The Way Ahead for Conduct Regulation: A positive partnership to deliver for consumers
Tuesday 18th September
Speech by ABI Director General, Otto Thoresen

Check against delivery

Good morning and welcome again to the ABI’s ‘Way Ahead for Conduct Regulation’ conference, kindly sponsored by Freshfields.

My thanks to Martin Wheatley for joining us – I’ve heard Martin speak on a number of occasions now and I always find new perspectives in what he says about this critical subject for the UK financial services industry and its customers.

This morning I’m going to talk about our report, published today, “The Way Ahead for Conduct Regulation.” It is the result of a long and thoughtful piece of research and consultation. The report seeks to learn lessons from other regulators in the UK and around the world, and to put forward some ideas about how we, in partnership with the FCA and government, can take things forward. A copy is in your pack.

Before I get into the themes in our report, I’m going to give a little context on the insurance view of conduct regulation.

A view that is vital to delivering better outcomes for consumers.

Regulation is an area where some of the problems over the years have stemmed from a lack of dialogue between the industry and the regulator.

Martin has spoken to all the participants in financial services markets – banks, building societies, insurers, advisers, consumers and more. We have welcomed his time and engagement with the insurance industry, - at ABI member events, at dinner with our Board, or in private discussions.

Insurers did not oppose the creation of a separate conduct regulator. We recognised the need for a clearer and more dedicated focus on consumer issues. At the ABI we have split our regulatory unit into an internal twin peaks with separate conduct and prudential teams to reflect the UK’s regulation changes.

The FCA gives us the chance to build on some of the positive changes made in recent years. Changes spurred on through the Treating Customers Fairly initiative and the forthcoming implementation of the Retail Distribution Review.

At the heart of the Financial Conduct Authority purpose is improving consumers’ experience of financial services.
And here is where the FCA’s agenda, and the insurance industry’s agenda agree.

Insurance products and services provide an inherent social value, to individuals, companies and to the wider economy.

Whether you are protecting yourself from risk through your car, home or travel policies, saving for the future or covering commercial risks to your firm…

…..all of these products help to protect consumers from the consequences of unexpected events.

And the assets we gather to cover these short and long term liabilities are invested in the companies which will generate the economic growth this country needs so badly.

It is a critical role and one which carries with it responsibility particularly given the challenges we have faced, and will face as a result of the financial crisis.

Our regulatory system has a big part to play in making this role achievable. So it’s a good time to reflect on what our conduct regulation system needs to deliver……

…and to step into our customer’s shoes. What does their world look like? How can good conduct regulation support them to make better, more informed, and more confident financial decisions?

Our report discusses six themes which can form the foundation on which to build a way forward to a successful conduct regulation regime which improves consumer outcomes.

We believe that we need -

- to make markets and regulation work to support delivery of public policy goals
- a regulator in touch with consumers.
- Regulation which focuses on ensuring markets deliver products which meet consumer needs.
- Regulation which enables effective competition and innovation in financial services markets.
- Strong engagement between industry and the regulator to shape the agenda in the UK and in Europe

And finally, and most importantly, a relationship between regulator and regulated built on mutual confidence and respect…..which is why our conference today carries the byline "a positive partnership to deliver for consumers".

Turning to the first theme, we believe that it is vital that conduct regulation not only supports the consumer, but complements the rest of their world.

The OECD Financial Consumer Protection Task Force has reached the same conclusion.
They recommended that consumers are best protected when complemented with wider public policies which promote competition; consumer choice; consumer access to products; and support financial education.

We will be urging the Government to ensure that the new FCA delivers regulation that goes with the grain of wider social policy.

Insurance solutions can complement or replace elements of state provision, and encouraging private take up will reduce the numbers of citizens falling into dependency when an unexpected crisis hits them or their families. The most obvious examples would be long term care and retirement savings – both ever more important as our population ages.

Motor and Employers’ liability insurance are compulsory insurances for those who need them. Government policies and initiatives influence the shape of these insurance markets.

We want to see amendments to the Financial Services Bill putting the right statutory framework in place – so that we can be sure that Government, industry and regulatory agendas are aligned – leading to the best long term, sustainable outcomes for consumers.

A good example of this approach working in another sector is the draft Energy Bill, which includes a statutory requirement on the Government to produce a Statement setting out the Government’s strategic priorities for the energy sector – and defining regulator Ofgem’s role in delivering them.

We recommend the development of a joint understanding with Government and the FCA on the role the financial services industry should play to ease burdens that would otherwise be placed on the State – for example, as a result of an ageing population.

We want to play a full and active role in delivering a regime that helps us all deal with some of the big challenges facing society.

To that end, and the first commitment from the industry today, we will share market intelligence with the FCA – so that regulator and industry better understand, and flag to each other, any possible developing issues which may have consequences for consumer outcomes in the future, but have not yet crystallised through evidence or experience.

Our next theme centres on being in touch with the consumer experience. This means a departure from a regulator which traditionally only got involved when something went wrong – and a move to an FCA which understands the financial needs of all consumers so that people from every background benefit.

Our research found that, less than half of those in lower socio economic groups identify the FSA as the financial services regulator, compared to 65% in higher groups.
We would like to see the FCA working closely with organisations like the Money Advice Service, to deliver commonly agreed, consumer focused initiatives promoting good financial habits.

The insurance industry is working with the Money Advice Service so that we may benefit from the insights they are gathering from consumers using MAS services, and from their consumer behaviour research.

The U.S have recently established a Consumer Financial Protection Bureau or CFPB – focused on financial education to make financial markets work well for consumers.

As student tuition fees in the UK have risen, perhaps we could learn from the CFPB’s example of ‘Know Before You Owe’. For higher education, they have put together a financial aid shopping sheet. This sheet suggests how universities might improve the information they present to prospective students and their families on how debt works and the best way to stay in control of your financial affairs.

Again, when we look at the bigger picture, in a climate where young people are the group worst affected by unemployment, are expected to leave university around £30,000 in debt, and the average first time house buyer is 35 years old the US example is the type of preventative measure that is designed with pressures on the consumer in mind, reflecting their world– and to which the industry could make a helpful contribution, working in partnership with the regulator, Government and consumer groups.

To support the regulator in engaging better with consumers, and our second commitment today, is to build on existing initiatives such as Carol Sergeant’s proposals on simple products. Making sure our language is as clear as possible for consumers to understand, and making it easier for them to engage as effective consumers with the industry.

I will turn now to our third theme. The insurance industry serves a very diverse set of consumers. So it is critical that regulation should focus on ensuring markets deliver products that meet consumer needs.

Product intervention is new territory for everyone – and if we are not careful, it could be a blunt tool. A collaborative partnership approach will work best.

However it is clear, and I’ve heard Martin make this point on a number of occasions, that there is very rarely such a thing as an inherently bad product. Rather, it is the combination of a product with a consumer for whom it is not designed, that creates the bad outcome.

We recommend that the FCA should develop the existing TCF framework for product intervention in a way which further improves understanding of the dynamics of product and distribution – and accounts for market trends such as distribution changes.

This resonates with the ABI’s consumer philosophy of ‘the right product, at the right time, to the right consumer, in the right way,’
And to ensure that these developments take place in as well informed an environment as possible the industry, in its third commitment today undertakes to lead a quarterly review with the FCA of industry progress in addressing the risks they identify in their Retail Conduct Risk Outlook – to maximise the chances that we avoid these risks - as Martin discussed earlier - from becoming a reality.

Any policy lever that has consequences for the way products are regulated has an inevitable knock on effect on competition and innovation. Unlike its FSA predecessor, the FCA will be taking responsibility for promoting competition in financial markets – a positive step, but one that will require some new approaches.

I’ve already made the point that the industry has the potential to contribute to social policy through the products we offer, the investments we make in companies and the employment we generate in our own sector. So it is vital that we have a regime designed by Government and regulator to facilitate effective competition and innovation.

These new responsibilities will make their own demands on the FCA both in terms of the frameworks they will need to carry out rigorous market analysis and the new skills in market competition policy they will need to recruit into the organisation.

Martin covered some of these issues in his speech today, and I’m sure we will return to them, and the modus operandi of the FCA with the OFT (and its successor the Competition and Markets Authority) will be critical to avoiding unnecessary overlap.

Our penultimate theme is how conduct regulation in the UK can develop in harmony with the direction of travel for European Financial Services regulation.

European Regulation in financial services continues to grow in influence here in the UK, and the twin peaks model is quite different from the sectoral model being adopted at a European level.

Some have argued that future EU level and UK financial regulation are not well aligned.

Rome wasn’t built in a day – as Europe’s power in regulation increases, the success of the UK financial regulation will rest, perhaps more than we care to admit, on our ability to speak with one voice that carries weight in Brussels.

The UK insurance industry is the biggest in Europe. And as a percentage of GDP, the UK financial services industry is bigger than the USA’s. So our voice should carry weight in Brussels. But our impact will be significantly undermined if the Treasury, the regulators and the industry all board trains at St Pancras with different destinations in mind!

The insurance industry will work proactively with the FCA and the Treasury to agree our destination.

Something we have done along with the Treasury and prudential regulators on major directives such as Solvency 2 and the Gender Pricing judgement.
Now that Europe’s retail and conduct regulation agenda is ramping up, we need to work together on consumer issues as a matter of urgency. I can today make the industry’s next commitment..... that we will go out of our way to share our knowledge and experience of the EU and international markets and regulation with the FCA – creating a shared view of the future.

Our last theme will be of no surprise to any of you. It’s the culture, or attitude, the regulator and the industry should apply to developing the conduct environment.

And in many ways it is the glue that binds together the approach as a whole, just as the culture within an organisation is the strongest determinant of outcomes for customers of that firm.

We cannot expect to build consumer confidence, if we get stuck in a predator/prey; poacher/gamekeeper; industry versus regulator mentality.

The way ahead for regulation, has to be one where the industry and regulator work in partnership to focus on what needs to be done for consumers. This last chapter in our report includes recommendations based on more dialogue on emerging issues, with a ‘can-do’ attitude in mind.

Our final industry commitment is to continue to work hard within our firms to build on the strengths of the current regulatory regime, including Treating Customers Fairly and to deal positively in all aspects of our regulatory relationships.

Lastly, one area where we know we can do better, is the information that we give consumers about what to expect from their investments.

We believe the FSA’s current projections regime would benefit from review – so that it is more relevant to and useful to consumers.

We are commissioning consumer research to better understand consumer needs, and how they respond to alternative ways of conveying information about the relationship between risk and reward.

We would like to work closely with the FCA on this, and the EU regulators who are developing their own proposals in this area.

There is no perfect answer to the uncertain nature of investments – but we should have a proactive attitude which says we want to agree a better way forward with the interests of consumers in mind.

I hope that many of you do spend a little time looking through our report. And taking the opportunity to ask questions. You will also hear later from ABI Board members and industry Chief Executives, Aviva’s Trevor Matthews and Lloyds Toby Strauss, who will talk more about what our recommendations and commitments mean in practice.
We are also looking forward next month to the FCA’s approach document which will give us the clearest sense yet of what it will feel like to be regulated by the new FCA.

The way ahead for regulation has to be one where the industry and regulator work in partnership to focus on what needs to be done for consumers.

The insurance industry has been resilient through the crisis and continues to pay out at least £190m a day to millions of customers.

We have already worked hard to make improvements to our how we do business. In the last twelve months alone we have taken proactive steps to improve our offering to consumers and reinforce our impact on the UK economy.

We:

- Introduced our compulsory code of conduct for all ABI member companies on improving the operation of the ‘income’ phase of retirement savings making it easier for people to get a better deal on their pensions;

- Implemented an industry funded specialist anti-fraud police unit and set up an Insurance Fraud Register of known fraudsters: both significant initiatives to drive down the £50 cost that fraud adds to the average household insurance bill

- Continued to work intensively with the Government on our proposal to share the costs and preserve the protection of people living in high risk flood areas;

- Pushed ahead on the transparency agenda on pension costs and charges, with the NAPF at employer level, and more recently with the FCA and the Pensions Regulator at employee level, building on the work that our colleagues at the IMA are leading on investment fund disclosure

- And initiated discussions with the Treasury on ideas around infrastructure investing by insurance firms, to help return UK plc to health.

These steps are a sign of the times: evidence of changing behaviour and a sign of intent that more is to come.

Attitudes have changed since I entered this industry more than 30 years ago. And at the ABI Board we are more focused than ever on promoting good consumer outcomes.

And on ensuring that the work we do is aligned with the grain of social policy.

We understand the role our products and services play for consumers:

Helping people and organisations to recover from loss – and avoid loss in the first place.

By helping society face up to and manage risk effectively, insurance makes a major contribution to our lives, breaking the spell of risk and releasing us to take rational choices, to experiment, build and create.
We fully support the creation of the new FCA, with a clear focus on consumers, giving the industry and regulator an opportunity to take stock on what can be done better and build on existing initiatives like TCF, which are already making a real difference.

We face a new normal, with the challenges of an ageing population, a squeeze on household and public budgets, low interest rates and low growth.

Insurance has always been about developing solutions for these challenges and the work of the new regulator is a key enabler to allow us to continue to do this.

Together, we can forge ahead to improve outcomes for consumers and create better futures for them and for their families.

Thank you.