Transcript 1:

From: FCA  
Sent: 05 August 2016 11:01  
To: ASA  
Subject: RE: Council decision

Hi [Name]  
Trust you are well

In your note below you indicated that the Executives responsible for the two cases would refer the two complaints over to us. Can you give us an indication of when we are liable to receive these.

Regards

[Name]  
Senior Associate / Financial Promotions / Conduct Specialists/Supervision

Financial Conduct Authority  
25 The North Colonnade  
Canary Wharf  
London  
E14 5HS

[Website]

Transcript 2:

From: FCA  
Sent: 02 August 2016 14:13  
To: ASA  
Subject: RE: Council decision

Afternoon [Name]  

As promised please find attached our suggested wording.

“XXXXX (Firm Name) is authorised by the Financial Conduct Authority (FCA) under the Payment Service Regulations 2009 for the provision of payment services. We have forwarded this case to the FCA for their consideration”.

Regards
HI

Further to our telephone conversation - thanks to you and [Redacted] for [Redacted].

In respect of any wording for inclusion we have prepared a sentence which is currently with our General Council Division for their consideration. I will advise you as soon as I receive confirmation of the wording.

Regards

Tom Carter
Senior Associate/ Financial Promotions / Conduct Specialists/Supervision
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS
Tel: +44 (0)20 7066 1922
www.fca.org.uk
From: FCA
Sent: 26 July 2016 10:08
To: ASA
Subject: Council decision

Morning

Trust you are well.

How did the council meeting go on Friday and a decision reached regarding the position of the currency transfer firms.

Look forward to hearing from you.

Regards

Tom Carter
Senior Associate / Financial Promotions / Conduct Specialists/Supervision

Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS

Tel: 
www.fca.org.uk

Transcript 4:

From: FCA
Sent: 18 July 2016 14:11
To: ASA
Subject: RE: Advertising by payment institutions

Thanks

Tina Archer
Manager / Conduct Specialists / Supervision
Many thanks for the update, Jane. We look forward to hearing from you in due course.

We note that we should continue to look at these until/unless you let us know otherwise.

Thanks

Regards

Tina Archer
Manager / Conduct Specialists / Supervision
I attach a document, which I hope addresses the issues you raise. The document does not contain details of our current action on this matter (monitoring with a view to deciding whether to take any cases forward) as this information is not in the public domain, but our proposed action is as discussed at our meeting on Tuesday.

I am sure you would anyway, but please could you kindly keep this document confidential and not disclose it outside the ASA, or indeed wider than necessary within the ASA. The detail as to the way we risk assess cases is not something we normally discuss with firms etc. and we are disclosing it to you with the express purpose of assisting your Council to make a decision. I would be grateful if you could kindly bear this in mind.

Please let me know if you have any questions. We look forward to hearing your Council's decision in due course.

Many thanks and have a good weekend.

Regards
Tina

Tina Archer
Manager / Conduct Specialists / Supervision

Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS

www.fca.org.uk
ConductSpecialistsAdmin@fca.org.uk

File attached to above email

The FCA’s powers to deal with misleading advertising by payment institutions

The FCA authorises/registers payment institutions under the Payment Services Regulations 2009 (the 'PSRs'), and a wide range of other financial services firms under the Financial Services and Markets Act 2000 ('FSMA'). We have powers in relation to the marketing of both sets of firms, but under different pieces of legislation.
Supervisory or enforcement action

The FCA’s Financial Promotions team can take supervisory action if they consider that a firm is producing misleading advertising. This will generally take the form of writing to a firm, asking them to amend or withdraw the relevant advertisement. If, however, the firm does not address the Financial Promotions team’s concerns, the team can consider referring the case for enforcement action. Any decision by the FCA to take enforcement action will be made in line with the FCA’s criteria for taking enforcement action and the FCA’s published Enforcement Guide.

approach of the FCA’s Financial Promotions team in relation to its supervisory approach

This section describes the approach of the FCA’s Financial Promotions team to supervision of firms. In relation to supervisory action, the FCA’s Financial Promotions team would not take forward every case in which it has concerns about a firm’s advertising, whether the firm is authorised under FSMA (a ‘FSMA firm’) or under the PSRs (a ‘PSR firm’). They take a risk-based and proportionate approach, directing their resources where they consider they can be used most effectively. The team carries out both proactive monitoring of advertisements published by FSMA firms, and reactive handling of referrals they receive in respect of advertising by such firms. The team would propose to take the same approach to PSR firms.

With FSMA firms, the Financial Promotions team first determines whether there has been a breach of the FCA’s financial promotions rules. They then carry out a detailed risk assessment of the issue. This assessment includes a consideration of both quantitative and qualitative criteria. The former includes an analysis of the size of the firm, the advertising medium used (which will impact the number of consumers potentially affected) and the riskiness of the product (which increases the level of potential detriment to consumers). Applying the qualitative criteria involves considering the vulnerability of the consumers targeted by the advert, the egregiousness of the breach(es), the contagion risk of other firms copying the misleading advert, whether any form of reward or inducement has been offered, and whether there is an existing relationship of trust between the consumer and the firm, amongst other factors. Certain criteria are weighted to reflect their relative importance.

The review of an advert against the above criteria will result in both a quantitative and a qualitative score, which will then determine whether or not the team progresses a case. Generally, the team will take cases forward that score a Medium High or High on their risk scale.

The Financial Promotions team therefore has a structured and rigorous risk scoring mechanism to help them decide which cases to progress. They do not take every instance of a breach forward, due to the fact that taking action in every case may not provide value for money in respect of the outcomes delivered. However, the above detailed consideration that goes into deciding whether to take forward concerns about a firm’s advertisements as a case ensures, in the team’s view, that they are taking the most appropriate cases forward for supervisory action. There is also flexibility in their
scoring mechanism, so that the relative importance of the different criteria can be changed in response to changes in the environment (e.g. the FCA could consider that product X is now more risky, so the team may ‘score’ it higher.). This approach of the team may be subject to change of course.

How the Financial Promotions team applies its risk-based approach to FSMA firms and PSR firms

As stated above, the Financial Promotions team proposes to apply its risk-based approach to both FSMA and PSR firms in the same way. So whether the advert is issued by a FSMA or a PSR firm, they would use the same scoring mechanism. They consider consistency in the underlying approach to be very important.

In the team’s current work in respect of misleading advertising by currency transfer firms, they propose to apply the same criteria, irrespective of whether the firm is a bank (a FSMA firm) or a retail currency transfer firm (a PSR firm). Indeed, consistency is one of the reasons why the FCA would ideally like to have a clear remit over advertising by firms acting in the PSR sphere—so that different standards are not applied to firms carrying out essentially the same activities (taking different approaches could also potentially have competition implications).

Dealing with misleading advertising by firms regulated under FSMA

For FSMA firms, the FCA applies Principle 7 of the Principles for Businesses module in the FCA Handbook, which requires communications to be clear, fair and not misleading. There are also more detailed rules and guidance elsewhere in the FCA Handbook, that the FCA applies as appropriate.

If a firm produces misleading advertising that breaches the rules, the Financial Promotions team will (depending on the nature of the breach) generally write to them first to request that they amend or remove the misleading advertising. Most firms whom they write to will take such corrective action without the FCA needing to take more formal/intrusive measures.

If, however, firms do not address the Financial Promotions team’s concerns, the FCA may then consider using its formal powers, such as varying a firm’s permission or imposing a requirement on them under section 55J or 55L of FSMA; the FCA also has the power (used in the most egregious cases) to cancel a firm’s authorisation. The FCA can also take disciplinary action. Each case is considered on its individual merits.

Dealing with misleading advertising by payment institutions

For PSR firms, the legal framework is different.

As with FSMA firms, the Financial Promotions team would generally expect to first write to PSR firms, asking them to address their concerns by amending or removing the advertisement. They would expect most firms to comply with their request without the FCA having to apply to court or exercise its formal powers.

However, if firms do not address the Financial Promotions team’s concerns, the team can, as above, consider referring the case for formal action. Below are two routes that the FCA could take in this situation; the most appropriate route will depend on the particular case.
The FCA could take action under the PSRs. Specifically, Regulation 11 of the PSRs states that the FCA may vary a person’s authorisation for a number of different reasons, including, if it appears to us that the variation is desirable to protect the interests of consumers. So if the FCA has concerns about an advertisement (e.g. that it may mislead consumers) in relation to services of a payment nature, the FCA could vary the firm’s permission so as to impose a requirement that it has to address our concerns by amending or removing the advertisement. The FCA can exercise this power through its internal decision-making processes and without applying to court (although the subject can challenge our action before the Upper Tribunal). As with FSMA firms, the FCA also has the power under regulation 10 of the PSRs to remove the firm’s regulatory authorisation. For both FSMA firms and PSR firms, [redacted].

As an alternative to action under the PSRs, the FCA can enforce the Consumer Protection from Unfair Trading Regulations 2008 (the 'CPRs') through the Enterprise Act 2002 ('EA') in cases where there is harm to the collective interests of consumers. The FCA is a ‘designated enforcer’ under the EA. So if a firm produces an advertisement that the FCA considers to be misleading under the CPRs (i.e. it is an unfair commercial practice under the CPRs) and which it considers harms the collective interests of consumers, the FCA can, following consultation with the firm, apply to court for an enforcement order (the FCA can, in relatively urgent cases, obtain an interim enforcement order).

[redacted]

From: FCA
Sent: Wednesday, July 6, 2016 10:08 AM
To: ASA
Subject: Meeting regarding advertising by payment institutions and next steps

Dear [redacted],

Thank you for meeting with us yesterday. We hope you found the meeting useful.

We have summarised the next steps below, as we understood them. Please let us know if you feel that anything needs to be altered or clarified.

Next steps

- The FCA Financial Promotions Team will send the ASA a statement of how we [redacted].
regarding the action we could potentially take against these firms, and the powers we would use.

- These statements provided by the FCA will then be added to a paper to be submitted by the ASA to their Council for consideration on 22 July 2016. The ASA will recommend to the Council that the FCA should pursue these specific issues going forward.

- If the ASA Council agrees with this proposal then the immediate action should be that they will cease the ruling on the World First case and it is also likely the independent reviewer for the TransferWise case will also cease work on that case.

- If the ASA Council disagrees with this proposal then they will make rulings on the two cases involving World First and TransferWise. The FCA will then have a chance to challenge the decision by the Council not to transfer over remit, should they wish to do so. The ASA have explained that the likely outcome is that the ASA Council will agree to the FCA taking these issues forward (although this is not guaranteed).

- Following an agreement by the Council to transfer remit, the MoU between the FCA and the ASA will not be immediately amended, as the ASA would first like to see what action is taken against these firms by the FCA, to ensure that the level of consumer protection provided by the FCA would be greater or equivalent to that which would have been achieved by the ASA. The ASA will, however, produce internal guidelines that will recommend the forwarding of payment institution referrals to the FCA, and they will involve the FCA in drafting such guidelines. Once the ASA is happy with the way the referral system is working and that consumers are being adequately protected, they will work with the FCA to amend the MoU.

- Both the FCA and the ASA understand the important of us providing broadly consistent messages to firms and consumers.

Best regards,

[Name]

Associate / Financial Promotions / Conduct Specialists / Supervision

Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS
From: FCA  
Sent: Friday, July 8, 2016 1:16 PM  
To: ASA  
Subject: RE: Meeting regarding advertising by payment institutions and next steps

Just to clarify, you will see that our note refers to firms authorised under the PSRs. So this would include all firms authorised under the PSRs, not just currency transfer firms, but also e.g. e-money firms, which produce promotions for prepaid cards etc.

Regards  
Tina  

Tina Archer  
Manager / Conduct Specialists / Supervision  

Financial Conduct Authority  
25 The North Colonnade  
Canary Wharf  
London  
E14 5HS  

www.fca.org.uk  
ConductSpecialistsAdmin@fca.org.uk

Transcript 6:

NOTE FOR RECORD  
Date: 5 July 2016  

By:  
Phone:  

Copied to: David Blunt, Tina Archer and
Meeting on 4 July 2016, 15.30, at ASA office, Holborn

Attendees

David Blunt – HOD Conduct Specialist Department
Tina Archer – Manager, Financial Promotions
Tom Robertson – Associate, Financial Promotions
Tom Carter – Senior Associate, Financial Promotions
Jane Eldridge – Head of casework (ASA)
Louise Hogan – Operations Manager – Complaints (ASA)

1. After the introductions DB set out the areas for discussion as:
   - Our approach
   - The MOU
   - Specific issues
2. DB set out our approach in that PSR firms fall within our scope although
   the legislation is different. Whilst there is a different framework it does not
   colour our approach and that we would be treating PSR firms in the same
   way as FSMA firms.
3. JE asked about the CPRs.
4. TA cited 8.31 of the FCAs document “The FCA’s role under the Payment
   Services Regulations 2009 Our approach June 2013” and read out the
   following extract: “Payment service providers should note that the CPRs still
   apply to their payment service business with consumers”.
5. TA went on to say we would treat these firms in the same way of our
   normal approach and if misleading.
6. JE raised the question “Could a single ad trigger a review of the promotion”
   and “if the ASA could do it would there be similar action?”
7. TA said that we would consider the promotion against our criteria in
   accordance with our normal practice so it is not based on how many
   complaints.
8. JE asked about notification of outcomes and said they regulate under the
   CPRs and their backs up is trading standards
9. TA stated that notification is only if a complaint goes through to full
   enforcement.
10. JE said that if the FCA had stronger sanctions then the Council might be
    happy for the FCA to have remit over these firms. JE said she was
    open-minded and was looking for reassurances that consumers are protected.
11. DB run through the process and mentioned the MOU.
12. JE said that the ASA have expertise with the CPRS.
13. DB reiterated our approach would be consistent with FSMA firms and
    asked what is needed to satisfy the council.
14. JE asked about the actions we can take.
15. DB ran through the risk appetite and threshold and that it is same approach.

16. TA said we look at the code first to determine the breach confirmed we wouldn't generally look at B2 B.

17. LH confirmed the date of the council meeting on 22/7.

18.

19. TA asked what happens.

20.

21.

22. Agreed that we would do a next steps and send to the ASA and that FCA are happy.

Meeting closed 16.30

Transcript 7:

From: FCA
Sent: 04 July 2016 11:06
To: ASA
Subject: RE: Possible__Retail_FX_draft_email_to_firms_20160517-Latest_draft_(3) asa

Louise, my head of department, David Blunt, would also like to join us. Would that be ok? And are you ok with all four of us coming along? We don't want to force you to get a bigger meeting room!

Thanks
Regards
Tina

Tina Archer
Manager / Conduct Specialists / Supervision

Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS
From: FCA  
Sent: 27 June 2016 13:03  
To: ASA  
Subject: RE: Possible__Retail_FX_draft_email_to_firms_20160517-Latest_draft_(3) asa  

Thanks for getting back to us so quickly. Would next Tues 5 July suit you, maybe 3.30 to 4.30 or 4 to 5? We could come to your offices of course.  
Regards  
Tina  

Tina Archer  
Manager / Conduct Specialists / Supervision  

Financial Conduct Authority  
25 The North Colonnade  
Canary Wharf  
London  
E14 5HS  

From: FCA  
Sent: 27 June 2016 11:10  
To: ASA  
Subject: FW: Possible__Retail_FX_draft_email_to_firms_20160517-Latest_draft_(3) asa  
Importance: High  

Hi  

I hope you are feeling better now. Thanks also to [REDACTED] for calling last Monday, it was very helpful.  

As mentioned, we would find it very helpful to have a meeting before [REDACTED]. I know [REDACTED]
We would be very happy to meet to discuss these powers with you. We would have thought that it would be helpful for us to have this discussion before you go to the Council in July.

In addition, the complainant in one of the cases is continuing to send us correspondence with you relating to the relevant cases. Most recently, we have been sent Celia Pontin's email to the complainant of 24 June, relating to amending a draft recommendation. Whilst of course this is the ASA's ruling to draft, we have in the past found it helpful to liaise with the ASA to discuss draft rulings, where there is mutual interest in an issue. Given the potential transfer of remit/joint remit in this situation, we would find it very helpful to have discussions with you, so I think the liaison generally seems to work quite well.

Do you think it would be possible to liaise with you regarding? If you are too busy to deal with this at the moment, we would be happy to liaise with anyone else at the ASA you might recommend. We would find it very helpful to meet sooner rather than later.

If you could kindly get back to me today, then it would be much appreciated.

Many thanks

Regards

Tina

Tina Archer
Manager / Conduct Specialists / Supervision

Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS

www.fca.org.uk
ConductSpecialistsAdmin@fca.org.uk

From: FCA
Sent: 17 June 2016 12:48
To: ASA
Subject: FW: Possible__Retail_FX_draft_email_to_firms_20160517-Latest_draft_(3) asa
We have now been sent the [redacted] by the complainant in this case. I think I have mentioned already that [redacted]. It would be very helpful for us to engage with you, as/before you produce your rulings in these matters. We have always found it helpful to do so in the past and would like to continue to do so now in respect of these firms.

I note that you say to the complainant that 'the attached report is now ready to be sent to the ASA Council.'. We are still not altogether clear whether you will be ruling on these or not. I note that you say that as the cases are advanced, you won't be withdrawing from them unilaterally, but that you are also recommending that you cease action. I don't think that the prospect of your ceasing action has been passed to the complainant, unless this is in separate correspondence? I also note that in your letter to the complainant, you refer to 'the need to determine the best course of action in light of our conversations with the FCA'. We do not feel that we have had these conversations yet – we are very happy to do so, and indeed would welcome the opportunity to meet with you, both to discuss the draft rulings, and to discuss the issue of remit going forward.

We are also keen not to say anything to the complainant that could interfere with your rulings on TransferWise and World First, but this will be much easier if you could kindly keep us updated as to the progress of your rulings.

We have always had a good, constructive relationship with the ASA in relation to our FSMA firms, and we very much hope we can also do so in respect of our PSR firms as well.

I look forward to hearing from you.

Thanks
Regards
Tina

**Tina Archer**
Manager / Conduct Specialists / Supervision

**Financial Conduct Authority**
25 The North Colonnade
Canary Wharf
London
E14 5HS

[www.fca.org.uk](http://www.fca.org.uk)

ConductSpecialistsAdmin@fca.org.uk

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**From:** FCA  
**Sent:** 16 June 2016 14:18  
**To:** ASA  
**Subject:** RE: Possible__Retail_FX_draft_email_to_firms_20160517-Latest_draft_(3) asa
Thanks for the response.

I would be grateful if you could kindly provide some more information on the following:

We've also decided that should Council agree with our decision, we will continue to accept and, where necessary, investigate complaints about advertising by currency transfer sites where the issues complained of differ from those upon which you are currently taking action. If any new issues come to light then we can discuss with you whether it is a matter that you can act on. We also consider it important to review the arrangement at a later date. We therefore feel that at this stage the MoU doesn't need to be amended as we can still refer complaints to you should Council agree.

Are you saying that the ASA will retain remit for any currency transfer issues that differ from the current issues being investigated? If so, I'd be grateful if you could kindly explain your thinking behind this.

Going forward, this would be in line with our approach to FSMA firms. So it would include all promotions for prepaid cards/e-money/currency transfer etc.

Would you be able to clarify why the ASA is taking a different approach to the promotions of firms regulated under the PSRs as opposed to FSMA, even though the FCA is the regulator of both sets of firms? We think that a more consistent approach would be preferable. In particular, we would expect to be able to review the promotions of all the firms we regulate. I note your comment that you can still refer complaints to us should your Council agree; we would have thought it would be better to have clearly defined procedures set out in the MoU. This would also provide more clarity to firms and consumers. A situation where we are both commenting separately on the same advert would obviously not be ideal.

We can assess promotions under the CPRs, using our Enterprise Act powers, but we can also do so under the PSRs; we can vary a firm's permission if we think we should do so to protect the interests of consumers. This could include requiring them to amend or remove an advert.

If you could kindly get back to me on the above asap, it would be great. I think it would be good to have a meeting next week to discuss the above in more detail, as this is a very important issue for us.

Many thanks
Regards
Tina

Tina Archer
Manager / Conduct Specialists / Supervision
Hi

Sorry to pester you again! Following my email of yesterday, TransferWise have just sent us a copy of their correspondence to you in relation to your current investigation of Eris FX’s complaint. We are also shortly (at the end of next week) going to start a review of retail FX firms’ promotions to see whether they have been amended to meet the expectations set out in our email of 26 May. It will therefore be important for us to understand the ASA’s proposed stance and for us to agree an approach going forward.

In view of the above, would you kindly be able to meet us next week to discuss the above further? We are of course happy to come to you, if more convenient.

Many thanks

Regards

Tina Archer
Manager / Conduct Specialists / Supervision

Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
Hi  

Do you have an update by any chance on [redacted]? 

Many thanks 
Tina  

Tina Archer  
Manager / Conduct Specialists / Supervision  

Financial Conduct Authority  
25 The North Colonnade  
Canary Wharf  
London  
E14 5HS  

Hi  

Many thanks for your help in this. 

Once this is finalised we should catch up again to [redacted] and next steps.  

Regards
From: FCA
Sent: 24 May 2016 18:39
To: ASA
Subject: Re: Possible__Retail_FX_draft_email_to_firms_20160517-Latest_draft_(3) asa

Thanks - the wording is now with our CEO - we will let you know whether she has any comments
Regards

From: FCA
Sent: 24 May 2016 18:15
To: ASA
Subject: RE: Possible__Retail_FX_draft_email_to_firms_20160517-Latest_draft_(3) asa

If we can have an answer by 9.30 that should be great.

We’re getting there

Thanks
Hi [Name]

Many thanks for your help and the suggested text. I have incorporated your wording, however, you will see I have split it under the two separate headings as these appear to reflect the two separate elements of your text as highlighted in the track changes on the attached document. I have also added the word any as highlighted in the second sentence.

Can you call me to let me know you are happy with this suggested approach to your text?

Regards

Tom Carter
Senior Associate / Financial Promotions / Conduct Specialists/Supervision

---

Transcript 8:

From: FCA
Sent: 24 May 2016 14:39
To: ASA
Subject: FW: Currency transfer firms
Afternoon

Trust you are well

I have been trying to get hold of Louise in respect of the email chain below and have left a voicemail for both and yourself earlier today.

Regards

Tom Carter
Senior Associate / Financial Promotions / Conduct Specialists/Supervision

Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS

www.fca.org.uk

Hi

Many thanks for this.

We do not believe there is anything in the email that is contrary. Will call you later to discuss.

Regards

Tom Carter
From: FCA  
Sent: 19 May 2016 16:40  
To: ASA  
Subject: Currency transfer firms  

Please treat this as Confidential  

Hi  

We are proposing to send out an email towards the end of May to those firms engaged in currency transfer activity outlining our concerns. Attached is the current version of our proposed email which although agreed by a number of areas involved is still subject to possible refinements.  

Please advise us by Monday if our proposed route is liable to cause any concern with the ASA.  

Look forward to hearing from you.  

This email is classified as FCA Restricted, unless marked otherwise
Hi Louise

Thank you for your email of the 10 May

The FCA’s Rules and Principles do not apply to payment institutions, as they are authorised by the FCA under the Payment Services Regulations 2009 (PSRs), rather than FSMA. However, we can instead consider payment institutions’ compliance with the Consumer Protection from Unfair Trading Regulations 2008 (CPRs), using our powers under the Enterprise Act 2002 (EA02). We can seek enforcement orders (similar to injunctions) or accept undertakings from firms via this route. We can alternatively take OIVOP/OIREQ-type action under regulation 11 of the PSRs. These two actions are varying a firm’s permission, which could effectively stop them carrying on the activity or alternatively imposing a requirement on a firm to take certain actions. The PSRs require firms to have regard to the CPRs. Paragraph 8.31 of the FCA’s June 2013 document, ‘The FCA’s role under the Payment Services Regulations 2009’ reads, ‘Payment service providers should note that the CPRs still apply to their payment service business with consumers. The CPRs are intended to protect consumers from unfair commercial practices by businesses. Further information about the CPRs can be found on our website and on the OFT’s website’.

The currency transfer services offered by the payment institutions are also available via banks. The banks are authorised under FSMA, and any advertising concerns would be generally be passed to us for consideration.

For the avoidance of doubt,

Currency transfer firms

We hope that our approach
It will make sense for us to have a joined up approach. Given the importance of ensuring that this sector falls under the most appropriate regulator's remit, it might make sense to arrange a meeting to discuss the next steps or alternatively we could arrange a conference call. Would you be happy to do this?

Regards

From: FCA
Sent: 10 May 2016 12:09
To: ASA
Subject: Currency transfer firms

Hi [name]

Hope you are well.

It has been agreed that we should formally deal with the advertising of the payment service institutions/currency transfer firms who are regulated by us under the payment services regulations.

This email is classified as FCA Restricted, unless marked otherwise

Transcript 10:

From: FCA
Sent: 24 May 2016 11:32
To: ASA
Subject: RE: Currency transfer firms

Thanks for your email. It would be helpful to have a discussion about this asap (apologies, I know [name] has already left a message). A communication by the FCA to the firms that the FCA regulates, which could also have an impact on the ASA’s area, similar to other publications that we put out, e.g. the social media guidance.
Whilst there could be some confusion in the industry whilst you make decision as to your/our remit, the ASA and FCA have always had an overlapping remit to some extent, so I don’t think this would pose a risk. If questioned, we could just say that the ASA is dealing with a number of current rulings, but that we would expect to work with the ASA. And you could perhaps say something similar.

Apologies for the tight timescale, but as the email is going out on Thursday, we have got to press ‘send’ pretty soon. If you and colleagues would like to call us, perhaps we could set up an urgent meeting today.

Thanks

Regards
Tina

Tina Archer
Manager / Conduct Specialists / Supervision

Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS

www.fca.org.uk
ConductSpecialistsAdmin@fca.org.uk

Transcript 11:

From: FCA
Sent: 04 May 2016 10:42
To: ASA
Subject: RE: ASA Enquiry Ref:

Dear [Name] and [Name],

Following our previous emails regarding [Company], we were expecting to be informed of the final ruling prior to general publication. Therefore,

These firms, how we supervise them and
Therefore, it is important that we have sight of these rulings prior to general publication. I understand that Tom Carter has been liaising with Celia Warrick regarding her investigation into World First UK Ltd. She has also provided assurances that we shall be kept up-to-date regarding key stages of this case. We would greatly appreciate it if these assurances were kept, as this will greatly assist us during the internal processes we are currently undertaking.

Best regards,

Tom Robertson
Associate / Financial Promotions / Conduct Specialists / Supervision

Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS

www.fca.org.uk
Visit our pages on http://www.fca.org.uk/firms/being-regulated/financial-promotions

From: FCA
Sent: 20 April 2016 13:28
To: ASA
Subject: RE: ASA Enquiry Ref: [redacted]

Hi [redacted].

Thank you for your response.

We would very much appreciate [redacted]. We shall wait to receive this prior to making a decision on whether a meeting is required to discuss our views on [redacted].

Best regards,

From: FCA
Sent: 19 April 2016 10:48
To: ASA
Subject: FW: ASA Enquiry Ref: [redacted]
Dear [Name],

We understand from [Ms Scott] that you have reopened your investigation into TransferWise. I am sure you must be aware that we are currently considering payment services firms in our work too. There is potential that this will [impact] the MoU between the ASA and FCA. With this in mind we were wondering if it was possible for you to keep us updated on [status].

We are also aware of the [World First UK Ltd investigation] by the ASA and have made a similar request [status]. You might be interested to know that we [status]. We would be happy to discuss our own interpretations of [status], if this would be helpful [status].

Best regards,

Tom Robertson
Associate / Financial Promotions / Conduct Specialists / Supervision

Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS

www.fca.org.uk
Visit our pages on http://www.fca.org.uk/firms/being-regulated/financial-promotions

Transcript 12:

From: FCA
Sent: 04 May 2016 14:03
To: ASA
Subject: RE: ASA Enquiry Ref:

Dear [Name],

Thank you for your email and [status].

We will revert back to your as soon as we possibly can following the internal decisions.

Best regards,