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June 2018

## **AFM Response to FCA approach to supervision and approach to enforcement papers**

1. I am writing in response to this consultation paper, on behalf of the Association of Financial Mutuals. The objectives we seek from our response are to:
  - Comment on the paper.
2. The Association of Financial Mutuals (AFM) represents insurance and healthcare providers that are owned by their customers, or which are established to serve a defined community (on a not for profit basis). Between them, mutual insurers manage the savings, pensions, protection and healthcare needs of over 30 million people in the UK and Ireland, collect annual premium income of £19.6 billion, and employ nearly 30,000 staff<sup>1</sup>.
3. The nature of their ownership and the consequently lower prices, higher returns or better service that typically results, make mutuals accessible and attractive to consumers, and have been recognised by Parliament as worthy of continued support and promotion. In particular, FCA and PRA are required to analyse whether new rules impose any significantly different consequences for mutual businesses<sup>2</sup>.

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<sup>1</sup> ICMIF, <https://www.icmif.org/publications/market-insights/market-insights-uk-2016>

<sup>2</sup> Financial Services Act 2012, section 138 K: <http://www.legislation.gov.uk/ukpga/2012/21/section/24/enacted>

4. In addition, the Bank of England and Financial Services Act 2016 now provides an additional Diversity clause for FISMA, to require the PRA and FCA to take account of corporate diversity and the mutual business model in all aspects of their work<sup>3</sup>.
5. AFM welcomes the papers covering FCA's approach to supervision and enforcement. We have commented on previously 'approach to' documents, and we have found the documents set out a helpful overview of the way FCA continues to discharge key responsibilities.
6. We are generally in support of the issues explored in both papers, and therefore only seek to comment in brief, across the two documents. Our main observations are:
  - a. Greater individual accountability is coming for insurers and non-deposit-takers through the extension to the SIMR regime, and more generally. FCA's recent enforcement action against Barclays, drawing on the SM&CR to set out why action was taken against the Chief Executive provides a clear demonstration of the approach being developed.
  - b. As a result, there is a clear shift apparent from FCA to primary engagement with senior managers, as opposed to a historic focus on second line managers in the first instance.
  - c. As a result of the approach FCA is now adopting, we have noticed there is demonstrably less communication directly to firms: the FCA position expects that firms will explore for themselves the consequences of more general guidance and action. This suggests that regulators will be less likely to explore firm specific criteria or low-level issues, unless and until things go wrong. However, where feedback is often limited, for example in the ongoing with-profits review, there is greater uncertainty from firms on what constitutes good practice.
  - d. As part of that process of regulation by example, the high levels of s166 work is often seen as a supervisory tool more than an enforcement one, and for regulators to outsource closer scrutiny. On the one hand this permits a greater sense of polluter pays, but has also escalated costs, and has meant that some semi-formal investigations have continued for many years.

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<sup>3</sup> <http://www.legislation.gov.uk/ukpga/2016/14/section/20/enacted>

e. As most AFM members are not directly supervised, there is a greater need for clear communication from FCA. Our experience in recent years is that FCA staff are now providing significantly greater efforts to engage with AFM and its members, and this is an encouraging trend. Where knowledge of mutuality is now more limited than previously within FCA, partly as a result of the current supervisory structure, we regularly find that FCA personnel do not have a full appreciation of the consequences for mutuals in changes in approach.

7. We would welcome the opportunity to discuss further the issues raised by our response.

Yours sincerely,

A handwritten signature in black ink, appearing to be the initials 'AB' followed by a long horizontal stroke.

Chief Executive  
Association of Financial Mutuals