FCA FINANCIAL CONDUCT AUTHORITY

Annual Public Meeting 2022 - responses to unanswered questions

1. Does the FCA worry that the call-in powers proposed in the financial services and markets bill will harm its independence?

This proposal is not currently in the Bill, so it is difficult to comment without seeing the draft amendment. Government will need to set out the scope of the power and the intent behind it, and Parliament will need to give it due consideration.

However, we want to ensure that firms of all sizes have ongoing certainty about the requirements, expectations and predictability of our regulatory regime.

As an independent regulator, we have shown we can act quickly, whether it was in our reaction to Covid, Russia, the rising cost of living and unprecedented market turbulence.

It is vital that this independence and agility at speed is not undermined by any proposed call-in power.

The FCA set out its views to the Treasury Select Committee on Monday 7 November (here).

2. Does the FCA believe there is any role for personal responsibility and individual agency or are consumers who make decisions that turn out to be bad ones always assumed to be victims?

The Financial Services and Markets Act 2000 sets our consumer protection objective, which is securing an appropriate degree of protection for consumers. In considering what degree of protection for consumers may be appropriate, the FCA must have regard to the general principle that consumers should take responsibility for their decisions.

However, they can only be expected to take responsibility for their actions when they are able to trust that the range of products and services, they choose from are designed to meet their needs, offer fair value and are fairly promoted and sold. People need help to understand often complex financial products and services, and they need confidence that firms will act in a way that helps, rather than hinders, their ability to make decisions in line with their needs and financial objectives.

We also know that some consumers have low levels of financial experience and resilience and can lack confidence in managing their money and finances. We are all also subject to behavioural biases, such as tendencies to be influenced by the way things are presented, overvaluing immediate impacts and undervaluing future ones or attaching less weight to effects that are further off, such as termination or renewal fees.

Under the rules we are introducing for the Consumer Duty, therefore, firms are responsible for enabling and empowering consumers to take responsibility for their actions and decisions.

3. The financial future of women is increasingly challenging, what with gender pay gaps, having to take time away from career building as primary carer duties (often twice - own children and then parents). How is FCA supporting the development of products that better match the interruptions in earning and saving profile of over half the world's population?

FCA requirements aim to improve transparency about board and executive diversity in listed companies and promote market integrity by giving investors better information on

companies. From next year, there will be targets for companies with UK-listed shares on the representation of women and people from a minority ethnic background on boards and at the level of executive management. If they do not meet the targets, they will need to explain why not.

We think that improving diversity and inclusion within firms should contribute to a better understanding of customer needs through more informed decision making, avoidance of groupthink and more innovation. This should help firms meet the diverse needs of their customers and potential customers putting customers in a position where they can better act and make decisions in their interests and enabling them to pursue their financial objectives.

Because we recognise the importance of this, we are also working to build diversity throughout the FCA. As at March 2022, 46.5% of our Senior Leadership Team (including the PSR) were female and we're on track to meet the Women in Finance Charter 50% target by 2025.

Additionally, in July we published final rules and guidance for the Consumer Duty, which will come into force from July 2023. Under the Duty, firms must act to deliver good outcomes for customers. One of the central outcomes we are seeking is that products are designed to meet the needs, characteristics and objectives of consumers and are monitored to check they work as expected and any harms are addressed appropriately. Firms should ensure their communications equip consumers to make effective, timely and properly informed decisions. They should also provide support that meets consumers' needs and expectations throughout the life of the product.

4. Does the FCA support and adopt critical social justice ideology?

The FCA has a single strategic objective, to make sure that relevant markets function well. The FCA may only act in a way that is compatible with the strategic objective and advances one or more of its operational objectives – the consumer protection objective, the integrity objective and the competition objective. Parliament prescribes in legislation what matters the FCA may have regard to in discharging its functions and critical social justice ideology is not a matter to which the FCA must have regard.

5. 60% of your staff have no confidence in you and your leadership according to a recent staff survey. Why should the Board and the public have confidence in you? What immediate and tangible steps have you taken to restore confidence and justify your continued tenure as CEO?

We have been going through a significant period of fundamental and necessary change, which will help us become a more innovative, assertive and adaptive regulator so we can deliver our vital objectives long into the future. This means raising our standards of performance individually and collectively, backed by clearer outcomes and metrics.

We recognise that this period of change has been unsettling for some of our colleagues. This is a challenging, but not unexpected, set of results and we are taking what our colleagues have told us seriously.

We are always looking for ways in which we can foster stronger two-way engagement with our colleagues and partners. We are now looking forward to continuing a conversation about how we can turn colleague feedback into action, including as part of work underway to make sure that all the diverse views we're proud to have at the FCA are properly heard.

FINANCIAL CONDUCT AUTHORITY

6. Against the backdrop of UDHR1948, how reasonable is it for banks who claim to be "purpose-led" to strike £MM deals perpetuating exactly what their Accelerator programs are seeking to address in human rights and duty of care...conflict of interest?

As part of our three year strategy, we are committed to reducing and preventing conduct that can cause serious harm and setting higher standards for firms to adhere to. We are currently introducing a new Consumer Duty for all firms involved in the manufacture and distribution of financial products and services to retail customers. This Duty will set higher expectations for the standard of care that these firms give to consumers.

7. Can the FCA police itself?

As a public authority, we consider that robust accountability and scrutiny is an essential part of an effective regulatory regime. The current legal and regulatory framework provides an extensive range of accountability, scrutiny, transparency, and engagement mechanisms.

Through these formal, and further informal, mechanisms, we are committed to exercising our functions in an open, transparent and accountable way to our broad range of stakeholders, including Parliament. Ensuring accountability is also a core part of our transformation programme. We set out a non-exhaustive range of some of the key ways in which we are scrutinised by and accountable to Parliament and our wider industry and public stakeholders in our written evidence to the Treasury Select Committee's inquiry on the Future of Financial Services.

Our full submission can be downloaded at https://committees.parliament.uk/writtenevidence/22846/pdf/.

8. Have you removed the perimeter? This is a fallacy and a cop out.

The Government and Parliament set the limits of our remit, or 'perimeter', through legislation. Our Perimeter Report which sets out what we do and don't regulate is on our website: https://www.fca.org.uk/publications/annual-reports/perimeter-report. It is important that the regulator respects the rule of law.

9. What responsibility, if any, does the FCA accept for the Liability-Driven Investment (LDI) crisis currently impacting defined benefit pension schemes and the bond market? It supervises the firms that offer and promote the products, such as Legal & General and BlackRock. When did it become aware of the nature and extent of the problem, in particular that of undisclosed margin calls?

On 20 October, we wrote to the Chairs of the House of Lords Industry and Regulators Committee and Economic Affairs Committee in response to their questions about how the FCA oversees LDI funds.

Our full response has been published at: https://committees.parliament.uk/publications/30475/documents/175861/default/

FCA FINANCIAL CONDUCT AUTHORITY

10. A key objective for the Transformation Project identified by Nikhil Rathi in an evidence session with the Treasury Committee was the need to upskill those working in the regulator's contact centre, people whose failure to escalate inbound inquiries about London Capital & Finance plc was criticised by Dame Elizabeth Gloster's independent review. Is that work still ongoing? If not, when was it concluded? And if so, when is it expected to be finished?

Over the past year we have continued to implement, through a dedicated programme of work, the recommendations of the Gloster and Parker Reports.

The implementation of each recommendation required a number of actions to be taken. The progress in completing these actions has been closely overseen by our Executive Committee and the Board Audit and Risk Committees.

Additional training for colleagues in our Supervision Hub (contact centre) in identification of fraud, escalation and other related upskilling, which was complete by March 2022.

Each action on the wider plan is subject to assurance by separate functions within the FCA, using a range of techniques to assess the adequacy and effectiveness of what has been delivered to enable us to monitor effectiveness and make continuous improvements. The findings and conclusions reached on each action are being presented to both the Executive Committee and the joint Audit Committee and Risk Committee meetings.

Committee members have also scrutinised the progress of corrective actions to address assurance findings and considered if the work indicates broader issues for the FCA's risk management which need to be tackled.

The main assurance programme on the actions is due to complete this financial year. The findings of other independent reviews and of work carried out within the FCA, and the subsequent work to address them, also helps to ensure we continuously improve. For more information, please see our Annual Report: https://www.fca.org.uk/publication/annual-reports/2021-22.pdf

11. Nikhil Rathi justified appointing Megan Butler to lead the Transformation Project without advertising the role externally because the project was so urgent and important he could not take the risk of having to wait for an external candidate to work out their notice. Speaking to the Treasury Committee late last year, Charles Randell indicated that he believed the FCA's Transformation Project was less than half completed. Since then, Butler has gone and the programme added to the duties of a colleague, Emily Sheppard, whose own role as Executive Director for Authorisations is under intense scrutiny. More recently she has been given a further significant responsibility, namely as Chief Operating Officer. What proportion of Sheppard's time is spent on the Transformation Project? Is it possible that the Transformation Project has been quietly downrated as a priority for the FCA, or even that it was only ever a device for persuading politicians that the FCA was serious about reform?

Transformation sits at the heart of Emily Shepperd's role as Chief Operating Officer, driving cross-organisational improvement and efficiencies and empowering every part of the FCA to deliver our strategy.

FINANCIAL CONDUCT AUTHORITY

Our transformation programme will ensure we build the FCA for the future by becoming more innovative, assertive and adaptive. The work we are currently undertaking is focused on a number of key areas:

Setting a new strategy for the organisation, which prioritises resources to prevent serious harm, set higher standards and promote competition. As part of this work, we will also, for the first time, hold ourselves accountable against published outcomes and performance metrics. To that end, we completed our consumer engagement strategy this April. This strategy sets out how we engage with consumers and protect them from potential harms.

Improving our operational base: investing in technology, data, and our people so we can better supervise the growing number of firms we oversee. And to free our colleagues to make, and feel empowered to make, the tough judgments and decisions on which regulation relies.

Strengthening our structure: ensuring we have the leadership team in place and the structures to support them, bringing together multi-disciplinary teams to better oversee the markets we regulate and the firms within them.

12. In a recent consultation about the compensation framework (https://www.fca.org.uk/publications/discussion-papers/dp21-5-compensation-framework-review) the FCA stated that it believes in the 'polluter pays' principle. In cases where consumers lose money as a result of regulatory failure, the FCA is the polluter. Should it pay? If so, does the FCA support proposals advanced by Transparency Task Force to amend the Financial Services and Markets Bill to remove the FCA's exemption from civil liability, disapply the Limitation Act for the first six years so legacy claimants can get justice, and specifically mandate that the Complaints Scheme can deal with regulatory failure costs and that the Complaints Commissioner's findings should be binding on the regulators?

And

13. Will the FCA accept civil liability for their work under the new Financial Services and markets Act currently going through Parliament? If not why not as surely this will help the regulator be more focused on preventing financial harm to the public.

We are supporting HM Treasury officials as the Financial Services and Market Bill progresses through Parliament. Parliament will vote on the Bill in due course.

14. What are the pros and cons of moving to an integrated regulatory structure (similar to the old FSA)? Have the regulatory failures been due to the regulatory structure or the effectiveness of operation?

The current system of “twin peaks” regulation was introduced primarily to ensure the lessons learned from the 2008 financial crisis were embedded into the regulatory system. This was to ensure the safety and soundness of the UK’s major financial institutions, while also increasing focus on the conduct of financial services companies. This means decisions to tackle conduct risks and prudential risks are less often in

potential conflict with each other. We believe the current system works well and there would be a significant cost to industry and therefore consumers in changing it.

15. The FCA is currently required to have regard to the views of three Panels - one Consumer, three industry. Government is planning to increase the industry representation to five panels (six if you include the cost-benefit analysis one). Does it accept that there is a need for consumer voices to be heard louder and more frequently? If so, will it support an amendment to the Financial Services and Markets Bill proposed by Transparency Task Force that would lead to the creation of a consumer oversight body, which would review the FCA's performance against its operational objectives from a consumer perspective and play a part in key appointments?

We are supporting HM Treasury officials as the Financial Services and Market Bill progresses through Parliament. Parliament will vote on the Bill in due course.

16. During the 'Implementation period' of the Consumer Duty, can consumers expect Firms to apply the published rules, the FCA are consulting with the FOS, so can you confirm that the 'Rules that ' apply at the time' includes the 'implementation period' and after the rules come into force breeches of foreseeable harm will actionable from publication date.

The Duty comes into force for new and existing products that are open for sale or renewal at the end of July 2023, and for closed products at the end of July 2024. There is no expectation from the FCA or Financial Ombudsman Service that firms will be meeting the new rules until they come into force at the end of the implementation period. The Duty does not apply retrospectively. Actions taken before the Duty comes into force continue to be subject to the rules that applied at the time. We are working closely with the Ombudsman Service as we implement and embed the Duty.

17. What approach are the FCA taking to train their teams on the Consumer Duty?

All firm-facing colleagues have attended an internal training course on the Consumer Duty, followed by a mandatory assessment to confirm their understanding. We are currently developing further targeted training, to be launched later this quarter, and have developed a suite of Consumer Duty intranet pages and other content to further support and develop colleagues' understanding. In addition, we have a network of Consumer Duty leads and subject-matter experts embedded across the organisation. Their role is to deliver training and communications within their business area and provide feedback on where additional support is required.

18. Could you please expand on how exactly the New Consumer Duty will be enforced?

We have published criteria for opening an investigation, which states that we will investigate instances of suspected serious misconduct. These criteria will also apply to cases relevant to the Consumer Duty. The investigation opening criteria set out a range of factors which can help identify whether serious misconduct may have taken place.

We will use our intervention powers, such as our requirement or variation of permission powers, to manage ongoing or immediate risks and to stop ongoing or future harms

caused by failures to comply with the Duty. We will require corrective action where necessary and ensure forward-looking compliance. Where we identify serious misconduct by firms against the Duty, we will use our full range of powers to tackle it, including investigating and, where appropriate, using our deterrent and remedial powers. This could include issuing fines against firms and securing redress for customers who have suffered harm through a firm's breach of the Duty.

19. Please define closed products under Consumer Duty?

For the purposes of the Consumer Duty, a closed product meets the following criteria: there are existing customers who took out the product before 31 July 2023; and the product is no longer on sale to new customers, or available for renewal by existing customers, on or after 31 July 2023.

20. Do you have any indication of how large the secondary debt market in consumer credit is now and whether the market is operating efficiently and fairly?

The Credit Services Association, the trade body for debt purchasers, estimates that firms held around £60billion of debt on face value.

Whilst the debt collection and debt purchase market is a mature one, new and innovative business models may pave the way for better consumer outcomes and lower operational costs.

The FCA has seen a shift in lenders selling back books to debt purchase firms. The shift began during the COVID-19 pandemic and the pace has increased as a result of cost-of-living pressures.

21. Is the FCA aware of the abuse of personal guarantees in relation to SMEs where PGs are demanded as a first resort and lending is based primarily on the value of SME owners' homes? How can the FCA prevent this and thus restore confidence in borrowing for growth in our important SME sector?

The FCA regulates some SME lending, specifically loans of £25,000 and under to Sole Traders or Small Partnerships. Our rules apply for lenders to this group of consumers, so our new Consumer Duty will apply on the same basis when it comes into force in July next year.

Loans above this amount and to corporate entities are not regulated by the FCA.

Where our rules apply, we have made clear our expectations of lenders when seeking to collect and recover debt. We have published both a Dear Chair letter and findings from our recent work in this area:

https://www.fca.org.uk/publication/correspondence/dear-chair-letter-sme-collections-recoveries.pdf

https://www.fca.org.uk/publications/multi-firm-reviews/sme-collections-recoveries-review

Some lenders are also signatories to the Lending Standards Board's Standards for Business Customers code which the FCA recognises. More detail can be found here https://www.lendingstandardsboard.org.uk/business-customers/

FCA FINANCIAL CONDUCT AUTHORITY

22. What specific contribution & recommendation FCA has or will make to be included in Financial Services markets bill? Any particular amendments FCA would like to see?

We have worked closely with the Treasury, industry and consumer organisations in providing technical advice on the measures within the Financial Services and Markets Bill.

Some of the Bill's measures would allow us to act in pursuit of our objectives where we are currently unable to, for example the measures which will allow us to ensure the reasonable provision of access to cash.

There are also measures in the Bill that would implement the outcomes of the Government's Future Regulatory Framework Review. These measures are important because they will ensure the UK's future legislative and regulatory framework for financial services continues to be coherent, agile and internationally respected. They will give the expert and independent regulators powers over the firm-facing requirements that are currently in the UK's retained EU law. They also boost the arrangements which exist for accountability and scrutiny of the decisions we make, particularly by Parliament.

We will continue to provide technical support and advice to Parliament and the Government as the Bill moves through both Houses, including providing views on specific measures.

23. Is there an update on the British Steel Compensation Scheme?

Our consultation into a redress scheme for BSPS closed on 30 June 2022. We are analysing responses and, subject to further work and Board approval, we expect to publish our policy statement setting out the rules for a redress scheme by the end of this year.

We share the concern of steelworkers, MPs and other stakeholders about the levels of unsuitable advice and recognise the harm caused to steelworkers and communities – over the past year we have met with over 400 steelworkers, providing support and listening to their concerns. On 25 April, we introduced emergency rules (which came into force on 27 April) requiring certain firms which had undertaken five or more BSPS transfers to retain assets ahead of a potential redress scheme, which aligns with our polluter pays message and lessens the burden on FSCS. In the consultation, our analysis at that time estimated a redress scheme would provide a further 1,400 steelworkers with compensation of around £71.2m which represents an increase of around £56.m in redress delivered by comparison to our current work on BSPS. We continue to progress c.30 ongoing enforcement investigations into firms and individuals relating wholly or partly to BSPS advice, all of which are at an advanced stage. Two matters are being litigated and are in the public domain. We will publish further information about our investigations as soon as we are legally permitted to do so.

24. I have some questions regarding the FCA "Report on insurance for multi-occupancy buildings" of September 2022: 1) At page 20, among the Theories of harm": it is mentioned: "Freeholders' property managing agents and insurance brokers may have commercial arrangements with particular insurers which benefit them but not leaseholders, such as captive reinsurance arrangements". Is the FCA going to further investigate any conflict of interest and if there is any genuine risk transfer in such captives reinsurance transactions or if they are only a device to hide commissions in offshore jurisdictions, which would be of interest to HMRC as well? Do you have any concern that such captive

FCA FINANCIAL CONDUCT AUTHORITY

reinsurance transactions could also be used to remunerate the broker as reinsurance broker, hence hiding their commission in a transaction between insurer and broker/Property Managing Agent (PMA)/freeholder offshore captive, more difficult to discover and track?

Insurers are responsible for ensuring products provide fair value.

There is nothing to prevent the use of captive reinsurance arrangements, and insurers may choose to do this as a way of reducing their individual exposure to catastrophic loss. If these arrangements, however, increase prices in a way that does not reflect risk or without delivering benefits to policyholders, this may breach our rules.

25. There is no mention in the FCA report of the "practice" by some PMAs to suppress insurance claims by either rejecting the claim to the unaware leaseholder or using the service charge monies instead of the insurance monies to repair any damage, to protect their profit commission based on the performance of the risk. Are you going to investigate this area?

The scope of our review was as set out in the exchange of letters with the Department of Levelling Up, Housing and Communities in January 2022 and considered the availability and affordability of insurance for multi-occupancy buildings. In this context we did not look into claims handling practices in this market in the course of this review. The findings of our review and the further work we currently propose to undertake in this area are as set out in our report dated 21 September 2022. To the extent that we receive intelligence or complaints about individual firms and their actions these are reviewed and considered by the relevant FCA teams.

26. I have also not seen mentioned in the FCA Report cases where the PMA owns the surveyor firm carrying out the evaluation of the property, which is then used for pricing the insurance cover, which might give rise to yet another conflict of interest situation, where the PMA receives a percentage commission of the premium. Is the FCA going to look into this matter?

We want to ensure that the payment all parties receive is fair relative to the benefits their work provides. This is what our rules require of authorised firms, and actions which artificially inflate prices would be likely to breach our rules. Where we identify authorised firms causing harm in this way, we can take action to address this.

However, as we noted in the report, many property managing agents are not required to be authorised by us as the Financial Services and Markets Act allows them to undertake insurance distribution activities as members of the Royal Institute of Chartered Surveyors (RICS). Property managing agents are not subject to any statutory regulation for their property-related activities. Our powers to act against any of the unregulated parties are limited.

27. Why don't IPs of regulated firms report on directors for failing in their fiduciary duties when misadvising clients to invest pensions in unregulated investments causing lifetime harm. Such directors should receive banning orders from being company directors and regulated persons?

Insolvency practitioners have a duty to investigate the affairs of an insolvent company and the conduct of its directors. They must report to the Secretary of State, who can make an application to court for a director to be disqualified for between 2 and 15 years if they have failed to meet their legal responsibilities and are considered unfit to be a director. The FCA also has the power to prevent individuals from performing any

regulated financial services activity under the Financial Services and Markets Act 2000 if we believe such an individual is not fit and proper.

28. How can the capital resources that a firm has set aside for an orderly wind up and to cover potential complaint redress, be allowed to be used up to fund the activities of an insolvency practitioner and leaving little or none of the funds to cover any consumer redress?

The FCA does not regulate Insolvency Practitioners and insolvency legislation is not a matter for the FCA.

Assets held by an insolvent firm are subject to the statutory order of priorities set out in insolvency legislation. These will be used to meet wind-down costs. Any assets not needed to meet those costs are available to creditors, including those owed redress.

The costs of an appointed insolvency practitioner need to be agreed with the creditors of the firm before they could be drawn.

If an insolvent firm has no assets, it is unlikely an insolvency practitioner would be willing to act as their costs could not be met.

29. Which member of the organisation should be presented the annual Consumer Duty report to Board? e.g. CEO or another senior member of the Board

As part of embedding the Duty, a firm's board, or equivalent governing body, should – at least annually – review and approve an assessment of whether the firm is delivering good outcomes for its customers which are consistent with the Duty. Our guidance document sets out our expectations for what this assessment should cover and suggests questions that boards may want to consider as they consider the assessment.

However, we have not been prescriptive about how firms present the assessment to their board or management body as firms will want to follow their own procedures. However, we would expect the assessment to be considered by the board as a whole, with both the Chair and CEO having a key role in ensuring it is discussed properly.

30. How many firms does the FCA expect to go out of business on the back of Consumer Duty?

Overall, we expect the consumer duty to be beneficial for firms, and to boost innovation and competition in UK financial services. The Duty will create an environment for healthy competition, based on high standards, which will help support growth and investment in UK financial services. The focus on consumer outcomes should mean there's more flexibility for firms to compete and innovate in the interests of consumers, with clarity on our expectations. Those firms who do the right thing should welcome action to tackle competitors who drive down standards.

However, firms currently making profits from selling poorly designed, poor value products and providing poor customer service, will have to change. Those firms that fall the shortest will have the most work to do and the highest costs.

Our data shows only 35% of people think financial firms are honest and transparent in their dealings with them. If industry responds positively to the Consumer Duty, we should see greater trust in the sector as a result.

In the longer term, the shift to outcomes-based regulation also offers an opportunity to move towards a less prescriptive and more flexible regulatory framework. Effort now should mean fewer new rules, and the implementation programmes they necessitate, in the future.

31. When will the FCA conclude its review of the hosting AR businesses so that market participants and entrepreneurs can be sure that they can set up in the UK relying on the appointed representative legislation. Beside the PS and the upcoming s 165 due in December, can the FCA give comfort to the market that within these parameters the FCA will support this business model now into the next few years?

The AR regime has benefits when its properly functions, our new rules (PS)2 published in August, are designed to reduce the harm. Our consultation (CP)3 also invited views on the regulatory hosting model and other practices.

The AR model is established by legislation. HMT concluded a Call for Evidence in March 2022 on possible future legislative reforms and has committed to publishing its findings. The timing of any changes is ultimately a matter for HMT.

Recently the number of firms providing regulatory hosting services has grown significantly. These types of firms have more supervisory cases, which are proportionally more serious than for other principal firms.

Most respondents to our consultation agreed with our assessment that there is harm associated with the regulatory hosting model. They considered that regulatory hosts often exercised poor oversight over their ARs. Some respondents highlighted the benefits of the regulatory hosting model. For instance, quick and cost effective access to operate in financial markets and the role of 'regulatory incubators'.
We are currently considering the regulatory hosting model, informed by our October 2021 and forthcoming December 2022 data requirement. We will take mitigating action where we find evidence of harm and use the output to inform potential rules changes.

We will be guided by our findings on the timescale for completion.

32. Is it now time for the FCA to take urgent action for the mortgage prisoners who have been paying interest rates of up to 6% for 14 years, with these homeowners now facing rates of up to 8% and rising? Will the FCA investigate the inactive lending, closed book administrators, who are taking advantage of their trapped customers forced to pay the increasingly high rates set, thereby breaching principle 6? Will the FCA agree to a cap on rates on all pre 2008 mortgages in these closed books to prevent further consumer harm?

And

33. The FCA's Mortgage Prisoner Review claimed that the Consumer Duty would provide relief for affected consumers. In fact, the Consumer Duty specifically excludes revisiting the rights enjoyed by firms under historic agreements. Does the FCA accept that its Review misled Parliament? And what does it intend doing now to help mortgage prisoners?

We said that, aligned with our proposals for the Consumer Duty, we want to see a mortgage market that provides good outcomes for all borrowers – to enable choice and

competition, the provision of fair value products and services and where customers in financial difficulty are treated fairly.

We said we would focus on areas in the market where we found the greatest harm which could affect mortgage prisoners and other borrowers. In particular:

- ensuring firms provide mortgage borrowers with the support they need when they get into financial difficulty
- carrying out work to further understand the issues facing borrowers who have interest only or part repayment mortgages
- holding firms to the expectations in our guidance on the fair treatment of vulnerable customers, to help ensure fair outcomes for customers with characteristics of vulnerability

We have acted in these areas. Additionally, we have acted to support borrowers who face pressure from the rising costs of living. Our Dear CEO letter issued in June set out our expectations that firms support their customers, including by giving borrowers in financial difficulty appropriate tailored forbearance that is in their interests, taking account of their individual circumstances.

We continue to support industry and Government with their work on the issue of mortgage prisoners.

34. Why has the FCA allowed, despite evidence of wrongdoing submitted to them 2yrs ago, some mortgage firms to charge more than cost arrears fees up to £65 for automated letters and workflow contrary to MCOB? Consumers & FOS cannot force firms to disclose the breakdown of these costs Only FCA have the legal authority to demand an itemised breakdown but FCA have failed to collect this information from firms since the Treasury Select Committee told FSA to do so in 2010 Why does the FCA think it is down to individual consumers in financial distress in arrears to complain?

Our rules are clear that arrears charges for mortgage contracts should be no more than cost reflective.

The Dear CEO letter we sent to over 3,500 firms on 16 June 2022 set out our expectations for how firms should support borrowers who are affected by the rising cost of living. In this letter we were clear that firms should ensure that any fees and charges levied on borrowers in financial difficulty are fair and do no more than cover their costs.

Any intelligence we receive on regulated firms is passed to our relevant Supervision teams so they can consider it and take action where this is appropriate.

The firms we regulate must have a process in place for resolving complaints with their customers. In the event that a customer is not happy with the response then they can take their complaint to the Financial Ombudsman Service (FOS). The FOS is there to resolve disputes fairly and impartially and has the powers to put things right.

If a complaint is referred to the FOS, an ombudsman has the power to request information they consider necessary for investigation (including a breakdown of costs) and can accept information in confidence if commercially sensitive or if there are security concerns. In those circumstances, and where appropriate, the FOS would only disclose an edited version, summary or description to the other party.

FINANCIAL CONDUCT AUTHORITY

35. Does the FCA accept that the Consumer Duty has imposed a higher regulatory burden and consequently greater costs on the honest majority of firms than would have been the case had it instead introduced a duty of care?

We have carefully considered the requirements of the Financial Services Act 2021 with respect to a duty of care and are confident we have met them. Our view is that a duty of care is a positive obligation on a person to ensure that their conduct meets a set standard. The Duty delivers this by setting out a new, higher standard of conduct and consumer protection.

We have assessed the costs and benefits of introducing the Consumer Duty and published this in our second consultation (CP21/36). Overall, given the scale of the harms that the Duty aims to tackle, we believe that the benefits for consumers will outweigh the costs of the Duty.

The Duty will benefit firms by providing an environment for healthy competition, based on high standards, which will help support growth and investment in UK financial services.

The focus on outcomes should mean there's more flexibility for firms to compete and innovate in the interests of consumers, with clarity on our expectations. Those firms who do the right thing should welcome action to tackle competitors who drive down standards. In the longer term, the shift to outcomes-based regulation also offers an opportunity to move towards a less prescriptive and more flexible regulatory framework.

36. What is the overlap between Consumer duty and conduct risk?

The Consumer Duty aims to fundamentally change industry behaviour by setting higher and clearer standards of consumer protection in financial services by getting firms to focus on delivering good consumer outcomes. It sets out a new Consumer Principle (Principle 12), which requires firms to act to deliver good outcomes for retail customers. This focus on outcomes is a key difference to our existing Principle 6, which requires firms to treat customers fairly.

The Consumer Duty is more than just a high-level principle and is a package of measures including significant new rules and guidance. The Duty consists of three cross-cutting rules, that set out the overarching standard of conduct we expect, and more detailed rules and guidance in four outcome areas, that cover key aspects of the relationship between firms and their customers.

37. Does the FCA accept that the actions of a number of building societies in introducing elderly and otherwise vulnerable consumers to The Will Writing Company Limited, in return for undisclosed commissions, took place with inadequate or no due diligence or ongoing monitoring of how consumers were subsequently treated? Does it recognise that these introductions subsequently resulted in serious consumer detriment? What steps is it taking or will it take to establish whether building societies should compensate those harmed as a result of these actions?

We are aware of a small number of building societies that referred customers to The Will Writing Company (WWC) and other unregulated entities in the Estate Planning Group, which owned WWC. This included The Family Trust Corporation Ltd (FTC) which offered services such as setting up family trusts and power of attorney. These are services which do not require authorisation from the FCA to be carried out.

We expect appropriate due diligence to be carried out with any third-party provider that a regulated firm has a relationship with, both at the outset of any relationship, and then on an ongoing basis. As part of that, we expect any conflicts of interest, such as incentives, to be identified and managed.

A number of societies have provided information on their websites for consumers who may be affected. Examples of these include:

- The Nottingham
- Saffron Building Society
- Leeds Building Society

WWC went into administration in 2018 and it, along with FTC were later acquired by the Philips Trust Corporation (PTC) and Taylor Rose TTKW Ltd. PTC is an unregulated trust services provider mainly offering trustee services to individuals (i.e. it holds assets, investments and cash for consumers (beneficiaries) in accordance with a trust document). PTC has never been authorised by the Financial Conduct Authority (FCA) and was relying on a trustee exemption in the relevant legislation. We understand that, once PTC had acquired the majority of WWC and FTC's client book, customers may have been offered further PTC products and services, meaning building societies may not have had full sight in determining the number of customers who may have subsequently engaged with PTC. It is also our understanding that a large number of FTC customers opted to appoint PTC as their replacement trustee. As far as we are aware no society had a direct relationship with PTC. We would encourage anyone who believes that the actions of a particular building society have led them to suffer detriment to contact the relevant building society to discuss this. Building societies are dealing with complaints / enquiries on the matter.

The director of PTC concluded that it was unable to pay its debts as they fell due and applied to court for an administration order, which was granted by the Court on 22 April 2022, appointing Geoff Bouchier and James Saunders of Kroll Advisory Ltd as joint administrators (the Joint Administrators). The Joint Administrators have a statutory obligation to file a report regarding the conduct of any director that has held office in the three years prior to the Administration (including any shadow directors). The Joint Administrators also have a duty to investigate the Company's affairs in order to maximise the return to creditors. This includes conducting investigations to identify any antecedent transactions which include (but are not limited to):

1. Transactions at an undervalue, under Section 238 of the InsolvencyAct 1986 (the Act);
2. Preferences, under Section 239 of the Act;
3. Wrongful Trading, under Section 214 of the Act; and
4. Transactions to defraud creditors, under Section 423 of the Act.

    Additionally, as part of the client account reconciliation exercise, the Joint Administrators are also reviewing all transactions conducted via the Clients' account bank accounts and any unusual and / or unexplained transactions will be investigated. Once that has been completed, the Joint Administrators should have a better understanding of the position.

    Further details and background to the acquisition can be found in the Administrators' report[1] produced by Kroll.

    If anyone has any specific questions about PTC's administration, these should be

directed to the Joint Administrators. The Joint Administrators are encouraging any PTC customers who believe they are owed money or have a claim in respect of PTC's actions as trustee, to contact them using the following details:

- Email Address: PTC@kroll.com
- Telephone: 0808 273 9201
- Postal Address: PTC Case Team, c/o Kroll Advisory Limited, The Chancery, 58 Spring Gardens, Manchester, M2 1EW

In terms of further action by the FCA, we are engaging with the building societies and await the outcome of any of the Joint Administrators' work mentioned above.

38. Do you share the view of the Bar Council (https://www.barcouncil.org.uk/uploads/assets/cc471299-a615-4e56-9a7c072be8894d97/Bar-Council-response-to-FCA-consultation-paper-a-new-Consumer-Duty.pdf) that the Consumer Duty does not equate to a Duty of Care? If so, does the FCA accept that its decision not to consult on or implement a Duty of Care means the FCA is in breach of obligations placed on it by Section 29 of the Financial Services Act 2022? And if you disagree with the Bar Council and believe that the Consumer Duty amounts to a Duty of Care, will you publish the legal opinion or decision-making process by which you reached this position?

We have carefully considered the requirements of the Financial Services Act 2021 with respect to a duty of care and are confident we have met them.

We considered the Bar Council's response to our first Consultation Paper (CP21/13) alongside all the other responses and summarised this feedback in our subsequent second Consultation Paper (CP21/36). Our response to the feedback on duty of care is covered in paragraphs 2.21-2.31. As highlighted by this Bar Council response, our consultation found that what constitutes a duty of care may have different meanings and so cannot be exhaustively defined, and the term is used differently in a variety of contexts.

Our view, as set out in these previous publications, is that a duty of care is a positive obligation on a person to ensure that their conduct meets a set standard. The Duty delivers this by setting out a new, higher standard of conduct and consumer protection.

We have already set out our analysis on the duty of care in several publications (for instance DP18/15, FS19/2, CP21/13, CP21/36 and PS22/9) and do not intend to publish anything further.

39. How are you promoting effective competition within the claims management sector?

Findings of a consumer survey published in February 2020 showed that not shopping around when choosing a CMC was very common; 81% of consumers surveyed did not consider using any other CMC to the one that first contacted them. This means that our supervision of lead generators, financial promotions and pre-contractual information, which aims to ensure customers know what services they can expect, and the fees customers can expect to pay, are key in promoting competition between CMCs.

FINANCIAL CONDUCT AUTHORITY

One of our stated aims for the CMC market is to see that consumers are empowered to choose a value-for-money service which matches their needs. Enabling customers to make a more informed choice about which CMC to use, based on an understanding of the cost of using a CMC and the service it provides, increases competition, both on price and standard of service, among CMCs. And for CMCs managing claims about non-PPI financial products and services our rules aim to allow CMCs to compete using fees that are not excessive while better informing customers about the fee they will have to pay, the value of the service being offered and the options available to them. By setting the cap for fees that may be charged for claims management activities on claims that yield redress in relation to non-PPI financial products and services above the costs to firms of managing claims, and at a level which allows a viable market to exist, we expect firms to be able to compete under the cap.

We have also introduced additional rules to enhance competition between CMCs. By banning claims management phoenixing we have removed an unfair competitive advantage of some CMCs that have relevant connections to the claims they manage.

The Consumer Duty will also create a fairer and more consumer-focused playing field on which firms can compete and innovate in pursuit of good consumer outcomes. Firms can more effectively compete in the interests of consumers where firms design products and services to meet consumer needs, and consumers are put in a position to make informed decisions and act in their interests.

40. Is there a risk the FCA could face a judicial review due to a poorly thought through consumer duty?

We have held several rounds of consultation on the Consumer Duty to ensure that the proposals are proportionate and workable, and we are pleased with the positive reception our final rules and guidance received from industry when they were published in July. For instance, as part of the consultation process, we listened to industry concerns on the challenges of implementation and extended the length of the implementation period to give firms more time. We are also engaging with firms extensively to listen to any issues that develop as firms progress with their work to embed the Duty. We therefore do not expect any judicial review.

41. What is the overlap between Consumer duty and conduct risk?

The Consumer Duty aims to fundamentally change industry behaviour by setting higher and clearer standards of consumer protection in financial services - and by getting firms to focus on delivering good consumer outcomes. It sets out a new Consumer Principle (Principle 12), which requires firms to act to deliver good outcomes for retail customers. This focus on outcomes is a key difference to our existing Principle 6 which requires firms to treat customers fairly (TCF).

The Consumer Duty is more than just a high-level principle and is a package of measures that includes significant new rules and guidance. It includes three cross-cutting rules, that set out the overarching standard of conduct we expect, and more detailed rules and guidance in four outcome areas, that cover key aspects of the relationship between firms and their customers.

Crypto

FINANCIAL CONDUCT AUTHORITY

42. Will there be a proper crypto authorisation regime soon and when? Plus, what will this look like?

43. What is the criteria for full registration for crypto companies? How come there still has not been many authorisations given to crypto companies?

44. What does the FCA's crypto registration regime actually mean?

45. How safe is crypto sterling? What guarantees do the Bank of England give investors?

46. What is the FCA's strategy for combating financial crime involving cryptoassets?

47. What is the FCA's role in regulating cryptoassets?

48. How will the FCA address the issues regarding applications to register as a cryptoasset business?

49. Is there a timetable for when conduct rules, client asset rules and other excellent aspects of the FCA handbook will be rolled out to the Crypto Asset industry in the UK?

50. What is your stance on the global regulatory environment on digital assets and how do you see your role in it?

51. How to balance the risks and rewards between appropriate education and solicitation of crypto asset knowledge and information to consumers? What does the FCA will do to assist the private industry to progress in regulatory regime?

52. Is there a tension between the FCA's stance on crypto firms and the government's ambition to make the UK a crypto hub? Should lawmakers change the burden of proof, so that the FCA has to show there's a problem before it can intervene with a crypto firm?

53. What is the FCA's plan to address market efficiency and financial stability concerns for cryptoassets?

54. Will Crypto Firms be covered?

55. What new powers will the FCA get from the financial services and markets bill for regulating crypto? What difference will these make?

56. Can the FCA provide an update on the processing of applications for registration of crypto businesses under the MLRs, and comment on recent reporting of a hardening of the FCA's stance against such firms?

57. What is the FCA doing to fairly regulate firms, businesses and consumers operating with cryptoassets?

58. What is the FCA's future strategy surrounding the regulation of crypto-assets?

We have grouped the many crypto related questions together to provide a comprehensive answer to all.

FCA FINANCIAL CONDUCT AUTHORITY

Cryptoassets and their underlying technology may offer benefits for users of financial services. Our aim is to encourage a balanced approach of fostering innovation while offering consumers protection – supporting economic growth and helping the UK remain the most attractive destination for fintech in Europe.

However, there are the significant risks associated with cryptoassets, too. That's why we repeatedly warn consumers that they should be prepared to lose all their money if they invest in cryptoassets. That potential investors are aware of the risks is also the key message of our £11m consumer information campaign, InvestSmart.

We continue to receive an increasing number of reports about cryptoasset investment scams. Our ScamSmart campaigns warn retail consumers about the scams and inform them about the risks of investing in high-risk investments including cryptoassets. We partner with other agencies, for example the Advertising Standards Agency, to mitigate harm where possible.

Cryptoassets and cryptoasset service providers largely sit outside of financial services regulation, except where we have jurisdiction for anti-money laundering and counter-terrorist financing (AML/CTF) purposes, or they are financial instruments that reference cryptoassets, like derivatives. This means we have not been given by Parliament comprehensive powers to address market conduct, prudential or consumer protection risks within the industry.

The FCA is responsible for registering cryptoasset firms for anti-money laundering and counter-terrorist financing, which means checking that these businesses have proper systems and controls to identify and prevent illicit money flows. Almost three-quarters (73%) of firms which were carrying out crypto business in the UK and had applied for FCA registration were not able to demonstrate they met these requirements and/or withdrew their application.

However, we have also seen some good practice and have worked with firms to bring their controls and systems up to standard. So far, 38 firms have shown that they can meet these standards and are building in good money laundering controls from day one.

The Government announced in February 2022 its intention to legislate to bring certain cryptoassets within the financial promotions regime. We will publish our rules after the government legislates. Also, in April 2022 it announced that it will legislate to regulate stablecoins used as payments and consult later this year on further regulation for cryptoassets.

We are working closely with Her Majesty's Treasury (HMT) to determine the scope of a future regulatory regime. In October 2022 the Government laid an amendment to the Financial Services and Markets Bill that will allow the Future Regulatory Framework to be used to regulate cryptoassets and crypto financial promotions. Additional work will then be needed to establish which regulatory powers will be given to us by government; these will be subject to consultation.

We provide policy input via the Crypto Asset Taskforce (CATF) which was formed by the Chancellor in 2018 with the objective to bring HMT, Bank of England (BoE) and the FCA together to assess the potential impact of cryptoassets and distributed ledger technology (DLT) in the UK and to consider appropriate policy responses. We are also separately supporting the work of the BoE and HMT exploring the question of a potential central bank digital currency (CBDCs) in the UK. Furthermore, we liaise with international regulators on their thinking, especially through the cryptoasset working group within the IOSCO Fintech Task Force.

We held our first policy-focused CryptoSprint earlier this year, where we engaged with almost 200 individuals from the crypto industry, financial services firms, academia and consumer groups to discuss how we build and develop a wider regulatory framework for cryptoassets. We published an output to the Sprint in June 2022 to keep the discussion going with industry as to how we build and develop a regulatory framework.

We plan to continue engaging with industry and consumers and have sessions to further develop our policy thinking in due course. We have increased resource in our Cryptoasset Authorisation team to speed up our decision making and have progressed all applications under the temporary registration regime. During 2023, we intend to publish further guidance to help future applicants know how to meet the right standards when applying.

We have a history of supporting innovative financial services that benefit consumers and markets. Our regulatory sandbox, which allows firms to test innovative products without risks to consumers, has already supported 56 firms with DLT-based innovations, including those operating in the crypto space in our Regulatory Sandbox, and 76 firms in our Innovation Pathways service.

59. There have been several excellent interventions to keep markets working better, such as value measures reporting on general insurance, however the data publishing has been slow on the FCA's part, with data reported by companies still not published. How will the FCA improve their data preparedness to help us work better for customers, and be faster in delivering the outcomes of these measures?

The FCA routinely publishes over 40 data publications because we recognise of the benefits to a wide range of stakeholder of sharing data we collect.

We are completing a full review of the datasets we collect to identify further opportunities to publish.

We will publish imminently the first tranche of data for value measures.

Any feedback or suggestions on the data we publish can be sent to fcadataandanalysis@fca.org.uk.

60. Will you do quarterly regional meetings with financial planners again? These were really helpful but seem to have dropped out since 2020?

Our UK-wide Live and Local programme ended in 2020 due to the pandemic. However, we engaged with tens of thousands of UK firms through online events, including webinars on Brexit, MiFID, consumer vulnerability, and the new Consumer Duty. While we recognise the value of face-to-face meetings, feedback suggests far more people find it easier, and cheaper, to engage in these online forums.

Since the end of Covid restrictions, we have spoken face-to-face at various industry events, including UK-wide events hosted by the Personal Finance Society, the largest professional body for financial planners in the UK. We are planning our own UK-wide events in the first half of 2023 on the new Consumer Duty, including events aimed at financial planners.

61. What will be the scope for field visits in 2023?

Supervisory and non-essential enforcement visits were paused during the Covid-19 pandemic but are now taking place as normal. These visits can be pre-arranged or

unannounced, and throughout the remainder of 2022 and into 2023 we would expect to continue to use firm visits as part of our supervisory/enforcement approach. Given the increased use of hybrid working, and in line with guidance we issued in October 2021, we will consider home as well as office visits.

62. The Bank of England has warned that parts of the financial system other than LDIs are vulnerable to liquidity crises; it has mentioned open-ended investment vehicles that hold illiquid assets such as property and unlisted or seldom-traded listed stocks. Has the time now come for the FCA finally to listen to campaigners who've long held that open-ended vehicles should not hold illiquid assets, and that there needs to be a route by which such funds can convert to closed-ended (investment trust) status without triggering a capital gains test?

Open-ended fund structures are part of the global asset management landscape. The move in bond prices that impacted LDI funds were exceptional. That said, clearly the events of recent weeks show yet again that good liquidity management matters, and the FCA is engaged in global policy work on this topic.

Capital gains tax is a matter for government.

63. How is the FCA using its influence to mandate embedding technology to offer early warning and support for customers at risk of loan repayment problems?

The FCA is leveraging data and technology to identifying harm and opportunities to intervene sooner to protect consumers. We have launched a Diversity, Equity, Inclusion (DEI) Spotlight within our Innovate Pathways, to encourage firms to launch products and services which increase financial inclusion. The Regulatory Sandbox is currently testing the No Interest Loan Scheme (NILS) for customers in vulnerable circumstances. There are many positive examples of firms using technology to support customers in vulnerable circumstances. For example:

- Current Account Monitoring - to identify problem gambling, and then offering support and opting those identified customers out of credit marketing; or using current account data to identify other forms of vulnerability and take proactive action
- Use of digital channels - such as chat functions in apps or on firms' sites – enabling customers who might have difficulty talking about or be apprehensive about talking about a problem (eg financial difficulty or mental health challenges) to disclose this to their service provider and access support. Or, by providing self-service digital information hubs for customers in vulnerable circumstances.
- Tools for staff – to enable customer-facing staff to find the right information and support for customers leveraging machine learning and natural language processing

64. The dynamics of FS industry is very turbulent especially in recent years. How is FCA dealing with these and what is the plan to stay ahead of the *curve*. An example is the unending scams since the introduction of pension freedoms.

It requires significant vigilance and, crucially, investment in our systems and data to better enable us to see issues as they emerge. That is why we are investing £33m in FY 22/23 in how we take in, analyse and present data. Additionally, we are substantially investing in technologies, speeding up our case management and triage processes, delivering data literacy training to our employees and sourcing new data.

We are also investing in and deploying technological solutions to make us even more efficient. We now test firms' sanctions controls with big data techniques, we scan around 100,000 websites a day to identify scams and have developed a single view analytics tool to be able to spot where to intervene and when, faster.

65. When will you prosecute fraudulent Chairman and Board Members. They have to be accountable. I also add that Regulators have failed us all. What will you do to remove the bad apples from the Regulators?

The FCA has extensive powers to take action against individuals where there is evidence of misconduct. These powers were strengthened by the introduction of the Senior Managers and Certification Regime (SMCR) in 2016.

In its evaluation of the SMCR published in December 2020, the Prudential Regulation Authority (PRA) reported that around 95% of the firms it had surveyed said the SMCR was having a positive effect on individual behaviour, and 83% of senior managers considered the regime to have brought positive change in their working practices and those of their immediate colleagues.

The FCA has achieved some notable enforcement outcomes against individuals over the last year, including:

- Bans for two directors for failing to report suspicious transactions
- Decisions to impose fines totalling over £800,000 for the former executive directors of Carillion (subject to appeal at the Upper Tribunal)
- Five individuals banned and fined for causing losses to pension customers
- The jailing of Redcentric's CFO and Finance Director

We will continue to take such action where the conduct justifies it and we have sufficient evidence to build a case.

The FCA has also adopted and applied the core principles of the Senior Managers Regime, allocating key responsibilities to the senior individuals in the organisation. As part of this, we have senior managers' Statements of Responsibilities and over time have sought to ensure that these are refined and enhanced. This reflects our expectation that our senior management should meet the same standards of professional conduct as those required in regulated firms, and that they are held accountable for functions they personally direct. However, our construct as a regulator is different to a regulated firm as we are a public authority created by statute, accountable to the Treasury and to Parliament and, therefore, our application of the regime to ourselves reflects our different constitution and functions as a public authority and regulator.

We also have clear requirements for staff in our employee handbook and have taken action as result of these. We regularly review the allocated roles and responsibilities for our senior managers – and these are regularly updated on our website.

66. You have reduced your complaints by denying them. When will you deal with these honestly and openly?

We treat all complaints seriously as they help us learn lessons and improve our performance. The FCA's Complaints Scheme sets out what complaints can be considered under the scheme, as well as those we will not investigate as they do not relate to matters arising in connection with the exercise of, or failure to exercise, any of our relevant functions. In 2021/22, 35% of complaints we received were deemed out of

FINANCIAL CONDUCT AUTHORITY

scope or not investigated. However, in all cases, even those we do not investigate as they do not fall within the remit of the scheme, we aim to provide helpful information to the complainant and consider if we can learn lessons.

As part of the complaints process, if a complainant remains unhappy with our decision, they can refer their complaint to the Complaints Commissioner for an independent review of our investigation.

We have invested in our complaints handling function at the FCA, which has meant that we closed 170% more cases last year than we did in the previous year.

67. Should FRCC be completely independent of FCA? Why FCA did not accept FRCC report on LC&F recommendations in full?

The Financial Services Act 2012, Part 6, Section 84 titled 'Arrangements for the investigation of complaints', states that the regulators must appoint an independent person to conduct investigations in accordance with the Complaint Scheme, the appointment of which is subject to HM Treasury's approval. It also states that the terms and conditions on which the investigator is appointed must be designed to ensure the investigator is free at all times to act independently of the regulators. Any changes to this legislation would be a question for government.

The Complaints Commissioner published her Final Report into our regulation of LCF on 15 February 2022. We carefully considered the Commissioner's Final Report recommendations, but we disagreed with two of her recommendations: one on the FS Register and one on our approach to compensation. Our full response was published on 15 March 2022, which explains which recommendations we did and did not accept and why, and can be found on our website: The FCA's Response to the Complaints Commissioner's Report into our oversight of LCF

68. Was it right that Dame Gloster's report on LCF's mishandling of LCF was ridden over by Andrew Bailey?

Dame Elizabeth Gloster was approved by HM Treasury to independently investigate the circumstances surrounding the collapse of LCF. HM Treasury published Dame Elizabeth Gloster's report on 17 December 2020. We know that the collapse of LCF had a profound impact on the lives of many people and we are very sorry for the errors that we made. We accepted all nine of the recommendations made to the FCA in Dame Elizabeth Gloster's report and our full response can be found on our website: FCA response to the LCF Review.

69. Nikhil Rathi's defence for hiring Raj Parker just months after delivering his nominally independent review into Connaught is that undertaking that exercise resulted in him acquiring extensive knowledge of the organisation. The same claim can be made of those who lead the many action groups and campaigning organisations that deal with the negative externalities caused by FCA underperformance. How come none of us are being tapped up with job offers?

If you are interested in a career at the Financial Conduct Authority, please visit our website for our latest opportunities: https://www.fca.org.uk/careers.

FINANCIAL CONDUCT AUTHORITY

70. The FCA says it applies the principles of SMCR to itself. Specifically, do the Conduct Rules apply to FCA Senior Managers, if so how many breaches of the Conduct Rules have there been by FCA staff since the inception of SMCR.

The FCA have adopted and applied the core principles of Senior Managers Regime to allocate key responsibilities to the senior individuals in the organisation. We also have senior managers' Statements of Responsibilities. We are doing so to reflect our expectation that our senior management should meet the same standards of professional conduct as those required in regulated firms and be held accountable for functions they personally direct. The FCA is a public authority created by statute, accountable to the Treasury and to Parliament. As a regulator we have a policy-making role, supervisory functions and a range of powers and duties, some of which may only be exercised by our Board. Our application of the regime to ourselves therefore reflects the different constitution and functions of the organisation as a public authority and regulator. This will inevitably be different in some respects to its application to a regulated firm.

71. When will the FCA prosecute, convict and disbar solicitors and barristers from withholding information after disclosure has been submitted?

It is not within the FCA's remit to discipline or disbar solicitors and barristers. The Solicitors Regulation Authority (SRA) and Bar Standards Board (BSB) regulate the legal profession.

72. The SMF applications are still way out of SLA and the submitting firm has no updates on the applications even when those applications are in the queue for review: is there anything being done please to ensure firms can manage these applications appropriately?

On 10th October 2022 we published an update on Authorisations which is available here: https://www.fca.org.uk/publication/corporate/fca-authorisations-update-oct-2022.pdf.

This describes the progress we are making on improving the time taken to determine applications.

Between April 2022 and September 2022, 86.5% of Approved Persons applications were completed within the statutory service level agreement (SLA); this includes the Senior Managers and Certification Regime, Controlled Functions and Significant Influence Functions applications. The clock on the statutory SLA begins on receipt of the completed application.

When applications are assigned to a case officer, firms can contact the case officer directly for a progress update. Before the case is assigned, firms should call or email the Supervision Hub.

73. Will we expect any guidance for firms under the TPR applying for a UK branch?

All firms that apply for authorisation need to meet our minimum standards.

There are certain risks that can be more significant in, or exacerbated by, a branch structure and, with that in mind, we published our Approach to International Firms in early 2021. This sets out what we expect for international firms, not just those in the Temporary Permission Regime.

International firms should consider how they mitigate these risks of harm when considering applying for authorisation.

74. How confident is the FCA of discharging its obligations under s149 Equality Act 2010 (Public Sector Equality Duty) across the business of firms it regulates; and Ch3B(1)(c) FSMA 2000 "sustainable development" of the UK economy with regards the UN SDGs (x17)?

As a public body, in exercise of our functions to advance our objectives, we are subject to the Public Sector Equality Duty (PSED) under the Equality Act 2010. This means that when exercising our functions we must have due regard for the need to:

1. eliminate unlawful discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
2. advance equality of opportunity between people who share a protected characteristic and those who do not share it; and
3. foster good relations between people who share a protected characteristic and those who do not share it.

In our policy making, we carry out Equality Impact Assessments (EIAs) to understand the potential positive and negative impacts of our policy development and interventions, and to record our decision-making in relation to those impacts. We do not have a legal requirement under the Act to conduct EIAs, but they are a useful way to guide our decision making, and to demonstrate and track that we have had due regard to our PSED.

In terms of the firms we regulate, over the last 18 months we've continued our work on regulatory diversity and inclusion with the Bank of England and the PRA. We have engaged with industry and a wide range of organisations to better inform our forthcoming proposals. We have also sought to understand how and where organisations across the sector use diversity data. We have also published rules to promote diversity and inclusion across the boards and executive levels of listed companies.

75. What about FCA register not fit for purpose. Gloster, FRCC, TSC?

The Financial Services Register ('the Register') is a high-volume website. It receives over a million visitors a year, and more than 3,500 on a typical working day. We have steadily increased our investment in the Register and made a range of incremental changes. That includes improvements to the data and consumer protection messaging.

Thousands of users provide feedback on the Register each year, and about 85% of that is positive. However, the comments we receive show the need for further improvement. It is also apparent from views expressed by the Complaints Commissioner at the Treasury Select Committee. Finally, in response to the Gloster Report into the FCA's regulation of London Capital & Finance, we confirmed that, while the Register was not misleading, it could have been clearer. We have already taken steps to address that.

We want to continue to improve. Our work will be ongoing and iterative. It may involve changing the technology we use. We are also mindful there may be different needs and solutions for different users and audiences, in particular consumers. We expect to update on our plans for the Register in 2023.

76. Why are criminals still on your register as approved persons, despite receiving evidence of their crimes?

Before submitting an application, firms must have satisfied themselves that the individual is fit and proper to perform the role.

Once the individual is approved and in post, the firm must then assess their fitness and propriety on an ongoing basis, at least annually. Where the firm becomes aware of any issues which may impact an individual's fitness and propriety then the firm should notify the FCA of this.

Where we receive information this will be investigated. However, we are not able to comment on specific cases. Our approach is to treat this information confidentially and we will not share our sources of information. If an individual believes they need a greater degree of protection, we have a whistleblowing process outlined here https://www.fca.org.uk/firms/whistleblowing

77. Can you share more about how you plan to support tech like Kalgera and enforce FS providers can get early warning and support customers around affordability.

We cannot comment on specific firms.

We have issued guidance to firms to ensure the fair treatment of these customers - https://www.fca.org.uk/firms/treating-vulnerable-consumers-fairly/ensuring-fair-treatment.

Our guidance sets out that, to achieve good outcomes for customers in vulnerable circumstances and ensure that those outcomes are as good as for other customers, firms should:

- understand the needs of their target market/customer base
- make sure staff have the right skills and capability to recognise and respond to the needs of customers in vulnerable circumstances
- respond to customer needs throughout product design, flexible customer service provision and communications
- monitor and assess whether they're meeting and responding to the needs of customers with characteristics of vulnerability and make improvements where this is not happening
- assess affordability, where having and implementing effective policies and procedures to take into account how a customer having characteristics of vulnerability might affect their ability to afford the credit in question

One year on from the launch of the guidance, we have seen good examples of individual firms taking positive action to understand the needs of customers in vulnerable circumstances and meet those needs. However, recent engagement with retail banks showed there was some inconsistent practice and we identified areas where we expect to see improvement and additional focus from firms. We set this out in our Dear CEO letter, as millions of consumers are facing increasing pressure from the rising cost of living.

Our new Consumer Duty also supports existing legal requirements, such as those in the Equality Act 2010. Firms are required to monitor whether any group of retail customers is experiencing different outcomes than other customers and take appropriate action where they do.

We expect all firms to provide their customers with appropriate support and care.

FCA FINANCIAL CONDUCT AUTHORITY

78. Is the FCA aware and taking action against financial misconduct and mismanagement by directors at firms like HouseCrowd which is now insolvent to the detriment of investors?

The House Crowd Limited was placed in administration by its directors in February 2021. The FCA consented to the administration. The Administrators continue to work for the best possible outcome for all parties.

We are aware that, as part of the Joint Administrators' statutory duties, an investigation into the conduct of The House Crowd's directors has been undertaken and a confidential report submitted to The Insolvency Service on 19 May 2021. Although the report has been submitted, the Joint Administrators continue to investigate matters raised by investors and creditors alike and have provided additional information to The Insolvency Service as required.

79. ShareSoc, a not-for-profit independent organisation, dedicated to supporting individual investors, has made a considerable investment in producing an attractive video series, designed to help new investors. Will the FCA help to promote this series, to ensure that the general public is well informed about the basic principles of sound investment practice? Will you meet with ShareSoc to discuss this? The videos will shortly be published and will be accessible via https://www.sharesoc.org/investor-academy/

As a regulator we have to be impartial and cannot promote external products/work/training on our social channels. We do want consumers to be able to invest with confidence, understanding the risks they are taking and the regulatory protections provided. We would, however, be happy to meet ShareSoc and welcome any work being done to support consumers in making informed investment decisions.

Our Consumer Investments Strategy sets out what we are doing to improve consumer outcomes in this market. For example, we will be consulting later this year on a more proportionate advice regime for investing new money into stocks and shares ISAs. Our aim is to make it more cost-effective for firms to develop advisory services for consumers who might benefit from investing while retaining appropriate consumer safeguards.

Another example is our £11m InvestSmart campaign, which targets inexperienced investors to provide them with information to make better-informed investment decisions. We have worked with influencers and advertised to our target audience using social media, search engines and online video placements. Our advertising has driven over 50,000 people to the InvestSmart homepage.

80. Is there a developing possibility of market failure in ACDs? Link is by far the largest ACD provider – larger fund management groups will be able to internalise (very expensive) while smaller ones may have very limited options. Have the FCA (and potentially CMA?) allowed a) concentration around one provider and b) actively pushing Woodford and presumably others towards Link.

There are a number of host Authorised Fund Managers or "host ACDs" which operate in the market. In addition to seeking direct authorisation to operate funds, fund sponsors

can approach another host ACD to be their Authorised Fund manager, taking on responsibilities for the funds.

As per our published review of host Authorised Fund Management firms on 30 June 2021, where firms have deficiencies in either financial or non-financial resources, we will ensure they take the necessary steps to resolve this.

81. Why has the FCA done NOTHING about Lex Greensill and David Cameron?

The FCA is formally investigating matters relating to Greensill Capital UK (GCUK) and Greensill Capital Securities Limited (GCSL), an Appointed Representative (AR) of Mirabella Advisers LLP; and the oversight of GCSL by Mirabella, the principal firm.

As supply chain finance is not an activity Parliament has decided should be put under the FCA's regulation, our remit is limited to GCUK's compliance with the Money Laundering Regulations and the conduct of the Mirabella, the principal of GCSL carried out regulated activities as an AR.

As part of our investigation we will consider the actions of individuals. We are also cooperating with counterparts in other UK enforcement and regulatory agencies, as well as authorities in a number of overseas jurisdictions. Allegations have been made in the press regarding the circumstances of Greensill's failure, some of which are potentially criminal in nature. There are, therefore, some aspects of the FCA's interactions with Greensill entities that we are not able to disclose so as not to prejudice these ongoing investigations. Matters relating to lobbying in Parliament are, however, outside our remit.

We have recently introduced new rules in PS22/11 to make principals more responsible for their ARs as a result of the harm we have seen arising from the AR model. Our new rules bring in changes to the AR regime. The new rules are focused on improving principals' oversight of ARs, as well as collecting the data we need to help identify and tackle harm and apply greater scrutiny at the gateway. We also highlighted the importance of tackling harms associated with the AR regime in Our Strategy 2022 to 2025 published in April 2022. Our Annual Report published in July 2022 sets out the steps we have already taken in our supervision of principals and how we review applications for firms' authorisation to better identify risky business models and high-risk principals.

82. Evidence suggests that a person in FCA Intelligence was quietly 'exited' as a result of having shared information about whistleblower identity and disclosures they made in confidence to The FCA, to a bank and a former FCA employee working at that bank. Is my evidence wrong?

We protect the identity of whistleblowers and have put in place structures, processes and training of staff to ensure this is the case. A breach of these procedures is regarded as a very serious matter. We do not comment on individual cases.

83. A study by Protect, titled Silence in the City 2, published in 2020 found that 70% of whistleblowers in financial services that made disclosures AFTER the new FCA rules were introduced in 2016, had suffered detriment by their employer (this equates to approx 700 per year), yet during that same time The FCA has taken no action against any firm for causing detriment to whistleblowers. How does The FCA explain this huge inconsistency?

The FCA is a supporter of Protect's work and has sought advice from Protect about strengthening its approach to whistleblowing. Protect's Silence in the City 2 Report examined the experiences of 352 whistleblowers in the finance sector who approached Protect over a two-year period between 2017 and 2019. Protect found that since its initial Silence in the City report in 2012 there had been some improvements in how whistleblowers were treated; there remained more to be done and that a large number of those whistleblowers alleged they had suffered detriment because of their whistleblowing.

The FCA recognises this is a very difficult and sometimes challenging area and that it is important whistleblowers are able to speak up without fear of retaliation.
SYSC 18 is a set of rules introduced by the FCA in 2016 to ensure large firms, like banks, have clear internal obligations around whistleblowing and that all firms know that evidence of whistleblowers suffering detriment is relevant to the FCA's assessment of the firm's fitness and properness.

The FCA receives reports from over 1,000 whistleblowers every year. These reports mostly concern issues arising within an FCA regulated firm and will also include allegations of whistleblower detriment. Since 2019, the FCA has received 232 allegations of poor whistleblowing practice in firms. All reports receive detailed assessment by a specialist team within the FCA and, where appropriate, the FCA takes action.

In 2018, the FCA took action with the PRA against one Chief Executive Officer, imposing a fine of over £640,000, concerning a failure to act with due skill, care and diligence by seeking to identify an anonymous whistleblower. At the time, the FCA said all whistleblowers should be able to speak up without fear of retaliation.

Since January 2022, the FCA has intervened against firms requiring remedial action to be taken in 33% of whistleblowing cases that have closed. There have also been several enforcement cases arising from whistleblowing intelligence.

A challenge for the FCA is the statutory restrictions and limitations on what information the FCA can publish about these cases. We are continuing to explore ways in which our response to individual whistleblowing cases can become better known without causing individual whistleblowers to be identified or causing the FCA to breach is statutory duties of confidentiality.

The FCA will continue to support and work with Protect to improve its approach to whistleblowing.

84. How often are whistleblowers invited to complete satisfaction surveys to determine how the FCA could be doing better in dealing with these valuable assets for consumer protection purposes?

We conducted a qualitative assessment survey of whistleblowers in 2022 and will be publishing the findings in early 2023. Aside from this survey, our dedicated Whistleblowing Team is always ready to hear from whistleblowers about their experience of reporting to the FCA.

85. We received a question concerning the FCA's knowledge of the circumstances of the failure of Premier FX.

We have not published the question because it includes an allegation about a third-party individual which would be inappropriate for us to publish. The FCA's findings in respect of

FINANCIAL CONDUCT AUTHORITY

the failure of Premier FX are set out in our published Final Notice dated 23 February 2021: https://www.fca.org.uk/publication/final-notices/premier-fx.pdf

86. Why do the FCA persist in fining Bank Shareholders rather than the Chairman and Board Members individually. They have not altered behaviours. Prison would! when will you adopt?

There is little evidence that the deterrent impact of financial penalties on firms is not working to reduce the re-occurrence of the same types of misconduct we have seen in the past. Recidivism (i.e. firms re-offending in the same way) is rare.

On the size of financial penalties, our policies take into account the extent of profit earned by a firm from non-compliance, the seriousness of the breach, including the harm caused, the extent to which the firm has mitigated and redressed harm, especially financial losses to customers, as well as the financial position of the firm itself. This ensures our penalties are fair and proportionate.

87. Will the FCA be revisiting historic RBS GRG cases?

In June 2019 we published our final report on GRG, which stated that we have concluded our work on the matter.

88. Follow up question re Woodford and enforcement action comment by Mark Steward. I am staggered to hear Mark Steward suggesting there may be no enforcement action. Let me be clear that investors do not want a cosy deal agreed behind closed doors. Individuals have behaved badly and need to be held to account. You have to make an example of misbehaviour in order to set an example to others. Can Mark clarify his answer please.

We did not say that there would be no enforcement action. We were asked when we would publish a report, and we explained in response we can only publish a Final Notice where we take enforcement action as we have no power to do so otherwise – this is set out in legislation.

We are continuing our investigation into the circumstances leading to the suspension of WEIF. It's a complex investigation involving multiple parties, but we are making good progress.

On 21 September 2022, we confirmed that we have completed our investigation into the WEIF's Authorised Corporate Director (Link Fund Solutions), and issued them a draft warning notice. Our focus remains on ensuring that the right funding is in place, so affected consumers are able to access as much redress as possible.

There are multiple parties under investigation in relation to the circumstances that led to the suspension of the LF Woodford Equity Income Fund. These investigations continue and they will consider any further failings which may have negatively impacted investors.

However, there are strict restrictions on the confidential information which we can share on ongoing enforcement cases. This means that we can't provide further information beyond what we have published at the moment. You can see updates that we publish on our investigation here.

89. What steps did the FCA take or Failed to take when they were made aware about the Illegal Sale of the Loan Book by Wellesley P2P to their sister concern CloverLeaf376 at a much Discounted Price despite a FCA VREQ in place ?

And

90. What steps are the FCA taking to protect non-sophisticated investors who were mis-sold loan notes to companies such as the High Street Group based on what has turned out to be inaccurate profit and accounts information and promises of investments being 100% safe due to being covered by security trustees, which in the end was not the case. Investors have therefore been left with massive losses and 54 million GBP has apparently vanished!

We sympathise with the losses suffered by those that invested money with the Wellesley Group. These losses crystallised due to liquidity/solvency problems in an unregulated entity Wellesley Finance Limited, which agreed a Company Voluntary Arrangement (CVA) with its creditors in October 2020. As it was not regulated the FCA did not have powers to object to or influence the CVA proposal, however, we worked to ensure all obligations including CVA and Loan Book Sale payments were met. We intervened in 2020 to stop any new investments in Wellesley Finance Limited when we became aware of liquidity concerns. We can make no comment on whether the sale of the loan book was "illegal" or whether the price achieved was "much discounted" as that would be a matter for a court of law to determine. The insolvency practitioner who supervised the CVA, Kroll, has completed their report and provided their opinion that the terms of the CVA have been satisfied. Wellesley & Co Limited was a regulated firm and was arranging the P2P investments and following authorisation from the FCA, in February 2019, was arranging the bond investments. Following our intervention in 2020 Wellesley & Co Limited is prevented from promoting or arranging any new investments and it must not diminish the value of any of its assets.

We have updated this answer to make clear the difference between Wellesley Finance Limited, the unregulated entity, and Wellesley & Co Limited, which was regulated.

91. Please comment on BBC Panorama on Blackmore documentary?

And

92. Why not mention the criticism of FCA on the BBC documentary about Blackmore Bonds?

On 16 August 2022 a BBC Panorama episode aired which focussed on Blackmore Bond Plc. We have no further comments regarding the BBC Panorama episode at this stage. We are closely examining the adequacy of the financial promotions issued by Blackmore Bond Plc and aspects of the sale process. Our work is ongoing, and we will take appropriate action if we identify breaches of our rules.

93. When will you apply the lessons from the Gloster report to Blackmore Bond and stop deferring bondholders' complaints indefinitely "due to ongoing regulatory action"?

Complaints made about the FCA in relation to Blackmore Bond Plc ("Blackmore") are currently deferred under paragraph 3.7 of the Complaints Scheme. This is because

FCA FINANCIAL CONDUCT AUTHORITY

complaints related to Blackmore are connected to continuing regulatory action. These complaints are deferred pending the completion of the FCA's ongoing work, this is because there is a risk that, if the complaint is investigated at the same time, it could adversely impact this ongoing work. We regularly review the deferral to ensure it remains appropriate in the circumstances and keep complainants updated at least every six months. As soon as we are able to investigate complaints about the FCA in relation to Blackmore without impacting on ongoing regulatory action, we will let complainants know.

94. As with Blackmore Bonds, FCA approved companies recommended and backed the High Street groups and investors were promised that in the small chance of liquidation etc. then all investment money would be completed protected by an FCA security truther called Castle Trust. They were sold as completely safe. and were sold to ordinary/non-sophisticated investors with no financial background checks.

You refer to parallels between High Street Group and Blackmore Bond Plc. The High Street Group's 'Loan Note' investment scheme is also believed to be a mini-bond. The High Street Group, like Blackmore, was not authorised by the FCA. By issuing and distributing mini-bonds it was not conducting a regulated activity. This means that the FCA did not have supervisory oversight of the High Street Group and its ability to intervene and take action against an unregulated firm (such as the High Street Group) issuing mini-bonds was limited. While a business does not need to be regulated by the FCA to issue mini-bonds, unauthorised firms can only communicate a financial promotion that has been approved by an authorised person. The FCA has taken action against unauthorised promoters of the High Street Group's loan note investment scheme where the promotion was in breach of our rules. This action has included unannounced visits, warning letters and the removal of non-compliant financial promotions from the internet.

95. If Mark Steward now accepts that there were problems with the marketing of Blackmore Bonds to consumers who did not qualify to receive such promotions, does he also accept that these concerns were raised by Paul Carlier in March 2017, and that the FCA had the power to investigate back then, since Amyma Limited was an appointed representative of an FCA-authorised firm, Equity Growth (Securities) Limited? Does he accept that if it's true that the FCA failed to act when it had both the power to do so and reasonable grounds to believe that consumer detriment was occurring, it has a moral, and perhaps a legal obligation, to compensate the victims of its inaction?

96. When will the FCA acknowledge that the mis-selling of Blackmore Bonds was in breach of FSMA and COBS and that the FCA were notified of mis-selling as early as March 2017?

97. Mark Steward told the Sunday Times that the FCA had no powers to act in respect of Blackmore Bond; he blamed Government for this, and also criticised consumers for investing in the products. Does he accept that the sales agency, Amyma Limited, was an appointed representative of Equity Growth (Securities) Limited and that the financial promotions were approved by NCM Fund Services Limited, both of which were and are FCA-authorised? Does he also accept that these facts, taken together with concerns about Amyma marketing the mini-bonds to unsophisticated consumers and the financial promotions being misleading, mean that the FCA did have both the powers and a duty to act? If so, will he agree to write an open letter to the Sunday Times retracting the untrue statements he made to their journalist, Ali Hussein?

98. Why is The FCA continuing to make representations to the media and public to the effect that everything about Blackmore Bond was beyond The FCA perimeter, authority and powers, seeking to explain it's failure to investigate reports made to The FCA in March 2017 of conduct that it knew breached FSMA and FCA COBS as a result of marketing and selling non-regulated products to non-sophisticated customers? Law and code that applies to regulated and non-regulated forms. And in light of the fact that the reports PROVED that it was being marketed as a 'Guaranteed Investment'. Something that Mark Steward himself recently confirmed 'there can be no such thing as', therefore giving The FCA even further powers to intervene and prevent the £48million in losses that were inevitably realised in April 2020.

We have grouped questions 95-98 together to provide a comprehensive answer to all.

Blackmore Bond issued a fixed term debt security, sometimes known as a 'mini-bond'. While there is no legal definition of a 'mini-bond' and it has been used to refer to several different types of security, we consider that the term 'mini-bond' usually refers to illiquid debt securities marketed to retail investors. More details about mini-bonds can be found on our website.

In general, a business does not have to be regulated by the FCA to raise funds by issuing shares or debt securities (whether mini-bonds or otherwise). In other words, the issuing of minibonds is not ordinarily a regulated activity for the purposes of the Financial Services and Markets Act (FSMA).

Consistent with the issuance of debt securities not being a regulated activity, Blackmore was not authorised by the FCA. This means that the FCA did not have supervisory oversight of Blackmore and that relevant protections for customers of regulated firms, such as those provided by the FSCS were not applicable.

In general, the FCA's statutory powers over unregulated activity by unauthorised firms is substantially limited in comparison with the powers we have over regulated firms. Where issues fall outside the FCA's statutory remit, we assist other agencies and regulators wherever we can. In addition, where appropriate, we can act in relation to financial promotions used to market minibonds where they are not clear, fair or are misleading (see below).

Though Blackmore was unregulated, which means its activities were not subject to FCA supervision nor within the scope of protections provided by and to regulated firms, the financial promotion of mini-bonds is within the FCA's remit. Section 21 of FSMA requires the financial promotions used to promote certain types of investment to be approved by an FCA authorised firm. This means Information Memoranda and other promotions used to market Blackmore mini-bonds were required to be approved by an FCA authorised firm. Blackmore mini-bonds were promoted by means of information memoranda that were approved by two FCA authorised firms, NCM Fund Services Ltd ("NCM") and NPI. Our rules required NPI and NCM to ensure that the promotions they approved complied with our financial promotion rules. This includes ensuring that the promotion is fair, clear and not misleading and that any restrictions on promotion contained in our rules are properly complied with.

The FCA has been clear that, although the issuing of mini bonds may not involve a regulated activity (and that the issuer will not necessarily therefore require authorisation), the promotion of such bonds is likely to be regulated. It is for this reason that it is not

correct that the FCA has maintained that "everything about Blackmore Bond" was beyond the regulatory perimeter, the FCA's authority and powers.

For the avoidance of doubt, it is not a breach of FCA rules to promote an investment to non-sophisticated investors purely because the investment is issued by a person who is not authorised.

The FCA is continuing to examine the adequacy of the financial promotions issued by Blackmore Bond Plc and aspects of the sale process. We will take appropriate action if we identify breaches of our rules.

Action taken by the FCA

We are constrained from disclosing in detail the ways and means the FCA acted in relation to Blackmore because of statutory and policy driven confidentiality requirements, and because certain lines of inquiry remain open.

The FCA's focus, prior to Blackmore's failure, was directed to the FCA firms involved in approving Blackmore's financial promotions.

NPI withdrew its approval of Blackmore's financial promotions in March 2019, which prevented the further promotion of Blackmore's mini-bonds. No further financial promotions were approved for Blackmore after this date. In February 2020, following NPI's application to the FCA, we imposed requirements on NPI for it to cease approving any further financial promotions for any firm. As part of these requirements, NPI placed a statement on their website that they would no longer be offering this service. We can now confirm the existence of these requirements publicly as they were previously confidential between the FCA and NPI.

These actions took place in the context of a heightened focus by the FCA on minibond promotions following the failure of London Capital & Finance, a much larger minibond issuer which is now under investigation by both the Serious Fraud Office and the FCA.

We have also liaised with the Insolvency Service during its investigations relating to Blackmore and its directors. The Insolvency Service has completed its enquiries and confirmed it is not proposing to take any action.

Additionally, since the failure of London Capital & Finance, Blackmore Bond and other mini-bond issuing firms, the FCA has banned the mass-marketing of speculative illiquid securities, including speculative mini-bonds, to retail investors because of the high risks involved which many investors may not understand sufficiently. We made this permanent in January 2021 following a temporary ban in January 2020 that we put in place on an urgent basis.

Finally, as noted above, we continue to closely examine the adequacy of the financial promotions issued by Blackmore Bond Plc and aspects of the sale process. Our work is on-going, and we will take appropriate action if we identify breaches of our rules.

Amyma Ltd (Amyma)

The FCA also intervened in relation to Amyma, which was involved in introducing investment to Blackmore, leadign to the removal of Amyma's website and termination of its status as an Appointed Representative in September 2019.

Amyma became an appointed representative of Equity for Growth (Securities) Limited on 2 July 2018.

FINANCIAL CONDUCT AUTHORITY

Based on current information, Amyma only appears to have been involved in introducing a small proportion of the amounts raised by Blackmore. Out of £47m invested in Blackmore bonds, we understand approximately £600,000 was invested through Amyma, representing less than 2% of the total.

Sunday Times Article

You have mentioned an interview given by Mark Steward to the Sunday Times and said that Mark stated "the FCA had no powers to act in respect of Blackmore Bond." This is not what Mark said during the interview.

In the article, titled "There's no Such Thing as a Risk-Free Investment", Mark noted that "In the absence of fraud or other illegality, the regulatory regime is not able to – and deliberately does not – insulate, protect or immunise consumers against the consequences when disclosed and foreseen risks actually happen". He added "It's really important to remember that not every loss is the result of a scam or fraud… there were very specific risk statements attached to the issue of Blackmore bonds" and "Parliament sets the limit of our power. The legislation demarcates what we can and can't do". The full article can be found of the Times website.

99. Mark Steward has just claimed that financial promotions for Blackmore Bond were substantially accurate. A mark-up of one such promotion, conducted by a professional compliance consultant, can be found here: https://drive.google.com/file/d/1_2-p2VUos2U1IMCqQO6s2-NWvRFwq8Jk/view?usp=sharing. Does Steward agree with the concerns identified in that mark-up? If so, would he agree to withdraw his claim that the promotions were substantially accurate?

The link to the website in the question does not work, as such we were unable to assess and respond.

100. Collaboration - Can The FCA explain why they told Panorama that they shared information with City of London Police in 2017 about Blackmore Bond, BUT failed to mention that which The FCA confirmed to me in writing in 2020 that The FCA, due to 'Human Error' had failed to share with City of London Police any of the intelligence that you or others provided to The FCA in respect to Amyma or Blackmore Bond?

City of London Police has confirmed in a re-issued response to the Freedom of Information request, that the FCA shared intelligence in relation to Blackmore Bond Plc as early as 2017 and that the FCA received intelligence from City of London Police in relation to Blackmore Bond Plc, however none of this was received before February 2020. Although there was a 'human error' in failing to attach a more detailed document containing underlying intelligence regarding Blackmore, the City of London Police still received intelligence from the FCA in 2017.

We have requested clarification on a number of other questions we have received. When we receive them, we will update our response.