

The FCA, Its New Man At The Top and The Issues He Must Address

20 Oct 2020 Syedur Rahman.

Syed Rahman of Rahman Ravelli considers the challenges facing the new head of the Financial Conduct Authority

The Financial Conduct Authority (FCA) has a broad remit over UK finance, being charged with the task of protecting consumers, promoting competition and ensuring market integrity. The three objectives do not always sit together neatly; meaning that the job of FCA Chief Executive is a far from straightforward one.

Nikhil Rathi was appointed to the post at the start of October. Once his appointment was made known he talked of being honoured to be taking up the role.

But, more specifically, he outlined his intention to meet a number of objectives:

- Developing a more diverse FCA.
- Supporting the recovery with a special focus on vulnerable consumers.
- Embracing new technology.
- Helping tackle climate change.
- Enforcing high standards and ensuring the UK is a thought leader in international regulatory discussions.

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From the outset, he has been robust when expressing his intentions for the FCA. He has said he is not afraid to rub people up the wrong way in pursuit of justice for consumers and he has promised to maintain high standards post-Brexit. What is of most importance, however, is how far he is able to go towards both meeting his objectives and managing other issues that either already exist or arise while he is in post.

COVID-19

Having

joined the Treasury in the midst of the global financial crisis in 2009, Nikhil Rathi rose through the ranks before switching to the private sector in 2014, as chief executive of the London Stock Exchange and a director of international development at its parent company, the London Stock Exchange Group. His wide-ranging experiences across financial services have given many confidence that he will achieve his ambitious vision for the FCA.

Yet he takes charge of the FCA at a particularly delicate moment. The UK is facing the prospect of a major recession due to the COVID-19 pandemic, which is predicted to cause huge amounts of financial distress.

His immediate focus is on dealing with the challenges resulting from that. Specifically, this means that the FCA has to ensure that the markets continue to function while, at the same time, protecting the most vulnerable consumers and small firms.

In April of this year, the FCA set out its business priorities for the year ahead. It indicated that it would remain vigilant to potential misconduct during the pandemic and issued a warning to those that may have been thinking that coronavirus had provided an opportunity for illegal or unethical behaviour.

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The most pressing issue, therefore, may be COVID-19. He has identified that the UK is dealing with an extraordinary situation, with millions of consumers around the country facing very difficult circumstances. Millions of UK consumers and close to one million businesses are adding to the UK's debt burden.

It will fall to him to shape the FCA's framework and ensure that lenders are not seen to profit from the pandemic, as some did after the financial crisis of 2008. This will involve devising a new approach to treating bank customers in financial difficulty — including business customers who are currently outside the FCA's remit.

But the FCA has to face a number of other immediate issues: issues that cannot be “put on the back burner” while it faces the problems prompted by the pandemic.

Post Brexit Regulation

The short-term focus may well be on managing a smooth return to normality whenever the UK emerges from the pandemic. But second on Nikhil Rathi's list of priorities must be the need to protect London's position as a preeminent international financial centre, given the potential loss of business that may be suffered in the wake of Brexit.

The UK's regulatory relationship with the EU is either going to be codified in a trade deal or the UK will leave the EU without an agreement.

Many financial services groups want to see an agreement on equivalence, which would allow UK companies' access to EU markets to continue, providing that the rules on financial services are similar. Some commentators have even expressed the hope that the FCA Chief Executive can use his influence and experience to try and ensure that any future negotiations involve securing this equivalence.

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Diversity

The FCA's new Chief Executive has made it clear that he views diversity as one of his leading priorities for the future of the FCA. He has stated that he believes that the FCA has a role to support a more diverse financial services sector. He believes the way to accomplish this is by reassessing and, where necessary, changing the recruitment processes and hiring practices that are currently relied on by his organisation.

The implementation of unconscious bias training and no-name CVs has been put forward as a way in which the FCA can be seen to be more openly diverse and reflective of the sector it exists to protect and promote.

Financial Technology

Fintech is another key focus of the FCA as it attempts to encourage innovation in UK finance.

The FCA has already said that it intends to make changes to the way it identifies, prioritises and acts on the intelligence it receives, in order to ensure it takes a more focused and better co-ordinated approach.

A recent report by lobby group TheCityUK praised the FCA for its "pioneering" efforts and regulatory "sandbox" approach: allowing fintechs to experiment with technology and data in a safe environment, under supervision. But as fintechs grow and look to operate across borders, it will be up to Nikhil Rathi to oversee the evolution and direction of the FCA's approach.

This will be essential if the FCA is to maintain the UK's all-important position in the financial world. But it will also be necessary if the FCA is to stay abreast of – and keep co-operating fully with - its counterparts around the world in the future.

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In short, the FCA's new man at the helm will need the full depth of his experience of domestic and international regulatory policymaking in order to manoeuvre his organisation through the choppy waters that lie ahead.



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Syedur Rahman is a Legal Director at Rahman Ravelli with a great depth of experience in top-level global investigations and corporate crime. Legal guides have highlighted his achievements in the fields of worldwide asset tracing and recovery, high-stakes commercial and financial disputes and cross-border investigations.

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