

Rt Hon Mel Stride MP  
Chair  
Treasury Select Committee  
House of Commons  
SW1A 0AA

15 December 2021

Our Ref: C211215C

Dear Mel,

**RE: Update on the LF Woodford Equity Income Fund**

I am writing further to my letter of 28 May 2021 to provide the Treasury Committee with a further update on the FCA's investigation into the circumstances relating to the suspension of the LF Woodford Equity Income Fund.

The investigation remains a priority for the FCA and has continued to make progress, with over 45 information requirements now being issued, meaning that all key evidence has been gathered. We have continued to analyse evidence and have instructed an expert witness to provide an opinion, as well as legal counsel to assist in the evaluation of evidence.

In my previous letter, I noted that we were aiming to complete the investigation work by the end of the year and I can confirm that this remains the case. As with all investigations, this will be subject to ongoing review, including by counsel, which could give rise to the need for further focused evidence acquisition.

We are now finalising our legal analysis with a view to making decisions as to whether to take action and, if so, what action should be taken and against whom. We recognise the importance of these decisions and it is important to ensure they are made properly.

As you know, the process of taking regulatory action under the Financial Services & Markets Act 2000 is set out in the statute. It is not a public process. Publication is also subject to statutory restraints. In my letter of 28 May 2021, I attached an Annex which provided an overview of the FCA's disciplinary process and I have attached it again to this letter for ease of reference.

If any disciplinary action is taken, in the interests of fairness, we will be unable to identify who it is against and what the allegations are until certain stages have been completed. The timing of any outcome will also be contingent on whether the proceedings are contested. I appreciate that it may be frustrating I cannot provide further information regarding this, but it is important that due process is followed and confidentiality respected while the process is being worked through.

As I noted above, we are conscious of the public interest in this matter and it remains a priority for the FCA.

Yours sincerely,

**Nikhil Rathi**  
**Chief Executive**

## **Annex – overview of the FCA’s disciplinary process**

When the FCA considers there to be a case to answer, in the first step of our disciplinary process, we will put our investigative findings to those involved. This is following a separate full evidential and legal review and subsequent approval of the proposed regulatory sanction by two senior individuals on behalf of the FCA. We give the subjects an opportunity to agree with our assessment and, if they do, to agree to pay any penalty and redress or such other outcome we consider is appropriate, or otherwise to comment on and explain what aspects of our assessment they do not agree with. If agreement is not possible, those involved are able to have their cases decided by the Regulatory Decisions Committee (RDC), which is the FCA’s decisionmaker for contested disciplinary cases and operationally independent of the investigation.

In the first stage of a typical contested RDC process, the RDC meets with the investigation team and issues a Warning Notice if it considers there is a case to answer. A Decision Notice may then be issued if appropriate after the subjects have been allowed to make representations and the investigation team has responded. Cases may be partly or fully contested, speeding up the process (for example, the subject may agree the facts and liability, but choose to dispute the sanction). Following a Decision Notice, subjects have the option of referring their case to the Upper Tribunal, which is an independent judicial body, to have the case considered afresh.

The RDC process is conducted in private and a case usually remains confidential to the parties unless and until an adverse disciplinary finding is made by way of a Decision Notice which is not challenged by the subject. In certain circumstances, including where it is not unfair on the subject, the RDC may also publish a disciplinary Warning Notice statement, having consulted the person to whom the notice is issued, setting out brief details of the case to answer.

Although the Upper Tribunal can be asked to restrain publication of the RDC’s Decision Notice findings and to proceed in private, it will usually reject any challenge by the subject to the publication of the RDC’s Decision Notice and normally holds its proceedings in public.

In our experience, it can take around six months from the conclusion of the investigation stage to prepare the relevant papers, subject these to the separate evidential and legal review, and engage with the subjects through the initial resolution process. In the absence of an agreed resolution, it may take a further six months to a year for a case to proceed through the RDC. If the case is brought to the Upper Tribunal, this would usually add a year or more for the case to be determined.