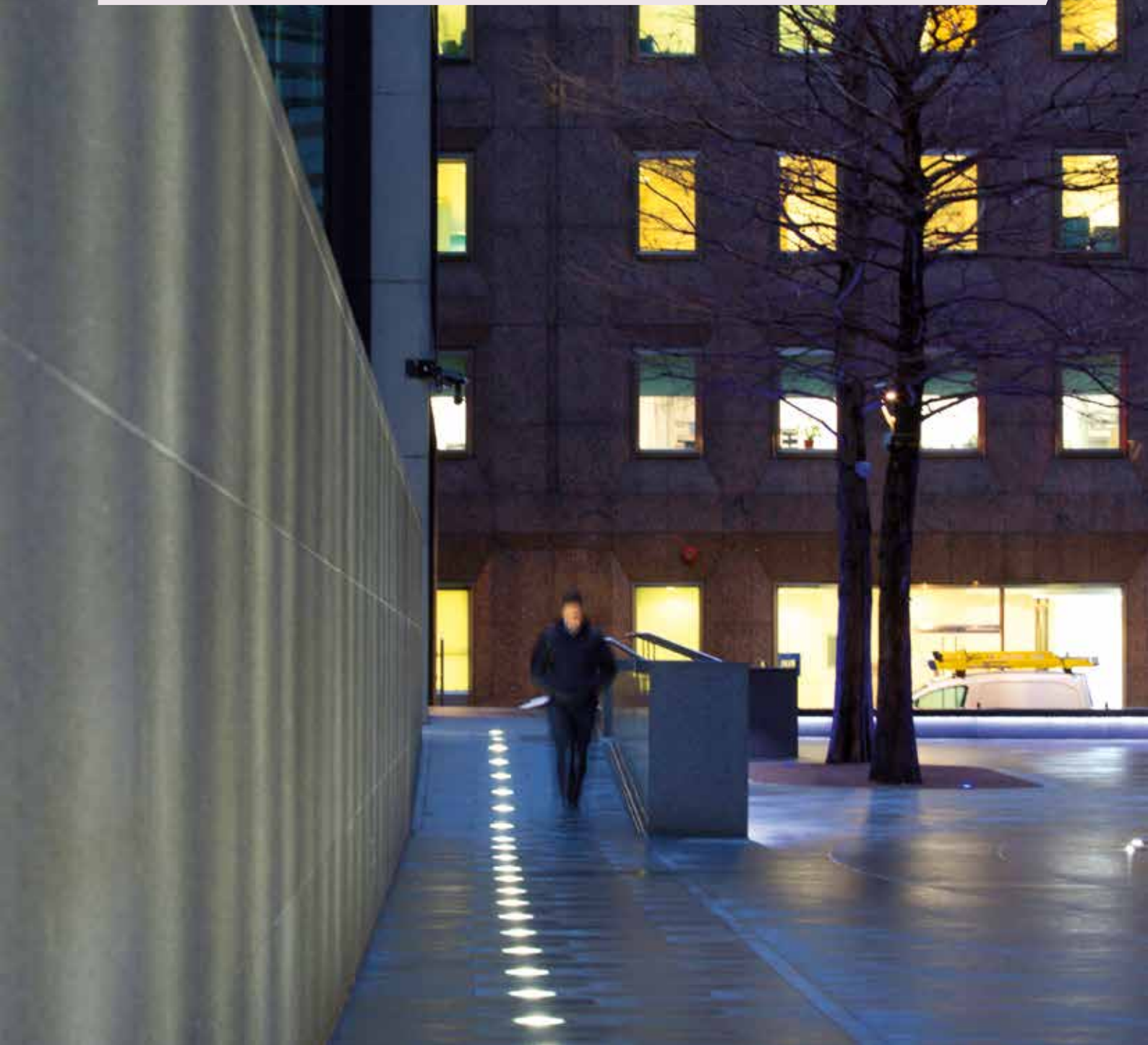
Choosing the best remedy will often mean carefully combining tools to secure substantive compliance, such as a programme to deliver stronger supervision after major new rule changes. For example, while we introduced rules for the Senior Managers and Certification Regime in 2016, they will only be continuously and reliably effective if firms also comply with the spirit of the changes, making this a continuing priority for us. This programme is a multi-year FCA commitment that relies on our authorisation, supervision and enforcement functions.

## Stage 4 – Evaluation

Testing the effectiveness of our remedies helps us to make better decisions, and add more public value. Testing effectiveness also increases transparency: we want to be clear about what regulations have been effective and which have not. By being open where things haven't gone well, we seek to ensure that we learn and improve future outcomes.

However, post-implementation analysis is not cost free. Additionally, the dynamism and complexity of the market means it is often difficult to isolate the impact of our actions against other factors, such as macroeconomic or technological change, or the response of firms or consumers.

For our largest interventions, we will test their effectiveness and publish analysis after the event. Where it is less cost-effective to conduct detailed analysis, we will monitor and publish key indicators that help to demonstrate the impact of our interventions.







## Using our regulatory judgement

We make judgements about how we regulate at every stage of the decision-making framework – deciding which issues are a priority, how best to use our diagnostic tools, which remedies to use and the best way of measuring our impact.

Our judgements can mean that some providers of financial services will get more attention from us than others and that some types of harm are reduced before others. Given this, it is important that we clearly set out the main factors we consider in reaching regulatory decisions on where the priorities for intervention lie. In the following chapters, we set out the three key factors we consider:

- our remit
- our impact
- user needs

## Chapter 4

# Our remit: Interpreting our objectives

Parliament has given us objectives and powers and we must act within them. Our regulatory remit is the first main factor we consider when we make decisions to improve outcomes for users of financial services.

The Financial Services and Markets Act (FSMA) requires us to act in a way which is compatible with our strategic objective of ensuring relevant markets function well and which advances our operational objectives. The judgements we make are based on these objectives. FSMA does not give us an objective to promote the 'competitiveness' of UK financial services in the context of international markets. But we do believe that ensuring that financial markets work well – in the sense of ensuring integrity through good standards of market conduct, appropriate consumer protection, and healthy competition – will make the UK an attractive place to do business.

We also have a duty under FSMA to consider the Government's economic strategy when exercising our functions. The recently published strategy highlights the importance of a strong and stable financial system which supports business growth, innovation and competition and ensures UK markets remain attractive to both inward and international investment.

In addition, we are required by FSMA to take into account the eight principles of good regulation. These are:

1. **Efficiency and economy.** The need to use our resources in the most efficient and economic way.
2. **Proportionality.** The principle that any burden or restriction that we impose on a person, firm or activity is proportionate to the benefits we expect as a result. To judge this, we take into account the costs of our interventions on both firms and consumers.
3. **Sustainable growth.** The desirability of sustainable growth in the UK economy in the medium or long term.
4. **Consumer responsibility.** The general principle that consumers should take responsibility for their decisions.
5. **Senior management responsibility.** The responsibility of firms' senior management for complying with our requirements.



**6. Recognising the differences in the businesses of different regulated persons.**

Regulating in a way that takes into account the different activities, resources and aims of the different businesses we regulate.

**7. Openness and disclosure.**

The desirability of publishing information relevant to regulated firms and individuals, with appropriate safeguards, or requiring them to publish information themselves.

**8. Transparency.** The principle that we should exercise our functions as transparently as possible. It is important that we provide appropriate information about our regulatory decisions and that we are open and accessible, both with the firms we regulate and the general public.

We always seek to be clear about what falls within our remit. In our experience, there are two areas where this requires particular attention:

- the boundaries between our objectives and other areas of public policy

- activities undertaken by authorised firms that fall outside regulated activities under FSMA

**The boundaries between our objectives and other areas of public policy**

A number of factors, such as an ageing population and developments in technology, have created new public policy challenges. We need to be clear about where we can serve the public interest as a regulator and where the issue falls outside our remit into an issue of wider public policy more suited to Government. This can require careful consideration, as demonstrated by the example of price discrimination and cross-subsidies in financial services markets.

Price discrimination occurs when one group of consumers pay more for the same product or services than others. Effectively, those who pay more subsidise those who pay less. Cross subsidies occur when one group of consumers is served below an average rate of return. We consider the impact of price discrimination and cross-subsidies on different types of consumers under our competition and consumer protection objectives.



**We need to be clear about where we can serve the public interest as a regulator and where the issue falls outside our remit.**





**Where we cannot act, we will clarify publicly why the issue falls outside our remit and raise this with Government and other relevant bodies.**



We are more likely to intervene if these end up harming vulnerable consumers. However, we will not take action if the price discrimination or the solution to the price discrimination is outside our remit. For example, the issue of consumers living in flood-prone areas who had difficulty getting property insurance was appropriately resolved by the Government working with the insurance industry to set up Flood Re, rather than by our regulatory intervention.

We will continue to work closely with the Treasury, the Competition and Markets Authority, the Pensions Regulator, the Financial Ombudsman Service, the Financial Services Compensation Scheme (FSCS), the Prudential Regulation Authority and the Bank of England, other Government agencies and departments and international regulatory organisations to provide evidence and input into public policy thinking.

### Unregulated activities

The FCA's core jurisdiction arises from the need for firms to be authorised by the regulator to carry out certain activities. These activities are set out in FSMA and, in more detail, in the Regulated Activities Order (RAO). Our central focus is on activities within this regulatory 'perimeter'. Firms need to satisfy us that they meet the conditions for authorisation, and must comply with our rules regulating their conduct.

As well as their regulated activities, many authorised firms also carry out other activities which may be outside the 'perimeter', but which can affect our objectives. For example, while the process for setting LIBOR was outside the RAO, LIBOR malpractice had a major impact on FCA-regulated firms and on wider confidence and trust in the market.

We also have powers to act outside the 'perimeter' in some circumstances. This includes our concurrent powers to enforce against breaches of the

Competition Act 1998, our ability to undertake market studies under the Enterprise Act 2002 and our wide-ranging financial crime and anti money laundering responsibilities for financial services generally.

The blurring of the boundaries between regulated and unregulated activities can create a public expectation that we should always act if an authorised firm's activity causes harm, regardless of whether the activity falls inside the RAO or within the broader legislative powers set out above.

Essentially, if we believe an issue is serious, but the relevant activity falls outside the perimeter or wider powers set out above, we may still be able to act. For example, FCA Principles apply to the conduct of authorised firms both in relation to their regulated and unregulated activities. However, our powers are more limited outside the RAO and we may choose instead to prioritise issues that fall within the RAO. Financial services markets are dynamic, so defining where and how we might act outside the perimeter is not simple. But we are more likely to act where the unregulated activity:

- is illegal or fraudulent
- has the potential to undermine confidence in the UK financial system
- is closely linked to, or may affect, a regulated activity

Where we cannot act, we will clarify publicly why the issue falls outside our remit, or why our powers are limited, and raise this with Government and other relevant bodies.

We will also work with industry to help create industry standards that span activities outside the RAO. These standards can be a useful way for the industry to police itself in support of our regulatory work, and can help firms to communicate expectations of individuals when linked to the Senior Managers and Certification Regime.



## Chapter 5

# Assessing our impact and measuring our performance

The markets we regulate are complex, our remit is broad and we have a wide range of regulatory tools. This means there are many ways for our work to make a positive difference for individuals, businesses and the economy. So the second key factor in our decision-making is the likely impact of our action, and the benefit this could provide to users of financial services.

To do this, we act where we can add the greatest public value consistent with our objectives. Where harm or potential harm is significant, but the benefit from any FCA action may be negligible, we may choose to publicly highlight the issue, clearly stating that we are unable to address it cost-effectively by acting alone. Where the likely benefits of regulatory action are low we are less likely to act. We do not try to remove all harm from markets or operate a zero-failure regime.

### Assessment of harm

As set out on page 12, harm can come in multiple forms. This means when we assess potential harm, we analyse a wide range of diverse problems. While we can rarely compare like-for-like, for all forms of harm we start with an assessment of the scale and severity of harm, and the speed with which it is likely to spread or worsen if we do not intervene.

### Assessment of regulatory benefit

Once we believe that actual or potential harm may require FCA action, we must consider our ability to solve the problem. We must also consider the potential unintended consequences of our actions.

### Cost benefit analysis

We create public value when the benefits of our actions outweigh the costs. However, the benefits and costs of regulatory action cannot easily be quantified, and the issues we face are often too complex to reduce regulatory judgement to simple numerical analysis. Wherever practical, we quantify benefits and costs to inform our decisions. For major interventions we carry out evidence-based cost benefit analyses and user testing. For example, we believe introducing a cap on payday lending saved borrowers £180 a year each, or a total of £160m a year. For these major initiatives, we will normally consult publicly on our proposal.

# £160m

We believe introducing a cap on payday lending saved borrowers a total of £160m a year.

But it is harder for us to quantify the effects of other actions, such as the deterrent effect of our enforcement actions on insider trading. We do not attempt to quantify the impact of all our activity as much of our activity is in pursuit of intangible benefits such as enhancing trust. Neither do we always prioritise activity where quantification is possible, which could lead us to inappropriately prioritise some activities over others. Where we cannot quantify the value we add, we will set out a clear causal analysis of how an intervention is intended to work and show, as best we can, the cost of activities.

For the majority of our day-to-day work, we take decisions based on the knowledge and experience of our staff, informed by our agreed business planning priorities. While we may not assess regulatory benefit in every case, we will always try to understand the underlying drivers of harm and how we expect our intervention will address them.

### Behavioural economics

When analysing the potential benefits of regulatory action, we consider how individuals and markets behave in practice, rather than just according to conventional economic theory.

Public policy makers have traditionally assumed that the main reason for market failure in retail financial services is that firms know more about their products than customers do. This assumption led to the belief that people will make the 'right' choice if they are given more information. However, advances in behavioural economics have shown that bias plays a significant role in the decisions of consumers and firms. So when we assess harm and regulatory benefit, we consider how real consumers and firms make decisions in practice, using a range of empirical techniques, from focus groups to randomised control trials.

### Working with the market

We consider whether the market will fix itself without the use of formal regulatory tools. We also use convening powers which help the regulator and firms to come together to resolve an issue, without the need for formal regulatory intervention. This approach can be cost effective and add value. For example, we have held a 'TechSprint' event to bring together tech firms to explore new ways of working together to improve financial inclusion and access to financial services.

### Working with other bodies

We also consider whether another domestic or international organisation is better placed to address the issue, or whether joint working would be effective. For example, a solution introduced only in the UK may not always resolve an issue that affects international capital markets. Here, we will try to resolve the problem through joined-up working at the international level instead, for example through the International Organization of Securities Commissions (IOSCO) which acts as a forum to facilitate international cooperation.

### Uncertain impact

Although an assessment of the net benefits our action could deliver will underpin our decision-making framework, we will also try remedies when we are less sure of how effective they will be, but where the action's objective is important. For example, we will choose to apply significant resource to helping firms combat terrorist financing or cyber-crime, even if we find it difficult to quantify the impact of our action. This reflects our assessment of the severity of these risks to our objectives and thus to the public good. In other cases, public confidence risk or specific legal duties will require us to act even if we are unable to quantify the expected

benefits of our action. For example, if we suspect widespread mis-selling of a particular product, we will act to address the issue even when the benefits cannot be quantified.

### Measuring our impact

As a public body, our aim is to demonstrate the value we add through our activities.

### Measuring public value

We do not need to demonstrate or quantify the public value for every action we take, particularly when actions are required by law. It is often not possible to reduce public value to a number or provide an accurate numerical benefit against a cost. Intangible benefits such as maintaining trust and ensuring visible justice are also an important part of delivering public value.

We will use a combination of quantitative, qualitative and causal explanations to evaluate the success of our most significant interventions. Before we start activities, we will agree the underlying drivers of harm we wish to address, and how we will report against these. For other interventions, our aim is to be clear about how we judge whether they have been successful and how we will monitor the outcomes on an ongoing basis.

We will report on these major interventions, and on their ongoing and longer-term progress, as part of our normal Annual Report cycle.

### Measuring our performance

We are also introducing a range of qualitative and quantitative measurements which will allow us to evaluate the impact of our work. In most circumstances, our decision-making framework will provide us with clear causal analysis for our decisions.

Reflecting this analysis in our communications will help ensure we provide the public and Parliament with a more transparent and complete picture of the public value we have delivered.

We will use a three-tier approach to measure how we are doing:

- 1. Operational efficiency.** Measuring our operational efficiency by assessing all our internal operations against a Value for Money (VfM) framework. This is based on the NAO's criteria of economy, efficiency and effectiveness.
- 2. Impact of our interventions.** Measuring the impact of the interventions we make using our available tools, to identify what works and what does not. We will also keep the indirect effects of our interventions on the way markets work under review to build up a more detailed picture over time.
- 3. Outcomes in markets.** Looking at markets and sectors as a whole to identify common root causes which we can tackle at both a market and firm-by-firm level. This will help us to define the ways we want a sector to improve in both the short and long term and how we will measure the results.

# Chapter 6

## Considering user needs

We aim to serve the public interest by improving how financial markets function and how firms conduct their business. We aim to benefit a wide range of users of financial services – individuals, businesses and the economy. When we make regulatory judgements on behalf of the public, we consider more than just the impact of our action. We also consider the needs of the end user and how our action may benefit them. Understanding user needs, and recognising where some users may be vulnerable, is the third key factor in the way we make regulatory judgements.

### Retail consumer needs

Our judgements are based on our understanding of consumers, their needs and the products they buy. Consumer needs vary across different financial services sectors. Different groups of consumers will also have different needs, and we consider both consumer capability and vulnerability when making decisions.

Understanding vulnerability is central to how we make decisions. Consumers in vulnerable circumstances are more susceptible to harm and generally less able to advance their own interests. So we will prioritise consumers who are unable to shop around over consumers who can shop around but choose not to do so. For example, we will prioritise consumers who are vulnerable because they cannot exit an existing contract or have a restricted choice of alternative providers. This approach reflects our objective to secure an appropriate degree of protection for consumers and the requirement to have

regard to the differing degrees of experience and expertise of different consumers.

We also recognise that vulnerability itself changes during any individual's life and in different circumstances, with consumer income being only one factor in assessing vulnerability.

### Wholesale market needs

Wholesale market needs are often quite different from consumer needs. Our aim is to ensure that wholesale markets are 'fair and effective' and work well for their users. We want to ensure that markets demonstrate clear, proportionate and consistent standards of market practice, transparency, open access, integrity and competition on merits.

We also recognise our regulation needs to allow end-users to undertake investment, funding, risk transfer and other transactions in a predictable way. Markets need robust infrastructure to deliver a

liquid market that enables users to find competitive prices and access the securities that best meet their needs. So our aim is to ensure that market participants abide by strong market standards and that information about securities is disclosed uniformly.

Making regulatory judgements based on different user needs is complex. Before our next business planning round, we will consult on proposals for how we consider user needs in our decision-making.

## Chapter 7

# What consumers can expect

In Chapters 1-6, we set out what we aim to achieve through our regulation, how we choose to use our tools, and how we make regulatory decisions. In this chapter we set out what consumers can expect from our regulation.

### What consumers can expect from the FCA

Under FSMA, all consumers – be they individual retail consumers, corporates or regulated entities – get protection from our authorisation, registration and ongoing regulation. We give more protection to consumers who are likely to have lower levels of financial capability, compared to those with more capability. The more complex and risky the product is, the more sophisticated the consumer needs to be before they can be expected to understand it.

We set rules which regulated firms are required to follow. We also conduct due diligence to test that firms are following these rules.

However, it is the firms' responsibility to follow our requirements. We do not operate a zero-failure regime. Some firms will fail financially and will sometimes fail to treat their customers fairly. Our rules include requirements for how firms handle complaints and provide redress.

We provide a number of additional services directly for consumers:

- The FCA Register allows all users to search for information on a firm, individual or financial services product.
- We help individual consumers directly through our consumer contact centre. This helps consumers identify whether firms are authorised, assists in respect of frauds or scams, and directs consumers to the Financial Ombudsman Service.
- We also give consumer warnings about bogus firms and scams through the FCA Warning List and our work with consumer groups and firms, such as through our ScamSmart campaign.



**We give more protection to consumers who are likely to have lower levels of financial capability.**







**The FCA Handbook principles apply to all regulated and authorised firms. These include the Principle of ‘treating customers fairly’.**



### What consumers can expect from firms

Retail consumers are protected by our principles and rules, particularly:

- The FCA principles require firms to consider the interest of their customers and treat them fairly.
- The FCA principles require firms to consider what information their customers need and communicate it in a way which is clear, fair and not misleading. Customers can use this information to assess if they are being treated fairly.

### What consumers can expect when things go wrong

If firms have not treated customers fairly then customers will usually have access to the Financial Ombudsman Service, which decides the outcomes of consumer complaints about financial goods and services. They may also use the FSCS which pays compensation to consumers if a financial services firm is, or is likely to be, unable to pay claims against it.

### A Duty of Care to consumers

The FCA Handbook Principles apply to most authorised firms and include the Principle of ‘treating customers fairly’. Our Handbook also requires that firms act in their best interests of their clients in some circumstances.

A Duty of Care would impose an obligation to exercise reasonable skill and care in the provision of a service. There are different opinions about the merits of introducing this obligation. We will publish a Discussion Paper to explore the Duty of Care issue as part of the broader exercise described on page 28.

### Equality and diversity

Like all public bodies, the FCA has a Public Sector Equality Duty (PSED) which informs the way our staff undertake their work. The PSED, and our own diversity and inclusion principles, mean we look at ways to eliminate discrimination, advance equality of opportunity and foster good relations between people with a protected characteristic and those without – both within the FCA and in the way we regulate.

The PSED has particular impact in our oversight of firms’ culture and governance, as well as their treatment of vulnerable consumers. The way we put the PSED into practice is reflected in our Business Plan commitments.

## Chapter 8

### What firms can expect

Consumers and market counterparties want to know both what they can expect from the firms selling them products and services and what they can expect from us.

#### Ensuring our messages are consistent

We produce a significant volume of information, from Consultation and Discussion Papers to Guidance and speeches. We know that different emphases across our material can create uncertainty for our audiences. We seek to ensure we are consistent in the messages we give across all the information we produce. We also listen to consumers and firms and value the feedback they give us, which helps us understand the sectors we regulate and take better decisions.

Additionally, when we publish information about an intervention we will ensure that we also publish the reasons for the intervention, including the harm we are addressing and how we expect our intervention to tackle it. We will also be clear about how we will monitor the effectiveness of our intervention. This will help ensure all our communications about our intended outcomes will be consistent, transparent and predictable.

#### Giving firms the confidence to be proactive

Firms need to recognise that they are being supervised so that they proactively comply with our rules and fully realise the public value of regulation. We aim to deliver this assurance in the most cost-effective way possible.

By providing better clarity and consistency in the information we give to firms, however they come into contact with us, they will have greater certainty about our expectations and supervision. This should reduce the overall costs of compliance for both them and for us. By making it easier for firms to comply, they will make fewer avoidable errors and reduce harm to consumers. Additionally, from co-ordinating or supporting industry groups to improving the consistency of our supervision, we will add further public value by making it clear to firms that they can and should be proactive in finding ways to ensure they treat their customers fairly.



### Proportionality and our rules

In *Our Future Mission* publication, we discussed a possible review of the FCA Handbook. This is because the number and complexity of rules in the Handbook can make it hard for firms to clearly interpret our expectations, may act as a barrier to new firms entering the market and can add unnecessary cost. Respondents welcomed the proposal to review the Handbook, but noted timing challenges given the UK's forthcoming withdrawal from the EU.

We continue to believe that we should review the Handbook to ensure consistency with the principles of good regulation. While we cannot begin this work until the outcome on EU withdrawal is clear, we are committed to the review and have begun scoping work to start as soon as it is possible to do so.

### Leaving the EU – the impact on our regulation

The UK's withdrawal from the European Union will have important implications for the FCA over the coming years and will be a key area of focus. We have dedicated resource to co-ordinate and manage this work and are liaising closely with the Treasury and the Bank of England to ensure a smooth transfer of EU rules and legislation into the domestic framework. We are also providing the Government with impartial technical support, and will continue doing so throughout the withdrawal process.

At the same time, we are carefully considering what withdrawal from the EU may mean for our objectives and are working to make sure that any risks to our objectives, including any operational challenges, are identified and addressed. We are also ensuring that the FCA is able to respond flexibly to anything that may arise.

Finally, we are continuing with implementing the EU legislation that will come into force before the UK leaves the EU.

## Chapter 9

### Next steps

This Mission provides a further step in the development of the FCA following on from 'Journey to FCA' and '2014 Strategy'. Improving the shared understanding between regulator, regulated and consumers is an important step.

In advance of our next business planning round we will publish a number of documents that will give a clearer explanation of the way we carry out our main activities and the approach in this Mission. They will cover:

#### Authorisation

In December 2016 we introduced our Delivering Effective Authorisations initiative. Its aims are to strengthen the support we give to firms and individuals to help them meet and maintain the standards needed to achieve our consumer protection, market integrity and competition objectives. As part of this, our authorisations process will focus much more on finding solutions and ways to help. We will also ensure the authorisations process is transparent, timely and consistent and improve our operational performance through better use of data and digital technology. We will publish our 'Approach to Authorisation' in advance of our next business planning round to give more detail on our priorities and approach.

#### Supervision

Our supervisors take a forward-looking and strategic approach, aiming to mitigate conduct risks before they cause significant harm to customers or markets. We assess firms'

strategies and business models to identify emerging risks and to ensure our supervisory activity is tailored to the potential harm each firm presents. We carry out thematic work to cover the broad emerging risks in sectors and ensure good outcomes across the industry. A small number of firms who could have the greatest impact on consumers or markets will have a dedicated supervision team. That team will have a view of the whole firm across all sectors it operates in, conduct a proactive programme of work on the firm, and is the single point of contact. Outside this, we supervise portfolios of like firms. Each portfolio of firms is the responsibility of a specific supervision team, which conducts analysis across the portfolio, takes action on high risk firms and communicates what good looks like to their portfolio through a variety of media. These supervision teams also act as the point of escalation for firms within that portfolio with serious issues to report.

We regularly review how we are using our resources to ensure we have the appropriate balance. We will



publish our 'Approach to Supervision' document in advance of our next business planning round to give more detail on our priorities and approach.

### Enforcement

We have recently reviewed our approach to enforcement and market oversight and made changes to our operating model with increased senior management focus on strategic oversight and planning of both case and non-case work. These changes are aimed at improving prioritisation, consistency and know-how sharing in order to drive greater efficiency across our work.

As this Mission explains, when we refer a firm or regulated individual for investigation this does not mean we have decided that wrong-doing has taken place. We will publish our 'Approach to Enforcement' in advance of our next business planning round to provide more detail on our approach to using our enforcement powers.

### Competition

Our long-term goal is to help solve issues about the way competition works to provide better consumer choice in financial services. Market studies are the most visible aspect of the work we carry out to promote competition. They are holistic, evidence-based studies of how individual markets work and ways in which they could work better. A critical aspect of promoting competition is to ensure markets stay open to new entry and innovation. We have powers to enforce the prohibitions under UK and EU competition law on anti-competitive agreements and conduct in relation to the provision of financial services.

In advance of our next business planning round, we will publish our 'Approach to Competition' to give more detail on how our approach to competition influences the way we work.

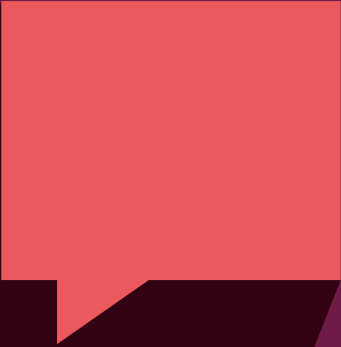
### Value for Money

Our overarching Value for Money (VfM) strategy is to maximise the impact of delivering our statutory objectives and intended outcomes, while minimising costs. Delivering year-on-year improvement in effectiveness, efficiency and economy is ongoing and we are embedding VfM criteria throughout our decision-making process.

We will continue to develop a constructive relationship with the National Audit Office (NAO) to address recommendations from its reviews of the FCA. We will use these, along with our approach and own reviews outlined in this document, to build further on our VfM strategy.

### Consumer approach

We will publish a Consumer Approach this year that will set out our latest research on consumer needs, attitudes and behaviour, as well as drawing on external evidence. This paper will present an overarching FCA strategy for how we consider differing user needs within our decision-making framework.



**We will publish a number of documents that will give a clearer explanation of the way we carry out our main activities.**







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