

Peter Curtis
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

02 October 2018

(Submitted via online form)

Dear Sir,

Standard Chartered's Response to the Financial Conduct Authority's (FCA) consultation paper CP18/19, on *Introducing the Directory*

Standard Chartered welcomes the opportunity to provide comments on the consultation.

We understand the main objective of the proposed Directory is to protect consumers, assisting them in verifying providers of financial services and avoiding scams. We support the work of the FCA in promoting greater transparency through establishing a new public Directory containing information on a wider range of individuals than currently captured by the Financial Services Register ("FS Register"). Following the introduction and extension of the Senior Managers and Certification Regime (SM&CR), the FS Register now contains fewer individuals than pre-SM&CR regime and we appreciate the FCA's efforts in addressing consumers' concerns in this regard.

However, we recommend that the FCA gives further consideration to the following areas:

1. The proposed scope of the Directory

In our view, the Directory as proposed will contain information on a broader set of individuals than required for a customer to make an informed decision when selecting a financial services professional. We believe that if the scope were to be narrowed to only retail client facing Certified Persons (CPs), this would still meet what we see as the primary objective of the Directory. Please see proposed amendments to the scope in our answer to question 1.

2. The proposed information to be published on the Directory

Given frequent changes to the population of employees that would be classified as CPs at a particular time, it could potentially be misleading for consumers to see individuals come and go from the Directory. Please see further details and a proposed solution to this issue in our answer to question 2.

3. The proposed timeframe for updating the Directory

Broadly, the CP population is larger and as highlighted above, more subject to frequent fluctuations compared with the current Senior Managers population in a given firm. As a result, the proposed timeframe and method for firms to provide updates on their CPs to the FCA will be very challenging operationally. Our concern is exacerbated by the existing issues we experience with the Connect

Standard Chartered Bank
1 Basinghall Avenue
London EC2V 5DD
www.standardchartered.com

Tel +44 (0)20 7885 8888

system. Please see a proposed solution to ease the operational burden for firms in our answer to question 5.

4. Data Protection concerns

Including CPs on the Directory whose certified status may be due solely to their remuneration level would in effect be making public the minimum remuneration an individual would be receiving. It is difficult to see how this would be considered to be fair processing of personal data. In addition, it is not clear how passport and national insurance numbers will be used by the FCA, and therefore whether the processing of such information is both necessary and proportionate. We encourage the FCA to quantify the risk to data protection in our response to question 8.

The accompanying annex to this letter details our responses to the questions outlined in the consultation paper.

We hope these comments are helpful and we would be pleased to discuss our views with you in greater detail.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Ian Sayers'.

Ian Sayers
Global Head, Group Regulatory Liaison and Acting Global Head, Regulatory Reform
Compliance

ANNEX – Responses to Consultation Paper questions

Q1: Do you agree with the proposed scope of the Directory? If not, which individuals should be additionally included or taken out?

We believe the scope should be limited to retail client facing roles within the Certified Person (CP) population. The primary rationale for the creation of the Directory is that it will enable retail customers to verify financial services professionals and avoid scams. This is not applicable for wholesale client facing roles and even less applicable for non-client facing employees. Publishing information on non-client facing roles creates risks and operational costs to firms which we do not think are outweighed by any potential benefits. If the scope were to be narrowed to only retail client facing CPs this would ease the operational burden significantly for firms but still meet what we see as the primary objective of the Directory. Please note we currently have around 900 CPs, half of whom are in client facing roles.

Q2: Do you agree that the proposed information should be published on the Directory?

We broadly agree with the information that is proposed to be published on the Directory.

However, given the fluidity of the population of employees that would be classified as CPs at any particular time, it could potentially be misleading for consumers to see individuals come and go from the Directory. This is exacerbated by the fact that firms have their own design principles/parameters around which roles require CP status and therefore the approach will differ firm to firm. The removal from the Directory may give a false impression to a consumer that an individual has been removed due to egregious concerns which would also be a concern from a data protection perspective. Conversely, an employee may have to leave their employment due to committing for example, fraud, but this would be unknown to users of the Directory if the employee moves to a role which does not have CP status at their next employer.

Given these issues, and to alleviate both (1) the risk of consumers misconstruing the reasons for an individual being removed from the Directory and, (2) the risk of consumers drawing false comfort from the an individual existing on the Directory, we recommend the FCA provides a clear statement on the Directory interface that individuals are routinely added or removed from the Directory, for a variety of reasons.

We also highlight an existing shortcoming relating to information contained on the Register which, as we understand it, will persist with the Directory as proposed. The Register does not tell customers in plain English the specific services a firm is authorised to provide. Terminology used in the Register and proposed under the Directory is aligned with FSMA and FCA permissions. It does not state plainly the specific services such as “pensions advice” or “mortgage advice” that the firm or CP offers. We believe this would be of more use to retail customers who would not be familiar with FSMA terminology. We would encourage the FCA to take this into consideration when developing the Directory so retail clients can benefit from the Directory.

Q3: Do you agree that the Directory user interface should display information stored on the FS Register and the new Connect database? If not, how should these datasets interact?

We agree that there should be a single user interface and that the Directory should display information stored on the FS Register and the new Connect database.

However, we encourage the FCA to consider addressing existing shortcomings with Connect, as raised on behalf of firms by AFME and UK Finance earlier this year, in parallel to developing the Directory.

Q4: Do you agree that the search parameters should return a broader range of results than the current FS Register?

We agree, however as mentioned in Q2, we highlight the importance of ensuring that the information on the Directory is as user-friendly for retail customers as possible.

Q5: Do you agree with the proposed number of business days for reporting when an individual begins undertaking a relevant role, when their circumstances change or when they cease to perform a relevant role? If not, what timeframe do you think would be more suitable?

We believe that the proposed timeframes and method for providing updates on CPs will present material operational challenges and require a level of automation which will be costly for firms. We have an annual CP turnover of around 15% per year. The timeframes are particularly challenging given that, as proposed, individual submissions rather than bulk submissions on several CPs would need to be made. Furthermore, as an employment contract with an individual does not become effective until the first day they commence employment, providing advance notice of a CP's intended employment is not feasible legally.

We recommend the FCA consider requiring weekly updates on all changes to a firm's CP population, instead. Providing information relating to multiple CPs via a spreadsheet which could then be uploaded by the FCA to its systems, for example, would be preferable. This will be less resource intensive for firms, especially large firms operating globally across several time zones, and would allow internal processes within firms to be streamlined. Although we recognise that this would result in the information on some individuals on the Directory not being updated up to 7 business days after the change in the individual's CP status, the net benefit provided to consumers would still be enhanced compared to what is available today. This risk could be alleviated with the inclusion of a standard disclosure that information may be up to 7 business days out of date.

We note that under current rules, a Form C regarding the removal of a Senior Manager from the Register must be submitted within 10 working days. As this period of time has been deemed appropriate for publishing information on Senior Managers, we question the proportionality of requiring information on non-Senior Manager CPs in a shorter timeframe.

In addition, we encourage the FCA to consider not introducing penalties for the first year when firms may be more susceptible to submission errors.

Q6: Do you agree with the proposed timing of commencement and transitional arrangements? If not, which timeframes would be more appropriate?

We agree.

Q7: Do you agree that our proposed measures for ensuring data accuracy are appropriate? If not, please provide details of any additional measures you believe should be taken.

Whilst we accept that the FCA cannot be responsible for the information it receives from firms, in our view the FCA is responsible for accurately reflecting on the Directory (i) the information on CPs that it receives and (ii) any personal data generated from the FCA/PRA records such as action taken against an individual by the FCA/PRA.

We appreciate that the legal basis for requiring firms to submit the personal data is implied in point 1.18 of the consultation paper, but we would welcome assurance and further clarification that the FCA has (i) carried out a Privacy Impact Assessment with regard to the personal data that will be processed in connection with the Directory and (ii) the provision of information to the FCA will not result in the submitting firm being in breach of any national law such as the UK Data Protection Act 2018.

Q8: Do you have any feedback on this CBA?

In our view, the greatest potential benefit of the Directory is the protection that retail customers may gain through enabling them to potentially verify financial services providers. We recommend that the FCA consider quantifying the cost of the following risk, which we deem material, against the perceived benefit of the Directory:

- Certain individuals may be categorised as Material Risk Takers (MRTs), and therefore as Certified Persons, solely by virtue of their remuneration. Although the public would not necessarily be able to make this delineation, colleagues of MRTs would be able to identify this. We have over 150 individuals that are MRTs purely for remuneration reasons. The Directory will effectively publicise information on certain individuals' remuneration, potentially creating sensitive HR issues within firms. Furthermore, being a MRT could be based solely on an individual sitting on certain committees, but not necessarily having anything to do with the provision of financial services to retail clients. Therefore, we would encourage the FCA to quantify the benefit this information provides retail customers as the primary users of the Directory.

We suggest that the FCA provides further clarification in the following areas of its CBA and quantify these risks against the touted benefits of the Directory:

- The analysis acknowledges that the FCA is not be able to establish who is accessing the Register or their reasons for doing so. As a result, the conclusion that a sizeable number of consumers are using the Register to verify advisors at firms appears to be speculative. We encourage the FCA to quantify the consumer benefit more accurately to confirm it does outweigh the costs to firms of providing the information on a continuous basis.
- It is stated that the Directory can be used to verify the identity of those on the Register. We do not believe this is case; all the Directory can do is inform a user that the person an individual is purporting to be is indeed on the Register. Identity can only be verified upon the production of official documents. We therefore ask the FCA to take this into consideration.
- We believe there may be risks and therefore costs associated with such information being in the public eye. One might argue that the Directory provides criminals with thousands of individual names to clone; potentially increasing risks to consumers, and we would encourage the FCA to quantify this risk.
- We encourage the FCA to quantify the costs and benefits of requiring continuous, as opposed to periodic, updates. We anticipate the cost to firms would be significantly reduced if updates could

be provided periodically rather than on an ad-hoc basis, and there would still be a net benefit to consumers compared to today.

- We currently use more comprehensive checks than what the Directory, as proposed, would allow to assist with recruitment. We do not plan to change current checking processes because of the Directory. In our view, the ability for firms to check regulatory references as being a benefit of the Directory does not justify the publication of comprehensive details of CPs, particularly non-client facing individuals.

Q9: Do you agree that these proposals would not result in any direct discrimination against any of the protected groups? Please provide any additional feedback you believe is relevant.

We agree.