



Consumer Insight
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

31 January 2018

AFM Response to FCA paper “Our future approach to consumers”

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 proposals; and
 - explain some of the work AFM and its members undertake to support the best interests of our customers.
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 staff¹.
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 businesses².
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 work³.

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

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

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

5. We are pleased to respond to this paper, which raises some thoughtful views on FCA's future approach. We see the other 'approach' documents as being largely consistent in coverage, and in providing a clearer overview of the way that conduct regulation is evolving in UK financial services.
6. AFM members do not have shareholders, so whilst most companies today will claim that 'customers are at the heart of everything we do', for mutual and not-for-profit insurers that is hardwired into their constitution. Hence whilst for a PLC a key operating metric might be the increase in shareholder value, for AFM members, the corresponding measures focus on delivery value to customers and members. As a result, we are keen to continue supporting FCA's work in this area.
7. We have responded to the questions raised and would welcome the opportunity to discuss further the issues raised by our response.

Yours sincerely,

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

Chief Executive
Association of Financial Mutuals

Our answers to specific questions

1. *While having regard to the general principle that consumers should take responsibility for their decisions, do you agree that there are circumstances where consumers cannot be expected to take responsibility? What do you think these circumstances are? How could – and should – the FCA intervene in these cases?*

This issue has been regularly debated since the inception of the FSA. It is perhaps a reflection on the complexity of defining and putting boundaries around this that the approach paper suggests: “*we expect consumers to take reasonable responsibility for their choices and decisions*”, without being able to adequately define what ‘reasonable’ means or how FCA interprets it.

As FCA does say, reasonableness will depend on circumstances. Those circumstances will include a very wide range of factors, such as the nature of the issue, the relative complexity of the product or solution, and the provision or absence of advice. And they will also include the position of the individual, the financial capability of the consumer, their confidence in making financial decisions and whether they have any financial vulnerabilities.

Such circumstances might limit the extent of a consumer’s responsibilities rather than obviate them altogether. For example, FCA’s Occasional Paper on the ageing population included a chapter on third party access. This recognised that even in circumstances where a customer is suffering an acute vulnerability, their responsibilities remain, but that the financial system should be flexible and caring enough to adapt its approach to support alternative means for fulfilling those responsibilities, such as by enabling temporary third party access. We think this is a useful concept on which to build.

Our interpretation of the Financial Lives report is not as stated in the paper that “*Low levels of financial capability, financial resilience and confidence in their ability to make financial decisions, coupled with behavioural biases, make it difficult for firms to expect consumers to always take responsibility for their decisions and actions.*” Instead, regulators and financial firms should be realistic about the extent of those responsibilities: in the same way that a motor manufacturer would accept most consumers would not understand what is going on ‘under the bonnet’, they would expect them to be responsible for driving the vehicle with due care and attention and within the law, to seek help if it breaks down or doesn’t perform in the way they expect, to pay the running costs and taxes as they fall due, to maintain loan and insurance payments and make claims as necessary, and to understand that if they fail to do any of these they may be doing themselves or others harm, or breaking the law.

We consider that similar responsibilities are appropriate in most cases for most consumers of financial services.

2. *Do you agree that firms have a responsibility to take reasonable steps to identify the signs of vulnerability, and to have processes in place to take appropriate action where they have identified a consumer with a particular need and at a particular risk of harm?*

We agree with this responsibility for firms. As FCA states, up to half of consumers show characteristics of potential vulnerability, so this should be a key duty for firms. Many consumers with vulnerabilities do not naturally demonstrate those characteristics, so it is important that customer-facing staff have the right skills and knowledge to identify potential vulnerabilities, as well as the support of the organisation to act in the best interests of the customer.

Within AFM we have undertaken a series of workshops with members, in association with “Let’s Talk Ageing”, to help them better understand and act on indicators of vulnerability. We have provided an overview to FCA of the content of those workshops, and have been enthused and encouraged by the desire of attendees to support elderly and vulnerable customers more effectively. We have supported the programme of seminars with tools such as the draft Vulnerability Policy attached, and we are developing with Let’s Talking Ageing a series of infographics, such as the one attached, to provide ongoing support in the workplace.

3. *Which consumer issues do you think sit directly within the FCA’s remit, and which are more a matter for Government? Are we right to commit our resources to working with other organisations, such as firms, other regulators, Government, courts, consumer groups etc., where improved consumer outcomes may require action that is not within the FCA’s regulatory toolkit?*

FCA’s statutory powers provide it with a wide consumer remit, but also provide some important barriers around and limits to their responsibilities. Part of that recognises that financial services can never completely harm or risk-free.

For example, FCA is a conduct and product regulator, and does not have the same statutory powers to intervene on price as does an economic regulator. That is not to suggest it should not intervene, or work with other agencies, where consumers are placed at risk as a result of unfair pricing- recent activity on pay-day loans is a good example of where FCA, the Government and other agencies have acted in a co-ordinated fashion to the benefit of consumers.

The interplay of FCA with other agencies, such as MAS, FOS and FSCS is vital in ensuring markets work efficiently and in the best interests of customers. We encourage FCA to expand the way it works with these organisations, and also to develop broader memoranda of understanding with other agencies, so that it can share intelligence and support action in areas beyond its remit.

FCA’s statutory powers are regularly reviewed by parliament, and tested by the courts, and we do not see any compelling argument for extending those now.

4. *Do you agree with the aspirational vision and outcomes that we explore? Are there any further barriers or risks to us achieving it?*

We support FCA’s vision of ‘well-functioning markets that benefit everyone’, and that this means consumers are enabled to buy high-quality, good value products and services that meet their needs.

We encourage FCA to consider how it can better support consumers in this: for example, by continuing its very valuable work on innovation, and reducing barriers to entry. We consider that where FCA has undertaken work on the value on products, it should extend that work: for example, the key issue for any insurance policy (even more than its price) is whether it will pay out in the event of a claim. Ensuring consumers have that information, and can act on it when making buying decisions- rather than simply selecting the lowest cost on a price comparison site- is vital to FCA's vision.

FCA's recent paper on the ageing population provided examples of good practice which were largely restricted to banking. We would encourage FCA to offer examples of effective solutions in other markets, and are happy to support such exercises.

5. What further metrics would you use? Are there any specific data sources or tools that may be of benefit?



For products our members are active in, key metrics might include: products sales data to help identify trends or risks; claims data to ensure products perform as promised; complaints data, measured at point of sale and in relation to ongoing administration; performance data to demonstrate products deliver what is expected.

6. Do you agree with this framework? Would you like us to consider any additional or alternative factors in how we regulate:

- a) for all consumers;*
- b) for the most vulnerable or excluded, and*
- c) to meet the challenges of the future?*

We agree with the framework. We don't consider this should be made over-elaborate, as greater complexity will make it less relevant in some circumstances.

Draft AFM Vulnerability policy



OUR VULNERABLE PEOPLE'S POLICY

For the purposes of this policy, vulnerable people are customers and prospective customers whose ability or circumstances require us to take extra precautions in the way that we provide our services. We will take all reasonable measures to ensure that the risks of harm to welfare are minimised and that all people are treated fairly.

Recognising a vulnerable consumer

When engaging with customers it is often difficult to recognise a vulnerable consumer because unless it is a face-to-face conversation it will not be possible to see many of the characteristics, such as body language and facial expressions, which may identify whether the customer requires additional information and guidance to enable them to make an informed decision. For this reason, it is critically important to listen carefully to all customers and to identify those who may be classed as vulnerable. Characteristics that may indicate a vulnerable customer include:

- ☐ An inability to hear or understand what is being said.
- ☐ Repeated questions of a similar nature.
- ☐ Comments or answers which are inconsistent with the discussion or which indicate they have not understood the information which has been provided.
- ☐ Verbal confirmation that they don't understand or that they require the assistance of somebody else to help them decide.

What to do if we are engaging with a vulnerable consumer

Just because somebody is vulnerable does not automatically mean that they are unsuitable for the products and services that we supply. As soon as we think we may be engaging with a vulnerable customer we should immediately make a record of this, that confirms with data protection rules, and ensure we adhere to this policy.

When speaking to a vulnerable customer we will:

- ☐ Remain patient and empathetic; do not rush the customer, interrupt or appear impatient.
- ☐ Provide additional opportunities for the customer to ask questions about the information we have provided.
- ☐ Continuously seek confirmation that they have understood the information provided.
- ☐ Refer them to someone with more specialist training if the customer is happy.
- ☐ Ask if there is anybody with them who can assist them, and offer them the opportunity to have a family member or friend present during the conversation.
- ☐ Offer them the opportunity to complete the transaction after a period of further consideration.

If we think the customer does not understand the service which is being offered to them we will not proceed with the transaction and inform them that we will write to them with further information about the product or services they are seeking.

Infographic (first in a series under development)

