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## **AFM Response to FCA paper “Our future approach to competition”**

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 challenges and opportunities to FCA in effectively delivering on its competition duty.
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>.
4. In addition, the Bank of England and Financial Services Act 2016 now provides an additional Diversity clause for FiSMA, to require the PRA

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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>

and FCA to take account of corporate diversity and the mutual business model in all aspects of their work<sup>3</sup>.

5. We are pleased to respond to this paper, and have previously respond to the 'approach to consumers' document. Together, these and other papers that support the FCA Mission give helpful insight into the priorities FCA adopts and how it aims to deliver on them.
6. We entirely agree that FCA's competition objective must be set and delivered in a way that promotes the interests of consumers, not for its own sake. A market that has more competition, does not meet the best interests of customers if those new competitors or products do little more than expand the options available, and if they do not help to raise the overall performance of the market.
7. For example, whilst FCA deserves a good deal of credit for its work in facilitating innovation, and in nurturing the development of new challenger banks, most fledgling newcomers are- perhaps understandably- focused on accessing more profitable segments of the market. There is therefore a risk that in encouraging too great a supply of providers in these areas, that incumbent providers also withdrawal from less profitable niches, with a potential disastrous effect on supply to the less affluent. Earlier this week the Mail on Sunday highlighted the plight of a small building society which, whilst profitable and successful, had concluded it could not continue to compete independently<sup>4</sup>. FCA needs to have a view on the impact of competitive pressures across all market segments.
8. Another issue to consider on competition is to understand how regulation can affect the constancy of supply, particularly across the economic cycle. For example, in 2008/ 09 many large insurers withdrew less profitable product lines in order to preserve capital. At the time the gap was filled by mutual insurers, whose market share doubled between 2007 and 2012- largely because they were able to continue to support less profitable business lines, and because their more conservative approach to business meant that they had a stronger capital base.
9. Despite this, regulation tends to be 'business model agnostic', meaning that FCA invests little effort in exploring how it can help retain alternative business models, such as the mutuals and not-for-profit insurers AFM represents. This is in spite of the new requirements on corporate diversity mentioned above. The risk is that benign neglect, and forcing mutuals to behave more and more like PLC competitors, means that in

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

<sup>4</sup> <http://www.thisismoney.co.uk/money/investing/article-5457851/The-lament-one-building-society-falls-brink.html>

a future financial crisis, the mutual sector will not be so well-positioned to pick up the slack in the market.

10. FCA's duty to promote effective competition necessarily means it must consider the ingredients of competition across all its work, and alongside the need to protect consumers and to enhance market integrity. It is important that its assessment of the competitiveness of markets takes a micro rather than macro view, since it is the supply of products and services to customers with particular or special needs that is so often compromised in a widescale assessment of competitive forces.

11. We have responded to the questions raised and would welcome the opportunity to discuss further the issues raised by our response.

Yours sincerely,



Chief Executive  
Association of Financial Mutuals

## Our answers to specific questions

*Q1. Do you have a clear understanding of the FCA's statutory remit, competition powers and aims in advancing its competition objective? If no, what more could we do to explain our competition remit and powers?*

Competition is not simply about increasing choice. More choice might confuse some people, whilst more choice in a badly performing market does not help anyone.

Consumers often apply a rationality lens to financial product purchases and seek evidence from price comparison sites and similar that they have made a prudent product purchase. However, price comparison focuses on cost rather than value, and in the case of insurance in particular, a customer may not discover the low-cost product they have purchased doesn't meet their needs until their claim is refused.

For this reason, mutuals tend to focus more on delivering valuable benefits and a reasonable price, than to aim to appear on best buy tables. To illustrate, past research from the Building Societies Association has shown that banks that appear temporarily on best buy tables, seldom offer good long-term value to the customer.

We would like to see FCA explore more of these issues within its competition remit, to help consumers better understand its remit, and to seek to intervene more actively in markets where competition is not producing good outcomes for consumers.

*Q2. Are there other indicators of potential harm that we should consider in our preliminary assessments of competition?*

We would expect the assessment to naturally look at the degrees of concentration in markets, and to assess the potential for harm both of too much and too little concentration, as well as whether and to what extent FCA should intervene and what effects this would produce.

Areas that produce potentially excessive profitability over a long period may not be operating competitively, or this might be an indicator that there are too high barriers to entry.

The FOS and FSCS should produce valuable supporting data in this assessment. For example, FSCS recently indicated that around 80% of investment advice failures it sees are as a result of sales of unregulated products. However, recent

reforms proposed by FCA to FSCS funding are focused on forcing providers of regulated products- ie insurers- to subsidise the costs of failures in advisers.

We consider it would be useful to develop indicators on the constancy of supply, to ensure markets are well-served throughout the economic cycle, and that substitutes are available to meet genuine customer needs.

*Q3. Are there other tools we could consider when designing remedy packages?*

The tools used need to fit the issues FCA is seeking to study. The FCA paper sets out the main tools, of which data collection- in a variety of forms- is the most obvious. Where there is a lot of talk about the opportunities for big data in financial services provision, it is important that 'regulatory big data' keeps aligned with that.

*Q4. Has this document set out the FCA's approach to competition clearly? Are there other issues relating to our approach to competition that could benefit from further clarification?*

We consider the documents is a good first attempt at categorising an important and relatively new regulatory concept. By necessity, the focus on the document is on the diagnosis of harm rather more than on its resolution. We would expect there to be greater balance in future versions.