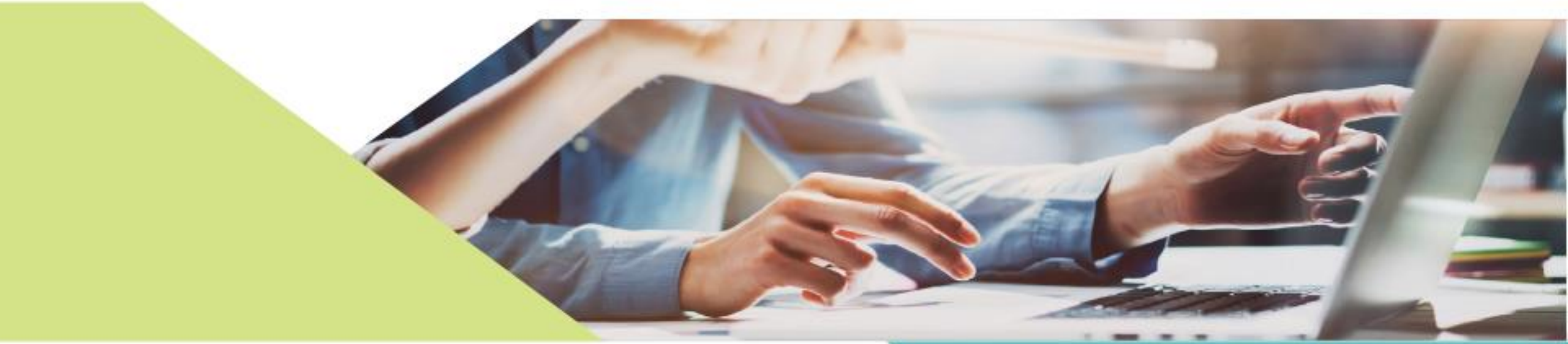
Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem



FinCoNet International Seminar

Market Conduct Supervision: Reviewing the fundamentals and facing the challenges ahead

23 November 2022

Context

- Central Bank of Ireland is a **single consolidated regulator and central bank**, responsible for financial services regulation of financial sectors across our mandates
- "***Consumer protection is embedded in everything we do***" - Governor Makhlouf
- Our regulatory framework comprises **EU legislation and domestic requirements**, including requirements imposed by the Central Bank
- For all our work we apply a **risk-based supervisory approach**: supervisory risk appetite, risk assessment processes, toolkit and escalation strategies
- We have **learned a lot** through the Global Financial Crisis (e.g. on lending and arrears) and various misconduct interventions – and in particular how hard it can be to change culture
- Currently, we are **enhancing our supervisory frameworks** for retail conduct supervision and the supervision of behavioural & cultural risk (BCR)
- We have also launched a **review of our Consumer Protection Code**

The importance of international coordination

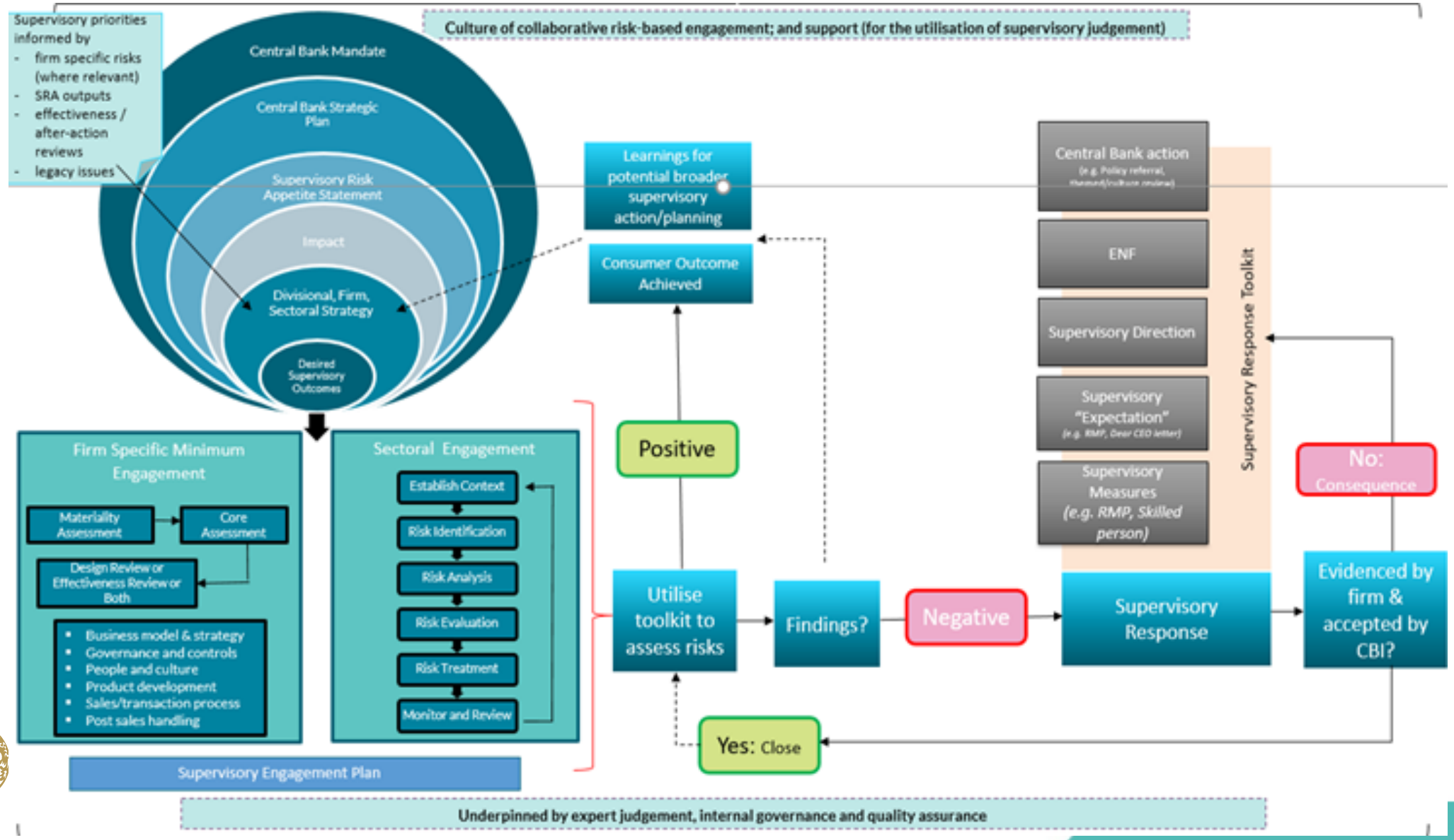
- As a regulator in a jurisdiction with a very open market economy, we see the **benefits of international coordinatio**n, including through FinCoNet.
- In the field of consumer protection in particular, we see the benefit in ongoing **sharing of risk outlooks** – issues emerging for consumers in one jurisdiction are likely to arise in others too!
- We apply the **G20/OECD High Level Principles** on financial consumer protection.
- From a regulatory perspective, Ireland was deemed by the OECD to have fully implemented the principles – though only partially in an aspect of competition (in secured mortgage lending) and in respect of financial literacy (in absence of national strategy).
- We engage in **peer reviews** to ensure best practice and the highest standards internationally:
  - AFM review in 2015 noted strengths included strong international engagement; committed and professional staff; dedication to stakeholder engagement; and focus on market intelligence and behavioural insights to inform work.
  - Areas identified for further development included product governance and oversight; strategic planning and outcome measurement; prioritisation and capacity planning; and on culture in financial services.

We apply a risk-based approach to conduct supervision

Key elements of our risk-based approach:

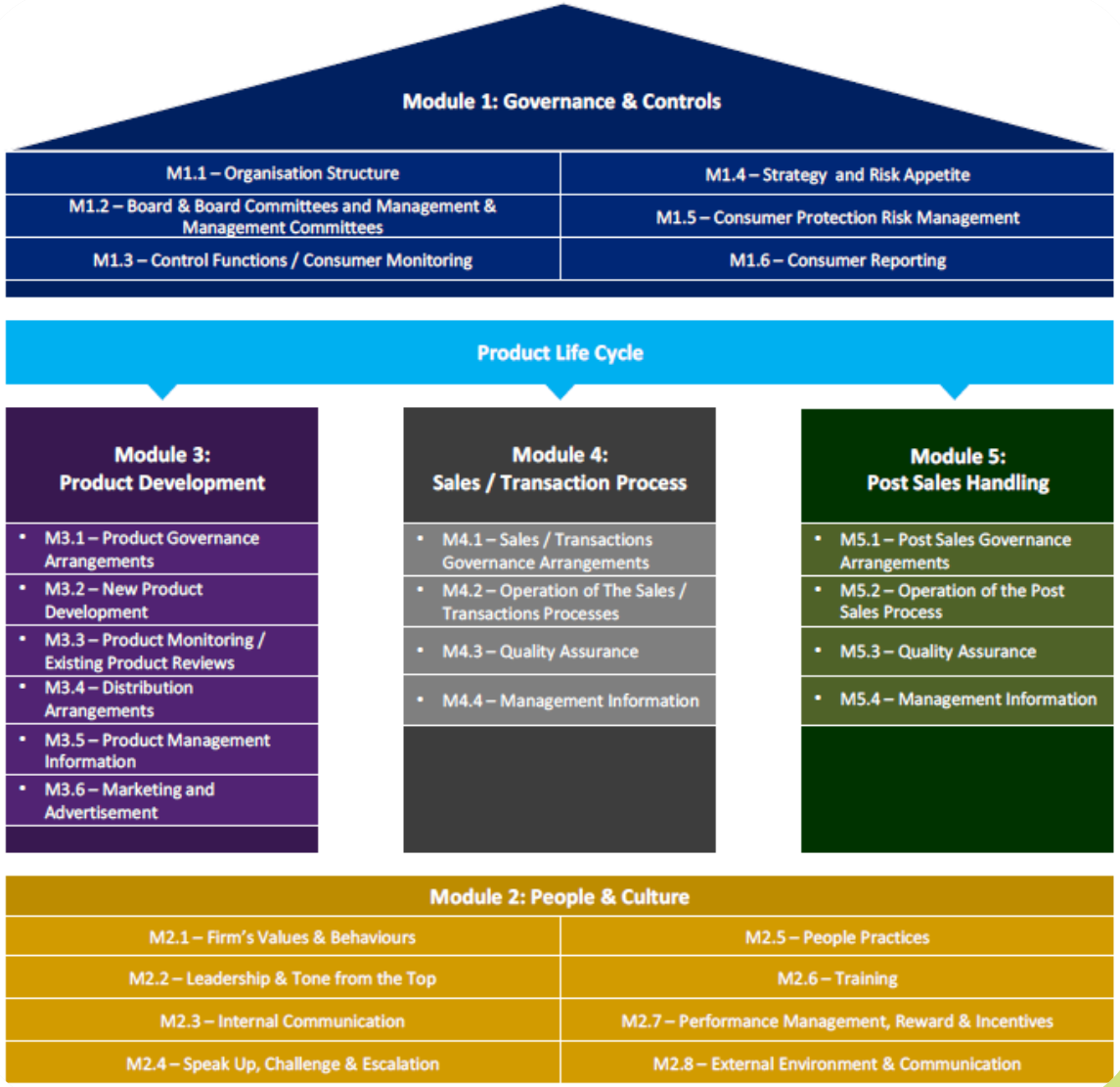
- **Annual risk assessment** of consumer risks, on sectoral and cross sectoral basis
- **Impact ratings + Supervisory Risk Appetite** drives supervisory intensity
- We use a **broad supervisory toolkit** ranging from information gathering, inspection, risk mitigation programmes, use of media, powers of direction to penal enforcement and revocation
- '**Stop the Harm**' and **redress** key focus in our interventions, as well as penalties and fitness & probity findings
- Under our new Strategy (2021) we are evolving our supervisory approach to be **more data-driven, agile and scalable**
- Two **new components**: enhanced retail conduct supervisory framework and new cross-mandate BCR Framework

Retail Conduct Supervisory Framework (New)



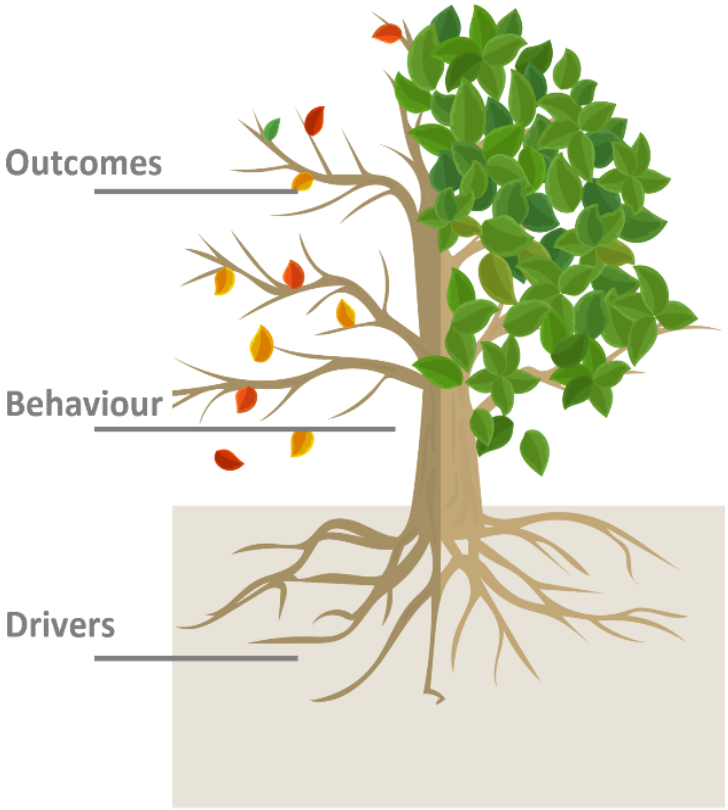
Supervisory Toolkit – Consumer Protection Risk Assessment

- Focuses on firms' risk management frameworks
- Provides a **taxonomy** to guide and structure supervisors' assessment of key conduct risk drivers
- Structured into **5 specific modules**
- Enables a **targeted** risk assessment focusing on specific elements, each of which has a pre-defined conduct risk attached to it
- Assessments comprise two elements: a **design review** and an **effectiveness review**
- This taxonomy forms the basis of our enhanced Retail Conduct Supervisory Framework



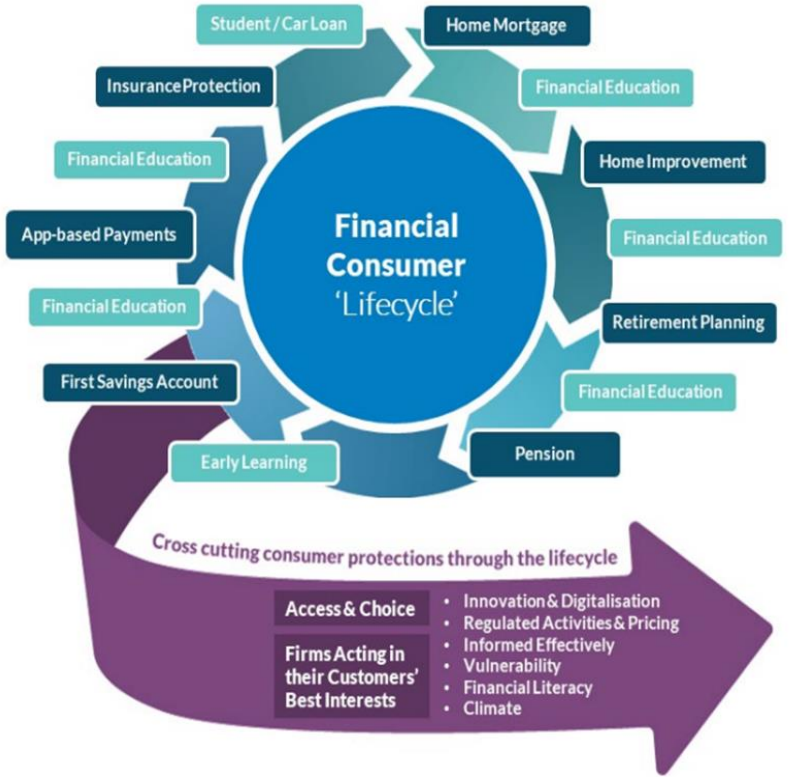
Supervisory Toolkit – Behavioural and Cultural Risk Framework (New)

- **2018 Behaviour and Culture Report** after 'Tracker Mortgage' scandal showed need for a more consumer-focused culture in the main Irish retail banks
- It has also led to legislative changes to introduce a new **Individual Accountability Regime**
- As part of our lessons, we saw the need to learn from others who had a **more defined approach** to interrogating behavioural and cultural risk in firms, and sectors (also in 2015 AFM peer review)
- Includes seeking to understand better the **drivers behind the behaviour** and trends in the outcomes we witness
- Framework is designed to **cover our full regulatory mandate** (prudential, conduct and AML/CTF) in an integrated way



We have launched a review of our Consumer Protection Code

- Key aims of the Discussion Paper are to:
  - **Educate and inform** all stakeholders of the nature and role of financial consumer protection, describe the consumer protection framework in Ireland, and explain the role of consumer protection authorities in Ireland
  - To **engage all stakeholders in an open discussion** on the key topical issues of consumer protection, and the challenges faced by regulators in identifying appropriate policy solutions
- Three **strands of engagement:**
  - Consumers' best interests
  - Change and innovation
  - Availability and Choice
- The Discussion Paper is accompanied by an extensive programme of engagements designed to ensure active engagement and discussion
- Discussion Paper **open for views until March 2023** with revised Code planned to be introduced in 2024



Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

Concluding remarks

- We have found **defined supervisory frameworks** to be useful and effective for our supervisors in making judgments.
- We have also found it useful to have the **power to make rules ourselves** to supplement domestic and EU legislation.
- But we have also seen **less progress in changing culture** in financial services than we would have liked from our supervisory effort, and we continue to see too many cases of misconduct and consumer harm.
- As a small open economy, a lot of products and behaviours are driven by **international trends and consumer preferences**. This makes EU and international work a priority for us so that financial services is shaped to best serve consumers.
- It **can be hard to establish where the lines should be drawn** between the responsibilities of firms, consumers and/or other actors involved. Since we are concerned with (mis)conduct, our role as regulator is often defined 'in the moment' in the face of misconduct by firms.
- Constant **challenge to maintain focus on priority risks** while dealing with incidents in firms and sectors.
- **Building/maintaining the right skillset in the team is a constant challenge**, in order to keep up to speed with developments in the industry but also in regulatory thinking (e.g. behavioural science).
- We **hope to be more integrated across our mandates** in future, so that we are better at harnessing the skills across our organisation on shared priority risks.

Useful links

- Review of the Consumer Protection Code - Discussion Paper (2022)
- Consumer Protection Outlook Report (2022)
- Central Bank Strategy (2021)
- Consumer Protection Risk Assessment guide (2017)
- AFM Peer Review publication – A review of the consumer Protection Function of the Central Bank of Ireland (2015)