



FAIR AND EFFECTIVE
MARKETS REVIEW

Fair and Effective Markets Review

Implementation Report

Report to the Chancellor of the Exchequer,
the Governor of the Bank of England and the
Chairman of the Financial Conduct Authority

July 2016

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Foreword

The Fair and Effective Markets Review (FEMR) was launched in June 2014 to conduct a comprehensive and forward-looking assessment of the way the wholesale Fixed Income, Currency and Commodities (FICC) markets operate; help to restore trust in those markets in the wake of a number of high profile abuses in both UK and global financial markets; and to influence the international debate on trading practices. On 10 June 2015 we published our Final Report, setting out 21 recommendations to:

- raise standards, professionalism and accountability of individuals;
- improve the quality, clarity and market-wide understanding of FICC trading practices;
- strengthen regulation of FICC markets in the United Kingdom;
- launch international action to raise standards in global FICC markets;
- promote fairer FICC market structures while also enhancing effectiveness; and
- promote forward-looking conduct risk identification and mitigation.

In drawing up the recommendations, FEMR took account of existing financial regulation as well as regulatory initiatives that were already in train. Some of the financial regulation relevant to this agenda derives from European Union legislation. The long-term impact on the regulatory framework for the United Kingdom of the vote to leave the European Union will depend, in part, on the relationship that the United Kingdom has with the European Union in the future. Ongoing implementation of FEMR initiatives, and any future action to support the fairness and effectiveness of FICC markets, will proceed in a co-ordinated way with this work.

Over the past year the Bank of England, Financial Conduct Authority (FCA) and HM Treasury have undertaken work to implement or progress the recommendations under our direct control, as well as supporting those taking forward other recommendations both domestically and internationally.

Significant progress has been made:

- The **Senior Managers & Certification Regimes (SM&CR)** came into force for deposit-takers and PRA-designated investment firms on 7 March 2016. Provisions to extend these Regimes to all authorised financial services firms were included in the Bank of England and Financial Services Act 2016, which received Royal Assent on 4 May 2016, and the extended SM&CR is expected to take effect from 2018. The Senior Managers Regime aims to support better decision-making at firms, and ensure that senior managers can be held accountable for breaches of regulations by the firm that fall within their areas of responsibility if they fail to take reasonable steps to prevent them. The Certification Regime and Conduct Rules build on this, and are designed so that staff at all levels can be held to appropriate standards of behaviour, contributing to improved standards of individual and market conduct across the industry.
- The FCA and Prudential Regulation Authority (PRA) are in the process of finalising rules on the mandatory form for **regulatory references**, which we expect to be published in the autumn. This is a significant development that will help prevent 'bad apples' rolling between firms.
- The **FICC Markets Standards Board (FMSB)** has been established by senior market participants to improve the quality, clarity and market-wide understanding of wholesale FICC trading practices; produce guidelines, standards and other materials to promote good conduct; and undertake horizon scanning by periodically reviewing wholesale FICC markets for emerging risks. On 30 June 2016, the FMSB published a letter setting out the work it has undertaken in its first year. The FMSB has also published, for comment, transparency draft standards on 'Reference Price Transactions in Fixed Income Rates Markets' and 'Binary Options in Commodities Markets'. Additionally, the FMSB has provided input to the work being undertaken to create a Global FX Code (see below). The FMSB includes many firms with a global presence, and the guidance created by the FMSB will be important in driving up standards of market practice. Members will be expected to comply on a global basis with the core principles of all FMSB standards, and to explain circumstances where they are unable to comply with specific details or in certain jurisdictions. The authorities will continue to work collaboratively with the FMSB to help maintain this momentum.

- Important initiatives have been launched by international authorities to raise standards globally. Work to produce a **single Global FX Code** was already underway by central banks, under the aegis of the Bank for International Settlements (BIS), with support from a Market Participants Group. Sections covering ethics, information sharing, certain aspects of trade execution and confirmation and settlement were released in May 2016, along with an update on how adherence to the Code will be promoted. The complete Code is on track for publication in May 2017. The **International Organization of Securities Commissions (IOSCO) will be publishing a report which will include a set of expectations of conduct that apply to individual market participants and a tool-kit to address conduct in wholesale markets** towards the end of 2016. IOSCO is separately considering the need for **guidance to help encourage benchmark administrators to publish more consistent self-assessments** against the IOSCO Principles. And the **Financial Stability Board (FSB) is examining the use of compensation tools to improve the alignment between remuneration and conduct risk.**

The review proposed various changes to the United Kingdom's market abuse regime. These included recommending **that the maximum sentence for criminal market abuse should be extended from seven to ten years**, and that the Government should **widen the scope of criminal sanctions for market abuse for individuals and firms to a wider range of FICC instruments, and create a new statutory civil and criminal market abuse regime for spot FX.** The United Kingdom's market abuse regime has close links to European legislation, and the markets affected are international. The importance of these FEMR recommendations is not diminished by the vote to leave the European Union and the implementation of these recommendations will be reviewed in the context of the development of the United Kingdom's new relationship with the European Union.

In addition to the near-term actions described above, this implementation report provides details on a number of developments consistent with the Review's principles to develop a more forward-looking approach to supporting fair and effective FICC markets. These reflect encouraging efforts by both the market (for instance, the launch of new

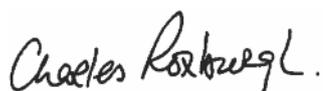
technologies to allow banks and investors to share information on their fixed-income inventories in order to reduce search costs in secondary markets) and the authorities (for example, the development by the FCA of a new surveillance tool to detect anomalous Libor submissions).

The Bank and FCA will also undertake work to proactively identify and review potential private sector co-ordination failures that may be holding back initiatives that could improve the fairness or effectiveness of FICC markets. The authorities will seek to catalyse market-led reform where it is needed.

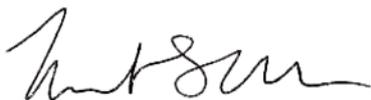
While a lot has been achieved in the past year it would be a mistake to think that the job is done. A key theme that came out of the 'Open Forum' held by the Bank in November 2015 was that there remains a lack of trust in financial markets and financial institutions because of past misconduct. Participants saw cultural and ethical changes as an essential component of building a social licence for financial markets.

While authorities can put in place legislation and regulation, firms are responsible for creating, both individually and collectively, cultures that place integrity, professionalism and high ethical standards at their core to ensure that behaviours are not limited to complying with the letter of regulations or laws. The work of the FMSB to ensure that market practices and structures are consistent with broader principles of fairness and effectiveness is therefore of vital importance and must be sustained. The complementary work of the Banking Standards Board (BSB) to promote high standards of behaviour and competence in the banking sector has a crucial role to play in this area too and we strongly support its work.

So while we have been encouraged with the actions taken over the past year, the initial momentum must not be lost. It took years for the 'ethical drift' that resulted in misconduct to occur and it will take time to build new ethical norms in financial markets. Progress is at a critical point. It requires all involved to see through the changes that have begun, and to be alert to future challenges, if the financial services of tomorrow are to be characterised by the high standards of fairness and effectiveness to which we aspire.



Charles Roxburgh
HM Treasury



Minouche Shafik
Bank of England



Andrew Bailey
Financial Conduct Authority

1 Introduction

1 The Fair and Effective Markets Review (FEMR) was launched by the Chancellor of the Exchequer and the Governor of the Bank of England in June 2014 to reinforce confidence in the wholesale Fixed Income, Currency and Commodities (FICC) markets in the wake of the serious misconduct seen in recent years; and to influence the international debate on trading practices.

2 On 10 June 2015 the Review published its Final Report.⁽¹⁾ This provided an analysis of the root causes of recent misconduct and other sources of unfairness or ineffective operation in FICC markets; evaluated the impact of the significant reforms that were already underway; and set out 21 recommendations (summarised in the Annex) to:

- raise standards, professionalism and accountability of individuals;
- improve the quality, clarity and market-wide understanding of FICC trading practices;
- strengthen regulation of FICC markets in the United Kingdom;
- launch international action to raise standards in global FICC markets;
- promote fairer FICC market structures while also enhancing effectiveness; and
- promote forward-looking conduct risk identification and mitigation.

3 In drawing up the recommendations, FEMR took account of existing financial regulation as well as regulatory initiatives that were already in train. Some of the financial regulation relevant to this agenda derives from European Union legislation. The long-term impact on the regulatory framework for the United Kingdom of the vote to leave the European Union will depend, in part, on the relationship that the United Kingdom has with the European Union in the future. Ongoing implementation of FEMR initiatives, and any future action to support the fairness and effectiveness of FICC markets, will proceed in a co-ordinated way with this work.

4 Over the past year the Bank, Financial Conduct Authority (FCA) and HM Treasury have undertaken work to implement or progress the recommendations under our direct control, as well as supporting those taking forward other recommendations both domestically and internationally. Significant progress has been made, as summarised in Section 2.

(1) See www.bankofengland.co.uk/markets/Documents/femrjun15.pdf.

2 Review of progress

Near-term actions to improve conduct in FICC markets

2.1 Raise standards, professionalism and accountability of individuals

5 As the FEMR Final Report noted, many of those involved in recent enforcement cases were aware — and all of them should have been aware — that their actions were unacceptable. But raising standards consistently across FICC markets as a whole requires a focus on more than just the most egregious cases. Evidence gathered by the Review painted a broader picture in which there was insufficient attention in many firms to what conduct standards meant in practice, and excessive confidence on the part of individuals that the consequences of developing a poor conduct record in one firm could be avoided by moving to another. To tackle these issues, the Review made three recommendations.

6 First, the Review recommended that **the FCA and Prudential Regulation Authority (PRA) should consult on a mandatory form for regulatory references, to help firms prevent the 'recycling' of individuals with poor conduct records between firms (recommendation 1c)**. In response, the FCA and PRA issued a joint consultation paper on 6 October 2015 which proposed requirements relating to the content and format of regulatory references for individuals subject to the Senior Managers and Certification Regimes (SM&CR), Senior Insurance Managers Regime, key function holders and notified non-executive directors.⁽¹⁾ A first tranche of rules was published in February 2016 ahead of the commencement of the SM&CR in March 2016, and the FCA and PRA are in the process of finalising a second (final) tranche of the rules which is expected to be published in the autumn. The draft rules considered (among other things) the mandatory disclosure of certain breaches of conduct requirements going back six years in candidates' employment references, as well as any other information relevant to the assessment of candidates' fitness and propriety, and the use of a standard template to improve consistency of disclosure. The final rules will improve firms' ability to investigate an individual's past conduct effectively as part of the recruitment process and thus tackle the so-called 'rolling bad apples' problem.

7 Second, the new FICC Markets Standards Board (FMSB) (discussed in Section 2.2) was encouraged to **provide guidance on expected minimum standards of training and qualifications for FICC market personnel in the**

United Kingdom (recommendation 1b). The FMSB is undertaking a stocktake of formal wholesale FICC markets training programmes undertaken by member firms which will, in turn, be used to define a good practice framework for its members and others. The stocktake will be completed later in 2016. Separately, the Banking Standards Board (BSB) is also assessing how professional qualifications are currently used across the banking sector and whether there is merit, from the perspective of firms, in a stronger role for professional bodies in banking.⁽²⁾ The Chair and Chief Executive Officer of the BSB are standing guests of the FMSB Advisory Council and Board respectively to ensure close co-ordination between the two bodies.

8 Third, the Review recommended that **there should be a set of common standards for trading practices in FICC markets (recommendation 1a), written in language that could be readily understood, and which will be consistently upheld**. The Review listed a number of examples of trading behaviours, positive and negative, that might be included in such standards in Box 8 in the FEMR Final Report. The FMSB takes these and other examples of good conduct (for example, the forthcoming Global FX Code) into consideration when defining principles within their trading practices standards.

9 Given the international character of many FICC markets, the Review noted that it would be most effective if a set of common standards were developed and promulgated globally. The International Organization of Securities Commissions (IOSCO) has established a Task Force on Market Conduct to develop a set of expectations of conduct that apply to individual market participants and a toolkit of measures to promote proper conduct by market participants including individuals and firms.⁽³⁾ This will be a helpful initiative towards enhancing and strengthening the current global framework to address misconduct by firms and individuals in wholesale markets. IOSCO intends to publish a final report by the end of 2016.

10 The Review also made two recommendations designed to further increase the focus of enforcement penalties on individuals. This focus had been constrained in the past by the limited scope of the United Kingdom's criminal sanctions

(1) See www.bankofengland.co.uk/pr/Pages/publications/cp/2015/cp3615.aspx.

(2) See www.bankingstandardsboard.org.uk/wp-content/uploads/2016/03/BSB-Annual-Review-20152016.pdf.

(3) See page 8 of www.fsb.org/wp-content/uploads/Misconduct-risk-progress-report.pdf.

regime and the length of sentence available for criminal market abuse convictions. First, the Review recommended **widening the scope of criminal sanctions for market abuse for individuals and firms to a wider range of FICC instruments by including all of those instruments covered under the Market Abuse Regulation (MAR) (recommendation 1d)**. Second, the Review recommended that **legislation be introduced to lengthen the maximum sentence for criminal market abuse from seven to ten years (recommendation 1e)**. The United Kingdom's market abuse regime has close links to European legislation, and the markets affected are international. The importance of these FEMR recommendations is not diminished by the vote to leave the European Union and the implementation of these recommendations will be reviewed in the context of the development of the United Kingdom's new relationship with the European Union.

11 In addition to the specific recommendations from FEMR described above, many firms have also undertaken work to update and re-establish their internal values statements and codes of conduct, and to embed these within their organisational structures. The FCA has further prompted major wholesale banks to consider their conduct and culture through posing five questions on their approach to conduct risk. These efforts are also supported through both the G30 report on 'Banking Conduct & Culture'⁽¹⁾ and the work of the BSB, which undertook assessments of how well its member firms have embedded cultural initiatives in 2015. In 2016, the BSB assessments will cover a greater number of firms and will develop and incorporate quantitative approaches aimed at enabling firms to benchmark themselves against their peer group.

2.2 Improve the quality, clarity and market-wide understanding of FICC trading practices

12 The Review concluded that FICC markets required stronger collective processes for identifying and agreeing standards of good market practice, consistent with regulatory requirements, that respond more rapidly to new market structures and trading patterns; apply to both traditional and new market participants; and are more effectively monitored and adhered to within (and between) firms. Without these processes there is a risk that FICC markets will fail to operate effectively, either slipping back into poor practices as memories of past incidents fade or adopting overly-conservative interpretations of standards that impair the functioning of markets.

13 To tackle this issue, the Review called on the senior leadership of FICC market participants to create a new **FICC Markets Standards Board (recommendation 2a)** with participation from a broad cross-section of global and domestic firms — including end-users — at the most senior levels, and involving regular dialogue with the authorities to:

- scan the horizon and report on emerging risks where market standards could be strengthened, ensuring a timely response to new trends and threats;
- address areas of uncertainty in specific trading practices by producing guidelines, practical case studies and other materials depending on the regulatory status of each market;
- promote adherence to its standards, including by sharing and promoting good practices on control and governance structures around FICC business lines; and
- contribute to international convergence of standards.

14 The FMSB has been successfully established and 36 firms (plus five standing guests) have joined, spanning the buy-side, sell-side, infrastructure providers and end-users. After an interim period of leadership under Elizabeth Corley CBE, the FMSB announced in May 2016 that Mark Yallop will become its Chairperson from 25 July 2016.⁽²⁾

15 The FMSB has established six standing sub-committees to develop standards and best practice guidance. The work of these committees is set out in detail in the recent letter from the FMSB to the FEMR Principals.⁽³⁾

- **Market Practices:** Four sub-committees have been established to draft market standards. The 'Fixed Income Rates Products sub-committee' has published a transparency draft on 'Reference Price Transactions'.⁽⁴⁾ This standard provides clarity around acceptable market practices for transactions in fixed-income markets which utilise a published reference rate to establish an execution price. The 'Fixed Income Spread Products sub-committee' is working on best practice guidance for the 'New Issuance Process for publically syndicated and distributed bonds' which is expected to be published in the autumn. The 'Commodities sub-committee' has published a transparency draft on the use of 'Binary Options in Commodities Markets' which includes guidance on managing the commercial conflict of interest these instruments create,⁽⁵⁾ while, on Currencies, the FMSB provided input to the work being undertaken to create a Global FX Code (see Section 2.4).
- **Conduct & Ethics:** This sub-committee is creating a framework for adherence to FMSB standards. The FMSB will require members to comply on a global basis with the core

(1) See http://group30.org/images/uploads/publications/G30_BankingConductandCulture.pdf.

(2) See www.fmsb.com/mark-yallop-appointed-to-head-ficc-markets-standards-board/.

(3) See www.fmsb.com/ficc-markets-standards-board-fmsb-chair-publishes-letter-to-femr-principals/.

(4) See www.fmsb.com/fix-income-reference-price-transactions-standard-transparency-draft-for-comment/.

(5) See www.fmsb.com/ficc-markets-standards-board-fmsb-publishes-second-standard-for-wholesale-ficc-markets/.

principles of all FMSB standards, and to explain circumstances where they are unable to comply with specific details or in certain jurisdictions. This sub-committee is also taking forward the work on training and qualifications (**recommendation 1b**) outlined in Section 2.1 and work on sharing good practice on the surveillance of trading practices (**recommendation 6b**) outlined in Section 2.6.

- **Codes & Standards Convergence:** This sub-committee has undertaken significant outreach to international authorities and relevant standard setters both in the United Kingdom and overseas.

16 This represents very encouraging progress. There has been strong interest from senior market participants; a number of tangible outputs have already been produced and a substantive work programme is underway that will be important in establishing accepted standards for market practices and illustrating proper conduct through case studies. The authorities will continue to work collaboratively with the FMSB to help maintain this momentum.

17 In addition to the standards produced by the FMSB, other industry bodies have undertaken work to improve guidance in markets in which they are active. In particular, the Non-Investment Products (NIPs) Code⁽¹⁾ is being replaced with:

- **The Global FX Code** (see Section 2.4).
- **The Securities Lending, Repo and Money Markets Code.** This work — led by a joint sub-committee of the Bank's Money Market Liaison Committee (MMLC) and Securities Lending and Repo Committee (SLRC) — takes relevant content from the NIPs Code, the Gilt Repo Code and the Securities Borrowing and Lending Code to create one combined and refreshed code of good market practice for these markets. The new Code is expected to be published in mid-2017.
- **A Precious Metals Code** produced by the London Bullion Market Association (LBMA). It is expected that this will also be published in June 2017.⁽²⁾

18 All of these will help to promote good conduct. It will be important for firms to ensure that they put in place the necessary processes to ensure adherence to these codes becomes embedded within their organisations.

2.3 Strengthen regulation of FICC markets in the United Kingdom

19 The United Kingdom's regulatory regime for market abuse covers activity in most areas of FICC markets.⁽³⁾ The Review's recommendations under this theme focused on three areas:

first, closing remaining gaps; second, strengthening the tools for ensuring the adherence of FICC market staff to market standards; and, third, increasing awareness of competition law.

Closing remaining gaps

20 In August 2014, as an interim output, the Review recommended⁽⁴⁾ to HM Treasury that **the scope of the United Kingdom's regulatory framework for benchmarks originally implemented in the wake of the Libor misconduct scandal should be extended to cover seven additional major UK-based FICC benchmarks (recommendation 3a)**.⁽⁵⁾ After public consultation, the Government accepted the Review's recommendations, and the legislation became effective on 1 April 2015. The administrators of, and those firms submitting to, these benchmarks are now subject to FCA authorisation and regulation requirements and it is a criminal offence to manipulate or attempt to manipulate them. This represents an important step in ensuring consumers and market participants can have confidence in major UK benchmarks.

21 Other than the WM/Reuters London 4pm Closing Spot Rate benchmark, the manipulation of which was made an offence as a result of the recommendation described above, spot FX markets remain outside the scope of UK market abuse legislation, and will generally continue to be so even since the introduction of the Market Abuse Regulation on 3 July 2016. As a result, **the Review recommended that a new statutory civil and criminal market abuse regime should be created for spot FX (recommendation 3b)** in the United Kingdom. As noted in Section 2.1, the United Kingdom's domestic market abuse regime has close links to European legislation, and the markets affected are international. The importance of this recommendation is not diminished by the vote to leave the European Union and the implementation of this recommendation will be reviewed in the context of the development of the United Kingdom's new relationship with the European Union.

22 There are, however, a number of positive developments in global FX markets which are welcome. The Global FX Code, which will be finalised in May 2017, should contribute to strengthening standards of behaviour in FX markets, as will a number of other complementary UK measures, including: the FCA FX remediation exercise;⁽⁶⁾ the criminal and civil prohibitions on FX benchmark and derivative manipulation; and the FCA oversight of the WM/Reuters London 4pm

(1) See www.bankofengland.co.uk/markets/Documents/forex/fxjsc/nipscode1111.pdf.

(2) See www.lbma.org.uk/_blog/lbma_media_centre/post/precious-metals-code/.

(3) The regime has been extended following the introduction of the Market Abuse Regulation on 3 July 2016.

(4) See www.bankofengland.co.uk/markets/Documents/femraug2014.pdf.

(5) SONIA, RONIA, LBMA Gold Price, LBMA Silver Price, WM/Reuters London 4pm Closing Spot Rate, ICE Brent Index and ICE Swap Rate.

(6) See www.fca.org.uk/news/fca-fines-five-banks-for-fx-failings.

Closing Spot Rate benchmark. We expect this collection of important reforms to deliver significant improvements in conduct in FX markets.

Strengthening the tools for ensuring the adherence of FICC market staff to market standards

23 Since 7 March 2016, the SM&CR has applied to UK banks, building societies, credit unions and PRA-designated investment firms. A significant group of regulated FICC market participants, such as inter-dealer brokers and asset managers, are out of scope and the Review therefore recommended that **elements of the Senior Managers and Certification Regimes be extended to a wider range of regulated firms, covering at least those active in FICC wholesale markets (recommendation 3d)**. The Bank of England and Financial Services Act 2016 included provisions to extend the SM&CR to all authorised financial services firms.⁽¹⁾ This legislation received Royal Assent on 4 May 2016 and the extended regime is expected to take effect from 2018. This period of implementation will allow the regulators to engage effectively with all affected stakeholders and consider in detail important issues such as proportionality and the lessons learned through the implementation of the SM&CR for those firms which became subject to the regime on 7 March 2016.

24 The extension of the Regime should help support better decision-making at firms and ensure that, across the financial services industry, senior managers can be held accountable for breaches of regulations by the firm that fall within their areas of responsibility if they fail to take reasonable steps to prevent them; while tools such as the Certification Regime, Conduct Rules and regulatory references can be tailored, targeted and proportionately applied to ensure that staff in important areas can be held to appropriate standards of conduct. This is a major change and will contribute to improved standards of individual and market conduct across the industry. The FCA and PRA will, in due course, consult on their specific proposals on the extension of the SM&CR to ensure it is effective and proportionate.

25 The Review also recommended that **proper market conduct should be managed in FICC markets through regulators and firms monitoring compliance with all standards, formal and voluntary, under the Senior Managers and Certification Regimes (recommendation 3c)**. The SM&CR provides a powerful framework through which firms can, and should, monitor the conduct of their FICC staff against regulatory and appropriate market standards for FICC business (for instance, firms are required to report annually to the regulator on individuals disciplined for breaching a Conduct Rule). This will help to tackle one of the biggest challenges with securing adherence to market codes of best practice in the past — their lack of effective ‘teeth’ — and therefore provide a consistent framework in the

United Kingdom to support existing codes, the outputs of the FMSB and the Global FX code.

Increasing awareness of competition law

26 There is a well-developed body of competition law in the United Kingdom which is applicable to financial services as well as other economic markets. The evidence presented in recent enforcement cases suggested that most of those involved were aware that their behaviour was inappropriate, but perhaps not that their actions potentially breached competition law. Collusion, for example, can have a highly damaging effect on the integrity of FICC markets, and consultation responses and the Review’s analysis and outreach suggested there were shortcomings in the understanding of the extent and power of competition law. In response, the Review recommended that **steps should be taken to improve firms’ and traders’ awareness of the application of competition law to activities in FICC markets, including through: the communication by the FCA of material presented in the Final Report to authorised firms active in FICC markets; firms’ internal training programmes; and the new guidance on FICC market qualifications and training to be developed by the FMSB (recommendation 3e)**.

27 In response, the FCA and the Competition and Markets Authority (CMA) sent the section in the FEMR Final Report on the application of competition law to FICC markets to key firms in September 2015,⁽²⁾ published the document on their website and publicised it via the FCA’s regulatory round-up newsletter that month.⁽³⁾ This document also explains that it is the responsibility of firms to ensure that they are complying with competition law. The document was well received. The FMSB’s work to develop a good practice framework for training (see Section 2.1) will also consider measures to increase member firms’ awareness of competition law.

2.4 Launch international action to raise standards in global FICC markets

28 The Review concluded that it would be beneficial if international authorities collaborated to raise standards in global FICC markets and made recommendations in three key areas: FX, benchmarks and remuneration.

Foreign exchange

29 Significant progress has been made on work to produce a **single Global FX Code (recommendation 4a)**. This work was already underway by central banks, under the aegis of the Bank for International Settlements (BIS), by way of an FX Working Group (FXWG) with support from a Market Participants Group. The Federal Reserve Bank of New York is leading the workstream tasked with the drafting of the Code

(1) See <http://services.parliament.uk/bills/2015-16/bankofenglandandfinancialservices.html>.

(2) See www.fca.org.uk/static/fca/documents/comp-law-ws-markets.pdf.

(3) See www.fca.org.uk/your-fca/documents/regulation-round-up/rru-september-2015.

and the Bank of England is leading the development of proposals to promote and incentivise adherence to the new Code. The Market Participants Group provides private sector input, drawing on participants from the sell-side and buy-side of the market and FX infrastructure providers.

30 The Code will cover the wholesale FX market and be broad-ranging across market participants and infrastructures, with appropriate consideration given to local circumstances. Sections covering ethics, information sharing, certain aspects of trade execution and confirmation and settlement were released in May 2016.⁽¹⁾ The complete Code is on track for publication in May 2017. It will include a set of clear examples and guidelines of behaviours that are consistent or inconsistent with the standards and principles adopted. It will also include guidance on **market practices where there could be scope for misconduct, such as 'last look' and 'time stamping' (recommendation 4b)**.

31 Crucially, the FXWG has set out a statement on how adherence to the Code will be promoted.⁽²⁾ The regional FX Committees involved in the process have already confirmed that their members intend to endorse and support widespread adherence to the Code when it is launched, and the FXWG has suggested that the various committees consider over the next year whether adherence to the Code should become a pre-requisite for achieving and maintaining membership going forward. BIS central banks have announced their intention to adhere to the principles and standards of the Code where they act as market participants.⁽³⁾ Furthermore, these central banks expect that their regular FX trading counterparties will adhere to the Code. The FXWG has also started to engage with a number of key infrastructure providers to support development of measures that will promote and facilitate adherence to the Code among their members.

32 These actions will support the creation of new market norms in FX markets that embody high standards of conduct and professionalism, and processes that are transparent, robust, risk-mitigating and efficient.

Benchmarks

33 The Review noted that the voluntary IOSCO Principles for Financial Benchmarks⁽⁴⁾ provided a strong framework within which to achieve acceptable benchmark standards. However, respondents to the Review's consultation noted the varied state of implementation of these Principles by benchmark administrators. The Review also concluded that more could be done to strengthen the degree of market scrutiny and discipline on benchmark design, including from benchmark users. The Review therefore recommended that IOSCO should **explore ways to ensure that administrators publish more consistent self-assessments against the benchmark Principles and provide guidance for users of benchmarks (recommendation 4c)**.

34 IOSCO undertook a consultation and information-gathering exercise with benchmark administrators on this issue and is considering whether further guidance for administrators is needed.

Remuneration

35 Finally, the Review recommended that **the Financial Stability Board (FSB) should examine further ways to improve the alignment between remuneration and conduct risk at a global level (recommendation 4d)**, in particular identifying ways of ensuring that an appropriate proportion of risk-takers' remuneration be variable and promoting the use of a wider range of instruments and pay-out structures. The FSB agreed in November 2015 to further examine the use of compensation tools such as malus and clawback and the use of different instruments as an element of deferred compensation and, if appropriate, make recommendations on better practices. Both the FCA and PRA are represented in the working group considering this issue. It will be completed in time for the G20 Summit in September 2016.

36 This initiative forms part of the FSB's broader work plan on measures to reduce misconduct risk.⁽⁵⁾ This plan includes exchanging best practices on governance frameworks and potentially developing a supervisory toolkit or guidance; sharing national experiences on bank regulators' enforcement powers; and work to reform major interest rate benchmarks.

Principles to guide a more forward-looking approach to FICC markets

37 The preceding sections highlight the work that has been done in response to the Review's recommendations for near-term action to raise standards in FICC markets and related international work. But the Review concluded that one-off changes would not be enough. A key lesson of the financial crisis was that more effective forward-looking mechanisms are also needed, involving both the authorities and market participants, to ensure that the 'hard' and 'soft' infrastructures supporting markets keep pace with future innovation and change. The Review therefore set out a number of forward-looking principles for market participants and authorities to:

- promote fairer FICC market structures while also enhancing effectiveness; and
- ensure a more forward-looking approach to the identification and mitigation of conduct risks.

(1) See www.bis.org/mktc/fxwg/gc_may16.pdf.

(2) See www.bis.org/mktc/fxwg/am_may16.pdf.

(3) See www.bis.org/press/p160526a.htm.

(4) See www.iosco.org/library/pubdocs/pdf/IOSCOPD415.pdf.

(5) See www.fsb.org/wp-content/uploads/FSB-Chair-letter-to-G20-Ministers-and-Governors-February-2016.pdf.

38 A number of developments have already been undertaken that are consistent with these principles, and are described below.

2.5 Promote fairer FICC market structures while also enhancing effectiveness

39 The Review recommended that **authorities and firms look for ways to improve transparency in ways that maintain or enhance the benefits of diverse trading models, including over-the-counter (OTC) transactions (recommendation 5a)**.

In response, a number of organisations are considering the merits of, or have implemented, market-led initiatives to achieve this goal. For example, the London Bullion Market Association (LBMA) issued a formal 'Request for Information'⁽¹⁾ inviting potential solution providers to assist it in delivering greater bullion market transparency through, for example, trade reporting; and increased reporting and risk management efficiency via enhanced IT solutions. Following this process, the LBMA launched a specific 'Request for Proposal',⁽²⁾ focusing on trade reporting as a priority in response to the market commitment by LBMA members to enhance transparency. The LBMA is also inviting interested providers to submit proposals for a potential new trading platform and OTC clearing service. In fixed-income markets, market participants have collaborated on the development of open standards so banks and investors can share information on dealer inventories and to reduce search costs in secondary markets. Some FX trading platforms have changed the matching rules on their platforms to prioritise executable orders over last look liquidity. And market data firms have developed blended, anonymised FX mid-rates aimed at end-users, treasury functions and compliance functions as robust validation tools.

40 The FCA and CMA were asked to **promote choice, diversity and access by monitoring and acting on potential anti-competitive structures or behaviour (recommendation 5b)**. In April 2015, the FCA was given the power alongside the CMA to take enforcement action against anti-competitive agreements and abuse of dominance under the Competition Act 1998. In 2016, the FCA has opened a Competition Act investigation and issued two 'on notice' letters to firms operating in financial services. The FCA issue these letters to highlight and ask firms to consider competition concerns where the evidence suggests that there may be a potential infringement of competition law but where the assessment of priorities means the FCA do not open an investigation. As a result of the FCA's intervention, these firms have now changed their processes to strengthen their competition compliance. The details of such letters will remain a non-public matter between the FCA and firms involved, as will the FCA's Competition Act investigation unless it reaches a public conclusion. These actions may or may not be against firms operating within FICC markets, but FICC firms should be on notice of the FCA's interest in

promoting competition in all financial services markets and its willingness to take action, where necessary.

41 The FCA also undertook a market study into investment and corporate banking and published the interim findings in April 2016.⁽³⁾ It concluded that while many clients feel well served by primary capital market services there were also some areas where improvements could be made to encourage competition. For example:

- Despite most, particularly larger, clients feeling well served by the universal banking model, the FCA found that cross-selling could make it harder for banks that do not offer lending facilities to compete for primary market services. The FCA noted widespread use of contractual clauses that purport to limit clients' choice of providers on transactions and proposed banning the use of such clauses.
- In addition, the FCA is looking for the industry to address concerns that league tables on investment and corporate banking services may be unreliable, which means they are at best ignored by clients and at worst could distort clients' decision-making.
- Analysis in the market study also found evidence that some banks may seek to reward favoured investor clients when allocating shares in an Initial Public Offering (IPO). As a result, the FCA will undertake supervisory work with a targeted group of banks to better understand how potential conflicts of interests are managed when shares in IPOs are allocated.

42 The FCA consulted on the initial findings in the interim report, and has reviewed responses to this consultation. The FCA is currently considering how to proceed in light of these responses, with a view to publishing a final report later in 2016.

43 In November 2015 the FCA also launched a market study regarding competition issues in the asset management industry.⁽⁴⁾ It aims to publish its interim findings in Summer 2016 and a final report by early 2017.

44 In some cases, the main impediment to changes in market structure may be the absence of a ready means for users to co-ordinate on a preferred way forward. The Review therefore noted the importance of public authorities standing ready to help **catalyse market-led reform held back by private sector co-ordination failures (recommendation 5c)**. The authorities

(1) See www.lbma.org.uk/_blog/lbma_media_centre/post/lbma-issues-request-for-information-rfi/.

(2) See www.lbma.org.uk/_blog/lbma_media_centre/post/lbma-launches-rfp/.

(3) See www.fca.org.uk/news/investment-and-corporate-banking-market-study.

(4) See www.fca.org.uk/news/asset-management-market-study.

have catalysed many such initiatives over recent years, and live initiatives underway include:

- The creation of a private-sector working group on sterling risk-free reference rates (RFR) which was initiated, and is co-ordinated, by the Bank.⁽¹⁾ The working group has made significant progress on the identification of a RFR and plans to encourage adoption of the selected rate as a robust alternative to Libor, particularly for use in sterling interest rate swaps. This progress was summarised in an interim report published May 2016.⁽²⁾ The working group expects to recommend a preferred RFR by the end of 2016 and develop a blueprint for adoption in 2017.
- The Bank's involvement, with other central banks and market participants, in the development of the Global FX Code — described in Section 2.4.
- Work to produce a Securities Lending, Repo and Money Markets Code, led by a joint sub-committee of the Bank's Money Market Liaison Committee (MMLC) and Securities Lending and Repo Committee (SLRC) — described in Section 2.2.

45 The Bank and FCA will undertake work to proactively identify and review potential private sector co-ordination failures that may be holding back market-led initiatives that could improve the fairness or effectiveness of FICC markets. The work will draw on a number of sources, including thematic analysis of market intelligence collected by the authorities, the FMSB, the authorities' existing market committees and industry associations. Issues will be assessed against the FEMR principles for fair and effective markets, and the authorities will seek to catalyse market-led reform where it is needed.

2.6 Forward-looking conduct risk identification and mitigation

46 As well as building fairer market structures over time, the Review noted that reducing the future incidence of misconduct also requires the early identification, and mitigation, of emerging risks in market structures and behaviours. The Review identified important roles for both market participants and the authorities in three main areas.

47 Both the FCA and FMSB were recommended to undertake **timely identification of conduct risks (and mitigants) posed by existing and emerging market structures/behaviours (recommendation 6a)**. The FCA supervision model has been refined to provide supervisors with increased flexibility to address emerging conduct risks.⁽³⁾ The FMSB will be undertaking periodic reviews of wholesale FICC markets, with a focus on identifying emerging trends or developments arising from innovations, when they determine which market standards to create.

48 Separately, following the FCA's FX enforcement final notices published in November 2014, the FCA launched the FX Remediation Programme. The Programme aimed to address conduct risks identified during the course of its FX investigations at an industry-wide level, including the largest firms participating in the FX market in the United Kingdom. Firms in the Programme were required to take adequate steps to ensure that they were sufficiently managing the risks that arise in their FX business. Firms were provided with a list of risks that needed to be effectively managed and were required to consider the culture, governance arrangements, policies, procedures, systems and controls within their UK businesses and the extent to which overseas activities might impact upon conduct outcomes in the United Kingdom. In addition, firms were required to read-across the remediation process to other trading businesses. The Programme continued throughout 2015 and, upon completion, individuals responsible for the relevant business areas were required to attest that they had taken reasonable steps to satisfy themselves that they have systems and controls that are appropriate and adequate to effectively manage the risks faced by the business.

49 As an example of timely conduct risk identification and mitigation, the FCA conducted supervisory work during 2014 in the exchange-traded interest rate derivatives market to gather information from banks and brokers on the practice of 'payment for order flow' (PFOF). PFOF is the practice of an investment firm, which executes client orders (typically a broker), receiving commission from both the client originating the order and also from the counterparty with whom the trade is then executed (the market maker). The FCA's main concerns with this practice related to its impact on the integrity of the price formation process, and the fact that such arrangements create conflicts of interest between firms and their clients, and in particular may compromise compliance with the inducements and best execution rules. While recent FCA interventions have largely stopped the practice for trades initiated by professional clients, the FCA has also recently obtained undertakings from a number of brokers as to the proper management of conflicts of interest where business is done for Eligible Counterparties. However, the FCA believes that current observed market practice for the management of conflicts in this area remains inadequate and will continue to work to raise standards in these markets.

50 The Review noted a need for **enhanced surveillance of trading patterns and behaviours by firms and authorities (recommendation 6b)**. Since the publication of the FEMR Final Report, the FCA has developed new IT capability to detect anomalous Libor submissions across all tenors and

(1) See www.bankofengland.co.uk/markets/Pages/benchmarks/rfr.aspx.

(2) See www.bankofengland.co.uk/markets/Documents/sterlingoperations/rfr/2016/rfrwgintrep16.pdf.

(3) See www.fca.org.uk/about/what/regulating/how-we-supervise-firms.

currencies. The technology also has the potential to be extended to other benchmarks. This development complements the responsibility of regulated benchmark administrators to monitor their benchmarks for misconduct; the FCA has been working closely with the newly regulated administrators to ensure their surveillance functions are enhanced. The FCA has also concluded a recent review of surveillance capabilities at fixed income firms and multilateral trading facilities (MTFs) as part of its supervision programme for these groups of firms. This work complements the publication of FCA Market Watch newsletter no. 47 in March 2015 which reminded MTF operators in fixed-income markets of their surveillance duties and obligations under the FCA rules.⁽¹⁾

51 On 6 October 2015, the FCA and PRA published the policy statement, final rules and supervisory statement on whistleblowing.⁽²⁾ Large deposit-takers and insurers are now required to establish internal whistleblowing channels open to anybody to raise concerns; inform staff about the PRA and FCA whistleblowing services; and are prevented from including anything in employment contracts, settlement agreements and associated documents that deter staff from making protected disclosures. A future consultation will explore how these rules should apply to UK branches of overseas banks.

52 Over the past year, the FCA has assessed the effectiveness of controls at firms trading and broking across the oil, energy, metals and soft commodities sectors through two specific pieces of thematic work. The first related to controls around benchmarks; while good practices were identified, many firms had not embedded the lessons learned from recent market abuse cases (such as Libor, FX and Gold)⁽³⁾ and felt that commodity markets were 'too deep, too liquid, and there are too many participants' to be manipulated. The report noted that the more positive practices were typically demonstrated by firms with cultures that fully recognised the potential risks from their front office activities and urged firms to consider the outcomes of recent enforcement cases. The second review focused on market abuse controls. It also found a variety of good and bad practices. In particular, most firms had not carried out a Code of Market Conduct (MAR 1) risk assessment and therefore could not demonstrate that they had adequate monitoring and surveillance across the full range of market abuse risks to which they were exposed. Through the publication of these findings⁽⁴⁾ clear expectations are set for firms around the understanding of the scope and extent of the requirements placed upon them.

53 The FMSB are also undertaking facilitated workshops with surveillance representatives from member firms (buyside, sellside and venue) focusing on FX, and will be developing a paper summarising good practice for transaction surveillance in FX markets which will be completed in 2016 Q4.

54 Finally, the Review also called for the FCA to undertake early intervention actions where appropriate and proportionate, and **undertake forward-looking supervision of FICC markets (recommendation 6c)**. The FCA continues to scan the market and perform forward-looking supervision on both a firm specific and cross firm basis. It has developed a set of five questions for wholesale banks to use when considering their approach to conduct risk.⁽⁵⁾ These questions cover: i) how firms identify conduct risks inherent in their business; ii) how responsibility for conduct risk is owned throughout the organisation; iii) how firms provide support to enable staff to improve conduct; iv) the Board and senior management's role in overseeing conduct in their organisation and considering the conduct implications of strategic decisions; and v) whether there are any other activities the firm undertakes that could undermine strategies to improve conduct.

55 A number of more general FCA thematic reviews that are relevant to FICC markets have also been published on topics such as information flows (which focused on the debt capital markets and mergers and acquisitions businesses),⁽⁶⁾ oversight and controls around benchmarks⁽⁷⁾ and front office controls in commodity trading. Additionally, the FCA 'House View' provides a process for consideration of future risks to wholesale markets, including FICC markets, and how those might be tackled.⁽⁸⁾

(1) See www.fca.org.uk/static/documents/newsletters/market-watch-47.pdf.

(2) See www.fca.org.uk/your-fca/documents/policy-statements/ps15-24.

(3) See www.fca.org.uk/news/tr15-11-oversight-controls-in-relation-to-financial-benchmarks.

(4) See www.fca.org.uk/static/documents/newsletters/market-watch-49.pdf.

(5) See www.fca.org.uk/news/wholesale-conduct-risk?RRU0815§ion=banks.

(6) See www.fca.org.uk/news/tr15-13-flows-of-confidential-and-inside-information.

(7) See www.fca.org.uk/news/tr15-11-oversight-controls-in-relation-to-financial-benchmarks.

(8) The FCA 'House View' process was part of the FCA strategy launched in December 2014 which aims to create a common FCA view of what is happening in each of the markets and sectors that the FCA regulates and — using data, information and intelligence — making fully-informed decisions on risk priorities and potential mitigations. See www.fca.org.uk/static/documents/reports/fca-our-strategy-december-2014.pdf.

3 Conclusions

56 In the past year significant progress has been made in taking forward the FEMR recommendations. Encouragingly, action is taking place within firms and at an industry level that — while not always directly prompted by FEMR — is consistent with the sentiment and spirit of the FEMR recommendations. This is positive and very much welcomed.

57 But the job is far from done. A key theme that came out of the 'Open Forum' held by the Bank in November 2015 was that there remains a lack of trust in financial markets and financial institutions because of past misconduct. Participants saw cultural and ethical changes as an essential component of building a social licence for financial markets.

58 The authorities will remain closely engaged with industry and with international counterparts such as the FSB, IOSCO and the BIS to promote initiatives that improve the fairness and effectiveness of FICC markets. And, as noted above, we will be proactive in identifying and reviewing potential private sector co-ordination failures that may be holding back market-led initiatives, and will seek to catalyse reform as appropriate.

59 But responsibility must now fall increasingly to market participants to see through the changes in market practices and behaviours that are necessary to restore the reputation of the industry and thereby deliver markets that are both fair and effective. Firms must create, both individually and collectively, cultures that place integrity, professionalism and high ethical standards at their core to ensure that behaviours are not limited to complying with the letter of regulation or laws. As was indicated in the Final Report, a failure to do so will inevitably lead to further regulation and/or legislation.

60 There is a lot of important work to be undertaken in financial services and regulation in the coming years to adapt to changes to the United Kingdom's relationship with the European Union. During this time, the authorities will seek to ensure that the FEMR principles are embedded within that work as it is taken forward. The authorities and firms share a common goal, and have a common interest, in creating financial markets characterised by high standards of fairness and effectiveness. We must continue to progress reforms to realise that vision.

Annex: Summary of progress against the FEMR recommendations

FEMR recommendation	Progress
1 Raise standards, professionalism and accountability of individuals	
<p>a There should be a set of common standards for trading practices in FICC markets, written in language that can be readily understood, and which will be consistently upheld.</p>	<ul style="list-style-type: none"> • The FMSB is taking into account the examples of trading behaviours in Box 8 of the FEMR Final Report, and other examples of good conduct (for example, the forthcoming Global FX Code), when defining principles within their trading practices standards. • IOSCO has established a Task Force on Market Conduct to develop a set of expectations of conduct that apply to individual market participants and a toolkit of measures to promote proper conduct by market participants including individuals and firms. IOSCO intends to publish a final report by the end of 2016.
<p>b The FICC Market Standards Board (FMSB) proposed in recommendation 2a should give guidance on expected minimum standards of training and qualifications for FICC market personnel in the United Kingdom, including a requirement for continuing professional development.</p>	<ul style="list-style-type: none"> • The FMSB is undertaking a stocktake of formal wholesale FICC markets training programmes undertaken by member firms which will, in turn, be used to define a good practice framework for its members and others. The stocktake will be completed later in 2016.
<p>c The FCA and PRA should consult on a mandatory form for regulatory references, to help firms prevent the 'recycling' of individuals with poor conduct records between firms, with a view to having a template ready for the commencement of the Senior Managers and Certification Regimes (SM&CR) in March 2016.</p> <p>In due course, the FMSB should consider whether there is a scope to reach an industry-wide agreement to disclose further information.</p>	<ul style="list-style-type: none"> • The FCA and PRA issued a joint consultation paper in October 2015 which proposed requirements relating to the content and format of regulatory references for individuals subject to the SM&CR, Senior Insurance Managers Regime, key function holders and notified non-executive directors. • A first tranche of rules was published in February 2016 ahead of the commencement of the SM&CR in March 2016, and the FCA and PRA are in the process of finalising a second (final) tranche of the rules which is expected to be published in the autumn. The draft rules considered (among other things) the mandatory disclosure of certain breaches of conduct requirements going back six years in candidates' employment references, as well as any other information relevant to the assessment of candidates' fitness and propriety, and the use of a standard template to improve consistency of disclosure.
<p>d The UK criminal sanctions framework for market abuse for individuals and firms should be updated, through an extension to a wider range of FICC instruments (by including all of those covered under the Market Abuse Regulation).</p>	<ul style="list-style-type: none"> • The United Kingdom's domestic market abuse regime has close links to European legislation, and the markets affected are international. The importance of these FEMR recommendations is not diminished by the vote to leave the European Union and the implementation of these recommendations will be reviewed in the context of the development of the United Kingdom's new relationship with the European Union.
<p>e That HM Treasury introduce legislation to lengthen the maximum sentence for criminal market abuse from seven to ten years imprisonment.</p>	

FEMR recommendation	Progress
2 Improve the quality, clarity and market-wide understanding of FICC trading practices — Section 2.2	
<p>a Create a FICC Markets Standards Board (FMSB) with participation from a broad cross-section of global and domestic firms and end-users at the most senior levels, and involving regular dialogue with the authorities.</p>	<ul style="list-style-type: none"> • The FMSB has been successfully established — 36 firms spanning the buy-side, sell-side, infrastructure providers and end-users (plus five standing guests) have joined. In May 2016 the FMSB announced that Mark Yallop will become its Chairperson from 25 July 2016. • The FMSB has produced and published transparency draft standards on 'Reference Price Transactions in Fixed Income Rates Markets' and the use of 'Binary Options in Commodities Markets'. The FMSB also provided input to the work being undertaken to create a Global FX Code (see below). • The FMSB is establishing a framework for adherence to its standards. It will require members to comply on a global basis with the core principles of all FMSB standards, and to explain circumstances where they are unable to comply with specific details or in certain jurisdictions. • The FMSB has undertaken significant outreach to international authorities and other relevant standard setters both in the United Kingdom and overseas. • The Bank and FCA attend FMSB Board and Advisory Council meetings as <i>ex-officio</i> observers.
3 Strengthen regulation of FICC markets in the United Kingdom — Section 2.3	
<p>a Extend the UK regulatory framework for benchmarks to cover seven additional major UK FICC benchmarks.</p>	<ul style="list-style-type: none"> • After public consultation, the Government accepted the Review's recommendations, and the legislation became effective on 1 April 2015. The administrators of, and those firms submitting to, these benchmarks are now subject to FCA authorisation and regulation requirements and it is a criminal offence to manipulate or attempt to manipulate them.
<p>b Create a new statutory civil and criminal market abuse regime for spot FX drawing on, among other things, the work of the international project to draw up a global foreign exchange code.</p>	<ul style="list-style-type: none"> • The United Kingdom's domestic market abuse regime has close links to European legislation, and the markets affected are international. The importance of this recommendation is not diminished by the vote to leave the European Union and the implementation of this recommendation will be reviewed in the context of the development of the United Kingdom's new relationship with the European Union.
<p>c Ensure proper market conduct is managed in FICC markets through regulators and firms monitoring compliance with all standards, formal and voluntary, under the Senior Managers and Certification Regimes.</p>	<ul style="list-style-type: none"> • The SM&CR provides a powerful framework through which firms can, and should, monitor the conduct of their FICC staff against regulatory and appropriate market standards for FICC business. The SM&CR took effect for deposit-takers and PRA-designated investment firms from 7 March 2016.
<p>d Consult on legislation to extend elements of the Senior Managers and Certification Regimes to a wider range of regulated firms, covering at least those active in FICC wholesale markets.</p>	<ul style="list-style-type: none"> • The Bank of England and Financial Services Act 2016 included provisions to extend the SM&CR to all authorised financial services firms. The extended regime is expected to take effect from 2018.
<p>e Improve firms' and traders' awareness of the application of competition law to FICC markets, including through the communication by the FCA of material presented in the Final Report to authorised firms active in FICC markets, through firms' internal training programmes, and through new guidance on qualifications and training to be developed by the FMSB.</p>	<ul style="list-style-type: none"> • The FCA and CMA sent the section in the FEMR Final Report on the application of competition law to FICC markets to key firms in September 2015, published the document on their website and publicised it via the FCA's regulatory round-up newsletter. <p>The FMSB's work to develop a good practice framework for training will also consider measures to increase member firms' awareness of competition law.</p>

FEMR recommendation	Progress
4 Launch international action to raise standards in global FICC markets — Section 2.4	
<p>a Create a single Global FX code, providing: a comprehensive set of principles to govern trading practices around market integrity, information handling, treatment of counterparties and standards for venues; comprehensive examples and guidelines for behaviours; and stronger tools for promoting adherence to the code by market participants.</p> <p>b As part of that work, or otherwise, particular attention should be given to improving the controls and transparency around FX market practices where there may be scope for misconduct, including 'last look' & 'time stamping'.</p>	<ul style="list-style-type: none"> • Work to produce a single Global FX Code was already underway by central banks, under the aegis of the BIS, with support from a Market Participants Group. Significant progress has been made. A number of sections (covering ethics, information sharing, certain aspects of trade execution and confirmation and settlement) were released in May 2016. The complete Code will include guidance on market practices where there could be scope for misconduct, such as 'last look' and 'time stamping'. • The FX Working Group producing the Code has also set out a statement on how adherence will be promoted. BIS central banks have announced their intention to adhere to the principles and standards of the Code where they act as market participants. Further, these central banks expect that their regular FX trading counterparties will adhere to the Code. • The complete Code is on track for publication in May 2017.
<p>c The IOSCO Task Force on Financial Benchmarks should consider exploring ways to ensure that more consistent self-assessments against the benchmark Principles are published by administrators, and provide guidance for benchmark users.</p>	<ul style="list-style-type: none"> • IOSCO undertook a consultation and information gathering exercise with benchmark administrators and is considering whether further guidance is needed.
<p>d The FSB should examine further ways to improve the alignment between remuneration and conduct risk at a global level.</p>	<ul style="list-style-type: none"> • The FSB agreed in November 2015 to further examine the use of compensation tools such as malus and clawback and the use of different instruments as an element of deferred compensation and, if appropriate, make recommendations on better practices. The work will be completed in time for the G20 Summit in September 2016.
5 Promote fairer FICC market structures while also enhancing effectiveness — Section 2.5	
<p>a Improve transparency in ways that also maintain or enhance the benefits of diverse trading models, including over-the-counter.</p>	<ul style="list-style-type: none"> • A number of organisations are considering the merits of, or have implemented, market-led initiatives. Examples include: <ul style="list-style-type: none"> • the London Bullion Market Association (LBMA) issued a formal 'Request for Information' inviting potential solution providers to assist it in delivering greater bullion market transparency through, for example, trade reporting; and increased reporting and risk management efficiency via enhanced IT solutions. Following this process, the LBMA launched a specific 'Request for Proposal', focusing on trade reporting as a priority in response to the market commitment by LBMA members to enhance transparency. The LBMA is also inviting interested providers to submit proposals for a potential new trading platform and OTC clearing service; • in fixed-income markets, market participants have collaborated on the development of open standards so banks and investors can share information on dealer inventories and to reduce search costs in secondary markets; • some FX trading platforms have changed matching rules to prioritise executable orders over 'last look' liquidity; and • market data firms have developed blended, anonymised FX mid-rates aimed at end-users, treasury functions and compliance functions as robust validation tools.

FEMR recommendation	Progress
<p>b Promote choice, diversity and access by monitoring and acting on potential anti-competitive structures or behaviour.</p>	<ul style="list-style-type: none"> • In April 2015, the FCA was given the power alongside the CMA to take enforcement action against anti-competitive agreements and abuse of dominance under the Competition Act 1998. In 2016, the FCA has opened a Competition Act investigation and issued two 'on notice' letters to firms operating in financial services. • The FCA published the interim findings of its market study into investment and corporate banking in April 2016. It concluded that while many clients feel well served by primary capital market services there were also some areas where improvements could be made to encourage competition. The FCA consulted on the initial findings in the interim report, and is currently considering how to proceed in light of consultation responses, with a view to publishing a final report later in 2016. • In November 2015 the FCA also launched a market study regarding competition issues in the asset management industry. The interim findings are expected to be published in Summer 2016 and a final report by early 2017.
<p>c Catalyse market-led reform held back by private sector co-ordination failures.</p>	<ul style="list-style-type: none"> • Live initiatives by the authorities to catalyse market-led reform include: <ul style="list-style-type: none"> • The creation of a private-sector working group on sterling risk-free reference rates (RFR) which was initiated, and is co-ordinated, by the Bank. • The Bank's involvement, with other central banks and market participants, in the development of the Global FX Code. • Work to produce a Securities Lending, Repo and Money Markets Code, led by a joint sub-committee of the Bank's Money Market Liaison Committee (MMLC) and Securities Lending and Repo Committee (SLRC). • The Bank and FCA will undertake work to proactively identify and review potential private sector co-ordination failures that may be holding back market-led initiatives that could improve the fairness or effectiveness of FICC markets. The authorities will seek to catalyse market-led reform where it is needed.
<p>6 Forward-looking conduct risk identification & mitigation — Section 2.6</p>	
<p>a Timely identification of conduct risks (and mitigants) posed by existing and emerging market structures or behaviours.</p>	<ul style="list-style-type: none"> • The FCA supervision model has been refined to provide supervisors with increased flexibility to address emerging conduct risks. • Following the FCA's FX enforcement final notices published in November 2014, the FCA launched and concluded an industry-wide Remediation Programme. • The FMSB will undertake horizon scanning by periodically reviewing wholesale FICC markets for emerging risks.

	FEMR recommendation	Progress
b	Enhanced surveillance of trading patterns and behaviours by firms and authorities.	<ul style="list-style-type: none"> • The FCA has developed new IT capability to detect anomalous Libor submissions across all tenors and currencies. The technology also has the potential to be extended to other benchmarks. • The FCA has concluded a recent review of surveillance capabilities at fixed-income firms and multilateral trading facilities (MTFs) as part of its supervision programme for these groups of firms. • In October 2015 the FCA and PRA published the Policy Statement, final rules and Supervisory Statement on whistleblowing. • The FCA has assessed the effectiveness of controls at firms trading and broking across the oil, energy, metals and soft commodities sectors, through two pieces of thematic work relating to i) controls around benchmarks and ii) market abuse controls. • The FMSB are developing a paper summarising good practice for transaction surveillance in FX markets which will be completed in 2016 Q4.
c	Forward-looking supervision of FICC markets.	<ul style="list-style-type: none"> • The FCA continues to scan the market and perform forward-looking supervision on both a firm specific and cross firm basis. It has developed a set of five questions for wholesale banks to use when considering their approach to conduct risk. • A number of FCA thematic reviews relevant to FICC markets have been published on topics such as i) information flows; ii) oversight and controls around benchmarks; and iii) front office controls in commodity trading. • The FCA 'House View' provides a process for consideration of future risks to wholesale markets, including FICC markets, and how those might be tackled. This will link in with the proposed work to proactively identify and review potential private sector co-ordination failures that could improve the fairness or effectiveness of FICC markets identified in 5c above.