Inside the AGM--the FCA's second annual general meeting

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Financial Services analysis: How did the board of the Financial Conduct Authority (FCA) fare at this year's AGM? David Bowden, freelance independent consultant, comments on the main points in the annual report, the presentations made at the AGM, and sets out a selection of questions that the board faced.

Who was at the AGM?

At the AGM were its main executive and non-executive directors. This included:

- John Griffith-Jones, chairman
- Martin Wheatley, chief executive
- David Godfrey, chief operating officer
- Tracey McDermott, supervision director
- Georgina Philippou, acting director of enforcement and market oversight
- Christopher Woolard, director of strategy and competition, and
- Linda Woodall, acting director of supervision--retail and authorisations

The non-executives there were:

- Amanda Davidson
- Mick McAteer and
- Sir Brian Pomeroy CBE

What about the FCA panels?

In previous years, the Financial Services Authority (FSA) had always invited representatives of its three panels to its AGM to present their companion reports. Rather disappointingly, the FCA has not followed this practice and no-one was there from these three panels. In the interest of completeness, the main findings from these three panels are set and below along with links to where these other companion reports can be found.

What was the mood of the meeting?

The FCA presented its reports in its usual fashion, somewhat oblivious to what was happening in the real world. The FCA could not escape the fact that it was in crisis at board level with its CEO having announced he was standing down. In truth, the Chancellor of the Exchequer had forced him to go because of the way the FCA had mis-handled its inquiry into exit fees on old insurance policies. The members of the public who attended had predominantly been the victim of various mis-selling scandals and were in rebellious mood and were not going to take woolly answers from the FCA board. The FCA executives gave answers which varied in quality. Some were well briefed and answered questions fully. Other answers were thin, evasive or not dispositive of the question. At one point the chairman nearly lost control of the meeting.

What is the view of the chairman of the FCA on its performance?

for further improvement. He pointed out that the FCA had seen an increase of the number of firms it regulates--from 26,000 to 73,000--as a result of the transfer of consumer credit regulation from the now defunct Office of Fair Trading. He claims that stakeholder research shows positive signs including its rate of effectiveness. He claims that regulated firms satisfaction rating with the FCA has improved from 'neutral' to 'good' and that this is 'encouraging'.

In December 2014, after barely two years in operation, the FCA engaged in a restructure--the rationale for which the chairman was unable to justify. The chairman claimed that the FCA would issue fewer but more focused pieces of work in 2015/16 but whether that does happen remains to be seen. In an empty display of contrition, the chairman said the FCA had learned from its mistakes and said it held itself to the same standards internally as to that it seeks from the firms it regulates.

In the 2014/15 business plan, the chairman accepted that the FCA had fallen short and needed to take stock when it made mistakes. It had accepted in full the recommendations of the review conducted by Simon Davis published in December 2014. The FCA claims to have already made important changes to its internal processes and operating model since to sharpen its focus.

Finally, the chair paid tribute to its CEO who is 'standing down' in September 2015. The chairman praised his performance, high standards, integrity, leadership and innovation within the FCA.

What is the view of the chief executive of the FCA on its performance?

Martin Wheatley is the chief executive of the FCA but it was announced last week that he would step down in September 2015. This was his last AGM as CEO.

Rather surprisingly, Mr Wheatley opened his presentation with a feature on 'vulnerability'. Oddly, the FCA sees this in the following five silos:

- literacy and numeracy
- caring
- disability and dementia
- mental illness, and
- savings

Mr Wheatley claimed that many firms did not have an over-arching strategy on dealing with vulnerability. He noted that he had seen some good practice in firms in relation to recording powers of attorney and handling bereavements. He felt there was a genuine desire within firms to get this right.

On competition, Mr Wheatley said that in the 2014 business plan, the FCA had committed to a current account switching service. In what he termed the 'cash savings space', the FCA wanted consumers to have 'clear targeted information' so they could compare their accounts.

Mr Wheatley singled out Aire for particular praise. Aire offers an alternative credit scoring system for consumers which better meets the needs of a mobile workforce who come from different countries. Aire provides a credit score according to a customer's background, salary and social media profile.

Mr Wheatley still sees barriers to entry in the banking sector which will be for the PRA to look at rather than the FCA. Since 2013, the FCA has seen a three-fold increase in pre-application meetings.

Mr Wheatley was keen to boast about the number and amount of fines the FCA had levied on firms in the previous year. This included £1.1bn fines levied on five banks in relation to failure to control foreign exchange trading. The LIBOR investigation continues and Mr Wheatley said these scandals had undermined confidence in the UK financial system.

On the retail distribution review (RDR), Mr Wheatley was forced to concede that it had not solved all problems. He thought that an ongoing service element of financial advice was an important motivator for customers to pay for it. There has been a post-implementation review of the RDR (including professional services) with recommendations for partial disclosure of cost, scope and nature of services.

There is ongoing policy work in relation to pensions and the FCA is working with HM Treasury, the Department for Work and Pensions (DWP) and the Pensions Regulator on this. Data from an ABI survey shows that £1bn has been taken out of pension pots. Mr Wheatley said the challenge was ensuring consumers had the right information to make these financial decisions. Mr Wheatley sought to promote the pension wise portal in this regard. The FCA has conducted a retirement income market study. The outcome of this is that the market is not working as well as it should. Consumers were not shopping around and were deterred by complexity. The FCA proposed a number of solutions to this including:

- a trial of 'wake up' packs to be sent to consumers
- pensions dashboards so consumers could see all their pensions in one place, and

- o national awareness campaign in relation to pension scams

On mortgages, Mr Wheatley said the mortgage market review (MMR) had provoked a lot of interest and comment. Mr Wheatley though the climate in 2015 was very similar to that in 2007 and that too many customers could be in financial difficulty when the economic environment changes. The FCA is staging its first mortgage conference in September 2015 with a focus on age and over-indebtedness. The FCA wants to encourage debate, make the mortgage market safer and more effective.

In relation to the implementation of the EU Mortgage Credit Directive 2014/17/EU, Mr Wheatley believes that the FCA's existing MCOB rules are largely aligned already with the new EU rules. The FCA wants the Directive implemented with as little possible disruption to the UK market as possible. The FCA is continuing to monitor the risks posed by maturing interest only mortgages where there is no or not sufficient vehicle in place to repay the mortgage capital.

On insurance, Mr Wheatley singled out four products:

- o travel
- o GAP (guaranteed asset protection)
- o gadget, and
- o home energy

The FCA feels there is a lack of competition and lack of consumer information at the point of sale. There is a low level of claims in this sector of the market. From 1 September 2015, there will be a break before GAP insurance is sold to determine if the consumer really needs the product. The FCA wants an outright ban on opt-out selling of insurance. It also wants the correct price of credit add-ons displayed.

In relation to the regulation of consumer credit with CONC (Consumer Credit Sourcebook), the FCA has seen a considerable jump in the scale and variety of firm it regulates. From April 2014, 50,000 firms were in the interview phase and by the end of March 2015, the FCA had authorised 11,000 firms including 5,000 firms the FCA had not previously authorised. The FCA sees the challenge in this sector as ensuring the market works well.

On high cost short term credit, Mr Wheatley said that as a result of the steps the FCA had taken, Citizen's Advice had now seen a 53% fall in the number of complaints about these firms. The new FCA rules meant no consumer would have to pay back more than twice the amount they had borrowed. Interest and fees were not to exceed 0.8% per day of the amount borrowed. The maximum default fee is capped at £15 per day.

On scams, Mr Wheatley was keen to promote its Scam Smart portal. The average investor who fell victim to a scam lost £20,000. Scams are difficult to spot. The FCA receives over 5,000 calls a year about suspected investment fraud. Mr Wheatley had three pieces of advice:

- o reject cold calls
- o check the FCA warning list, and
- o get independent advice

Mr Wheatley said the FCA would implement the recommendations of the Davis review in full. He conceded the FCA still had work to do. He was anxious that conduct was at the top of all firm's agendas so that consumers have confidence.

Finally, Mr Wheatley announced that while he would leave the FCA on 12 September 2015, he would remain on the FCA Board until January 2016. He said he wanted to keep the UK as the world's leading financial centre and that he was 'disappointed' to be moving on.

How does the Financial Services Consumer Panel (FSCP) see things?

Sue Lewis is the Chairwoman of the FSCP. She is a consumer advocate member of the Chartered Insurance Institute's professional standards board, trustee of the Personal Finance Education Group and of StepChange debt advice charity. She is a former civil servant at HM Treasury, Department for Education and Cabinet Office.

The FSCP Annual Report 2014/15 can be found in full here. The panel sets out seven priorities for 2015/16:

- pensions liberalisation
- consumers as co-regulators
- investment costs and governance
- banking
- duty of care
- small businesses, and
- EU initiatives

The most controversial of these is the fifth one. The FCSP says that the FCA's 'Treating Customers Fairly' initiative has now worked. Instead, the FSCP wants a statutory duty of care on all firms undertaking regulated activities. It says it is time to put a sharper incentive on providers to put their customers at the heart of what they do. It claims a duty of care would give greater clarity by requiring firms to act in their customers' interests, rather than the existing weaker FSMA 2000 duty. It thinks a statutory duty would catalyse culture change within firms, which many claim they want. There was no comment from either the chairman or the CEO at the AGM on this proposal.

How does the Financial Services Practitioner Panel (FSPP) see things?

Alison Brittain is the chairwoman of the FSPP. She is also group director of retail at Lloyds Banking Group. The FSPP Annual Report 2014/15 can be found in full here.

The FSPP's main message to the FCA has been that communication should be fact and evidence based, and that there should be balance in its communications to rebuild confidence in the marketplace. The FSPP believes that its work is at its most effective when it:

- has early access to policymaking
- has the opportunity to advise and warn, and
- provides practical information at a strategic level

One of the FCA's main tasks in 2015 has been to implement the work of the Parliamentary Commission on Banking Standards. The main challenge of this work has been to balance the demands of individual responsibility with the concept of collective decision making. The FSPP's view is that the regime must be realistic and practical in order to attract and retain talented individuals within the industry.

For 2015/16 the FSPP has three priorities

- the FCA as an effective regulator
- the strategic impact of regulation, and
- building a more effective relationship and two-way dialogue between the FSPP and FCA

How does the Smaller Business Practitioner Panel (SBPP) see things?

Clinton Askew is the chairman of the SBPP. He has worked in the independent sector since 1986 and was until 2003 a partner in a small family IFA business. He is a former director of the IFA Association and chairman of its London region. The SBPP Annual Report 2014/15 can be found in full here.

Over the past year the impact of regulation continued to be an important element of the business environment and the effect on smaller firms in particular continues to be significant. The SBPP has been planning for expected changes such as the implementation of the MMR and the 2014 changes to the pension's rules.

The SBPP provides constructive input to the FCA's work and its job is to raise the issues that are specific to smaller firms. In 2014/15 there were two priorities:

- proportionality of regulation (by encouraging the FCA to always consider that small firms might be unintentionally overburdened with responsibilities), and
- regulatory certainty

Smaller firms do not have dedicated resources dealing with regulatory information in the way that larger firms have. The SBPP has raised the issue of appropriate communication looking at tone, frequency and content and it has encouraged the FCA to use more targeted communications.

Substantial FCA resources have been utilised to take on the regulation of consumer credit. The vast majority of consumer credit firms are small businesses and fall within the SBPP's remit. The SBPP has focused on engaging with the authorisations team to clarify some areas where there has been confusion or uncertainty in the industry.

What questions were asked from the floor at this AGM?

In total 19 questions were asked at the AGM. In this piece not all of those questions are set out and questions have been grouped according to theme. The contentious questions fell into three main groups:

- interest rate hedging products (IRHPs)
- skilled persons reports under the Financial Services and Markets Act 2000, s 166 (FSMA 2000), and
- report into HBoS

IRHPs

Eight questions were asked in one batch about IRHPs. In response, Mr Wheatley said this was a difficult topic. The FCA launched a review two years ago. The complaints arise from business loans take out between 2007/8 when base rates were 5.5%. Since then base rates have fallen to 0.5%. There has been a review of 30,000 sales. It is an on-going process but:

- 17,000 redress letters have been issued
- 7,000 customers have accepted redress offers, and
- £2bn has been paid out by firms so far in redress

A specific question about an IHRP was asked by Bob Hawkins. He said a note of a telephone with his bank had been fabricated and so he was denied redress. He said he had written to the FCA about this and had received a brush-off response. Tracey McDermott gave an unsatisfactory answer which did not answer the question but merely said the complainant had two options--either make a complaint to the Financial Ombudsman Service or bring a court claim instead. The FCA cannot change the outcome of a firm's review.

A lengthy speech was given by Jeremy Rowe of Bully Banks. This concluded with three questions:

- What is the aggregate value of fines levied by the FCA on firms in relation to IRHPs?
- How many sales people have had their authorisation removed?
- How many people have been prosecuted?

In response, Mr Wheatley had to concede there had been no fines and no prosecutions.

Skilled persons reports

Keith Wates said that in evidence to HM Treasury Select Committee, Mr Wheatley had told Andrew Tyrie MP that typically a skilled person takes representations from a customer as well as a firm. He said he was not allowed access to the skilled person appointed by his bank. He asked Mr Wheatley to clarify his evidence to Parliament. Mr Wheatley was forced to concede that 'his words were not as clear as they should have been'. He said a skilled person would see everything brought to a firm.

HBoS report

Mr Meadowcroft said that at the last three AGMs the FCA/FSA had been asked when it will publish its report on this and various reasons were given including 'Maxwellisation'. He asked the FCA when this report will be published. In reply, Sir Brian Pomeroy (as chair of the Audit Committee) said the FCA wanted this report out as soon as possible. However, some stages were not within the FCA's control. The FCA has to follow a Court of Appeal decision and allow those criticised in a draft report an opportunity to respond before it is finalised or published. Under FSMA 2000, s 348 there were restrictions put on the FCA in relation to the disclosure of confidential information. In view of these uncertainties, the FCA cannot commit to a publication date for this report.

Pensions

One questioner asked about pensions reform saying the pace of reform had been too slow, that pension charges were too high and inflexible and that actuaries had a closed shop in this field. Martin Wheatley in response said reform had been historically slow and put the blame on the DWP for rules on actuarial valuations.

Crowdfunding

Another questioner asked about peer-to-peer lending and crowdfunding expressing concern that this was now attracting institutional money. In reply, Chris Woolard said this market was now more mainstream and mature. The FCA will keep its rules under review especially in relation to conflicts of interest.

Yorkshire Building Society (YBS) fines

Mr Baxter asked the panel about the fines that the FCA had levied on the YBS. He said that as a mutual society, these fines fell to be paid by its members (who had done nothing wrong) rather than those executives who had. In reply, while Georgina Philippou admitted this was a good question she was unable to provide a satisfactory answer. The YBS faced a fine of £4m for mortgage selling and another of £1.4m for financial promotions. She made reference to the senior manager's regime and a responsibility map within firms.

Removal of directors

Michael Mason with a hostile question pressed the FCA to explain what it took to get rid of a director at a firm who had failed to perform according to the FCA's rules. Mr Wheatley insisted the FCA did listen to intelligence that was provided to it. However, he said the FCA was secretive because it has to be because of whistleblowing legislation. Mr Wheatley said the FCA could only act where it had clear evidence.

Connaught investors

Another questioner asked about the Connaught Series 1 Income fund and when the FCA would issue a restitution order. In reply, Georgina Philippou admitted this had caused serious distress to investors and there had been prolonged discussions. The FCA is investigating the activities of Capita Financial Managers and Blue Gate Capital, the fund's former authorised corporate directors. If necessary, the FCA will use its enforcement powers.

Consumer indebtedness

Mr Francis McGhee asked about the FCA's view on household debt in the UK. He said debt to income ratios in the UK would rise to pre-banking crisis levels by 2020. Mr Wheatley said firms had to operate the FCA's new rules on affordability when granting loans.

However, in relation to the broader picture, this was a matter for the Bank of England to monitor and not the FCA.

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