

John Griffith Jones
28 November 2016 Lord Bridges

Meeting 28 November 2016 between Ministers at the Department for Exiting the EU and the Financial Conduct Authority

Present for FCA: John Griffith-Jones; Nick Miller (Head of EU and Global); [REDACTED]

Present for DEXEU: Lord Bridges (Parliamentary Under-Secretary of State); Robin Walker MP (Parliamentary Under-Secretary of State). [REDACTED]

Purpose: This was an introductory meeting and an opportunity to share views on issues that will need to be addressed in the run up to exiting the European Union.

JGJ thanked the Ministers for organising this introductory meeting. He and Lord Bridges (LB) agreed that now was the time to focus on the issues that need addressing before the UK leaves to make sure the process is as smooth as possible. JGJ explained the FCA’s role in general and in relation to exiting the EU.

Implications for FCA

JGJ said that from the FCA’s point of view the Great Repeal Act would have implications for the FCA’s Handbook and this was something that we were currently looking at. [REDACTED]

NM said that a number of issues would need to be looked at and addressed as part of the process of leaving including around data transfer, market transactions, derivative data – these are also global as well as EU issues.

Priority issues for financial services

[REDACTED]

JGJ and NM confirmed that we were liaising closely with HMT. [REDACTED]

NM said that there was a pilot with the Bank of England, HMT and the FCA looking at specific bits of legislation and the best ways to make sure these were carried forward. He discussed briefly the FCA’s rule making process.

[Redacted]

[Redacted]

Exit and financial services firms

NM said that the content of the Article 50 letter would be important for financial services firms and would be an opportunity to give them reassurance.

[Redacted]

[Redacted]

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Richard Lloyd
13 October 2022 Baroness Dianne Hayter

From: Ian Runacres [Redacted]
Sent: 14 October 2022 15:51
To: [Redacted]
Cc: [Redacted]
Subject: NFR - Baroness Hayter MP - 13 October 2022

- They discussed the competitiveness objective [Redacted]
- They discussed the call-in power and other accountability mechanisms.
- They discussed the accelerated timetable for the removal of EU Law and the impact on the FCA.
- [Redacted]

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30 November 2022 Lord Vaizey of Didcot

From: Richard Lloyd [REDACTED]
Sent: 01 December 2022 15:47
To: Ian Runacres [REDACTED]
Subject: NFR - Lord Vaizey

Meeting with Lord Vaizey of Didcot, HoL, 30 November 2022

PEPs
[REDACTED] RL explained the backdrop of poor AML and other controls, referring to the challenger banks report of April, and the wider risks of harm eg APP mules. Also that we are unable to disclose information about firms that is subject to s348. He was aware (having been informed by CEOs) of two investigations.

[REDACTED]

RL described the transformation of the FCA [REDACTED], including of our plans for greater transparency of operational metrics.

[REDACTED]

[REDACTED]

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Email exchanges in 30 days following meeting of 30 November 2022 (above)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Nikhil Rathi
23 July 2021 The Lord Hollick

Date and time: 23 July 2021, 16.00 – 16.35
External attendees: Lord Hollick [LH] (Chair of Industry and Regulators Lords Select Committee); [REDACTED]
FCA attendees: Nikhil Rathi[NR]; [REDACTED]

This was an introductory meeting with the Chair of a new Committee that will take a close interest in our work.

Summary:

Purpose and areas of interest of the Committee

- LH explained that this was a new Committee and was set up as Parliament feels there needs to be a greater and more regular review of the work of regulators and their role now that regulators are taking on more powers.

[REDACTED]

- He said the Committee was interested in discussions about the effectiveness of regulators and wanted to hear the views of different stakeholders on the matter.

[REDACTED]

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Cost of AML regulation

- He said that they had held a recent short session on the cost of AML compliance to financial services firms [REDACTED]
[REDACTED] He said in that session the Committee is likely to want to hear from those who receive the data from firms on ML suspicions. He said the Committee was also keen to hear more about fin tech solutions.
- LH noted that the Committee had been given radically different figures in terms of the cost of AML compliance and quoted the Lexis Nexis £28 billion figure.

Past interaction with the FCA

- [REDACTED]
[REDACTED] He also mentioned the inquiry by Dame Linda Dobbs and how long it is taking.

FCA accountability and view on challenges facing the regulator

- LH said the Industry and Regulators Committee is keen to have a challenging but constructive relationship with the regulators and asked Nikhil what he thought the big issues that the Committee should be looking into were.
- NR noted how important we take our accountability to parliament and that we understand given the impact of our work on ordinary people why parliament would want to look at us closely. [REDACTED]
[REDACTED]
- In terms of big issues NR mentioned the balance between government policy versus regulation was a good one for the Committee to consider. [REDACTED]
[REDACTED]

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Speed of enforcement

- LH turned to enforcement action and what he felt was a slowness to bring justice in a range of cases. [REDACTED]
[REDACTED]

- NR noted he was sure that it is always possible for the FCA and SFO to do better. [REDACTED]
- NR also said there was a trade off because if the FCA intervened to warn consumers when they see a scam, that also alerts the scammers and it may be impossible then to gather evidence. [REDACTED]
- NR also noted that the FCA and SEC enforcement timelines were similar. [REDACTED]
- LH asked what changes parliament needed to make to make the process smoother. [REDACTED]

Firm systems

- LH brought up firm systems saying the software at firms was outdated. He asked how the FCA could force firms to take up better systems. [REDACTED]
- LH mentioned 'data trusts' as a potential solution to improving systems and increasing supply in the market place. [REDACTED]

Conclusion

- Lord Hollick said it would be good to have a dialogue with the FCA on these big issues and it was agreed to return to them at a later date.

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Charles Randell
22 February 2021 Lord Currie of Marylebone

No NFR held

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21 January 2020 The Rt Hon Baroness Nicky Morgan

No NFR held (lunch meeting)

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08 January 2019 Baroness Tyler

Internal: Charles Randell, Nisha Arora, [REDACTED]
External: Baroness Tyler

Location: Lords tearoom, House of Lords

Purpose: introductory meeting following Chair visit with Bishop of Birmingham,

- BT noted that the impact of bank branch closures on vulnerable consumers was a big concern of hers given the substantial proportion of the population not on line.
- [REDACTED]
- Charles noted how difficult it can be to identify vulnerability.
- Charles also noted the work that the PSR was doing to protect the ATM network and discussed the issue of the sustainability of the subsidy. He said FCA/PSR have no power to mandate protection of the branch and ATM network. [REDACTED]
- BT brought up the poverty premium. Charles noted some of his regional visits and the issues he had seen around local authority pre-payments.
- There was a discussion about basic bank accounts with BT having asked a PQ on the numbers. She noted complaints from firms that some were shouldering more of the burden than others. There was a discussion about the cost of this to firms.
- [REDACTED]
- Fiduciary duty vs a duty of care was discussed [REDACTED]
[REDACTED] Charles used insurance pricing as an example of where a blanket fiduciary duty of care could be challenging.

- [REDACTED]
- She also returned to the FEC’s recommendation that the FCA be given a financial inclusion objective. Charles explained that our objectives come with powers and that without the powers backing this up he didn’t know how that would work. He explained the powers we do have in this area.
- BT mentioned the work of the Intergenerational Fairness ad hoc Select Committee that she is a member of.
- [REDACTED]

ACTIONS – [REDACTED] to send her the Annex from the Strategic Review of Retail Banking (DONE).

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Sheldon Mills
14 April 2021 Lord Leigh of Hurley and Alberto Costa MP

From: Sheldon Mills [REDACTED]
Sent: 12 May 2021 18:36
To: Lord Leigh of Hurley [REDACTED]; COSTA, Alberto
[REDACTED]
Subject: Letter from Sheldon Mills - 12/05/2021

Good evening,

I hope you are both well.

With apologies for the delay, please find attached a letter from Sheldon Mills, dated 12th May 2021.

Kind regards,

[REDACTED]

[REDACTED]
[REDACTED] / Office of Sheldon Mills, Executive Director of
Consumers and Competition



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London

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Lord Leigh of Hurley
House of Lords
London
SW1A 0PW

Our ref: 17 May 2021
210422B

Dear Lord Leigh and Mr Costa,

At our meeting on Wednesday 14 April [REDACTED]
[REDACTED] where I
could not give you a fulsome response in our meeting.

Information sharing between the FCA and the Financial Ombudsman Service

[REDACTED] The
Memorandum of Understanding between the FCA and the FOS sets out in detail the information sharing arrangements between the two organisations. These arrangements follow from the FOS’s duty to provide certain information to the FCA under section 232A of the Financial Services and Markets Act (FSMA), and the FCA’s duty to cooperate with bodies with similar functions under section 354A FSMA. Paragraph 18 of the Memorandum of Understanding between the FCA and the FOS¹ sets out that, subject to any legal restrictions on disclosure of information, confidential or otherwise:

- The Financial Ombudsman Service Limited may disclose information to the FCA for the purpose of assisting the Financial Ombudsman Service discharge its own functions and for the purpose of enabling or assisting the FCA to discharge any of its public functions.
- The FCA may disclose information to the Financial Ombudsman Service for the purpose of enabling or assisting the FCA to discharge any of its public

¹ <https://www.fca.org.uk/publication/mou/mou-fos.pdf>

functions or enabling or assisting the Financial Ombudsman Service to discharge its functions. The FCA may also disclose information to the Chief Ombudsman and any other member of the panel of ombudsman for the purpose of enabling or assisting such persons to carry out their functions.

More detailed information about the information sharing arrangements and procedures that are in place between the FCA and the FOS can be found at paragraph 19 of the MoU. This includes the types of information the two bodies have committed to share with each other.

Legal restrictions on the disclosure of information between the FCA and the FOS are triggered if the information is “confidential information” under section 348 FSMA (“section 348 confidential information”). For information to be section 348 confidential information, the information must meet all the following tests:

- it relates to the business or other affairs of any person,
- it was received by the FCA in the course of its functions under FSMA, and
- it is not otherwise publicly available

The FCA can lawfully disclose section 348 confidential information in only two circumstances:

- if we have the consent of the person who provided the information (and if different the person to whom it relates), or
- if a disclosure is made for the purposes of facilitating the carrying out of a public function and there is a gateway in the Disclosure Regulations² permitting disclosure

The FCA has a gateway for disclosing section 348 confidential information to the FOS for the purpose of enabling or assisting the FOS to carry out its functions. The FCA may also disclose section 348 confidential information to the FOS if this would enable or assist the FCA in carrying out its own public functions.

Guidance and mechanisms to prevent abuse or monitor use of the gateways

Improper disclosure of section 348 confidential information (ie without the necessary consent or a permitted gateway) can amount to a criminal offence. The offence is committed by the individual who makes the disclosure, so FCA staff can be held personally responsible for any unlawful disclosure.

Compliance with our confidentiality obligations is taken very seriously in the FCA and, therefore, any unlawful disclosures of confidential information are promptly brought to the attention of senior executives within the FCA and may be escalated outside the FCA, for example to the Information Commissioner (if it also constitutes personal data).

Extensive guidance on information disclosure is available to staff. Staff are expected to carefully consider the information contained in the guidance before

² FSMA 2000 (Disclosure of Confidential Information) Regulations 2001 (SI 2001/2188).

making any external disclosure of information, whether section 348 confidential information or otherwise, and seek advice from the General Counsel's Department where appropriate. The decision tree in Annex 1, taken from the disclosure guidance, sets out the factors that staff must consider before deciding if they are able to disclose information.

Regarding the FOS specifically, whenever section 348 confidential information is disclosed to the FOS, FCA staff will ensure this is clearly identified as such by using standardised disclosure language.

Introduction of capital adequacy requirements for SIPP operators

[REDACTED]
[REDACTED] We are required to consult publicly on the introduction of new rules, and I can confirm that we consulted on a new regulatory capital framework for SIPP operators in November 2012.

In [CP12/33](#) we proposed increasing the fixed minimum capital requirement to £20,000 and, in addition, that an operator's total capital requirement should be made up of two elements:

- an initial capital requirement based on the assets under administration (AUA); and
- a capital surcharge based on the percentage of underlying schemes that contain non-standard asset types.

We published the [final rules](#) in 2014, and these came into force - after a two-year transitional period - on 1 September 2016.

Such a consultation cycle is typical for the introduction of new rules. We occasionally publish other documents, for example to provide transparency about supervisory findings to help the wider market understand what we have observed. We would not typically consult in advance of such documents. In relation to SIPP providers, we published supervisory findings on multiple occasions.

Balancing our objectives

[REDACTED]
[REDACTED]
Our strategic objective is to ensure that the relevant markets work well. We also have three operational objectives, which are: to secure an appropriate degree of protection for consumers, to protect and enhance the integrity of the UK financial system, and to promote effective competition in the interests of consumers.

There is no hierarchy to our objectives. We can address issues to advance our consumer protection, market integrity or competition objective, or to advance more than one at a time. In doing this, we also follow our competition duty. This duty requires us, so far as is compatible with acting in a way which advances the consumer protection objective or the integrity objective, to discharge our

general functions in a way that promotes effective competition in the interests of consumers.

Our objectives do not normally conflict. For the most part, they are mutually supportive. For example, effective competition will tend to drive better outcomes for consumers in terms of price, quality, range, service and innovation, and so supports our consumer protection objective. Similarly, market integrity is a prerequisite for effective competition in the interests of consumers, as a lack of integrity could, for example, reduce consumers' willingness to shop around for a better deal.

Should tension arise between our objectives, we take decisions in light of our strategic objective (ensuring that the relevant markets function well) and taking into account applicable principles, such as the regulatory principles set out in the Financial Services and Markets Act 2000 (FSMA - including proportionality, transparency, desirability of considering different business models, and of sustainable growth in UK economy) and the Chancellor's remit letter to the FCA.

Accountability of the FCA

We are committed to exercising our functions in a transparent and accountable way to all our stakeholders, including to Parliament, and to continuing engaging with Parliament to provide it with the information to allow it to effectively scrutinise our activities.

The current legal and regulatory framework provides an extensive range of accountability, scrutiny, transparency and engagement mechanisms. These mechanisms include both internal operational requirements, and external requirements through which we are held to account to our broad range of stakeholders.

To give a few examples of these existing mechanisms:

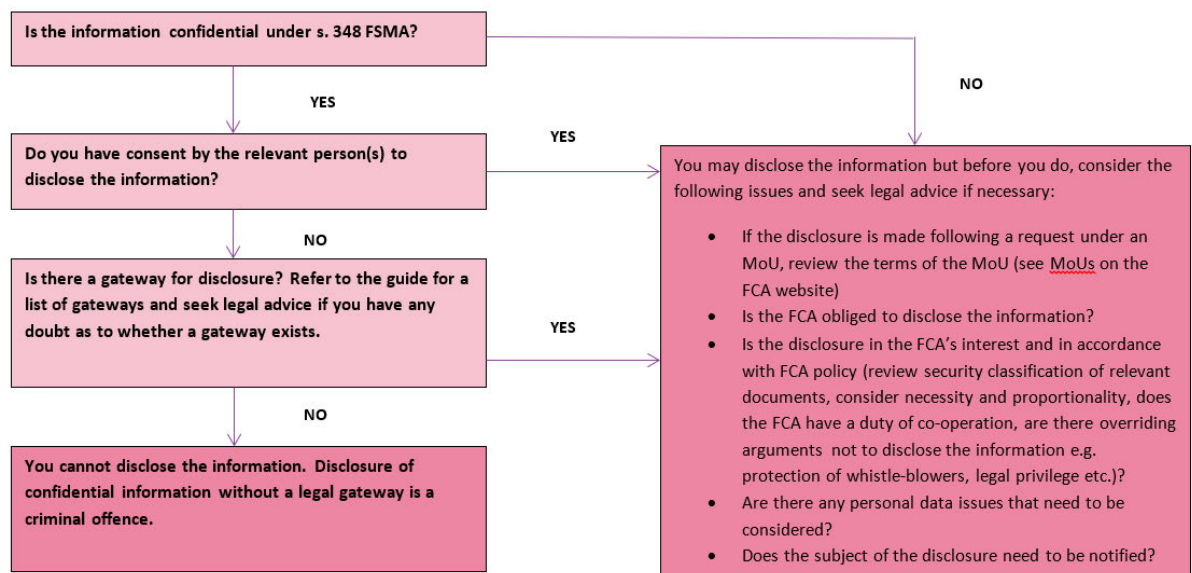
- There are procedures that cover how we discharge our general and policy-making functions. In addition to pursuing statutory objectives and having regard to regulatory principles discussed above, we consult publicly and undertake a cost benefit analyses of proposed rules. We are also required to consult with other authorities, such as the Prudential Regulation Authority;
- There are processes to ensure transparent and clear organisational responsibilities. This includes appearing before parliamentary committees. We also publish our FCA Board minutes; and
- There are mechanisms through which we are held to account for our actions. This includes laying our Annual Report before Parliament; laying reports before Parliament on the exercise of our powers in the context of EU Withdrawal work; holding an Annual Public Meeting; and being subject to reviews by the National Audit Office. We also regularly respond to requests for information from MPs and Peers through letters and parliamentary questions.

I hope that this is helpful.

Sheldon Mills
Executive Director, Consumers and Competition

Annex 1

Overview – important issues to consider before deciding if you are able to disclose information⁵



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Andrew Bailey
29 July 2019 The Baroness Bowles of Berkhamsted and Viscount Hanworth

From: [REDACTED]
Sent: 29 July 2019 17:31
To: [REDACTED]
Cc: [REDACTED]
Subject: NFR: AJB and MS: Baroness Bowles and Viscount Hanworth 29/7

Andrew Bailey and Mark Steward met Baroness Bowles and Stephen Pollock (Viscount Hanworth) on 29/7/19. [REDACTED]

- [REDACTED]
- [REDACTED]

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- - MS noted the difference between the findings of the Promontory report and SB's speech. AJB explained the context of s.166 reports and the way that the report was published by the TSC.
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 - SP raised the APA. MS took SP to the Final Report, where the APA was referenced. AJB reiterated his comments in the TSC on the APA
 -
 - AJB set out the balancing act on burden of regulation vs protection. This was a judgment that politicians had made. AJB referenced the recent perimeter report. **ACTION:** to send copy of Perimeter Report and Duty of Care papers.
 - SP asked if the FCA was sufficiently resourced. MS and AJB said that we were well resourced, but were undertaking a lot of complex work. AJB summarised the increasing range of work that the FCA was taking on.