

## Response from the Banking Standards Board to the FCA's *Our Future Mission* Consultation

### Introduction

1. The Banking Standards Board (BSB) welcomes the opportunity to respond to the FCA's consultation on its mission. In this response, we set out in broad terms how we see the work of the BSB with its member firms complementing the FCA's role as a supervisor and regulator and contributing to a stronger, sustainable UK banking sector. We will then turn to provide some specific responses that are relevant to specific sections of the consultation paper.

### Background to the Banking Standards Board

2. The BSB was established by the industry following the 2013 report by the Parliamentary Commission on Banking Standards, 'PCBS'<sup>1</sup>. One of the recommendations of the report was that banks and building societies should take ownership of and responsibility for their own conduct and, more broadly, culture, which the PCBS argued should and could not be the responsibility of policymakers and regulators. The PCBS proposed that a new body be established to facilitate a focus on culture in banking. Following a review initiated by the industry of how this should be done<sup>2</sup>, the BSB was established in April 2015 with the purpose of helping to raise standards of competence and behaviour in the UK banking sector.
3. The BSB is an independent, voluntary membership organisation<sup>3</sup>. It is not a trade body or a professional body, and it has no regulatory powers. It does not lobby or speak on behalf of the sector, but provides objective and evidence-based feedback, support and challenge to member firms committed to raising standards across the sector.

### The role of culture in banking

4. The FCA's approach to supervision (Section 12) rightly emphasises the importance of firms developing cultures that ensure that potential issues are identified and addressed. It is particularly important that firms take responsibility for regulatory compliance and remedy issues that do arise quickly and effectively. Regulation cannot prescribe *ex ante* how staff should behave or make judgements in every circumstance, and especially not in the dynamic context of financial services. Firms – in the organisational culture they

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<sup>1</sup> Parliamentary Commission on Banking Standards, June 2013, *Changing banking for good, Volumes I and II*, HL Paper 27-I and HC 175-I, London: The Stationary Office available at:

<http://www.parliament.uk/business/committees/committees-a-z/joint-select/professional-standards-in-the-banking-industry/news/changing-banking-for-good-report/>

<sup>2</sup> Lambert, R, May 2014, *Banking Standards Review*, available on the BSB's website at:

<http://1984london.com/banking-standards/pdf/banking-standards-review.pdf>

<sup>3</sup> The full membership can be found on the BSB's website:

<http://www.bankingstandardsboard.org.uk/membership/our-membership/>

create and the standards of behaviour and competence they expect – own this responsibility for how they operate, over and above the regulatory minimum and in areas outside regulatory scope.

5. We believe that good banking cultures can support the FCA's broader regulatory objectives and can help to achieve a range of good outcomes across the market for customers, clients and society as a whole. If a firm has a culture that promotes high standards of behaviour and competence, good conduct and good customer outcomes should follow. Where such a culture does not exist, the risk is that only what is required for compliance is done, and/ or that regulation will be gamed. There may also be factors that have a bearing on conduct but which individual firms in isolation find it difficult to address; collective and coordinated action at a sector level may, in such circumstances, be beneficial, again in the interests of customer and client outcomes.

### **The BSB's approach and how this can support the FCA's mission**

6. We have developed an Assessment framework based not around a prescriptive template of what a good organisational culture should look like, but on the characteristics that we would associate with such a culture in banking. These nine characteristics, which should be relevant to any organisation, irrespective of its size, business model and sector, are:
  1. Shared Purpose – a fundamental purpose that is shared across the organisation;
  2. Honesty – speaking and acting truthfully and ethically;
  3. Respect – having due regard, care and consideration for colleagues, customers and community;
  4. Openness – being open to internal challenge and external review and to sharing ideas and good practices;
  5. Accountability – being willing to accept responsibility;
  6. Competence – having the knowledge and skills to do the job well;
  7. Reliability – consistently meeting external and internal commitments;
  8. Responsiveness – having the ability to adapt and innovate; and
  9. Resilience – having the personal and organisational capacity to recover quickly from difficulties and shocks (to note that this does not encompass financial soundness)
7. These characteristics, which encompass a range of ethical and professional aspects of competence and behaviour, provide the framework against which we annually assess our member firms, providing both quantitative and qualitative feedback in both absolute and relative terms. While the characteristics do not measure customer or client outcomes directly, we would suggest that, if a firm is focused on serving its customers and clients, has a skilled and motivated workforce and demonstrates the characteristics above, it is more likely and better equipped to provide better outcomes for those customers and clients and achieve good conduct. Further details of our Assessment framework, including our methods of assessment, are at Annex A. We are continuing to develop and extend our quantitative approach building on the model developed in 2016.
8. The cross-sector information obtained from the annual Assessment exercise, supplemented by other and third-party information, informs in turn our policy work.

This encompasses original research to help identify impediments to higher standards of behaviour and competence, and how these might most effectively be addressed (e.g. work we commissioned from the University of Leeds on the role of professional bodies and of professional qualifications in banking, published in October 2016<sup>4</sup>); facilitating dialogue and action on the part of firms and other relevant bodies to address these issues; and, where appropriate, identifying good practice and setting out principles and Statements of Good Practice that will raise standards of behaviour and competence across banking (e.g. our work with member firms to develop a set of voluntary, good practice guidelines on conducting assessment of ‘fitness and propriety’, discussed in more detail below).

9. The BSB’s assessment and policy work should support that of the FCA, in that it focuses on outcomes that are core to conduct regulation, for example:
  - by designing our Assessment around customer outcomes (with a number of specific questions relating directly to customers and clients), we aim to give firms regular feedback on the extent to which they put customers at the heart of their businesses, measured in both absolute and relative terms. This should support the FCA’s consumer protection objective;
  - our focus on and engagement with staff at all levels in our member banks and building societies – exploring, for example, levels of accountability, honesty, openness to challenge and resilience – should help to highlight cultures that might incentivise or tolerate unethical or inappropriate behaviour, supporting the FCA’s market integrity objective; and
  - our policy work to raise standards of professional behaviour and competence (e.g. through high quality and consistent implementation of the Certification Regime, and by exploring whether there is a potentially stronger role of professional bodies in banking) should help to support high standards of conduct both inside and outside the regulatory perimeter.
10. In the remainder of this response we offer some observations in reference to specific points raised in the consultation paper.

*Professional judgement and good outcomes for consumers (Sections 7, 8 and 9)*

11. While regulation may be designed to produce a particular set of outcomes, it cannot define or prescribe every factor that might lead to a different outcome in any scenario, or every scenario out of which those outcomes could arise. Not every choice that staff make can be regulated *ex ante*, especially in the dynamic context of financial services; for regulation to be effective in achieving its aims, it needs to be accompanied by ethical and professional standards on the part of firms, the sector and the individuals who work within it. For both regulators and customers or clients, being able to rely on the honesty, reliability and competence<sup>5</sup> of the firm and the people they engage with is central to

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<sup>4</sup> Baxter, J., and Megone, C., September 2016, *Exploring the role of professional bodies and professional qualifications in the UK banking sector*, available on the BSB’s website at: <http://www.bankingstandardsboard.org.uk/wp-content/uploads/2016/10/160928-Professionalism-in-banking-publication-FINAL-WEB.pdf>

<sup>5</sup> O’Neill, O (2014), ‘Trust, Trustworthiness, and Accountability’, in Morris, N and Vines, D (ed.): *Capital Failure: Rebuilding Trust in Financial Services*

their being justifiably able to trust the sector to deliver good outcomes in line with the aims of regulation.

12. In the BSB's 2016 Survey (part of the Assessment exercise) we asked employees at all levels across member firms to indicate levels of agreement or disagreement with a number of statements about the way in which their firm engages with customers and clients:

- I believe my organisation puts customers at the heart of business decisions;
- In my organisation people are encouraged to provide customers with information in a way that helps them make the right decisions;
- When my organisation says it will do something for customers, it gets done;
- I see the people I work with go the extra mile in order to meet the needs of our customers; and
- I believe that my organisation encourages innovation in the best interests of our customers.

13. We also asked staff questions about the extent to which they felt able to exercise professional judgement, relevant in this context both to consumer redress and issues raised by vulnerability:

- In my organisation we are encouraged to follow the spirit of the rules (what they mean, not just the words);
- In my experience, people in my organisation are good at dealing with issues before they become major problems;
- Our internal processes are a barrier to continuous improvement; and
- I have observed improvements in the way we do things based on lessons learned.

14. The information provided by these and other responses from member banks and building societies, in conjunction with data collected by firms internally, should enable boards intent on raising and maintaining standards to prioritise more effectively, act more quickly and identify better what works and why. It also, by providing not only an absolute but a relative picture of the firm, allows progress to be assessed not only over time but relative to others in the sector, incentivising effort and encouraging questioning of established approaches. This allows the BSB to identify themes and issues relevant to all or parts of the sector; themes which, as appropriate, we can then work with firms and other organisations or groups to understand better, and develop good practice that goes beyond the regulatory minima and help to raise standards in the interests of customers.

#### *The complementary nature of regulation and good practice (Section 12)*

15. Conduct regulation can define what is prohibited or what is required as a minimum, but it cannot define what good looks like in all circumstances and at all times. We agree that firms – in the organisational culture they create and the standards of behaviour and competence they expect – own this responsibility for how they operate, over and above the regulatory minimum or outside regulatory scope.

16. Regulatory requirements are starting points, not end-points. We agree with the FCA that the SMCR is an example of this complementarity, and a significant opportunity for firms to build on regulatory baseline standards to raise professional standards across the sector.
17. A major aim of the SMCR is, as the FCA has noted elsewhere, to achieve culture change. The new regulation is clear in its requirement for firms to assess the 'fitness and propriety' (F&P) of certified individuals. It leaves, however, the detail of how this should be done largely to firms. This provides the banking sector with the opportunity to take the initiative and work, both individually at a firm level and collectively, to raise professional standards. One means of facilitating and, where appropriate, encouraging consistency of approach, is the identification of good practice; not in the sense of what a firm needs to do in order to be declare itself compliant, but in the shape of what can and should realistically be aspired to – and becoming more stretching, as initial aspirations are achieved.
18. It was in this context that the BSB began work in early 2016 with a group of member firms to develop good practice guidance for the assessment of F&P. The guidance developed by the group builds on the regulatory rules and is framed around raising professional standards across the banking sector. The BSB consulted on this guidance over the summer of 2016<sup>6</sup> and we will publish a Statement of Good Practice along with Supporting Guidance for the assessment of F&P in the first quarter of 2017.
19. Work on this topic is continuing, and later this year will include identifying good practice in the way in which firms deal with events that call into question an individual's F&P, and how most effectively to communicate the outcome of Certification decisions (building on the recently finalised regulatory requirement to complete regulatory references when individuals move between firms). The approach taken in this work provides an effective model for the development of voluntary good practice guidelines that build on significant regulatory initiatives to help realise the benefits of that regulatory change, in a way that would be difficult to achieve through regulation alone.

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<sup>6</sup> This good practice guidance is intended to establish common definitions, principles and sources of information to be used in assessing fitness and propriety and as part of analysing the responses we are looking at further areas where establishing a common approach would be helpful:  
<http://www.bankingstandardsboard.org.uk/bsb-certification-regime-fitness-and-propriety-consultation/>