

Annual Public Meeting 2021 - responses to unanswered questions

1. What is the FCA's view on cryptoassets that are outside of the regulatory perimeter?

We included a chapter on cryptoasset regulation in our recent [perimeter report](#).

The FCA has regularly warned consumers that if they buy cryptoassets they are unlikely to have access to the Financial Ombudsman Service (FOS) or the Financial Services Compensation Scheme (FSCS) if something goes wrong. If they invest in cryptoassets, they should be prepared to lose all their money.

2. What work has been carried out to understand the effectiveness of approaches to ensure that the £11million planned to be spent on helping citizens become aware of crypto currencies is money well spent? How will you measure the achievement of purpose and link it to the approaches taken?

The investment harms campaign is not focused on crypto specifically but on ensuring self-directed investors understand the risks of investing. This is so investors can decide whether investments match their risk appetite and capacity for loss.

To understand this group, to inform our message and how we reach them, we undertook a [significant research exercise](#).

The investment harms campaign supports our overall ambition for the consumer investments market – which includes a 50% reduction in the number of consumers investing in higher risk investments when they shouldn't.

We will independently evaluate the campaign by looking, in particular, at whether we have effectively reached the audience we are targeting and whether our key messages have been received and understood.

We are not spending all the budget in the first burst of the campaign. As a result, we will use the evaluation to ensure we are using the funding to effectively our intended audience.

3. What is the FCA's view on operational resilience post-Covid? What extra risks may firms need to now consider for their operational resilience after the large shift to flexible working since March 2020 and the first UK lockdown?

We've been encouraged by how firms adapted to the early stages of the pandemic. As firms are now looking further ahead, we think the feedback we received on the impact of the pandemic has reinforced the importance of the operational resilience policy we published in March. In particular, we'd like to see firms paying attention to how they maintain their important business services within pre-defined impact tolerances (the maximum tolerable disruption to these services) as they transition to different working models.

We expect firms to ensure they maintain their important business services agnostic of their working model (whether that be in office, dispersed or hybrid). Their important business services and impact tolerances should remain the same for all working models, and they should be capable of demonstrating how these standards are being maintained.

From an operational resilience perspective, some of the key risks from using a mix of working styles are as follows:

- Firms have become increasingly reliant on **third parties**. While firms are free to outsource they retain responsibility for maintaining resilient services. Firms need to

manage outsourced providers effectively to reduce the risk of operational disruption.

- **Virtual Private Networks (VPNs)** allow remote users to securely access firms' IT resources. As firms have shifted to home working there's been a surge in use of VPNs. Firms should ensure they're applying the latest patches as soon as possible after testing and they regularly test their VPN infrastructure for cyber vulnerabilities. Firms will also have many more IP addresses to monitor with staff homeworking.
- Staff are more likely to use **personal devices** when working from home, with many using them for two-factor authentication, as well as mobile versions of email and instant messaging. Firms should ensure access to their systems through personal devices is as secure as firm-owned equipment.
- Continuous home working poses fresh challenges around **information security**. For example, staff should be extremely careful when discussing confidential information around family members who may work for rival organisations. Firms should be alert to these risks and adapt their training accordingly.
- Linked to this are concerns around the threat of **malicious insiders** and data security. Use of sensitive data and monitoring of access to it by employees is less likely to be as stringent as it is in the office. Given many are likely to continue working from home, firms should review and adapt their data loss prevention controls to ensure they remain robust to mitigate both intentional and unintentional data breach incidents.
- In some instances, firms have **delayed non-essential changes** and updates to their systems. Some will have already resumed their change programmes but others will be confronting a backlog of changes and will need to manage the risk of concurrent change programmes being implemented over a short period without causing disruption.
- **Cyber criminals** have adapted. You should continue to pay attention to the ways in which attackers tailor their phishing emails and ensure you continually train your staff to spot the warning signs of phishing attacks. With staff beginning to return to the office in far larger numbers, it's likely hybrid working becomes a common topic in phishing emails.

Firms shouldn't become complacent, particularly as hybrid working becomes more commonplace. It's also well worth seeking out the NCSC's [home working guide](#).

4. How many of the 220 cryptoasset registration applications have been processed? (i.e. approved or declined)

As of 7 October, 108 applications have been decided. FCA Register provides details of [registered businesses](#). A significantly high number of businesses are not meeting the required standards under the Money Laundering Regulations resulting in an unprecedented number of businesses withdrawing their applications. Further details on our [website](#).

5. In investigating individuals/firms suspected of wrongdoing how will the FCA balance the understanding of the pressures that Covid placed on firms to operate in new rapidly changing environment and their duties to comply with their regulatory obligations?

We are continuing to follow our policy as set out in our [Approach to Enforcement](#). We will start an investigation where we suspect serious misconduct may have taken place. Not all breaches of our rules or requirements constitute serious misconduct, and many can be addressed and remedied elsewhere. We use our [investigation opening criteria](#) to decide whether to open an

FCA investigation and will consider a number of factors, including the public interest in investigating the matter.

For investigations already underway, we recognise the pandemic slowed the production of some evidential material and reduced resources within some firms and organisations assisting investigations.

As a result, we put in place alternative arrangements., For example we initially paused enforcement interviews in the first few months of the pandemic before moving to videoconferencing in May 2020.

6. Why not relaunch ScamSmart to advise consumers to notify the FCA when they see a scam? Not only would this give you early awareness of such frauds, but it would put more pressure on you to act against them - and act as a powerful deterrent to prospective scammers.

We have not discontinued [ScamSmart](#). We have more targeted campaigns planned in the future.

In addition, we have issued more than 1,104 consumer alerts so far this year, with over 1200 issued in 2020 up from 573 in 2019. Our warnings are easily accessible on our website and are responsive to online searches. Although our warnings serve primarily to warn consumers, they also serve to disrupt the activities of fraudsters. In addition to issuing a warning, where we identify scam activity, we will also seek to have the website and social media accounts of the entity taken down to protect consumers from the harmful content and to disrupt the activities of the scammers.

7. What approach do you plan to take to tackling fraudulent/Wrongdoing revealed by Covid pandemic and arising out of the pandemic?

We have done a substantial amount of work during the pandemic to protect consumers.

Almost 5 million payment deferrals were granted across credit cards, loans and mortgages to people who had suddenly little or no money coming in. Businesses forced to close or scale back operations won insurance payments for Covid-related losses thanks to our efforts to clarify coverage.

We are continuing to act to protect consumers and the integrity of the markets we oversee.

We are currently engaged in work to ensure that lenders provide SME borrowers in financial difficulty are treated fairly during loan collection and recovery processes.

We will continue to warn consumers of the risk of fraud, including through campaigns such as ScamSmart, and will work with the firms we regulate to ensure they have appropriate systems and controls in place to improve fraud detection and prevention.

We will also work closely with government and other partners, such as the National Economic Crime Centre and the British Business Bank, to address fraud which may have been perpetrated during the pandemic, and in July we wrote to the CEOs of lenders under the Bounce Back Loan Scheme asking them to report to us any instances of fraud committed by FCA Authorised Firms.

The global markets we oversee proved resilient at a time of unique stress and volatility. By enabling businesses to raise capital more quickly at the onset of the pandemic, we made sure that financial markets continued to support the wider economy at a critical time.

8. Your focus seems entirely on negative aspects of the financial services sector and there is little or no focus on positive aspects of the financial services sector. It creates an environment of mistrust for consumers, do you see this ever changing?

As the regulator, we have a duty to address issues where we find them and to be transparent when we do so. However, we have also recognised, for example, the strong operational resilience of the financial services industry during the pandemic. We also praised and thanked those frontline staff who kept essential services operating throughout Covid lockdowns.

9. Can you please explain why you deliberately ignored George Patellis - as a whistleblower who waived his rights to anonymity - in respect of Connaught?

The FCA has apologised for the errors made by the FSA in the handling of the Connaught Income Series 1 Fund. Charles Randell, the Chair of the FCA, has also added his own public apology from the FCA to George Patellis, who he recognised was an important whistleblower raising concerns that we should have acted on more promptly and decisively.

10. Does the FCA accept, in respect of Connaught, that a review cannot be described as 'independent' when the FCA chose the reviewer set the terms of reference and protocols and granted itself asymmetric Maxwellisation rights? And does it accept that in subsequently hiring him as its Senior Legal Adviser, without advertising the role, briefing search consultants or considering any other candidates, makes it look like the author subsequently was rewarded for delivering a whitewash?

Mr Parker was not approached regarding a Senior Adviser role until after the publication of his report and therefore this appointment did not have any bearing on its impartiality.

Mr Parker's report was robust and thorough, with a number of significant recommendations for the FCA which we have accepted and are implementing. The FCA seeks to learn from its mistakes and, given his unique insight and deep knowledge of the FCA, we considered his recruitment on a part time basis (1.5 days a week) would help us to continue learning and embed the lessons of the independent reviews at this critical stage for the organisation. Mr Parker is receiving the standard Senior Adviser rate, pro-rated to his time commitment.

11. Small company regulation of AIM and smaller listed companies is a concern to many individual investors. Can you confirm that (i) the FCA has allocated adequate resources to this area and (ii) that the FCA pursues offenders and possible cases as vigorously as it does large companies? What % of small cap and AIM companies have been investigated by the FCA in the past 5 years and how does this compare to the FTSE100 and mid cap companies?

The FCA reviews instances of suspected misconduct that it either detects or has brought to its attention in order to assess the seriousness of any misconduct and the harm that may have occurred. How we assess harm and the seriousness of misconduct are set out in our Approach to Enforcement.

During the last 5 years 49% of these investigations regarding primary market regulation concerned companies that were small cap/AIM.

12. The FCA claims that it values whistleblowers and that whistleblowers are at the heart of what it does. Please can you confirm if the FCA has ever conducted any survey seeking feedback from the very whistleblowers it claims to value so highly and seen as such an important asset. Please provide access to the survey results and findings of any surveys undertaken by the FCA of whistleblowers of its records?

The FCA has promised to undertake a survey of whistleblowers to obtain feedback on their experiences. The survey was delayed because of Covid. However, we are now working on an online questionnaire to launch shortly. The FCA will publish any key findings which lead to changes to our approach to whistleblowing.

13. What happens to the revenue obtained from fines? How is this reinvested into FCA proactive activity to ensure criminals do not continue to have the upper hand?

We are obliged, by various legislative provisions, to pay to the Treasury almost all of the non-criminal fines we receive. Directions made by the Treasury in 2013 specify how we should do so. Those directions are public and linked [here](#).

Those directions permit us to deduct most of the operational costs of our enforcement activities, including the investigation and prosecution of suspected criminal offences within our remit, before we pass fines to the Treasury.

14. On investigation how many whistleblowing phone calls and contacts turn out to be spiteful or fraudulent and if that is a very small % what can the FCA do to speed up investigations and the burden of proof required to act?

We do not categorise the outcome of whistleblowing cases as described.

Every whistleblowing case we receive is reviewed individually by the most relevant team in the FCA. Whistleblowers can provide us with supplementary information to assist our review and understanding of their concerns however this is not a requirement and whistleblowers do not have to meet a burden or standard of proof.

In addition to assessing the information shared with us by the whistleblower, we often undertake our own enquiries while protecting the identity of the whistleblower. These enquiries can take some time and cases stay open for as long as is necessary to reach an outcome. Details of outcomes to June 2021 and steps we have taken to improve the process can be found in our Annual Report.

15. What are you doing to ensure that UK regulated firms do not breach EU regulatory framework by providing investment services into the EU without being authorised? Would those activities be a breach of thresholds conditions?

We have [communicated](#) to firms that they should have considered whether and how they could continue servicing their EEA customers, following local law and local regulators' expectations. We have encouraged them to think about the legal basis of any EEA business they conduct, including whether they needed additional regulatory permissions under local law or could benefit from local exemptions in an individual EEA country, and whether reverse solicitation (where firms service clients who have approached them, the firm has not sought the business actively) is permitted without local authorisation. We have also stated that firms' decisions should be guided by the need to obtain appropriate outcomes for their customers and treat them fairly, irrespective of where they are based.

To deliver this messaging, we have engaged with industry in several ways including trade body roundtables, supervisory engagement, webinars and our broader website communications. We have also continued to cooperate closely with our counterpart supervisors in the EU to tackle shared risks and cross-border issues. To support this, we have signed several bilateral and multilateral MoUs that allow us to continue to share information which is vital for effective supervision of cross-border firms.

16. How confident is the FCA that the UK is a safe place for investors, and that authorities are winning the battle against fraud?

We have seen significant growth in scam and fraudulent investment activity in recent years (particularly online fraud) and we are taking proactive steps to tackle it within our jurisdiction.

We are aiming to achieve a substantial reduction in scam/fraudulent advertising through our work with social media firms, our proactive monitoring of the internet to capture suspicious advertising; our warning list which is updated daily with sites and firms carrying out potential

or suspected unregulated activities that may be scams and frauds and our ScamSmart campaign.

We also continue to pursue fraudsters by taking action against those operating on the perimeter of our jurisdiction. Our efforts are increasingly having an impact in protecting consumers:

- Increased numbers visit the FCA's ScamSmart website (from January 2021 to date it has had 400,654 unique visits, in 2020 over 182,000 visits)
- We have issued more than 1,104 consumer alerts (as at 13/10/21) (over 1200 issued in 2020 up from 573 in 2019)
- In the financial year 2020/21, we pursued 50 enforcement investigations against unauthorised business with approximately £21.7m awarded under restitution orders for unauthorised investment businesses and nearly £7m being frozen on behalf of investors pending court judgments.

But despite our determination to tackle fraud/scams, the incidence and breadth of fraud in the community requires action which would go beyond the formal reach of our jurisdiction.

The problems need to be tackled by a coordinated approach involving law enforcement and regulators working with the NECC. Those with jurisdiction to tackle fraud need to be supported with adequate resources if we are to work effectively together. That is why we are working with our partners in law enforcement such as the National Economic Crime Centre (NECC).

17. Does the FCA believe they have acted in investors best interests in respect of the Woodford Income funds and was it necessary to precipitate the winding up of the fund in the way the FCA did?

The FCA did not require LF Woodford Equity Income Fund (now LF Equity Income Fund) to suspend dealing in its units or to wind up. All such decisions were taken by the Authorised Fund Manager of the Fund, Link Fund Solutions. The FCA has sought to uphold the best interests of investors throughout.

18. When are you going to make the Financial Services Register 'fit-for-purpose' as a simple, easy to use and reliable source of warnings about 'cloned' investment firms? For example, someone has been offered an investment with a company called Vanguard, so they searched the Register to check that the company was registered. They are shown Vanguard Asset Management Ltd as a registered company at the correct postcode. So all is well and they make the investment. NO! What this search result didn't tell them was that there are Clones of this firm. This vital piece of information is only revealed if the person doing the search somehow knows that you have to click-through on the name to see further information. The Register needs an immediate update to include a warning on the first response page to say that there are cloned firms with a similar name and you must click here to see the details. When will this update be done and what responsibility does the FCA accept for failing to provide a 'fit-for-purpose' system?"

We are working to improve the Register, taking on board feedback from all our user groups as we consider its future design.

Exactly where we display information about unauthorised firms in the Register search results is something we have thought about carefully and continue to discuss. We must recognise the existence of unauthorised firms and, therefore, place them high enough up the search results so consumers see them. At the same time, it is important that we don't interfere with, or negatively impact, the business of the authorised entity that is being cloned. This is a fine balance.

In this case, the Vanguard clones are displayed on the Register, on the 1st page of the search results and 8th in the list. It's clear from the firm's landing page that there are clones of this organisation so, in the context of what we have just outlined, this information comes at the right point. It is worth saying also that we provide warnings about the danger presented by scammers on the home page of the Register, in the form of banner headlines and a video.

19. As the FCA is 'constantly' issuing resilience questionnaires to firms to determine how effectively they are coping with the impacts of Covid, can you please explain why so many applications etc are taking excessive time to process? Is the FCA actually measuring its own success in coping with Covid?

During the crisis we have monitored the effects of the economic downturn on firms. Like firms, our capacity has also been impacted by Covid. This is reflected in our published service standards, including those on authorisations.

To ensure we can meet our public commitment to operate a tougher gateway and increase the speed at which we allocate and determine cases, we are recruiting more authorisations staff. We are also looking at whether there are opportunities for greater automation for some elements of the authorisation process. This includes work to ensure we receive complete applications on submission.

Unfortunately, too many of the applications we receive for authorisation and/or registration are poor quality or incomplete. Firms can help us to help themselves by ensuring applications contain all the relevant information and are not missing any supporting documents. Missing information is one of the factors that slow down decisions.

20. There are significant delays in the Change in Control application process - the average wait time to even get an acknowledgment and case officer assigned is about 2-3 months from our experience and this is really stifling competition and growth of businesses. What is the FCA doing about this?

We don't think our response times are good enough and are committed to improving this. In the past 12-18 months we have seen heightened activity in the UK M&A market and a resulting continued increase in change in control notices, some of which are more complex in nature. Consequently, our response times have increased. However, we will, where possible, prioritise cases where delays have a commercial impact.

We have recently seen a continued increase in change in control notices, some of which are more complex in nature. In order to increase our capacity and to meet demand as quickly as possible, we continue to recruit and bring on additional resource. This will help us increase the pace with which we allocate and determine cases. We are also making longer term operational improvements to our triaging of cases and changes to ensure we receive complete notifications on submission. Where notices have omissions (such as missing controller forms, forms being unsigned, or there is a lack of information about funding), we must request information, which will often exacerbate delays.

In the meantime, we encourage notice-givers (and the target authorised firms, where appropriate) to make every effort to provide full and substantive information. Our [website](#) sets this out in more detail. We also make every effort to keep notice-givers up to date, for example through the Track My Application function for notifications submitted via Connect. We will also, where possible, prioritise cases where delays have a commercial impact.

21. We see that obtaining licenses for trading companies that are working with retail investors are pretty tough. The whole process takes 1-5 years. Is there any chance it could be faster?

We have service standards in place, which we measure ourselves against and report on our website. Complete applications should be decided within 6 months, which we achieved for 98.7% of applications in 2020/21. Incomplete applications should be determined within 12 months.

Unfortunately, many of the applications we receive are incomplete. We encourage firms to help us by helping themselves by ensuring applications contain all the relevant information and are not missing any supporting documents, as missing information is one of the causes slowing decisions. We are also looking at whether there are opportunities for greater automation for some elements of the authorisation process. This includes work to ensure we receive complete applications on submission.

In the meantime, we are recruiting additional staff, which will help us to allocate and determine applications more quickly, and to operate a tougher gateway. In his speech in July, our chief executive, Nikhil Rathi, explained:

'If you let a bad firm or individual into the system, it takes up the time of supervisors and enforcers, and it risks the savings, livelihoods and health of consumers. Just one decision at the start – not letting them in – could prevent all that. It is to manage this risk that I appointed a new Executive Director, Authorisations, Emily Shepperd, who has significant operational leadership experience, and why we are recruiting around 100 additional authorisations colleagues.'

In addition to this, we provide significant support to innovative firms that may seek authorisation or that wish to test new ideas through our Innovation Hub.

22. In answering a previous question reference was made to firms being placed on the Warning List for Trading without Authorisation. Luno Money had its regulatory status revoked in 2019 but is not listed on the Warning List. Why not?

We cannot comment on specific cases, but we can confirm that we assess all matters referred to us and we act in light of the facts of each particular case. This includes, but is not limited to, issuing an alert where we identify credible evidence that a firm is engaging in regulated activity without authorisation or registration.

23. The FCA's current decision-making process in relation to new business proposals feels very slow and bureaucratic. How will the FCA work with regulated entities to ensure that responses to queries and reviews of new business proposals are provided on a timely basis which recognises the commercial pressures faced by businesses as well as the regulatory requirements they must comply with?

It is vital the gateway to regulated status is robust. As our chief executive, Nikhil Rathi said in July: 'If you let a bad firm or individual into the system, it takes up the time of supervisors and enforcers, and it risks the savings, livelihoods and health of consumers.'

Where we receive new business proposals from regulated firms we ensure Supervision teams work closely with colleagues in Authorisations to reach decisions, share information and provide consistent messages.

We agree that we need to improve how quickly we allocate and determine applications, such as variations of permissions from regulated entities. We continue to recruit additional staff in areas of key pressure to improve this as quickly as possible. In the longer term, as part of transforming the FCA, we are looking at how we can make decisions faster. This includes making sure that we receive complete applications on submission and through opportunities to automate our processes.

In the meantime, firms can help us to help themselves by ensuring applications contain all the relevant information and are not missing any supporting documents. Missing information is one of the causes of workflow slowing down, and decisions being delayed.

24. Has any insurer executives involved in the Covid BI debacle been disciplined/fined? If not, why not?

The issues surrounding BI policies are complex and it was recognised that they had the potential to create ongoing uncertainty for both customers and firms. The FCA sought clarification from the High Court as part of a test case, aimed at resolving the contractual uncertainty around the validity of many BI claims. The Supreme Court handed down its judgment substantially allowing the FCA's appeals. This means that many thousands of policyholders who have cover should now have their claims for coronavirus-related business interruption losses paid.

Since the judgment, we have been actively working with insurers to ensure that policyholders receive valid claims payments as quickly as possible. We are gathering data from insurers every month to track the progress they are making with their claims payments. This data has revealed that there are approximately 240,000 policyholders that hold policies that could potentially respond to the pandemic as a result of the BI test case. We have seen over £1bn paid out in final and interim payments so far.

If we see unreasonable delays or a firm not acting in line with our expectations we will intervene and directly address this with the firm, using the various regulatory tools within our remit.

25. How will the FCA change its approach to help support and deliver the proposed 'A New Consumer Duty' next year?

We expect to publish the second consultation by 31 December 2021 and will make any new rules by 31 July 2022. We will provide more detail on our approach to supervising the Duty in our next consultation.

26. What is the FCA's position in relation to Open Finance and the future of Open Banking? Does the FCA intend to take a more active role in guiding the discussions regarding the future of Open Banking (for example actually attending meetings and/or contributing towards the process)?

In March 2021, we published a feedback statement setting out our vision for open finance and the key building blocks. Since then, we have been working closely with The Department for Business, Energy and Industrial Strategy on the Smart Data primary legislation, which will provide the necessary legislative framework for Open Finance. We have in parallel continued our work on removing barriers to the further development of open banking - we will soon be publishing updated rules and guidance following our consultation earlier this year.

We will also be supporting the Treasury in developing the Open Finance framework further. Our next steps include identifying the sectors where we see potential for open finance and engaging with and supporting the industry in the transition.

27. When will the FCA finally get around to undoing the damage caused by advisory firms transferring retail customers' pensions from defined benefits into vehicles designed to fund those advisory and wealth management firms?

In the 2015 the Government gave people a choice to transfer out of their defined benefit (DB) pension. Anyone wishing to transfer out of a DB pension worth over £30,000 must, by law, receive regulated advice. It is in the best interests of most consumers to remain in their DB pension as it provides a guaranteed income in retirement.

We have been taking significant action to raise the standard of pension transfer advice across the market. This action includes new rules and guidance, such as the removal of contingent charging and a clear assessment tool to help firms know what is and isn't suitable advice.

In addition, we have and continue to take significant supervisory and enforcement action against the worst firms in this market, to ensure that where consumers lost out because of unsuitable advice they receive compensation. We currently have more than 50 open investigations into allegations of unsuitable pensions advice.

28. Is the FCA aware that 1st and 2nd charge mortgage lenders (inactive and active) are still charging extortionate monthly arrear charges?

Mortgage contracts must not allow for excessive charges to be imposed and our rules are explicit that arrears charges should only reflect the costs incurred by the lender. Borrowers with concerns about a firm's charges should complain to the firm in the first instance. If they are unhappy with the firm's response, they can take their complaint to the Financial Ombudsman Service. Its contact details are: Financial Ombudsman Service, Exchange Tower, London, E14 9SR, 0800 023 4567 or www.financial-ombudsman.org.uk.

29. What will be the distinction between the vulnerability guidance published by the FCA in February and the Duty of Care consultation? There seems a lot of crossover here?

In our last consultation we asked whether our proposals for a new Consumer Duty, in conjunction with our Vulnerability Guidance, would enhance firms' focus on appropriate levels of care for consumers in vulnerable circumstances. We will provide feedback on this in our next consultation.

30. Is diversity and inclusion work about social policy, as evidence only shows correlation (not causation) for delivering cognitive diversity?

We see a strong regulatory case for diversity and inclusion, which we set out in the [Discussion Paper](#) we published jointly with the PRA and the Bank of England in July. We have also published a [literature review](#) of the impact of diversity and inclusion on achieving better outcomes. Some of that research shows a correlation between diversity, particularly gender diversity, and positive business outcomes. Causation, for a number of reasons, is more difficult to demonstrate and this is an area where more research is being conducted.

31. Will the FCA apologise to UK mortgage prisoners who have been given failed solutions and rejected solutions from government based on your inaccurate assumptions of data?

We are carrying out a review to gather further detail on the characteristics of mortgage prisoners. Our terms of reference can be found on our website [here](#). Our work will consist of a data review and a review of our recent interventions that were designed to remove regulatory barriers to switching. For the data review we are using recent iterations of our Product Sales Data and Credit Reference Agency data so we will be able to provide a more up-to-date estimate of the number of mortgage prisoners. We will set out the assumptions we use in our analysis. The interventions review will look at the effect of our modified affordability assessment and intra-group rule changes.

32. My family has collectively lost £0.5M over three scams LCF Blackmore and another. I have been at the brink of suicide. What assurance can be given to me that the FCA is fit for purpose?

We are very sorry to hear about the impact that the collapse of London Capital & Finance Ltd (LCF), Blackmore Bond Ltd (Blackmore) and one other firm have had on you on your family.

We know that the collapse of LCF has had a devastating impact on the lives of many individuals who invested money they could not afford to lose. We are very sorry for the errors we made in our handling of the case. [We have accepted](#) and are in the process of implementing each of the 9 recommendations made to the FCA by Dame Elizabeth Gloster. We are determined to ensure that we learn from the mistakes that we made and become a more effective regulator.

On 15 July 2021 we [provided an update](#) on the implementation of Dame Elizabeth's recommendations. In this we aim to demonstrate the changes that we have made and are in the process of making, including (but not limited to) improving financial analysis skills across our Authorisations and Supervision staff, establishing a new financial promotions and investment scams department, and implementing new policies, processes and procedures to tackle repeat breaches by firms of the financial promotion rules.

These changes should also be considered alongside the FCA's ongoing transformation programme on which we published an [update on](#) in April this year. We are in the process of transforming the organisation to ensure that we can make fast and effective decisions and can prioritise the right outcomes for consumers. As part of this programme we are investing in technology to support better use of data, and are taking a fresh approach to tackling firms and individuals who do not meet the required standards.

The circumstances surrounding Blackmore were very different to those concerning LCF, although both firms raised money from investors via the issuance of minibonds.

In Blackmore's case, its financial promotions were approved by NCM Fund Management Ltd and Northern Provident Investments (NPI). As a result of steps taken by the FCA, NPI withdrew its approval, which prevented the further promotion of Blackmore's mini-bonds. In February 2020, following the firm's application to the FCA, the FCA imposed requirements on NPI for it to cease approving any further financial promotions. As part of these requirements NPI placed a statement on its website that it would no longer be offering this service.

33. What will the FCA do to support the roll-out of the Online Safety Bill?

The threat from online fraud has risen markedly in recent years and shows no sign of slowing. From April 2020 – March 2021 we received almost 30,000 consumer enquiries about potential scams – 77% more than we received in the previous 12 months.

Tackling online fraud, the biggest driver of financial harm, will enable us to take a solid step forward in protecting consumers. We therefore welcomed the Government's confirmation that the draft Bill is intended to include measures to address certain types of user-generated fraud, such as fake investment opportunities promoted on social media.

To help achieve the Government's stated aim of ensuring the UK is the safest place in the world to be online, we hope the Bill can be amended further to:

- designate content relating to fraud offences as priority illegal content
- extend the duties in the Bill to cover fraudulent content contained within paid-for advertising

We have engaged extensively with colleagues in the Department for Digital, Culture, Media and Sport (DCMS), the Treasury, the Home Office and Ofcom on these matters, on the draft

Bill more generally and on what the draft Bill will mean for our ongoing joint work. We will continue to work hand-in-hand with officials and partner regulators to support the drafting and roll out of the Bill.

34. In a Dear CEO portfolio letter you sent to Claims Management Companies in October 2020, the FCA said you had identified dozens of firms that had no viable business model beyond PPI and that your work would aim to ensure that these CMC clients continue to receive a good service from their CMC as they wind down their operations and that they leave the market in an orderly way. We are such a firm and have been attempting for several months now to conduct a reconciliation exercise with lenders concerning our outstanding claims (of which we have several thousand) to ensure our regulatory obligations are fulfilled and so that we can diligently and conscientiously discharge our duty to our customers. Certain lenders are refusing to engage properly in this very important process. What action is the FCA taking to ensure that banks/lenders are complying with their regulatory obligations with regards to the many hundreds of thousands of outstanding cases?

Our successful two-year consumer communications PPI campaign resulted in millions of complaints and enquiries in the run up to the 29 August 2019 deadline, including 1.4m complaints and 16.9m enquiries in August alone. This created a significant administrative challenge for both banks and CMCs, as they progressed those cases throughout 2020, during the pandemic.

In early 2021 we asked the banks to continue to cooperate with CMCs to get decisions for these cases. CMCs sent banks over half a million queries about apparently outstanding cases. The banks are checking these, communicating case outcomes where necessary. In a small proportion they have identified the need for further action to complete them.

We cannot comment on individual firms or our dealings with them but note banks have taken a variety of operational approaches to the reconciliation. We have been engaging with them, and with CMCs, throughout the course of this exercise to ensure that it is proceeding in the constructive and effective way we asked. This is helping to ensure that consumers who submitted in time before the deadline have got the right outcome.

Where a CMC has concerns about a bank's approach to the reconciliation exercise, we will carefully consider any relevant evidence provided to us.

35. What is the FCA doing as an organisation, plus with partners, to improve consumer financial resilience and crucially inclusion plus access to appropriate advice, guidance, products and services?

We lead and are involved in a number of initiatives aimed at improving consumers' financial resilience and their access to appropriate financial products and services:

- In February 2021 we issued guidance for firms on the fair treatment of vulnerable customers.
- We are also looking to ensure consumers have access to appropriate products and services through our Consumer Investment Strategy (CIS). Earlier this year, we consulted on a new Consumer Duty which would set clearer and higher expectations for firms' standards of care towards consumers, and we will publish more detailed proposals in December.
- We have taken other action to support financial inclusion – such as intervening to improve access to travel insurance for customers with pre-existing medical conditions. We are a permanent member of the Financial Inclusion Policy Forum which the Government set up to bring together stakeholders to collaborate and tackle financial exclusion.

- We know that loss of access to cash can affect the most vulnerable in society and lead to financial exclusion. We are supporting the Government's work on its proposed legislation to protect access to cash. We supervise closely against our Guidance for firms on Branch and ATM closures or conversions, with regulatory interventions made where a firm's closure plan raises concerns of consumer harm. We are considering whether further rules or guidance are needed to protect cash and banking services until legislation comes into force.

36. The FCA have said Consumer Duty provides 'an opportunity to not mis-sell or push products that don't meet consumer needs'. Can I ask for clarity how this is not the failure to do something, or do something right from a consumer point of view?

We have seen a wide range of good practice by firms in retail sectors. But we've also continued to see evidence of practices that cause harm – whether that's firms offering products that don't represent fair value, or sludge practices that make it difficult for consumers to switch providers.

We want to see all firms putting themselves in the shoes of their customers and getting it right in the first place. This is particularly important in today's world where consumers are making more financial decisions, and where they're doing so in a complex and fast-moving landscape.

We have consulted on a new Consumer Duty that would raise the standard of care that firms owe their retail customers, above the level of our current principles.

37. The FCA has been threatening to 'take action' against social media platforms for running ads for scams for a long time. But it has never actually done so. Does it seriously think Big Tech fears the FCA?

We have been clear with platforms that they need to consider whether, as a result of a change in the law at the beginning of this year, they are now subject to the financial promotion restriction. This restriction specifies that financial promotions can only be communicated by, or if approved by, an authorised firm.

Google has now changed its policy and, since 6 September 2021, is restricting financial promotions, stopping unauthorised or unapproved financial promotions appearing in paid-for adverts in search returns.

We are now looking at the processes of other social media platforms to determine whether this rule applies to their operations and, if so, whether they are compliant.

38. Given that the FCA has a statutory duty, when selecting directors of the FOS, to ensure they're independent of the FCA, does it accept it made an error of judgement in seconding the FCA's Chief Operating Officer, Nausicaa Delfas, to the role of Chief Executive of the FOS? If so, is it willing to provide an undertaking not to make the move permanent and to work with consumer representatives on a transparent selection process to fill the vacancy?

The Financial Ombudsman Service (FOS) has a non-executive board, which appoints its chief executive. The appointment of the Chief Ombudsman - a role that FOS usually combines with Chief Executive - is expressly reserved in law to FOS and its board.

39. What more will the FCA be doing to ensure a culture in financial services whereby best practice becomes standard practice, for example in relation to ensuring all financial decisions are sustainable ones, and recognising that Net Zero won't be achieved without building capacity and capability in financial services organisations?

As the focus on ESG grows, we need to guard against 'competence-washing'. We need to promote genuine capability-building across the financial sector, including through functional training and potentially certification. Firms may also need to consider general staff training on climate change and net zero, and ESG more broadly – just as we are committed to doing within the FCA.

We are committed to working with others to enhance industry capabilities and support firms' management of climate-related and wider sustainability risks, opportunities and impacts. We will deliver an extensive Innovation work programme, to develop innovative solutions to support the market, consumers and regulators.

We will continue to work closely with industry, civil society and academics to promote collaboration, shared experience and mutual support, for example through the Climate Financial Risk Forum. We continue to work closely with Government on the delivery of whole-of-economy Sustainability Disclosure Requirements and sustainable investment labels. This package will increase the availability of consistent and comparable sustainability-related financial information along the investment chain.

40. Will the FCA provide more template letters for SMCR requirements?

We, together with the PRA for firms it also regulates, supply a template for regulatory references. At present, we don't see a need for the FCA to provide templates for other aspects of the SM&CR. We expect firms to consider and understand the requirements and to adopt an approach that meets their own needs.

41. Why was the FCA's publication of responses and rules in response to CP20/11, the consultation on changes to the Complaints Scheme, been delayed yet again?

We made the decision to delay the publication of the Regulators' policy statement on the consultation and any changes to the Scheme until towards the end of 2021 to allow time for the publication of the report following the independent review on Interest Rate Hedging Products. This will ensure any associated complaints will be lodged for consideration under the existing Complaints Scheme.

We want to assure any affected investors that despite further delays to the publication of the Interest Rate Hedging Product report, we will ensure they will have sufficient time to make a complaint under the current Scheme before announcing any changes.

42. The FCA is way outside the agreed SLAs for all regulatory submissions including SMFs and Connect updates: what plans are in place to bring the backlogs down to meet the SLAs?

What is the authority doing in order to improve its response times to firm applications?

We appreciate that the length of time it is taking to reach a decision on some applications (including SMF applications and Connect updates) is causing inconvenience for firms. We don't think this is good enough and are committed to making improvements. The delays are a consequence of significantly higher volumes of applications than forecast in some areas. This, coupled with reduced capacity due to coronavirus, has led to delays in processing times.

We are taking steps to address this by increasing our resources in areas of key pressure, which will help to reduce backlogs. We are also looking to make long-term process improvements as part of transforming the FCA, in order to determine applications faster. This includes making sure that we receive complete applications on submission and through opportunities to automate

our processes. In the meantime, firms can help us to help themselves by ensuring applications contain all the relevant information and are not missing any supporting documents. Missing information is one of the causes of workflow slowing down, and decisions being delayed.

Alongside a more straightforward application process we are introducing a more robust gateway for new firms, as highlighted in our 2021/22 Business Plan. Our standards will be higher with more intensive assessment and greater scrutiny of firms' financials and business models. Inevitably, this increased scrutiny may mean some applications take longer to process, especially in circumstances where we have concerns that applicant firms will not meet our standards.

43. What is likely to happen with pensions mis-selling? Is this the next PPI?

Consumers have become increasingly responsible for complex investment decisions through the shift to Defined Contribution (DC) pensions and the Government's Pension Freedoms, introduced in 2015.

In some cases, consumers have been poorly advised about how to manage their pensions while others have been targeted by scams. The most effective mitigation is prevention. For this reason, we have invested heavily in the ScamSmart Campaign, jointly with The Pensions Regulator (TPR). ScamSmart arms consumers with the knowledge and tools to help prevent them falling victim to pension scams. Our 2020 ScamSmart Pensions campaign led to over 450 users being warned about an unauthorised firm on the Warning List.

If an FCA-authorized firm breaches FCA rules, it can be subject to enforcement action. The FCA uses a range of sanctions available to it – including fines on firms or individuals, requirements to carry out redress exercises and bans on firms or individuals. For example, we issued a decision notice against an individual in August 2021 fining the individual in excess of £1.2M and banning him from performing any senior management function in relation to any regulated activities carried on by an authorised person and from advising consumers on pension transfers and pension opt outs. This individual was found to be seriously incompetent when advising on defined benefit pension transfers.

44. As we move to a world where people are more concerned than ever about social, environmental and governance issues, how big a part do you see mutual organisations, building societies and credit unions in particular, playing in furthering your objectives? Will there be added support for credit unions?

The role of mutual societies is by definition one that is already steeped in social principles such as inclusivity and voice. As we embed our Environmental, Social and Governance (ESG) strategy across the FCA's functions and support the Government's policies in the area of sustainable finance, we will consider the role mutual organisations can play, including building societies and credit unions, in line with our statutory responsibilities.

Credit unions are already exempt from paying any annual consumer credit fees and we have provided technical expertise to the Government to support the various financial inclusion initiatives it has launched. We have also publicly stated that we want to see credit unions maximise their potential for growth so that they have the capacity to offer an alternative to more users of high-cost credit.

45. What can the FCA do to influence diversity further down the organisation where people of colour i.e. Black are given fair opportunities in hiring practices (set targets) to succeed in obtaining a management role that can lead to opportunities to be a Director, ExCo member or a Board member of that organisation?

Our Black Futures Programme aims to upskill and specifically engage Black undergraduates, and acts as a diverse pipeline for our summer internship and graduate programmes.

We have also created a BAME Sponsorship programme, giving minority ethnic individuals the chance to build and enhance existing leadership skills, increase their confidence and resilience as well as the opportunity to build strong networks within the FCA and externally.

We have introduced gender and ethnicity targets beyond our Senior Leadership Team. Improving our mix at manager-level and below is key, not least because these roles are the pipeline for our future senior leadership, and setting these targets ensures we drive positive change and are held accountable for our progress.

46. Will the proposed charges (£250) coming in to play for Appointed representatives, extend to Introducer Appointed Representatives (IARs) and Affiliate Partners also?

In our Policy Statement PS 21/7 (within paragraph 1.16) on FCA regulated fees and levies for the year 2021/22, we confirmed that, in response to stakeholder feedback, we have decided to reduce the level of the IAR fee to £75, with the £250 fee now only applying to full ARs. Fees paid in relation to Affiliate Partners will depend on whether they are regulated or not.

47. How does the FCA expect to use the powers provided under SMCR and CoCON used in the remainder of the year?

We are continuing to investigate serious misconduct by individuals who we suspect may have breached individual conduct rules or senior manager responsibilities. We currently have 38 investigations ongoing which concern either Senior Manager and Certification Regime (SMCR) or breaches of individual conduct rules (CoCON), which focus on a variety of different types of suspected misconduct, including a lack of honesty and integrity, poor management of conflicts, failures in relation to pension advice and non-financial misconduct.

48. Does the FCA recognise the concept of 'Regulatory Capture'; and to what extent does it apply to the FCA itself?

We do recognise the concept of regulatory capture. We note the findings of the recent Royal Commission in Australia on this topic with interest.

We have a proud history of challenging the UK financial services sector where there are concerns about consumer harm or evidence of misconduct. Four recent examples, with three in just one sector (insurance):

- In 2020, we challenged insurers in the UK Supreme Court to ensure that business interruption claims were paid out consistent with contracts. We were successful in this action in January 2021; three-quarters of a billion pounds have subsequently been paid out.
- In May 2021, we implemented a package of remedies to improve competition and protect home and motor insurance customers from loyalty penalties. This includes new rules so that renewal quotes for home and motor insurance consumers are not more expensive than they would be for new customers. We estimate that these measures will save consumers £4.2 billion over 10 years, by removing the loyalty penalty and making the market work better.
- In July 2021, we fined several subsidiaries of Lloyds Banking Group £90m for failing to ensure that language contained within millions of home insurance renewals communications was clear, fair and not misleading.
- In October 2021, National Westminster Bank Plc (NatWest) entered guilty pleas at Westminster Magistrates' Court to criminal charges brought by the FCA under the Money

Laundering Regulations 2007 (MLR 2007)- the first criminal prosecution under the MLR 2007 to be brought by the FCA.

49. Is there any "regulatory cooperation" with the EU (as it was foreseen in the TCA)? What are the prospects for equivalence decisions, both bilateral and with the EU?

We continue to work closely with colleagues in European regulators.

The UK was heavily involved in developing the EU's regulatory framework. As a result, we expect any changes we make to be focused and targeted, rather than wholesale, so our regime is tailored to UK markets. Our approach to equivalence will be guided by our continued commitment to the highest international standards and by our statutory objectives. While the likely effect of any changes to the UK's regulatory regime on equivalence with the EU should and will be considered, it is not consistent with the FCA's objectives to target equivalence at any cost, including the opportunity cost of failing to make our markets work better.

50. How does the FCA protect consumers from investments in Ponzi Schemes?

We review all reports of unauthorised conduct and examine every case on its facts. Where we have credible evidence of unauthorised conduct by persons in this jurisdiction, we act. Cases where there is evidence of a Ponzi scheme are particularly serious given that they involve fraud and can often impact large numbers of consumers.

Where we uncover evidence of a potential Ponzi scheme we assess the best options available to recover funds and stop any further illegal activity, including obtaining freezing orders to preserve funds that remain in the UK, bringing restitution proceedings, criminal proceedings or insolvency proceedings depending on the most effective route to recover consumer funds. However, unfortunately, by the time that cases are reported to us the Ponzi scheme is often well established and consumers may already have invested substantial sums. Additionally, there are rarely sufficient assets available to repay consumers more than a small fraction of their initial investment.

For this reason, we dedicate substantial efforts to warn consumers and to help them to know how to spot scams and protect themselves from falling victim. We issue alerts on our website to warn consumers about unauthorised firms that have been reported to us. We published 1182 alerts in 2020. To date we have issued 1053 alerts so far this year.

We also run regular ScamSmart campaigns to warn consumers about scams and high-risk investments. We publish updates on our ScamSmart pages on the FCA's website and provide consumers with information about how to protect yourself from scams. We always recommend that consumers should check our Warning List and ScamSmart pages to ensure the company you are considering investing with is not listed on there.

Specifically, in relation to the avoidance of Ponzi schemes, we advise consumers to;

- Use only financial services firms and individuals authorised by us – [check the Register](#) to ensure they are.
- Beware of schemes or investment opportunities offering unrealistic returns or requiring you to recruit other people.
- Beware that even if you initially receive a high return on your investment, the money will eventually dry up and later investors can lose everything.
- Seriously consider seeking financial advice or [guidance](#) before investing. You should make sure that any firm you deal with is regulated by us and never take investment advice from the company that contacted you, as this may be part of the scam.

51. Given the FCA's espoused commitment to cultural change, would it support the creation of an oversight board, similar to the Financial Regulators' Assessment Authority that has just passed into law in Australia?

The Treasury is consulting on the FCA's accountability and transparency arrangements as part of its Future Regulatory Framework (FRF) Review. We support this FRF work and are committed to exercising our functions in a transparent and accountable way to all our stakeholders, including to Parliament. As you point out, ensuring accountability is also a core part of our Transformation programme.

But it is important to consider how a new oversight board would interact with our existing accountability and scrutiny mechanisms. This is especially the case where it is likely to duplicate, or overlap with, the role of our existing statutory panels and the FCA Board, as well as the important role of Parliament in providing regular oversight of our activities.

We would also need to be mindful of the likely impact an additional oversight body would have on our ability to intervene swiftly to address potential harm, as well as the further complexity it could add to an already complicated regulatory framework, for consumers, for firms and for the financial services regulators.

52. Will the FCA exert more pressure onto the lenders, in particular HSBC, to reconcile their PPI claims for the benefit of consumers represented by CMCs? Are the FCA satisfied that HSBC's 'sample' approach to PIR/Claim PPI reconciliation meets the bank's responsibility to Treat Customers Fairly?

I have spoken to numerous CMCs who have had issues with HSBC refusing to respond to customer PIR requests and complaints relating to PPI despite these being provided prior to deadline. All evidence is dismissed or ignored and the CMCs in question have many thousands of clients with open requests and complaints. Details have been provided to the FCA, to ICO, to FOS and UK Finance. What are we supposed to do, given that so many CMCs have been reporting the same experiences with HSBC, to secure these responses for our customers and avoid detriment? What are FCA doing to persuade HSBC to stop harming consumers by refusing to work cooperatively with CMCs to conclude remaining PPI cases?

PPI is the largest consumer redress exercise in the UK's history. Between 2011 and the end of 2019 banks paid out £38.3b, and in 2019 alone they paid out £4.3b in redress.

In 2017 we set out to bring the issue of PPI to an orderly conclusion and prompt consumers who wanted to act about PPI to do so. Between July 2018 and August 2019, 46.7m enquiries were submitted to banks to check whether consumers had purchased PPI. These enquiries form a substantial administrative challenge for the banks and for claims management firms.

As part of a recent reconciliation exercise, the banks have been checking through potentially outstanding cases, to ensure that they had been concluded, and their outcome communicated.

We cannot comment on individual firms or our dealings with them but note that banks have taken a variety of operational approaches to the reconciliation. We have been engaging with them, and with claims managers, throughout the course of this reconciliation exercise to ensure that it is proceeding in the constructive and effective way we asked. This is helping to ensure that consumers who submitted in time before the deadline have got the right outcome.

53. How are you monitoring the fairness of building insurance for buildings affected by the fire safety issues?

We have seen the impact on leaseholders whose insurance premiums have increased sharply because of increased risks associated with combustible cladding and other fire safety issues. We have engaged with a number of insurers and intermediaries in order to assess how these fire safety issues have affected their approach to pricing. We have also recently introduced rules requiring firms to ensure prices provide fair value to customers. If prices are increased in

a way that is not reflective of increased risk, firms may be in breach of these rules. We are monitoring firms closely to ensure the rules are properly implemented.

We will continue working with DLUHC (Department for Levelling Up, Housing and Communities – formerly the Ministry for Housing, Communities and Local Government) to assess whether further action could be taken to address risks in this market.

54. Does the FCA share our concern about the gamification of investing which makes some platforms look and feel more akin to a betting website than investing?

We are concerned that in some cases gamification features could lead to consumers increasing the risk levels of their investments, investing more than they can afford, and/or developing addictive habits.

We expect firms to recognise and respond to the needs of their customer base when designing their products/services. This includes thinking how product and service design could encourage inappropriate gambling behaviour or could encourage consumers to invest more than they can afford, including taking into account our Vulnerable Customer Guidance.

We note that some elements of gamification may generate positive consumer engagement with investments. However, this must be balanced with caution over the potential gambling behaviour in the design of some firms' services.