Skilled Persons Reviews under s. 166 of the Financial Services and Markets Act 2000

I would be grateful if you could provide me with some information about the FCA’s use of its power to require a report by a skilled person under section 166 of the Financial Services and Markets Act 2000, as amended by the Financial Services Act 2012. This includes both the use of the FCA’s power to contract directly with Skilled Persons and also cases in which the regulated firm enters the contractual arrangements. I am particularly concerned with the costs that must be borne by firms—and consequently by their customers—when the FCA requires such a report.

Please could you let me know the following:

- The cost and date of each skilled person review required by the FCA, and the cost and date of each review commissioned by the FSA in its last five years.

- What is the process by which the decision is taken to require a report by a Skilled Person under section 166 of the Act?

- At what level of seniority is approval given for the decision?

- How do you decide whether the FCA will contract the Skilled Person or whether the regulated firm will do so?

- Does the FCA utilise the Internal Audit Departments (IAD) of regulated firms for reviewing and assessing matters of potential concern? In firms with a strong
independent IAD, please explain the reasons why that IAD would not be commissioned to perform such work in preference to third party firms.

- What consideration does the FCA give to using other tools of regulation to mitigate potential risks, such as placing specific requirements on management and boards?

- The FCA’s policy on the use of skilled persons requires the regulator to have regard to the question of cost. What does this mean in practice?

- What steps do you take to ensure that the costs to firms are kept to a minimum?

- It appears to be the case that the significant majority of s.166 commissions are awarded to the 'Big 4' accounting firms. What is the FCA doing to promote competition and encourage smaller, specialist firms to compete for s.166 mandates?

- On both a case by case basis and in aggregate, how does the FCA judge the value for money from s.166 reviews?

- To what extent does the FCA coordinate with the PRA in the scoping of s.166 reviews in order to manage costs and efficiency?

- To what extent are these reviews used to overcome resource constraints at the FCA—either by compensating for a lack of expertise, or by helping to keep costs down?

- Will you publish the costs of reviews in which the FCA appoints the Skilled Person separately from those of cases in which the firm makes the appointment?

- What oversight does the Board have of the use of s. 166 reviews?
Please could you let me have a reply by Monday 7 July?

I will be placing this letter, and your reply, in the public domain. I am writing in similar terms to Andrew Bailey.

ANDREW TYRIE
CHAIRMAN OF THE TREASURY COMMITTEE