Website: https://www.fca.org.uk/about/how-we-operate/complain-about-regulators

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Sent by email

17 December 2024

Dear Complainant

Complaint to the Financial Conduct Authority regarding Collateral (UK) Ltd

1. We are writing to you following the completion of our investigation into complaint allegations made by investors in the Collateral (UK) Ltd (Collateral) platform.

2. We are sorry that you have suffered financial loss and have a great deal of sympathy for your situation. Losing any sum of money can be deeply upsetting and a cause of significant worry and frustration.

3. We are also sorry for the length of time it has taken for us to respond to your complaint, which we accept may have added to any distress. It was important that we allowed legal proceedings to conclude, which meant that the investigation of your complaint was deferred between January 2019 and July 2023.

4. Further, the matters we investigated were complex and related to events which occurred over a long period of time and many years ago with the need to ensure we investigated the allegations thoroughly. We cover the impact of this delay later in this letter.

Your complaint

5. We received a number of complaints between April 2018 and May 2021, about the actions and/or inactions of the FCA in relation to Collateral, including yours. We wrote to you initially with a summary of our understanding of your complaint and have also explained to you that a

decision had been made to defer resolution of your complaint to allow prosecution by the FCA of the directors of Collateral, Peter and Andrew Currie.

6. On 31 July 2023 we explained that the deferral of the complaint investigation had been lifted and that we would continue our investigation based on our understanding of the complaint allegations.

Complaint allegations

7. We have grouped individual complainant allegations together into four substantive allegations.

Part 1

8. The FCA failed to maintain accurate information on the Financial Services (FS) Register.[1]

Part 2

9. The FCA failed to alert investors that the firm was not authorised or regulated after becoming aware of the misinformation on the Register (or a failure to act sooner after becoming aware of the issues).

Part 3

10. The FCA was wrong to appoint administrators and should instead have closed down the loan book or given the firm time to ensure it met the FCA's obligations and rules, which amounts to dissatisfaction with the FCA's choice of administrator.

Part 4

11. The fees being charged by the administrators as part of the administration process are excessive which will reduce the amount of money the creditors will receive.

Remedy sought

12. To remedy the complaints, complainants have asked the FCA to pay compensation for the loss of your investment and to ensure the events of Collateral cannot be repeated by strengthening the FS Register.

[1] Complainants may have referred to the FS Register and/or Interim Permission (IP) Register in their complaint. As the IP Register was the relevant register in operation during the relevant period, we have interpreted all references in the complaints to a 'register' as relating to the IP Register.

Our decision

13. Following a detailed investigation in accordance with the relevant Complaints Scheme (the Scheme),[2] including careful consideration of the FCA's actions and the wider circumstances of Collateral, we have upheld Parts 1 and 2 of the complaint. We have not upheld Part 3. Part 4 is outside the scope of the Scheme and has not been investigated. We know some of this may be disappointing and we explain our decision and rationale below.

Summary of findings and remedy

14. We have upheld parts 1 and 2 of your complaint. We are sorry for the FCA's failings in relation to its dealings with Collateral and the distress and inconvenience this has undoubtedly caused you.

15. As explained below, in our investigation we found that opportunities were missed to identify the changes made by Collateral to the IP Register before 23 November 2017. We also found that once the FCA had knowledge of these changes, it was too slow to act to correct the IP Register.

16. As explained at paragraph 127 below, we offer you a compensatory payment on an ex-gratia basis of £500 in recognition of the FCA's failings which we accept contributed to the distress and inconvenience suffered by complainants.

17. We also offer you an ex-gratia payment of £150 in recognition of the delay in responding to this complaint, and of £50 in recognition of 3 missed 4-week updates during the complaint investigation.

Resolved complaint

18. On 7 August 2019, the Complaints Department responded to a complaint which encompassed points raised in Part 3 and Part 4 of this complaint. In that case, Part 3 was not upheld, and Part 4 was determined to be outside the scope of the Scheme.

19. This was referred to the Office of the Complaints Commissioner (the OCC). On 8 October 2019, the OCC published a final report agreeing with the FCA's decision following its complaints investigation not to uphold Part 3 and agreed that Part 4 was out of scope.[3] We address these parts at paragraphs 92 to 109 below.

[2] https://www.fca.org.uk/publication/corporate/complaints-scheme.pdf
[3] https://frccommissioner.org.uk/wp-content/uploads/FCA00644-FR-081019-for-publication.pdf

Information we can share

20. It is important to let you know that there are limits to the information that the FCA can and cannot share through its responses to complainants. This is informed by the circumstances of each complaint investigation. In the case of Collateral, we have been able to provide more information with you as it is already in the public domain due to the criminal proceedings.

21. If we cannot disclose certain information to you, it is because restrictions under the Financial Services and Markets Act 2000 (FSMA), the UK General Data Protection Regulation (GDPR) and the Data Protection Act 2018 prevent us disclosing non-public information about the firms and individuals we regulate, except in certain circumstances.

22. The 'Information we can share' page on the FCA's website contains a good explanation of what we can disclose.[4]

Our investigation

23. To determine your complaint, we have considered:

    a. the work of the FCA to understand its specific role and actions or inaction in relation to Collateral;

    b. the findings of the High Court and Crown Court; and

    c. the circumstances of the appointment of the administrators of Collateral, including the involvement of the FCA, and the actions taken by the FCA to secure the investor database and website.

Background

Transfer of consumer credit regulation and Interim Permissions (IP) regime

24. The transfer of consumer credit regulation was an unprecedented expansion of the FCA's remit from 1 April 2014. It significantly increased the volume of firms under the FCA's supervision from approximately 27,000 to over 50,000.

25. The FCA took a proportionate approach to the supervision of firms which were carrying out consumer credit activities. The FCA had to decide where to prioritise its resources, based on the information available to it at the time.

[4] https://www.fca.org.uk/freedom-information/information-we-can-share

26. To help manage the transition from the Office of Fair Trading (OFT) to the FCA, the FCA introduced interim permissions (IP). Firms which had previously held a Consumer Credit Licence, issued by the OFT, who wished to continue to undertake consumer credit activities post 1 April 2014 had to register with the FCA for IP.

27. IP allowed a firm to lawfully continue undertaking the consumer credit related activities that corresponded to their OFT licence, until the FCA was able to determine their applications for full authorisation.

28. To manage the volume of transfers, firms were allocated a short application period between 1 October 2014 and 31 March 2016 to apply for full authorisation. During the transition, the FCA prioritised applications based on its assessment of the risk of harm, based on the activity the firm was already undertaking under their OFT licence and risk of consumer detriment from these activities. If a firm failed to apply for full authorisation during its application period, its IP lapsed, and the firm was no longer permitted to undertake regulated consumer credit activity.

29. IP granted to a firm attached solely to that individual legal entity and could not, under any circumstances, be transferred to another firm.

Interim Permission (IP) Register

30. The FCA created a transitional public-facing register of firms holding IP, called the Interim Permission Consumer Credit Register (IP Register). Firms that registered with the FCA for IP appeared on the IP Register. It showed the firm's name, contact details and consumer credit permissions.

31. This IP Register was legally separate from the FCA's Financial Services Register (FS Register), which is a public record of firms, individuals and other bodies that are, or have been, authorised and regulated by the Prudential Regulation Authority and/or the FCA.

32. Consumers can search the FS Register for firms and individuals to identify the regulated activities that firms and individuals are permitted to carry out. The IP Register was decommissioned in July 2020, when the FCA launched a redesigned and enhanced FS Register. The FCA has invested heavily in the FS Register to make it easier to navigate and understand, with more information available to consumers.[5]

[5] https://www.fca.org.uk/news/press-releases/fca-launches-enhanced-financial-services-register-protect-consumers

Consumer Credit Interim system

33. All firms that are registered with or authorised by the FCA and/or PRA have what is termed 'standing data'. This includes things like trading names, address and other data needed to enable the FCA and others to communicate with the firm.

34. The FCA developed an IT system, the Consumer Credit Interim system (CCI system), to allow firms to register for IP. It was also used to populate and manage the administration of firm data on the IP Register.

35. It was possible for FCA staff and registered users at the firm holding IP to manage and change certain standing data on the CCI system, including its registered name, trading name(s) and place of business. It was assumed at the time that it was acceptable for changes to certain data without being subject to any checks, and that guidance issued to firms would be sufficient. It was clearly stated to firms in the guidance that IP could not be changed or transferred using this functionality.

36. Allowing firms to make changes to their standing data without FCA approval was a risk-based decision the FCA took due to balancing the volume of changes anticipated and the need to prioritise the allocation of resources. Mitigation of the risks posed through firms potentially making changes to IP data was provided at a later stage by the assessment of the firm's application for full FCA authorisation.

Peer-to-Peer (P2P) Lending

37. When the FCA took over responsibility for consumer credit regulation in April 2014, loan-based crowdfunding also became a regulated activity for the first time. This meant that firms in the UK operating a P2P lending platform became subject to regulation at this point, with a specific permission of "operating an electronic system in relation to lending" under Article 36H of FSMA Chapter 6B of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (RAO). P2P is a phrase commonly used to describe firms that hold this permission.

38. The P2P lending sector enables individuals and businesses to lend to each other through an internet platform. It provides new opportunities for investors and new sources of finance for borrowers.

39. P2P platforms 'match' lenders (investors) with borrowers and this creates a bi-lateral loan agreement.

40. Investing money via a peer-to-peer platform is a high-risk investment and there is no Financial Services Compensation Scheme (FSCS) coverage for P2P losses unless the investor received unsuitable advice from a Financial Advisor and that firm has failed and is unable to meet any redress that is due.

41. During the first few years of P2P regulation there were several legislative concerns surrounding business models and how they aligned to the permission applied for. These concerns and subsequent changes impacted the FCA's ability to process applications from firms holding IP who had applied for the permission to undertake P2P lending.[6]

42. Until these legislative issues were resolved, which took effect in January and mid-March 2016, no application for full authorisation from firms seeking permission to undertake P2P lending could be determined. Further legislative changes were also made in early 2017, which again delayed determination of open P2P applications, including Collateral's.

Regal Pawnbrokers Ltd (RPL)

43. RPL was a separate company to Collateral, incorporated on 27 February 2013. Peter Currie was a director and shareholder of RPL. As a firm which had been registered with the OFT from 7 May 2013, on 1 April 2014 RPL was granted IP under firm reference number 656714.

44. RPL was granted IP for the following permissions:

    a. 'entering into a regulated credit agreement as lender'; and

    b. 'exercising, or having the right to exercise, the lender's rights and duties under a regulated credit agreement'.

45. It never held IP for the regulated activity relevant to P2P of "operating an electronic system in relation to lending". RPL's IP lapsed on 31 March 2016 as it had not applied for full authorisation by this date.

Collateral

46. Collateral was incorporated on 17 November 2014. Between 20 April 2016 and 26 February 2018, the Collateral group of companies (Collateral (UK) Ltd, Collateral Sales Ltd, Collateral Agent Ltd and Collateral Security Trustee Ltd) operated a lending platform via a website, facilitating loans secured against property (both land and valuable items such as

[6] FCA Statement on peer-to-peer applications for full authorisation, 31 March 2016.

jewellery). Peter Currie was a director of Collateral, as was Andrew Currie at certain times during the relevant period.[7]

47. Collateral had never held an OFT licence and could not do so as it was incorporated after 1 April 2014 (when regulation transferred from the OFT to the FCA).

Changes to the IP Register by Peter Currie

48. On 12 November 2015, Peter Currie used the CCI system to deliberately and fraudulently change the name of the firm on the IP Register holding IP under firm reference number 656714 from RPL to Collateral.

49. Collateral fraudulently advertised itself as FCA authorised to encourage consumers to invest in loans on the Collateral platform from 20 April 2016. This continued until 26 February 2018.

50. Collateral appeared on the IP Register and purported to hold IP from the FCA to carry on regulated activities. In fact, the IP in question related to RPL. Collateral did not hold any valid IP or authorisation to carry on any regulated activities, including for P2P.

51. Collateral entered administration on 27 April 2018 (see paragraphs 56 to 62 below). At the time of entering administration, Collateral had 1,132 investors on the platform with loans totalling c.£18m.

Collateral's application for authorisation and subsequent events

52. On 24 March 2016, Collateral applied to the FCA for full authorisation. This application was considered on the basis that Collateral had IP, as displayed on the fraudulently amended IP Register/CCI system. The FCA engaged with Collateral on this basis. Collateral's application assessment involved scrutiny and discussion of the activities being conducted by the firm and led to complex consideration as to the nature and regulatory status of Collateral's activities.

53. On 23 November 2017, the FCA identified that Collateral, having not been incorporated until November 2014, did not hold IP and was, therefore, not permitted to conduct any regulated activity. However, at this point, the FCA did not immediately require Collateral to cease business, and sought to mitigate the risks identified, taking into account the following:

[7] Andrew Currie was appointed a director of Collateral on 17 November 2014 and resigned on 23 February 2016. He was reappointed as a director on 14 February 2018

a. the ongoing consideration as to whether its business constituted regulated activity;

b. its outstanding application for authorisation indicated, on the face of evidence available to the FCA at the time, a desire to regularise its affairs;

c. the risks that an immediate cessation of business would cause a disorderly collapse and result in harm to investors, when it might have been possible to avoid such an outcome; and

d. that it was not clear at that stage whether Peter Currie's actions in changing the IP Register were fraudulent.

54. On 29 January 2018, the FCA directed Collateral to cease conducting regulated activities, cease advertising itself as being authorised by the FCA on its website and literature, make the correct position known to its customers and provide a full customer list to the FCA. On the same day, the IP Register was changed by the FCA to display that RPL, rather than Collateral, had held the IP, but that this had lapsed on 31 March 2016 (as no application was submitted to the FCA for full authorisation).

55. Following further communication between the FCA and Collateral, on 12 February 2018 Collateral undertook to cease accepting new investors and/or new monies from existing investors. However, without notifying the FCA as required, the firm took down its website on 26 February 2018.

Administration of Collateral

56. On 28 February 2018, the Collateral directors purported to appoint administrators, without obtaining the required consent of the FCA to do so.[8] On the same date a number of payments were made from the Collateral client account (including £398,002 to the Collateral business account) which reduced the balance from £734,000 to £377,000.

57. On 28 February 2018, the purported administrators wrote to investors stating that Collateral was not authorised by the FCA and did not hold IP.

58. It was only on 1 March 2018, despite regular communication between the FCA and the directors of Collateral up to this point, that the FCA became aware that Collateral had purported to appoint administrators. The FCA was concerned by this purported appointment, including:

[8] As required under section 362A of FSMA, when read with section 362(1)(c) of FSMA

a. the directors of Collateral failed to communicate its plans to the FCA; and

b. the directors of Collateral failed to seek the required consent of the FCA.

59. Given Collateral was unregulated (as it had, by this point, been identified that it never held IP), the FCA did not have the powers, as it would have had with a regulated firm, to impose requirements on them. As a result, in order to protect investors, on 15 March 2018 the FCA applied to the High Court to appoint alternative administrators.

60. At the Court hearing on 16 March 2018, the application was resisted by Collateral, and the Court ordered the application to be adjourned until 27 April 2018. Pending the substantive hearing, and at the FCA's request, undertakings and Court Orders were made, including to secure Collateral's assets (which would include both its documents and monies held on behalf of customers) should be retained and that no further substantive steps in the administration should be taken.

61. On 6 April 2018, the FCA obtained without notice freezing injunctions against the former directors of Collateral.

62. On 27 April 2018, having considered evidence from both the firm and the FCA, the High Court ruled that the purported appointment of the initial administrator was invalid and appointed administrators from BDO LLP as joint administrators of Collateral and two associated companies.

Investigation and prosecution of Peter and Andrew Currie

63. On 2 March 2018, investigators in the FCA's Enforcement and Market Oversight Division were appointed and commenced an investigation into the activities of Collateral and Peter and Andrew Currie.

64. In January 2022, Peter Currie and Andrew Currie, the Directors of Collateral, were charged with two counts of fraud and one count of money laundering. In May 2023, following a trial at Southwark Crown Court, Peter Currie was convicted of two counts of fraud (one by false representation as to the IP Register, one by abuse of position) and one count of money laundering. Andrew Currie was convicted of one count of fraud by abuse of position and one count of money laundering.[9] It was established during the trial that Peter Currie deliberately and fraudulently changed the information on the IP Register.

[9] https://www.fca.org.uk/news/press-releases/two-brothers-convicted-750000-failed-investment-firm#:~:text=The%20charges%20faced%20by%20Peter,Proceeds%20of%20Crime%20Act%202002.

65. In July 2023, Peter Currie was sentenced to 5 years and 6 months in prison and Andrew Currie was sentenced to 2 years and 6 months in prison. Both were disqualified from being company directors for 10 years.[10]

66. The FCA opened a confiscation investigation into Peter Currie and Andrew Currie to seek to recover their financial benefit from the fraudulent activity. On 5 November 2024, the Court made a confiscation Order under the Proceeds of Crime Act 2002 against Peter Currie in the sum of £5,000. Confiscation proceedings against Andrew Currie were adjourned to 12 and 13 May 2025.

Complaint allegations

Part 1: The FCA failed to maintain accurate information on the FS Register.

67. We have upheld this part of the complaint.

68. As explained at paragraph 48 above, on 12 November 2015, Peter Currie fraudulently changed the name of RPL on the IP Register to Collateral. As a result, the IP Register was not accurate between 12 November 2015 and 29 January 2018, when it was corrected by the FCA.

69. It was established during the trial that Peter Currie deliberately changed the firm details to claim to potential investors that Collateral held IP and was, therefore, authorised and regulated by the FCA, and to encourage consumers to invest via the Collateral platform.

70. When considering the set-up of the IP Register, the FCA made a risk-based decision to allow registered users/firms who held IP to make changes on the IP Register without any formal validation or checks until the firm applied for authorisation. In this case, it enabled Peter Currie to fraudulently change the IP Register to show Collateral's details as opposed to RPL's, but with no change to the permissions shown.

71. We have reviewed the rationale and decision-making for this approach. A central principle of the IP regime was proportionality. This was a transitional regime, with clear guidance issued to firms as to the functionality of the system and that IP could not be transferred to another legal entity.

[10] https://www.fca.org.uk/news/press-releases/andrew-and-peter-currie-sentenced-combined-8-years-fleecing-consumers-through-collateral-p2p

72. The functionality for firms to make changes to the IP Register operated on a 'trust basis' in that firms should only enter or update information to ensure that the IP Register was true and accurate. The process for changing data included a declaration to that effect.

73. Whilst at the time of building the CCI System it had been expected that the relevant provisions in the FCA's SUP 16 Handbook relating to the accuracy of data would apply to firms with IP, however, as firms were informed, these did not apply until after full authorisation, and changes made via the CCI system were not checked by the FCA.

74. We have not identified any formal sampling or quality assurance testing undertaken at the time to identify issues with changes to standing data. We are also not aware of systemic issues arising as a result of this functionality during the use of the IP Register.

75. We have concluded that this approach was reasonable for the following reasons:

    a. The possible changes which could be made by a firm were limited to its standing data;

    b. Firms with IP had previously been licensed for consumer credit activities (not including P2P) by the OFT and the approach allowed these firms to continue with their activities;

    c. There was an unprecedented volume of firms transferred to the FCA at a single point in time and a need for a proportionate allocation of resources and prioritisation of the applications for full FCA authorisation. Alternative approaches to consider each individual change made to the IP Register would have been resource intensive and impractical. However, as part of the decision to enable such changes to be made to the IP Register without validation, it does not appear that the risk of fraud was considered or mitigated; and

    d. The application process for full FCA authorisation ought to have identified any inaccuracies on the IP Register during the FCA's assessment of the application.

76. During the consideration of Collateral's application to be fully authorised, the FCA should have identified the change to the IP Register sooner. We say this as the FCA, as part of its mandatory checks during the assessment process, was required to conduct a search of Companies House information.

77. We have not seen evidence to confirm whether this check was conducted prior to November 2017, but nevertheless, when conducted appropriately, we consider that the check should have identified that Collateral could not have held IP due to the date it was incorporated falling after the deadline for firms to register for IP.

78. Had the FCA successfully identified this issue it would have led to the IP Register being amended earlier. However, the issue was not identified until 23 November 2017 at which point concerns were correctly escalated. This was a material failing by the FCA.

79. We are not aware of any other specific instances of firms using the functionality of the CCI system to incorrectly assert that they were authorised and/or regulated by the FCA (for the purposes of fraud or otherwise). Therefore, we do not consider that the issue identified was systemic.

80. Although we consider the FCA's approach to allowing firms to make changes to the IP Register was reasonable in the circumstances, the allegation made in this part of the complaint is that the FCA did not maintain accurate information on the IP Register. We accept this is correct.

81. There was a risk-based decision made in the preparation of the IP Register which, from the evidence reviewed, did not foresee that the changes permitted to be made by firms would be used to commit criminal offences. However, the failure of the FCA in this situation does not arise from there simply being inaccurate information on the IP Register, but from missed opportunities to identify and amend that information.

82. Furthermore, whilst not identified as a formal mitigation, the change should have been identified in the assessment of the application for FCA authorisation. Focusing on the permissions applied for rather than the firm itself, meant that the IP Register remained inaccurate for longer than it otherwise should have been.

Part Two: The FCA failed to alert investors that the firm was not authorised or regulated after becoming aware of the misinformation on the Register (or a failure to act sooner after becoming aware of the issues).

83. We have upheld this part of the complaint.

84. Collateral's application for full authorisation was actively considered by the FCA from April 2016 onwards. On 23 November 2017, the FCA identified that Peter Currie had changed the name of RPL on the IP Register to

Collateral, and that Collateral could not have held IP by checking Companies House, so from this point the FCA was aware that the information displayed on the IP Register was incorrect.

85. It was not until 29 January 2018 that the FCA corrected the IP Register and wrote to Collateral directing them to cease regulated activity. We consider the FCA should have acted sooner to correct the IP Register. This was a material failing by the FCA.

86. The FCA decided that no public statement should be made at this time as Collateral appeared to be engaging in good faith, and due to the risk of consumer detriment that may follow a disorderly collapse of a live loan book. Having reviewed the evidence, the decision not to issue a press release was, in our view, appropriate, the FCA relied on Collateral to communicate with their investors and explain the correct regulatory status. However, this meant that the platform was not taken offline until 26 February 2018, and investors were not contacted until the purported administrator for Collateral wrote to them on 28 February 2018, five and a half weeks after the FCA requested investors were informed.

87. The FCA tried to work with the firm to inform its investors it was not authorised by the FCA and instigate a controlled wind down of the loan book. The case was referred to the FCA's Unauthorised Business Department on 26 February 2018, and when the FCA learned of the purported appointment of the initial administrator matters were escalated further.

88. At this time, the FCA did give consideration to applying for freezing orders to secure the client account and firm's assets but a decision was made based on the information available at the time to apply to the High Court for an alternative administrator to be appointed, who could then obtain the appropriate orders to protect investors.

89. Following the adjournment of the insolvency proceedings on 16 March 2018, the FCA made the decision on 18 March 2018 that no announcement or public statement would be made. By this point, the platform was no longer accessible so no further investments could be made, the client account and the firm's assets had been secured as a result of the undertaking obtained at Court on 16 March 2018, and investors had been written to by the purported administrator on 28 February 2018. In those circumstances, we consider it was reasonable for the FCA not to issue a public statement.

90. On 2 April 2018, the FCA became aware of a document in circulation purporting to be a "Report to Creditors". Therefore, on 4 April 2018 the

FCA issued a press release alerting investors that it had applied to the High Court to appoint new administrators and that Collateral did not hold any valid authorisation or permission to carry on regulated activities.

91. From 28 February 2018, the FCA were alert and considered in their decision making to protect client money and firm assets and took proactive steps when the insolvency hearing looked to be adjourned. The FCA's communications/decisions with investors were reasonable and proportionate, up to and including the press release of 4 April 2018.

Part 3: The FCA was wrong to appoint administrators and should instead have closed down the loan book or given the firm time to ensure it met the FCA's obligations and rules, which amounts to dissatisfaction with the FCA's choice of administrator.

92. We have not upheld this part of the complaint. As explained at paragraphs 18 and 19 above, this allegation has been previously referred to the OCC, who agreed with our conclusion.[11]

93. As explained at paragraph 62 above, the FCA did not appoint the administrators, they were appointed by the High Court.

94. The purported appointment of the initial administrator was invalid because although Collateral was not authorised for P2P lending, it was undertaking a regulated activity and as such they were required to obtain consent from the FCA to appoint an administrator, as required by law.[12]

95. We have examined what responsibility fell upon the FCA in this situation and the FCA's rationale for applying to the Court requesting that individuals from BDO LLP be appointed as administrators.

96. The firm had a large outstanding loan book which needed to be managed for the benefit of investors and borrowers. The loan book could not simply be "closed down" because those who had borrowed money had done so on the basis of terms providing for repayment in the future.

97. The FCA did engage with the directors of Collateral to ascertain what their plans were for the wind down of the loan book. However, although the directors of Collateral initially appeared to engage in a constructive manner, it later became evident they had no intention of working with the FCA.

[11] https://frccommissioner.org.uk/wp-content/uploads/FCA00644-FR-081019-for-publication.pdf
[12] section 362A, when read together with section 362(1)(c), of the Financial Services and Markets Act, 2000

98. The loan book needed to be wound down, with repayments of interest and capital collected according to the terms of each agreement, distributed to the relevant lending investors and appropriate action taken in respect of any borrower's failure to repay. This was a potentially long-term project which needed to be conducted and managed by suitable, fit and proper people in the interests of investors and borrowers.

99. The FCA had no regulatory power to do this unilaterally, because Collateral was not an authorised firm. The only suitable legal mechanism to achieve the wind down of the loan book was an insolvency process, with administration considered the most suitable. This was ultimately a decision for the Court and not the FCA.

100. The FCA considered a number of alternative insolvency practitioners to propose to the Court as administrators for Collateral and decided that administrators from BDO LLP were best suited based on their previous experience and expertise.

101. The High Court agreed that the purported appointment of the initial administrator was invalid, and on 27 April 2018 the Court accepted the FCA's proposal and appointed new administrators from BDO LLP. It is important to note that it was ultimately the Court that appointed individuals from BDO LLP as joint administrators and not the FCA.

102. From the evidence available, we consider the action taken by the FCA was prompt, necessary and proportionate in the circumstances, with the aim of protecting investors in Collateral. Therefore, we have not upheld this part of the complaint.

Part 4: The fees being charged by the administrators as part of the administration process are excessive which will reduce the amount of money the creditors will receive.

103. This part of the complaint is outside the scope of the Scheme. As explained at paragraphs 18 and 19 above, this allegation has been previously referred to the OCC, who agreed with our conclusion.

104. This part of the complaint relates to concerns that, because of the size and profile of the appointed administrator (who is an officer of the Court and appointed by the Court to undertake certain functions), the fees charged by them are excessive and this will reduce the amount of money distributed to investors during the administration and liquidation of Collateral.

105. This part of the complaint is not about the actions or inactions of the FCA. The Scheme is, therefore, not the appropriate mechanism to examine such concerns. The Scheme is in place to deal with complaints that arise from the exercise of, or failure to exercise, any of the FCA's relevant functions.[13]

106. Whilst we have not investigated this part of the complaint formally under the Scheme, we have liaised with the area of the FCA most closely connected to your complaint in order to provide you with a response to the matters raised.

107. The FCA liaised with the joint administrators from BDO LLP during the course of the administration and continues to liaise with them in their current roles as joint liquidators since 10 May 2019. However, it is the responsibility of the joint liquidators (and not the FCA) to conduct the liquidation for the benefit of creditors (which in this instance includes all those who lent money through Collateral).

108. If you are unhappy with any of the joint liquidator's actions, then you can raise this through the liquidation committee. In addition to the above, complaints about the administrators' conduct should be directed directly to BDO LLP, or to the Insolvency Service.[14]

109. Investors seeking information on the liquidation should contact the liquidators via email,[15] or visit BDO's website.[16]

Improvements made since the events of Collateral

110. The FCA is committed to continuous improvement and since the events of Collateral we have made a number of changes.

111. The circumstances that led to the issues crystallising are historic. The functionality that allowed firms to change this data was unique to the IP Register, which was decommissioned in July 2020. The FS Register operates in a different way to the IP Register with controls in place to prevent the issues in this case.

112. The FCA has undertaken considerable work to improve the accuracy and clarity of the data on the FS Register. Firms are required to submit

[13] See paragraph 1.1 of the Scheme, and Part 6 of FSMA.
[14] Further information about the Insolvency Service and how to complain about an administrator can be found here: Complain about an insolvency practitioner - GOV.UK (www.gov.uk)
[15] Via investorcollateral@bdo.co.uk
[16] https://www.bdo.co.uk/en-gb/insights/advisory/business-restructuring/collateral-companies-in-liquidation

application forms for processing by the FCA to make changes to information on the current FS Register.

113. Some data contained within the FS Register is provided by regulated firms. To improve the accuracy of this data all firms regulated under FSMA are now required to annually check some of their information on the FS Register and attest that this information is correct, submitting applications to the FCA to correct any inaccuracies. The failure of a firm to attest that the selected information is correct will result in a late return notification and fee. It may also lead to enforcement action being taken against the firm.

114. In July 2020, the FCA launched an updated Financial Services (FS) Register, including a simpler design and clearer language. The purpose was to help consumers better understand how to use the Register, including the importance of checking what specific permissions a firm holds and what activities they are allowed to carry out, rather than solely relying on the authorised status of a firm.

115. To enhance FS Register data quality, FCA records are more aligned with Companies House data and are now cross-referenced more frequently.

116. The FCA also created a Firm and Individuals Data Team, a permanent capability that scrutinises the FS Register to maintain data quality and drive continuous improvements with further work underway.

Our response to the remedy you are seeking

117. When considering what remedy is appropriate when we uphold any part of a complaint made about the FCA, we take into account the factors set out in paragraph 7.14 of the Scheme. These factors include the gravity of the misconduct and its consequences, the complainant's relationship with the FCA and the extent to which the complainant has been adversely affected in the course of their direct dealings with the FCA, whether what has gone wrong is at the operational or administrative level and how any compensatory payment will be funded and the associated burden of those costs being passed from regulated firms to consumers.

118. We have identified and acknowledge that there were material delays and errors by the FCA in consideration of Collateral's application for authorisation which, had they not occurred, could have identified Peter Currie's fraudulent actions sooner.

119. We also acknowledge the FCA should have acted sooner to correct the IP Register once it was identified that Collateral did not hold IP. This was a failure by the FCA.

120. Notwithstanding the failings identified, the direct cause of your losses was the deliberate and fraudulent conduct of Peter and Andrew Currie. In addition, the extent of your losses was due to the failure of borrowers to repay the loans, and the quality of the security of the loans. We, therefore, do not agree that the FCA is responsible for your financial loss and its actions or inaction are not the direct cause of your losses.

121. We have concluded that the FCA's approach to the IP Register in allowing firms to make changes to standing data was reasonable and proportionate. Unfortunately, the system was exploited by the actions of a dishonest individual who acted deliberately to commit fraud.

122. During the relevant period, when the IP Register was inaccurate, it featured a disclaimer which explained that, whilst the FCA tries to ensure that the information on the IP Register is correct, it cannot guarantee its accuracy and does not accept liability for any error or omission.[17]

123. The IP Register inaccurately displayed that Collateral held IP. However, it did not display that Collateral held the permission to undertake P2P lending. Although the IP and FS Registers were, and are (in the case of the latter), an important source of information, neither is designed to be the sole source of information for investors to use before making investment decisions. It is prudent for investors to consider a wide range of information from different sources to help them understand any potential investment, the risks involved and to identify what protections may be available if things go wrong.

124. The action taken by the FCA, which resulted in the High Court appointing administrators from BDO LLP, was prompt, necessary and proportionate in the circumstances, with the aim of protecting investors in Collateral.

125. Taking all these factors into account, both individually and cumulatively, our view is that the appropriate remedy under the Complaints Scheme is:

    a. an apology to all complainants; and

[17] It has been previously accepted that this disclaimer wasn't very visible as it was located under the 'Legal Information' section of the Register. In October 2017, the FCA proactively made this disclaimer more prominent and moved the notice, so it now appears on the opening page of the Register.

b. a payment on an ex-gratia basis to all complainants who invested money in Collateral during the period the platform was live and the FCA was in possession Collateral's application for authorisation (between 20 April 2016 and 26 February 2018), to recognise the distress and inconvenience suffered by complainants to which the FCA's failures contributed during this period.

126. We are sorry for the FCA's failings in relation to its dealings with Collateral and the distress and inconvenience you have suffered.

127. We consider that it is appropriate to make an ex-gratia compensatory payment of £500 for distress and inconvenience to all complainants as they placed funds on the Collateral platform and the FCA missed opportunities to identify the changes to the IP Register during its consideration of Collateral's application for full authorisation and did not act promptly when it was established the IP Register was inaccurate.

Service levels and delay in responding to your complaint

128. We are sorry for the length of time it has taken us to respond to your complaint. To recognise the delay, we offer you an ex-gratia payment of £150 in line with our published approach.

129. We also acknowledge and apologise that we failed to provide some scheduled updates during our investigation. To recognise the distress and inconvenience this may have caused you, we offer an ex-gratia payment of £50.

130. We would be grateful if you could let us know by 14 January 2025 if you would like to accept these payments. If you require further time to consider this offer, please let us know.

[redacted]

The role of the Complaints Commissioner

133. The Complaints Commissioner is an independent person appointed by HM Treasury to be responsible for the conduct of investigations in accordance with the Scheme. If you are dissatisfied with how we have dealt with your complaint, you can contact the Complaints Commissioner requesting a

review of my decision. You must contact the Complaints Commissioner within three months of the date of this letter. If you contact the Complaints Commissioner later than three months, the Commissioner will decide whether there is good reason to consider your complaint.

134. The contact details for referring your complaint to the Complaints Commissioner are:

The Office of the Complaints Commissions
Alliance House
12 Caxton Street
London SW1H 0QS

Telephone: 020 4599 8333
Website: https://frccommissioner.org.uk/making-a-complaint/

Email: info@frccommissioner.org.uk

When contacting the Commissioner please let them know your FCA complaints reference number.

Yours sincerely

Alison Russell
Head of Department
Complaints Department
Risk & Compliance Oversight Division