

Annual Public Meeting 2023 - responses to unanswered questions

Subjects listed alphabetically

All Party Parliamentary Group (APPG) on Fair Banking

1. APPG on Fair Banking Services What actions has the FCA taken so far?

Between April 2019 and 31 March 2022, our policy interventions delivered benefits worth £28.7 billion and we secured consumer redress worth nearly £1.4 billion through to our enforcement action, confiscations and penalties on firms and individuals.

Recent actions have included:

- A new consumer duty to raise standards across industry
- Imposition of minimum Anti Money Laundering (AML) standards on crypto firms, with most applicants withdrawing
- Our work on borrowers in financial difficulty, which to date has led to firms estimating that they may need to pay over £48m to correct harm to over 195,000 customers
- £1.5bn secured for small businesses because of our action on business interruption insurance
- Measures on overdrafts estimated to have saved consumers £1 billion per year as of our April 2023 evaluation.

Annual Public Meeting

2. Would you consider reverting to an in-person or hybrid Annual Public Meeting next year? That way, you'd have to deal with questions from the floor you hadn't already written answers for, and if your panel members don't answer satisfactorily, audience members could challenge you with follow-ups.

In 2020 we moved to an entirely virtual event format. The change in approach has been considered generally positive in terms of accessibility whereby we offer the same level of access and interactive engagement and opportunity to ask questions to all attendees, regardless of geographical location. There are also benefits for sustainability and cost with no catering and travel needed for attendees and virtual events costs substantially less than in person. A virtual event also allows us to answer a broad range of questions from a greater number of members of the public. We will keep the virtual APM (Annual Public Meeting) under review.

Anti-money laundering

3. According to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (specifically 28(9)), a provider of electronic verification of identity can be relied upon if "considered to be sufficiently extensive, reliable, accurate,

independent of the customer”. What is the FCA’s stance on reliance by regulated entities on third-party companies for AML (Anti Money Laundering) and KYC verifications?

The FCA is supportive of the use of new technologies. We have worked with industry and particularly the Joint Money Laundering Steering Group to ensure there is guidance that facilitates the use of electronic ID verification technology.

4. Have there been any efforts towards mutualizing the KYC onboarding checks with other regulators in the past (i.e., Bank of England, Solicitors Regulatory Authority etc.), considering that compliance obligations stem from the same legal framework?

The AML framework is set by the Money Laundering Regulations which is common to all those subject to the Regulations. By necessity, these requirements are relatively high-level with the detail of how to comply set by the various relevant supervisors. For the financial sector, the FCA has extensive rules and guidance whilst the Joint Money Laundering Steering Group provide detailed guidance for firms to follow to ensure compliance with the Regulations and the FCA’s rules. Other sectors have produced guidance to take account of the peculiarities of their sector but ensuring compliance with the Regulations. There are regular meetings between supervisors where there are opportunities to learn from each other and share best practice. We are working in partnership with other government and industry partners through the Economic Crime Plan, which helps to foster that sharing of good practice, and further develop effectiveness measurement. Should any future proposals to mutualise KYC emerge, we would be prepared to work through the regulatory implications with other impacted partners.

5. What is the take of the FCA on the use of blockchain and distributed ledger technology to automate processes for AML and KYC client onboarding?

The FCA is supportive of innovation in the financial services industry. We have initiatives like the Innovation Hub and regulatory sandboxes to help firms, including fintech companies, develop and test innovative products, services, business models, and delivery mechanisms in a controlled environment. We are aware of the advertised potential benefits that distributed ledger technology (DLT) could offer. For instance, smart contracts can automate compliance checks and make the AML process more efficient and blockchain transactions are visible and immutable. However, the onus remains on these firms to ensure they comply with regulatory requirements. We expect firms to have a clear understanding of applicable regulations and to integrate compliance into their operational processes. Firms are responsible for assessing and ensuring that their products and services adhere to the regulatory framework, including considerations for financial crime, consumer protection, market integrity, and competition.

6. According to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, simplified due diligence may be carried out for existing customers of other financial

institutions presuming that sufficient checks have been carried out on them. Do you find that this happens effectively in practice without causing an issue as to the burden of legal responsibility between entities?

For some business relationships determined by the firm in accordance with the Regulations to present a low degree of risk of money laundering/terrorist financing, simplified due diligence (SDD) may be applied. SDD does not exempt a firm from applying CDD measures but permits it to adjust the extent, timing or type of the measures it undertakes to reflect the lower risk it has assessed. A firm is required to carry out sufficient monitoring of any business relationships or transactions which are subject to those measures to enable it to detect any unusual or suspicious transactions. There is evidence to suggest that firms are reluctant to utilise this framework. However, if performed well, and to the appropriate standards, SDD can assist in an effective and efficient risk-based approach.

Appointed representatives

7. Page 35 of FCA's Annual Report informs the public that following FCA's supervisory intervention between July 2022 and 31 March 2023 it saw principals terminating relationships with 513 ARs (Appointed Representative) and 618 IARs (Introducer Appointed Representatives). As part of meeting the FCA's statutory duty to protect consumers, can FCA publish the names of the 513 ARs and 618 IARs and under which authorised person's licence they were operating under in respect of the FCA's s.39 FSMA (Financial Services and Markets Act) AR (Appointed Representative) regime?

The FCA is unable to provide information about the authorised principals linked to the relationships which have been terminated. We are unable to disclose this information as it constitutes 'confidential information' for the purposes of section 348 of the Financial Services and Markets Act 2000 (FSMA), and which the FCA has received in the discharge of its public functions. A guide to what we can and can't share with the public about firms, people, and markets is available [here](#).

8. Now that the FCA has established a new department to focus on cross-FCA and ARs and given the FCA's 2022-2025 strategy is wanting to set higher standards and to put consumers' needs first, what sanctions is the FCA willing to take where there are findings of a failure to satisfy the FCA's new Consumer Duty or common law fiduciary obligations? Is the FCA prepared to stake its commitment to Treasury of arresting harm being inflicted on UK consumers, by calling upon principal firms to recompense and retribute consumers who have suffered loss from the misconduct of the principals and ARs? Yes or No

One of the key activities in relation to the FCA's work on the AR regime is to undertake more assertive, data led supervision of high-risk principals, including greater use of our regulatory tools and appropriate enforcement action, where we identify harm to consumers or markets. Our [Consumer Duty Guidance](#)

[\(FG22/5\)](#) contains some information about the application of the duty to principals and ARs (2.24 and 7.50). The Duty sets a new, higher standard of care that firms should give to consumers in retail financial services markets. This goes hand-in-hand with some of the changes to the AR regime. Principals and ARs should consider how the Duty applies to them. The [Financial Ombudsman Service](#) also fulfils an essential role by providing a free service for consumers who feel they have been treated unfairly by a financial business they have been dealing with, and the business is unable to resolve a complaint themselves. Further information about how consumers can complain if they feel they have been treated unfairly is available [here](#).

Blackmore Bonds

9. Why did Ms Chambers just mislead the public and fail to mention that the Blackmore Bond marketing material was approved by an FCA authorised firms, and contained what have now been proven to be false representations, and also that any mention of 'risk' was offset by mention of the 'Capital Guarantee Scheme', and insurance product that would pay out to investors in the event of any of the mentioned risks and losses occurring?

At the APM, Therese explained the FCA's remit including the extent to which the marketing communications were clear, fair and not misleading. The FCA's remit extends to these marketing communications because the marketing material was approved by FCA authorised firms. It should also be noted that our ongoing work in relation to Blackmore Bonds' marketing material has been referred to previously in the 2022 APM and the November 2022 and March 2023 Treasury Select Committee meetings.

For ease of reference, in relation to the Blackmore Bonds, Ms Chambers stated, "Blackmore was not an authorised firm. It offered mini bonds to consumers to finance its property development business. And it's important to remember that the FCA's remit is limited to the way these mini bonds were marketed and the extent to which those marketing communications were clear, fair, and not misleading. And it is also important to think through the different scenarios that may occur here. Now businesses may be frauds, or they may be badly run, or they may be operating in a high-risk sector. We do warn consumers not to invest in unregulated investments. Now the marketing material in relation to the Blackmore Bonds did warn investors that capital was at risk, did warn that the housing market was uncertain and did warn that this was a speculative investment. That said, in our investigation we're exploring all possible angles because we recognise the stress, worry, and concern that this has caused to investors."

With regards to the comments made in relation to "false representations" and the Capital Guarantee Scheme, as our work has not yet been finalised, it would not be appropriate at this stage to comment further on the FCA's conclusions regarding the Blackmore Information Memoranda.

10. In a meeting with the TSC (Treasury Select Committee) you stated that the Insolvency Service had decided not to proceed with its investigation into the Blackmore Bond scandal. The FCA was specifically asked if the Insolvency Service had NOT found any fraud as the basis for its decision. You refused to answer. So again, did the insolvency Service find or NOT find any evidence of fraud?

This is a matter for The Insolvency Service to answer.

11. When will the FCA respond to the many, many, complaints involving Blackmore Bonds and when will you make it safe for whistleblowers to report on fraud?

The FCA investigation into Blackmore Bonds is ongoing. As set out at paragraph 3.7 of the Complaints Scheme: *"a complaint connected with, or arising from, any form of continuing action by the regulators will not normally be investigated – by either the regulators or the Complaints Commissioner – until the procedures and remedies under the legislation relevant to that regulatory action, have been exhausted. This is because undertaking a complaints investigation at the same time as progressing regulatory action (for example, an investigation which might lead to action against regulated individuals or firms) could have adverse consequences: it could divert resources away from the regulatory investigation, and/or it could prejudice the regulatory action. Under this provision, the investigation of a complaint will not be deferred if there are exceptional circumstances that mean it would not be reasonable to expect a complainant to await the outcome of regulatory action before their complaint is investigated, and the regulatory action would not be harmed."*

The reasoning behind paragraph 3.7 is to ensure that any complaints investigation does not have an adverse impact on any ongoing regulatory action by the FCA. There are two ways in which it might have such an adverse impact. First, it could divert resources away from the regulatory action, which may inhibit the FCA from achieving its statutory objectives in a timely manner. This is because the key FCA staff that would be needed to help the Complaints Team with its investigation will include the same staff who are responsible for bringing the regulatory action to a timely conclusion. Involving those staff in two processes at the same time would inevitably delay the conclusion of the action, which could be detrimental to consumers and, potentially, the firm concerned. Second, the complaints investigation may prejudice the regulatory action. This might happen if, for example, the complaints investigation findings cut across the likely findings of the regulatory action. In some cases, where there are 'exceptional circumstances', the FCA will proceed with a complaint investigation notwithstanding ongoing action. This is determined on a case by case basis.

We are happy to accept information on fraud from whistleblowers as described in the [When you should speak to us](#) section of our whistleblowing web pages.

Whistleblowers provide a unique source of information and detail, and we greatly value their contribution and insight. We have a dedicated team which manages the relationship with the whistleblower and passes on their allegations to the

appropriate part of the FCA to review and act as required.

All whistleblowing disclosures are assessed individually to determine if action is required, and all reports inform our understanding of what is happening within the FCA's perimeter. During the Whistleblowing team's interaction with the whistleblower, case officers will look to understand how best to manage the protection of the whistleblower and any concerns they may have.

One way we protect whistleblowers is to protect their identity. Their information is turned into intelligence which removes their identity before it can be shared with other areas of the FCA. If it proves necessary to consider approaching the firm directly to explore the allegations, this can only be done through a carefully controlled process which includes ensuring the whistleblower is happy with that approach.

When a whistleblower reports detriment or retaliation because of their whistleblowing then we consider that under the SYSC 18 rules and guidance covering issues including alleged poor handling of a whistleblowing disclosure by a firm; harm to an employee or ex-employee; or the lack of an appropriate speak up system or a failure of that system.

Where applicable, the Whistleblowing Team will always encourage a whistleblower to seek advice elsewhere. They will also point whistleblowers in an appropriate direction when they are unable to help whistleblowers with e.g. health concerns, including mental welfare, or legal advice in relation to their employment or other position. Typically, this would involve referring whistleblowers to ACAS, mental health organisations like Samaritans or Mind, and/or the whistleblowing charity, Protect.

12. At your APM last year Nikhil Rathi stated that the FCA considered NCM's Information Memorandum on Blackmore Bond was, in their view, "largely "correct. This means it was not entirely correct. Specifically what aspects of the IM were NOT correct?

Blackmore's Information Memorandums (IM's) contained various statements warning of the risks associated with investment including:

- That investors' capital would be at risk and that investors may not get back the money they had invested.
- The investment is speculative, and investors should seek independent financial advice.
- That investments would not be covered by the FSCS;
- Relating to the fact that investments were illiquid and that it would be difficult to transfer them.
- That interest payments were not guaranteed.

The Information Memorandums for the bonds also contained discussion of the specific risks associated with Blackmore's particular business model and stated that costs of up to 20% of overall bond subscriptions may be incurred as part of raising capital. These costs were noted to include marketing and other distribution costs.

As our work has not yet been finalised, it would not be appropriate at this stage to comment further on the FCA's conclusions regarding the Blackmore Information Memoranda.

13. A search of The FCA FOIA database where you publish all significant FOIA requests and answers, produces not one FOIA that includes the keyword 'Blackmore'. Can you explain why The FCA is failing to publish FOIA requests it has received and responded to regarding Blackmore Bond, which has been the focus of numerous media articles and an hour-long BBC Panorama documentary such is the significant public interest?

The FCA Disclosure Log contains information we have already released under the Freedom of Information Act 2000 (FOIA), and which we think is of wider public interest. However, only those responses which result in the disclosure of information to the public are later published on our website.

In the case of Blackmore Bond, none of the requests that we processed under FOIA resulted in the disclosure of any information in addition to that published elsewhere, as we took the view that the requested information was confidential for the purposes of section 348 of the Financial Services and Markets Act 2000 (FSMA). For the same reason, we concluded that those responses should not be published on our Log.

Carillion

14. Carillion PLC was a recovery by the Official Receiver, they were paid £1.1bn from KPMG for its failure in audit and the misrepresentation of their accounts. Have the Directors been prosecuted for the gross misrepresentation of the receivables?

Several different agencies, including the FCA, are investigating and /or acting against the former directors of Carillion, Carillion's former auditor and individuals who worked for the auditor. On 28 July 2022, the FCA published Decision Notices against three of Carillion's former executive directors: Richard John Howson, Richard Adam and Zafar Khan with total penalties of £870,200 imposed on these individuals. The FCA published a public censure in respect of Carillion on 24 June 2022 and would have imposed a penalty of £37,910,000 were it not for the firm's financial circumstances.

We have set out for completeness all those actions. The FCA can only answer questions about the action it is taken. Any questions about the actions of the FRC (Financial Reporting Council) or Insolvency Service should be directed to the relevant body.

The agencies involved in considering the circumstances around the collapse of Carillion are the Insolvency Service (acting for the Secretary of State for Business and Trade), the FCA and the Financial Reporting Council (FRC):

- The Insolvency Service is responsible for pursuing director disqualifications where appropriate in cases involving corporate

insolvencies. The Insolvency Service has accepted disqualification undertakings from three Carillion directors (Mr Howson, Mr Adam and Mr Khan) in relation to, amongst other things, publishing false and misleading financial information in its financial statements.

- The FCA oversees the conduct of listed companies and their directors in relation to market disclosures. The FCA is taking enforcement action for civil market abuse against the above three directors (Mr Howson, Mr Adam and Mr Khan), including the imposition of significant financial penalties. The FCA's action has been published and can be found at [here](#)

The FCA's action has been referred by the directors to the Upper Tribunal (Tax and Chancery Chamber) and is currently subject to proceedings before that Tribunal, which will determine whether to uphold the FCA's decision to act against the directors.

The FRC regulates the accountancy profession, including auditors, accountants and actuaries. The FRC has acted against KPMG and certain KPMG employees. It also [announced](#) that it is investigating the conduct of two Carillion directors (Mr Adam and Mr Khan), both of whom are accountants.

The FCA is not aware of any authority or agency bringing a criminal prosecution. The FCA is bringing civil market abuse cases against the three directors.

Cladding

15. Buildings insurance premiums have soared hundreds of percent in recent years causing untold harm to ordinary people. What will be the measure of success for the FCA to deem their intervention, alongside that of the ABI (Association of British Insurers) and the Government, a success?

16. Why did you let regulated insurers get away with causing harm and ripping off innocent leaseholders for years?

17. Your Sep 2022 Report on insurance for multioccupancy buildings repeatedly complained that firms were not able to provide requested information. Has this situation been resolved, and do you now have access to full data from all firms in the sector?

18. When can we expect an update on the Sep 2022 report (beyond the Apr 2023 report on broker commissions) based on complete data?

19. Will Mr Rathi and Mr Mills meet the End Our Cladding Scandal campaign team to discuss the FCA's work on leasehold building insurance premiums?

20. What action are you taking to push the ABI and your regulated members to launch the long-promised Reinsurance scheme that you recommended? The timescales in your report have been passed and people are still being ripped off left, right and centre. The FCA's reforms

may provide transparency but will only tell us how much we're being ripped off and will still give us no choice as the actual consumer paying for insurance. What more needs to happen to ensure the harm will be resolved fully?

21. Insurance for Leasehold flats: where conduct in the past has been to maximise unjustified revenue from third parties before rules contained in FCA Policy Statement PS23/14 comes into force, will the FCA advocate compensation by those parties to leaseholders?

22. What is the FCA's Stance on Insurance Companies mandating remediation as a requirement to provide cover for buildings with Cladding primarily B1 rated cladding. In our Instance Encapsulated EPS, legally available and fit for purpose on buildings below 11m.

23. Where are the FCA and Insurance companies at with the formation of an insurance fund for buildings affected by cladding?

24. Could the FCA please clarify which are the enforcement and redress procedures open to leaseholders, and which is the authority in charge of enforcing new PS23/14 rules, in case of non-compliance with such rules by any FCA authorised and regulated firm?

The situation faced by leaseholders affected by the issue of cladding safety is incredibly complex.

We have acted to reform how the market for multi-occupancy buildings insurance operates. Following our consultation in April this year, last month we published our final rules to strengthen the rights of leaseholders when it comes to building insurance. These reforms will compel insurance firms to act in leaseholders' best interests, treat leaseholders as customers when designing their products, and ban the practice of firms recommending insurance policies based on commission or remuneration level.

As part of our stakeholder engagement during our consultation we met with a range of organisations representing leaseholders and considered their feedback to our consultation paper. This included End Our Cladding Scandal.

In April 2023, the FCA also published a review into multi-occupancy buildings insurance broker remuneration which identified significant shortcomings by some brokers in applying fair value rules to their remuneration practices. We have been clear that brokers must stop paying commission to third parties where they do not have appropriate justification in line with our fair value rules. We are acting against these practices, and we expect our new rule changes will lead to changes in remuneration practices. We won't hesitate to take further action if brokers don't comply with our rules.

With regard to disclosing the commission charged by any specific firm, statutory confidentiality requirements in the Financial Services and Markets act (FSMA) mean that we are unable to provide this information. As we set out in our review, while we are concerned with some of the levels of commission paid in

the period covered by our review, firms are now required to ensure levels of commission provide fair value, and we will act where firms cannot justify their commission, with emphasis on those firms receiving the highest levels of commission.

Following our recommendation in our September 2022 report, the Association of British Insurers (ABI) has been working with their members on a scheme to provide reinsurance for buildings most significantly impacted by fire risks. This is a commercial scheme being developed by the insurance industry. Whilst we are actively engaging with industry on the creation of the scheme, it is not something for which we have responsibility.

Resolving cladding and other fire safety issues is a wider public policy question rather than one that can be tackled through our regulation but clearly the issue of access to relevant financial products is part of the discussion.

This is primarily a matter for Government, but we work closely with the Department for Levelling Up, Housing and Communities (DLUHC) and to ensure that there is clarity about what our expectations of industry are and to ensure these expectations are being met. The Government has announced that it intends to ban the payment or sharing of insurance commissions with property managing agents, landlords and freeholders. For mortgages, lenders and the Royal Institution of Chartered Surveyors also have a role to play in resolving issues in relation to lending against affected properties.

Collateral

25. In light of the Collateral Case, in which it was revealed that the FCA interim permissions register provided a loophole via which firms, and specifically firms which wished to enter the "Peer 2 Peer" lending business model space, were able to falsify 'interim permission' and trade - pretending to have 'interim permission' which they did not in fact have, what steps are the FCA taking to investigate how many firms used this loophole to mislead clients, why has the Interim Permissions Register been removed from public access and public scrutiny? and how can any member of the public be confident that any firm claiming to have 'interim permission' actually did have that permission. Finally, what was the difference between 'interim permission' and 'full authorisation' specifically in relation to carrying out regulated activities such as mortgages secured on homes.

26. Why many still believe FCA register is not fit for purpose?

In the case of Collateral, the company that held interim permission, because of its OFT licence, was Regal Pawnbrokers Ltd. In December 2015, the trading name of Regal Pawnbrokers Ltd was changed by Peter Currie (a Director) to Collateral UK Ltd so that the Collateral appeared to have interim permission and was an authorised firm.

When the FCA became aware of the Collateral register entry was fraudulent we took action that resulted in it ceasing lending activity. We also went to court to

ensure the appointment of an independent administrator, so the interests of creditors and investors were properly protected.

We have invested heavily in the Financial Services Register to strengthen controls and make it easier for people to use, with more information available to consumers. We will continue to consider what further improvements we can make.

Consumer credit firms that were previously regulated by the Office of Fair Trading (OFT) were given interim permission when responsibility for consumer credit transferred to the FCA on 1 April 2014 so they could carry on the consumer credit activities previously covered by their OFT license, until their applications for full permission were being processed. Also on 1 April 2014, the FCA commenced regulation of the P2P sector (which was not previously regulated by the OFT) and firms who had been operating P2P platforms before April 2014, were required to apply for interim permissions by 31 March 2014 to continue the activity.

Mortgage activities where the loan relates to UK land and is secured on at least 40% of that land were not covered by the interim regime and firms carrying out those activities were expected to be fully authorised for those activities.

Complaints

27. Why do the FCA not help victims of crime get compensation from financial companies regulated by the FCA who have breached FCA regulations?

We can and do take action to help victims of crime get compensation. We work with a range of partner agencies such as the Serious Fraud Office, the National Crime Agency and the National Economic Crime Centre to prevent harm and support consumers if things go wrong.

In our [Annual Report 2022/23](#), we highlight the actions we are taking to reduce and prevent financial crime by strengthening the authorisation process for firms, improving our assessments of regulated firms, deploying more staff to investigate and prosecute offenders and continuing to take down hundreds of scam websites. For example, in 2022/23, we opened 613 financial crime supervision cases, an increase of 65% from the previous year.

28. Why does the FCA not pay proper compensation when the FCA is clearly at fault?

29. Precisely which section of FSMA disapplies the FCA's duty to provide an appropriate degree of consumer protection in the case of individual complaints?

30. Shouldn't the FCA look to be raising compensation levels before paying salaries over the market rate?

We are required by law to maintain a Complaints Scheme for the investigation of complaints arising in connection with the exercise of, or failure to exercise, any of our relevant functions. The Complaints Scheme does include a provision for us to make ex-gratia payments, and we would consider several factors before deciding to make a payment. These factors are set out in the Complaints Schemes (the current Scheme applies to complaints received up to the end of October 2023, and a revised Scheme comes in effect from 1 November 2023 onwards). The FCA also has statutory immunity from liability to pay damages except where we have acted in bad faith or in contravention of the Human Rights Act. The Complaints Scheme acts as a counterbalance to this immunity but does not undermine it.

In July 2020, we issued a Consultation Paper (CP) proposing a revised Scheme that was more user-friendly, using plain language to make it more understandable. We also sought to improve the transparency of our approach to what we described as 'ex-gratia' compensatory payments, to help complainants understand what they can and cannot expect from the Scheme. This was in part a response to recommendations made by the former Complaints Commissioner to consult on improving the Scheme and, in particular, to clarify our approach to compensatory payments. The consultation period closed in October 2020. We published our [Policy Statement](#) (PS) in July 2023. We set out in this PS our response to the feedback we received to the CP and the changes we are making to the Complaints Scheme. The revised Complaints Scheme came into effect for complaints received from 1 November 2023 onwards.

The [press release](#) summarises the main changes we have made. In essence, we have said that when we make a payment, the payment will be discretionary and either in recognition of financial loss and/or non-financial loss. For financial loss, we would consider making a payment if we have made a clear and significant error and we are the sole or primary cause of loss. For non-financial loss payments, we set out levels of payments we could make, and added clarity to when we would consider making them. We also committed to reviewing these levels every 2 years.

We believe these changes to the Complaints Scheme balance the statutory immunity of the regulators provided by Parliament against the need to make compensatory payments when at fault. While the approach to compensatory payments has been made clearer, in practice it is expected payments made under the Scheme will continue to be modest.

The Complaints Scheme is not an alternative route to consumer redress for the actions or inactions of firms. Consumers have access to recourse through the firm, and redress may be available through the Financial Ombudsman Service or the Financial Services Compensation Scheme.

31. Why weren't London Court Limited, Equity for Growth and Copia Wealth Management prosecuted?

We have covered these issues previously via our complaints process.

32. What opportunities do you see for firms to leverage AI technologies to respond to regulated complaints more effectively and more consistently?

We strongly encourage firms to innovate for the benefit of consumers, and there is clear potential for innovations to support firms acting to deliver good consumer outcomes.

However, firms must also make sure they act in good faith and avoid foreseeable harm when developing new procedures.

Conflict of interest

33. How does the FCA manage the conflict of interest inherent in being both an industry regulator and a promoter of that industry's competitiveness?

Our new objective to advance the medium to long term growth of the UK economy and its international competitiveness is secondary to our primary operational objectives (i.e., protecting consumers, upholding market integrity and promoting competition in the interests of consumers).

This means that we can't do anything to advance international competitiveness that would undermine our primary objectives.

In practice, a strong regulatory framework that acts in the interests of consumers and upholds the integrity of our markets is critical to our medium to long term growth and international competitiveness. Regulating effectively to build trust and confidence in our financial institutions and markets should, in turn, promote greater participation and investment in the UK.

Consumer Duty

34. Unfortunately, my question wasn't answered. Can you explain how the consumer duty with offer fair outcomes and products to trapped mortgage prisoners with non-lenders in closed books?

35. Please can explain how you foresee the new Consumer Duty will help the unfair treatment of homeowners in closed books from July 2024. The fact that the new rules require firms to act to deliver good outcomes for retail customers, and that consumers should receive communications they can understand, products and services that meet their needs and offer fair value, and they get the customer support they need, when they need it, when this is not possible from the non-lending administrators.

36. What solutions have the FCA proposed to the Treasury to help the trapped homeowners, as the relaxed affordability criteria failed the majority, and 195k homeowners are being charged around 10% with no way out?

Under the Consumer Duty, we expect all regulated firms, including mortgage administrators, to act to deliver good outcomes for retail consumers. This includes acting in good faith, offering fair value, avoiding causing foreseeable harm and supporting consumers, particularly those who are vulnerable.

The Duty will apply to closed products from July 2024. We will expect firms to review closed products and services under the Duty, including to ensure products continue to offer fair value under the price and value outcome rules where they apply.

Firms need to make sure and be able to show us that they are acting to meet our expectations. Our supervisory and enforcement approach will be proportionate to the harm, or risk of harm, to consumers.

We will prioritise the most serious breaches and act swiftly and assertively where we find evidence of harm or risk of harm to consumers. In some cases, firms can expect us to take robust action, such as interventions or investigations, along with possible disciplinary sanctions.

We have worked with Government and industry over several years to provide more solutions for mortgage borrowers in closed books who could benefit from switching. To help facilitate switching for all borrowers, including those in closed books or with inactive lenders, we made changes to our affordability rules. The rules now allow active lenders to offer loans to any borrower up to date with their payments without undertaking a standard affordability test, providing the new payments are more affordable for the customer. An [implementation group](#) was established to support use of this new option, and to promote switching more generally. This included inactive lenders and administrators sending out 140,000 letters to eligible borrowers.

In November 2021 we published our [Mortgage Prisoner Review](#), to help industry and Government to consider potential solutions. At the time of the Review, we identified around 47,000 borrowers who met the definition of a mortgage prisoner, a borrower who is up to date with payments and cannot switch when it might benefit them to do so.

When we completed the Review in 2021, we did not identify any further regulatory solutions the FCA could deliver. We still consider this to be the case. We continue to use our regulatory data to monitor the situation and to support government and industry as they consider potential steps they could take.

We encourage any borrowers whose repayment strategy may be impacted by cost-of-living pressures or rising interest rates to speak to their lender as soon as possible to discuss their options and how it might affect their ability to repay the capital owed at maturity.

If a borrower is struggling to make their interest payments each month, we encourage them to speak with their lender as soon as possible to discuss their options.

37. Following the early stages of your Consumer Duty supervision work, what are the key themes that you have observed, both positive and areas where improvements are required?

The Consumer Duty came into force for open products at the end of July, but even at this early stage we are beginning to see how it will help drive better outcomes for consumers. The Duty has given us the ability to act more quickly where we identify practices that lead to poor consumer outcomes.

We are also seeing firms make positive changes in response to the Duty through our Supervisory work. For example, we have seen firms change their approach to charges, reduce fees, improve controls to make sure customers are getting more suitable products and enhance their ability to support vulnerable customers. We expect to see these positive trends continue and firms to respond to new and emerging harms to support good consumer outcomes.

Furthermore, we have a programme of work planned to look in further detail at how firms have implemented the Duty, the changes they have made, and the impact this is having on addressing drivers of consumer harm. We, of course, recognise that the Duty is not 'once and done' and firms will continue to learn and embed the delivery of good customer outcomes in their businesses and consumers should continue to see and feel the benefits of that over time. We know firms have been making improvements to their data with regards to the services/products provided to consumers and how they can harness the benefits of data and technology to make improvements and better understand the outcomes they achieve for their customers. We understand that some firms will need to continually improve in this area, and we have said we will be pragmatic and open in working with them on the way they use data and analytics to demonstrate compliance.

38. In light of the consumer duty, if firms had access to technology to speed up complaints' response times, and ensure decisions were in line with the ombudsman, would you encourage them to use it?

We strongly encourage firms to innovate for the benefit of consumers, and there is clear potential for innovations to support firms acting to deliver good consumer outcomes.

However, firms must also ensure they act in good faith and avoid foreseeable harm when developing new procedures. Examples of not acting in good faith in this area would include where firms use algorithms, including machine learning or artificial intelligence, within products or services in ways that could lead to consumer harm. This might apply where algorithms embed or amplify bias and lead to outcomes that are systematically worse for some groups of customers, unless differences in outcome can be justified objectively.

Diversity and Inclusion

39. When will FSIs specially building societies and retail banks start representing Asian and Black members on their boards as nothing has changed since last century?

40. Why is the FCA obsessed with quotas rather than tackling financial crime?

The financial regulators, the FCA and the Prudential Regulation Authority (PRA) have set out proposals to boost diversity and inclusion to support healthy work cultures, reduce groupthink and unlock talent.

The measures also aim to enhance the safety and soundness of firms and improve understanding of diverse consumer needs. Increased diversity and inclusion in regulated financial services firms can deliver better internal governance, decision making and risk management.

The proposals include new rules and guidance to make clear that misconduct such as bullying and sexual harassment poses a risk to healthy firm culture. This guidance will help ensure firms can take decisive and appropriate action against employees for such behaviour.

The degree to which firms reflect the societies they serve and how open a culture they create is central to each of the objectives set for us by Parliament. We have been clear that diversity and inclusion are regulatory concerns and that greater diversity and inclusion can create better outcomes for consumers and markets by supporting healthy work cultures, reducing groupthink, unlocking talent and improving understanding of diverse consumer needs.

FCA is not setting quotas but aiming to make sure there is transparency so people can make informed decisions. More information about our work in this area is on our [website](#).

Enforcement

41. Why do(es) the FCA not divulge disciplinary procedures that have been taken against FCA regulated companies found to be in breach of FCA regulations?

The FCA's authority to investigate the firms it regulates is granted by The Financial Services and Markets Act 2000 (FSMA). Further information about our enforcement powers can be found on our [website](#).

Proceedings in Court or Tribunal are usually public. Whether the FCA can publish statutory notices (and at what stage) is governed by FSMA. We publish final notices when action is concluded and often publish decision notices when matters are referred to the Upper Tribunal. The circumstances when we make public that we are investigating a matter is set out in Chapter 6 of our Enforcement Guide. More information about what the FCA can and can't share, including the reasons why, can be found [here](#).

42. When will the FCA recognise that miss selling is widespread in the financial services, but prosecutions are minimal?

43. Why is there a lack of enforcement from the FCA, when the regulations are clearly being flouted, this negligence is unacceptable from a governing body

We investigate a range of misconduct focused on the FCA's strategic objectives of reducing financial crime, protecting consumers and strengthening the wholesale markets/tackling market abuse.

This year as of 31 August, we had 555 open Enforcement cases, relating to 215 operations: for example, a single operation can be investigating multiple parties, such as a firm and several individuals, and had opened 26 new enforcement cases between January and August 2023. Our Enforcement team is busy taking action and protecting consumers against those firms and individuals who commit serious misconduct or criminal offences. Following fines totalling £166,445,600 against Santander, Metro and TSB in December 2022, in 2023 we have imposed fines of £35.1m. The largest single penalty was £17.2m imposed on ED&F Man Capital Markets Ltd for breaches of related to wholesale conduct in the trading firm sector.

We protect assets for consumers, through the civil and criminal courts, and to obtain redress for consumers, for example, in November 2022 we announced a redress scheme for consumers who had transferred out of the British Steel Pension Scheme and have also carried out around 30 investigations into firms and individuals regarding Defined Benefit transfer advice related to BSPS resulting in over £5m in fines being imposed on firms and over £1m paid by firms to the Financial Services Compensation Scheme to maximise available redress. Five individuals were convicted of serious offences following prosecution by us. 24 individuals are facing prosecution by the FCA in the criminal courts for various alleged offences. In addition to its enforcement investigations Enforcement provides advice and support to colleagues in Supervision where the FCA seeks to use supervisory powers to identify and stop harm early. The FCA has also been working with the National Economic Crime Centre to plan and coordinate action with law enforcement partners in relation to operators of illegal crypto ATMs and the FCA has used its powers to inspect sites suspected of hosting unregistered crypto ATMs in Exeter, Nottingham, Sheffield, London and Leeds.

FCA Operations

44. What is the FCA doing to increase the transparency of the FCA?

45. How is the FCA going to become a less bureaucratic and more dynamic organisation?

46. Please could the FCA start to accept many investors see it as a failure and in desperate need of reform?

47. Share the current status of FCA "Transformation project" & the benefits it is delivering?

Transformation at the FCA is focused on ensuring we can make fast and effective decisions, prioritise the right outcomes for consumers, markets, and firms, and

reform our approach to intelligence and information sharing.

We are building a clearer common understanding of how the organisation operates so we can understand our costs, risks and resilience issues in a consistent and comparable way. This includes making our operational data more consistent, so we can monitor the effect of changes and spot trends to help us prepare for the future. We publish a range of metrics regularly, including reporting on our authorisations performance metrics on a quarterly basis. We are also enhancing our enforcement functions to improve effectiveness of outcomes by working in a more integrated way.

For example, our tougher scrutiny at the Gateway for firm authorisation has borne results. In 2022/23, the number of firms we didn't authorise following scrutiny was 1 in 4. This is up from 1 in 5 in 2021/22 and 1 in 14 in 2020/21. We set up an Early and High Growth Oversight (EHGO) function to support newly authorised firms to meet our regulatory requirements and obligations. EHGO now engage with over 300 firms and can spot early indicators of issues.

We have used new ways to find, and act on, issues and harm faster. The Financial Promotions and Enforcement Taskforce (FPET) has piloted additional tools and techniques to improve our efficiency. As a result, we had 8,582 promotions amended/withdrawn last year, which is an increase of 1398%, and we issued 1,882 alerts, an increase of 34%, compared to 2021. In the year to date, there have been 9,002 promotions withdrawn/amended to month end September 2023.

As part of our strategic commitment of 'Preparing financial services for the future', we have set out our plans for how we will develop the Handbook as we take forward the process of replacing retained EU law. Our aim for the Handbook is to enhance the overall user experience by making it clear, accessible and navigable, while reducing regulatory costs.

Our regulatory actions are sometimes complex and therefore can take significant periods of time. We are limited in the information we can share and strive to ensure transparent and clear communications at appropriate intervals.

We want to support long term competitiveness and growth of the UK economy and know we can do so by being an effective regulator.

48. There is a tsunami of Regulatory Change – from Consumer Duty to ESG (Environmental, Social and Governance), Financial Crime, Operational Resilience, etc. Keeping abreast and implementing all these changes is a challenge for the industry. How can the FCA keep abreast given well publicized issues with staff shortages, existing backlogs, pay pressures and an industry which is only too happy to take their highly skilled staff?

In April 2022, we set ourselves an ambitious three-year strategy, where, for the first time, we set out the outcomes we expect financial services to deliver. We remain committed to delivering those outcomes, through the commitments in our strategy and by adapting to the rapidly changing environment we operate in.

We, and the firms we regulate, must keep pace to achieve better outcomes for consumers and markets and remain a world leader in financial services. We acknowledge that this can be challenging. Our remit is large and growing, so we need to prioritise to focus our efforts to bring the most benefits to consumers, firms and the wider economy.

With many consumers across the UK struggling with the cost of living and markets events causing concern, we chose to accelerate our work across 4 areas. These include protecting consumers from unfair treatment through the Consumer Duty and reducing and preventing financial crime.

Like many other employers, we saw a sharp rise in our turnover following the pandemic. However, the number of people leaving the organisation has reduced very sharply this year and we have now fallen below 10%. As our remit has expanded in recent years (to new areas such as pre-paid funeral plan providers, stablecoins, access to cash, and financial promotions relating to certain crypto assets) we have been successfully recruiting the capability we need now and for the future, whilst also focusing on retaining the experienced talent we have. We are becoming a more effective regulator by being truly representative of broader society, including growing our UK wide presence.

49. In principle, should FCA Senior Managers be held accountable if they fail to act on concerns or mislead the public?

50. We repeatedly hear the FCA admit to "mistakes" - are FCA Senior Managers ever held accountable for mistakes- if so, how?

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

51. Do diversity targets apply to the FCA board?

We do not set targets for the Board as appointments are made by HM Treasury. We do however, collect and publish some diversity information about our Board which can be found [here](#).

Fraud and scams

52. What about diversity of thought by recruiting victims of fraud?

53. Why do the FCA not actively recruit victims of fraud to assist in future prevention?

We're a more effective regulator when we're truly representative of broader society. We aim to foster a diverse and inclusive workplace environment; one that's free from discrimination and bias, celebrates difference, and supports colleagues to be their authentic selves at work. We believe this empowers our people to fulfil their potential and results in better decision making in the public interest. Through all our recruitment activity therefore we aim to create a level playing field for talented people from diverse backgrounds and with diverse experiences. We do this by removing barriers in our recruitment processes, recruiting nationally, challenging and supporting the decisions hiring managers make, and using data insights to inform and prioritise action. This means that we welcome all applications from those who feel they meet the criteria for the roles we advertise and commit to supporting them through an inclusive application and assessment process.

Alongside recruiting for a range of skills, we consult broadly on policy changes and use information received from victims of fraud to inform our response and supervision of firms. We therefore seek to ensure balance and diversity of input.

54. Isn't there a need for the FCA to listen more to victims of fraud rather than representatives of the financial services?

55. Why don't the FCA clearly define the difference between a "high risk" investment and downright fraud?

56. Why do the FCA not meet with investors who have been defrauded?

57. Why are the FCA not more forceful in prosecuting FCA regulated companies that are complicit in fraud?

58. Why do the FCA not offer better support to victims of scams?

59. What progress is being made to stop and shut down investment scams.

Fraud and scams can destroy lives and have a devastating effect on victims. That is why the FCA is working to disrupt online investment scams through identifying unauthorised activity via proactive online monitoring, and then warning consumers of potential scams via our warning list. We also ask web providers to remove offending websites to protect consumers from harm. Moreover, we carry out robust checks prior to authorising firms to ensure they are meeting our high standards for financial crime controls before they are registered.

We continue to investigate, arrest and charge individuals we suspect of committing investment fraud.

In 2022, we introduced new rules to clamp down on the marketing of high-risk investments to consumers which included:

- Ensuring that firms have the expertise to approve and communicate investment-related financial promotions; a firm won't be able to approve a financial promotion unless they have the necessary competence and expertise in the underlying product
- Ensuring approvers of investment-related financial promotions assess promotions throughout the period they are live, and not just at the point they approve them
- Firms that promote high-risk investments need to provide more prominent and easier to understand risk warnings
- Certain incentives to invest, such as new joiner or refer a friend bonuses, have been banned
- Friction has been added into the customer journey, to prevent consumers rushing into a high-risk investment without considering the risks
- Firms need to carry out more rigorous assessments of potential investors in high-risk investments to check they understand the risks involved.

Following legislative change, we have also established a new gateway for firms which approve financial promotions of unauthorised persons. This means that (subject to certain legislative exemptions) firms wishing to approve financial marketing for unregulated firms will need to apply to the FCA for permission to do so, and we will assess whether they are suitable to approve promotions. Ultimately, only firms that are approved at the gateway will be able to continue this activity. These rules will come fully into effect in February 2024.

The FCA's perimeter, which is decided by government and parliament, determines what we regulate. Where a case falls outside of our jurisdiction, we assist other agencies wherever we can.

In terms of our engagement with consumers, we have engaged with over 2 million people via our ScamSmart website since its launch in 2014, and more than 45,000 people have seen our warnings about specific unauthorised firms. We continue to help consumers via our ScamSmart campaign. The most recent of these campaigns related to investment scams and was launched in February 2023. We have seen an increasing number of consumers using our warning list tool to inform themselves of the risk posed by entities that they may be engaging with and more consumers querying potential scam products before they have invested.

Moreover, the FCA's Supervision Hub works to identify vulnerable consumers and offers tailored support services based on their needs. We also offer onward referrals to support services and can offer a 48-hour call back to ensure they are aware of next steps.

Fighting financial crime is a priority for the FCA and a key commitment in our three-year strategy. It requires collective effort, and we are working closely with

regulated firms, government, law enforcement agencies and our regulatory partners to share intelligence and respond quickly to evolving threats.

60. Time and time again the likes of share prophets warn you about fraud in the stock market but you seem to do very little about it

The FCA receives a significant number of alerts of potential misleading statements (and/or fraud) perpetrated by market participants, including issuers of securities. These alerts come from our own monitoring of unusual share price movements, complaints from investors, intelligence, press/bloggers and other sources and they may engage relevant FCA legislation/rules, such as the Market Abuse Regulation and the Listing Rules. We consider all such alerts to determine whether our rules may have been breached and whether serious misconduct may have occurred. Whilst many alerts do not merit further action, we will deal with a number by direct intervention with the company for clarificatory announcements and, in some circumstances, suspensions of listing. We also issue private communications such as letters of concerns so that companies' systems and controls can be improved. Where we encounter serious matters, we will launch an investigation via the FCA's Enforcement division, and some matters may be investigated by or alongside external law enforcement bodies such as the SFO. Our Approach to Enforcement is available [here](#) and further details of the FCA's investigation opening criteria are available [here](#).

Gambling Commission

61. Why were no calls or meetings with the gambling commission recorded or minuted? Especially when consumers' calls to FCA are recorded.

We believe your question relates to the findings of the Sheehan report, these were addressed in the updated [Memorandum of Understanding](#) between the FCA and the Gambling Commission.

Human rights

62. My question is for Ashley Alder, FCA Chair. On pages 73-74 of your Annual Report and Accounts 2023 you mention the updating of the FCA's Supplier Code of Conduct and a bullet point mention of human rights and employment law, in the context that all FCA suppliers and subcontractors in the supply chain must comply with all applicable human rights and employment laws. My question is - what is the FCA's stance on human rights within its own workplace and the human rights of its own FCA employees?

We know that everyone deserves to be treated with fairness, respect and dignity; we place great importance on actively respecting and upholding the rights of our workforce and giving all our people a voice. This is reflected in our values, across our range of corporate and HR policies, as well as through the facilities, support and benefits we offer. Our HR policies and practices ensure that workers' rights are fully met and that we take all appropriate action to end discrimination. They also provide a route for colleagues who believe their human

rights may have been breached. As a public authority, we are held to even greater account through the Public Sector Equality Duty for safeguarding colleagues' human rights

Introducers

63. What is the FCA doing to stamp out unscrupulous introducers who mislead unsuspecting investors into putting their money into inappropriate and fraudulent companies?

There are different types of introducers. Some introducers are unauthorised whereas others are authorised firms. As with any authorised firm, a firm acting as an authorised introducer is expected to follow the FCA's rules and guidance. While we do not regulate unauthorised introducers, any authorised firm who receives a client from an unauthorised introducer must take responsibility for the entirety of any financial advice.

Mini bonds

64. Why won't the FCA introduce a scheme for mini bond victims similar to that of the steel workers and PPI (Payment Protection Insurance)?

65. Are the FCA aware of the high level of dissatisfaction about the failure to act authoritatively to stop mini bond scams?

66. What is the FCA doing to make banks aware of fraud carried out in the mini bond sector?

67. Why after LCF (London Capital & Finance) weren't investors protected from similar companies like Westway, Magna, Bassett and Gold? All companies where FCA companies were involved.

68. What were the key learnings from Basset & Gold plc review?

The schemes referenced here involved the promotion of mini bonds. Issuing of mini bonds does not ordinarily involve regulated activity. In general, the FCA's statutory powers over unregulated activity by unauthorised firms is substantially limited in comparison with the powers we have over regulated firms or where regulated activity is undertaken by unauthorised firms. While the business does not generally have to be authorised by the FCA to raise money by issuing mini bonds, the promotion of these investments and their distribution must comply with our rules.

Where we identify criminal behaviour, we take appropriate action. However, we have to act based on evidence available. We consider very carefully evidence suggesting criminality and where appropriate investigate and prosecute investment fraud that falls within our scope.

In January 2020, the FCA banned the mass marketing of speculative mini bonds to retail consumers. We used our product intervention powers to introduce this ban without consultation. We have subsequently introduced new rules to clamp

down on the marketing of high-risk investments to consumers including:

- Ensuring that firms have the expertise to approve and communicate investment-related financial promotions; a firm won't be able to approve a financial promotion unless they have the necessary competence and expertise in the underlying product
- Ensuring approvers of investment-related financial promotions assess promotions throughout the period they are live, and not just at the point they approve them
- Firms that promote high-risk investments need to provide more prominent and easier to understand risk warnings
- Certain incentives to invest, such as new joiner or refer a friend bonuses, have been banned
- Friction has been added into the customer journey, to prevent consumers rushing into a high-risk investment without considering the risks.
- Firms need to carry out more rigorous assessments of potential investors in high-risk investments to check they understand the risks involved.

Following legislative change, we have also established a new gateway for firms which approve financial promotions of unauthorised persons. This means that (subject to certain legislative exemptions) firms wishing to approve financial marketing for unregulated firms will need to apply to the FCA for permission to do so, and we will assess whether they are suitable to approve promotions. Ultimately, only firms that are approved at the gateway will be able to continue this activity. These rules will come fully into effect in February 2024.

The FCA's perimeter, which is decided by government and parliament, determines what we regulate. Where a case falls outside of our jurisdiction, we assist other agencies wherever we can.

Where we identify criminal behaviour, we take appropriate action. However, we have to act based on evidence available. We consider very carefully evidence suggesting criminality and where appropriate investigate and prosecute investment fraud that falls within our scope.

Mortgages

69. With your recent publication of the data on interest only mortgages, what solution do you propose for these vulnerable homeowners who risk losing their homes when their contract ends?

Interest-only borrowers have committed to repaying the sum they originally borrowed when their mortgage matures. Where borrowers cannot repay the capital owed, we expect them to receive the time and support they need to consider their repayment options, and how to finance their housing needs beyond maturity.

Newcastle Building Society

70. How can the Newcastle Building Society be a 'regulated' company when their Companies House status is "Dissolved"?

Newcastle Building Society is a mutual and not a limited company.

Ponzi schemes

71. When will the FCA provide clear information about how Ponzi schemes work?

We have information on out how get-rich-quick schemes like Ponzi and pyramid schemes work, how to avoid scams and what to do if you're scammed available on our [website](#).

Regulatory approach

72. Does the FCA recognise the risk of regulatory capture; and if so, what does the FCA do to ensure it does not succumb to it?

73. Would removal of the FCA's immunity from civil liability for consumers only (i.e., not for market participants) provide consumers that suffer detriment through regulatory failure by the FCA (for example in cases such as Woodford, Connaught, LC&F and Premier FX) with an additional means through which they can get redress?

74. Why doesn't the FCA want the Transparency Task Force to be represented in its Consumer Network?

75. Under what circumstances can the FCA take action to protect consumers' interests if the matter at hand relates to a non-regulated entity and/or a non-regulated product?

We understand and recognise the concept.

Our independence, underpinned by our democratic accountability to Parliament, is important to us, providing us the space to challenge, and to make data and evidence-based decisions to achieve our objectives. It's a critical part of the FSMA model and the reason our regulation is respected globally. Every decision we make, throughout the organisation, has our objectives as the driving force behind it; objective led decisions, grounded in evidence and subject to scrutiny, is the best defence against allegations of capture of any kind.

There are several ways consumers can use to challenge our actions. The Complaints Scheme provides a channel for individuals or firms to make a complaint about the actions or inactions of the FCA. The complaints against the regulators scheme have been updated for complaints received from 1 November 2023 following consultation. The revised scheme provides clarity around what people can expect when they complain, making it more transparent and user-friendly. Crucially, it is free. In response to feedback, the regulators have

removed the proposal that no compensatory payment relating to a financial loss will exceed £10,000, save in exceptional circumstances. That means there is no cap on the level of compensation the scheme can offer. While the approach to compensatory payments has been made clearer, in practice it is expected payments made under the Scheme will continue to be modest.

We apply a range of general principles in selecting Network members. Crucially, members must be organisations that:

- Provide support and materials for consumers of the markets that we regulate, and/or
- Provide advice on financial matters (e.g., debt advice) and/or
- Have consumer advice helplines on financial matters (not necessarily exclusively) and/or
- Have consumer research functions that cover financial matters relevant to the sectors the FCA regulates.

In practice, many members of the Network do all or most of these, bringing a deep well of knowledge about the experiences and needs of consumers within the UK. The membership consists of the main consumer and debt advice organisations from around the UK, including those with statutory duties, plus a number of more specialised organisations that represent specific categories of consumers in vulnerable circumstances, in particular. We have to consider our resource, and how best to most efficiently run the network in terms of engagement and outcomes, when considering its membership. To involve every organisation with an interest in consumer facing financial services would not be practical, but we welcome insight and feedback from all stakeholders who have them to share.

Under what circumstances can the FCA take action to protect consumers' interests if the matter at hand relates to a non-regulated entity and/or a non-regulated product?

- Our ability to act will depend on the circumstances an activity is carried out, and in what context; for example, we use our ScamSmart campaign to raise awareness of activities we feel pose serious risk to consumers even if that activity is not a regulated activity.
- In general terms though, we cannot take action against an activity if not covered by the Regulated Activities Order.
- We can act against those conducting activities which are regulated but who do not themselves have the authorisation to do so.
- Where it poses a significant risk to the consumer protection objective or to the FCA's other regulatory objectives, unauthorised activity will be a matter of serious concern for the FCA. The FCA deals with cases of suspected unauthorised activity in several ways, and it will not use its investigation powers and/or take enforcement action in every single instance.
- The FCA's primary aim in using its investigation and enforcement powers in the context of suspected unauthorised activities is to protect the interests of consumers. The FCA's priority will be to confirm whether a regulated activity has been carried on in the United Kingdom

by someone without authorisation or exemption, and, if so, the extent of that activity and whether other related contraventions have occurred. It will seek to assess the risk to consumers' assets and interests arising from the activity as soon as possible.

- The FCA will assess on a case-by-case basis whether to carry out a formal investigation, after considering all the available information.

Regulatory bodies

76. Why do the FCA not liaise better with other regulatory bodies?

Coordination with our regulatory partners, the UK Regulators Network, the Priority Services Register (PSR) and government departments is vital. By working together effectively, we can maximise the effectiveness our regulatory work, resulting in better outcomes for consumers and markets, and reducing the burden initiatives place on industry.

Domestically, we continue to work with partners, including through the Regulatory Initiatives Forum and with our statutory panels, to ensure that our work is as joined up as possible. For example, over a third of initiatives set out on the Regulatory Initiatives Grid are joint work and many other initiatives are being closely coordinated, such as the work on climate-related disclosures. These involve close coordination, which is often daily for significant initiatives. We also have statutory requirements to coordinate with other regulators. For example, before making rules, we are required to consult the Prudential Regulation Authority (PRA). There is more information about the domestic regulatory bodies we work with available on our website.

Internationally, we recognise that there are often global standards that underpin financial services regulation that support commonality in approach with regulators in other jurisdictions. We are at the forefront of developing and maintaining standards that benefit cross-border activity and play a leading role as an active participant in global standard setting bodies, such as the International Organisation of Securities Commissions (IOSCO) and the Financial Stability Board (FSB). Our commitment to international standards, and our leadership role in setting them, helps ensure a coherent approach to regulatory and supervisory frameworks with other global trading economies, including the EU. So, we continue to engage with overseas and EU regulators (including the European Supervisory Authorities), and other stakeholders bilaterally and in global fora.

77. Why do the FCA not interpret the regulations the same as FOS and the FSCS?

The FOS and FSCS's roles under the Financial Services Markets Act are distinct from one another and as such operate with different objectives and purpose in mind and we work with both the FOS and FSCS to manage issues that have wider implications, each organisation having different responsibilities.

Our cooperation with the Financial Ombudsman Service and the Financial Services Compensation Scheme is part of our joint [memorandum of understanding](#). There is also the Wider Implications Framework which is a way that members of the regulatory family work with each other, and other parties as appropriate, on issues that could have a wider impact across the financial services industry

Our rules on the operation of the FOS and FSCS build on the provisions in FSMA. In summary:

- The Financial Ombudsman's role under FSMA is to 'independently resolve certain disputes quickly and with minimum formality on the basis of what it believes is fair and reasonable in all the circumstances of the case'. The right outcome in one case may not be the right outcome in another as individual circumstances can vary so much. FOS decisions on what is fair and reasonable having considered all the circumstances of the case may be different to what a court might decide applying legal rules.
- The FSCS's role under FSMA is to "protect eligible claimants that incur financial losses when firms authorised under FSMA are unable, or likely to be unable, to pay claims against them relating to certain regulated activities". The FSCS can consider claims when certain conditions have been met. These conditions are rules based and developed by the PRA and the FCA. In the FCA's rules, there are four key qualifying requirements for compensation from the FSCS:
 1. An [eligible claimant](#) has made an application for compensation (or the FSCS is treating the person as having done so);
 2. The claim is in respect of a [protected claim](#);
 3. Against a [relevant person](#) (or where applicable, a successor);
 4. Who has been declared in default by the FSCS.

A civil liability (a court standard) applies, claims are assessed on available evidence and on a "balance of probabilities basis", compensation is paid to the extent that it is "essential in order to provide the claimant with fair compensation".

WealthTek

78. Would Therese Chambers please actually answer the question I asked about WealthTek, instead of reading out a legalese statement? Did the FCA miss opportunities to protect WealthTek customers?

The FCA is taking action to protect consumers following the identification of serious regulatory and operational issues at WealthTek Limited Liability Partnership (WealthTek).

The FCA is conducting a regulatory and criminal investigation into both WealthTek and its principal partner, John Dance, which includes potential regulatory breaches relating to client money and custody assets, and criminal

offences of fraud and money laundering.

WealthTek is an FCA authorised and regulated wealth management firm which provided discretionary, advisory and execution only services to their retail clients and intermediaries. However, as was reflected on the FCA Register, it did not have permission to hold client money or custody assets.

The FCA required the firm to cease operations on 4 April while it examined suspected regulatory breaches concerning client money and custody assets.

The FCA sought to protect customer assets in WealthTek by instigating an insolvency procedure and securing High Court approval on 6 April 2023 to put the firm in special administration.

The High Court appointed Shane Crooks, Mark Shaw and Emma Sayers of BDO LLP as Joint Special Administrators of WealthTek. WealthTek also has the trading names Vertem Asset Management and Malloch Melville.

Alongside this, the FCA obtained a worldwide order to freeze assets belonging to Mr Dance up to the value of £40m. The aim of this action is to preserve assets which may potentially be available for distribution or confiscation upon the conclusion of any civil or criminal proceedings brought by the FCA.

The FCA considers it important to note that whilst this order restrains and prevents Mr Dance from dissipating any of his identified assets, it does not preclude him from claiming reasonable living expenses or from continuing to operate his horse business or any other existing business unrelated to the matters featured in the proceedings brought by the FCA to date.

Northumbria Police, working in partnership with the FCA, arrested Mr Dance on 4 April in connection with the FCA's investigation and the FCA later interviewed Mr Dance under caution.

The FCA is working closely with the Joint Special Administrators and is aware of the potential shortfall of £81.4 million in Client Assets and Money associated with WealthTek as of 6 April 2023. As BDO have explained to WealthTek's customers, further investigations are needed to establish the full picture and we will work closely with them to do all we can to reduce the harm to consumers.

Wellesley

79. We have been told by the FCA Complaints team, that Enforcement action is being taken, so this implies investigations have been completed on Wellesley?

80. Can you confirm it is enforcement action?

81. We are aware of the FCA enforcement action against Wellesley, but do not have any information on the state of play, now 3 years on. Can you give some indication of when this will be completed and the interested parties notified, including Wellesley Investors Action Group

of its outcome along with a detailed reply to our formal complaint that has been in a constant state of deferral?

We have contacted a number of customers in relation to an ongoing investigation into Wellesley & Co Ltd. We have received a number of complaints which have been deferred whilst the FCA continues to conduct investigations into matters relating to the firm. In line with usual procedures, we will be unable to comment further.

Whistleblowing

82. In press articles, and today at the APM, when referring to the recent ICO (Information Commissioners Office) decision that determined the FCA acted unlawfully [in breach of GDPR (General Data Protection Regulation)] when using an 'intercept and divert' protocol preventing emails, the FCA claims it was only one case and only one mistake. This is false and is more widespread and also specific to incoming complaints emails, including mine since 2016, and were not used to make sure they got to the correct destination, but for FCA senior executives to be able to 'review and/or censor', and/or ring fence and/or contain first, and/or be able to either prevent them from reaching their intended destination at all, or be eventually forwarded with 'instructions' for how the senior executives expected the other departments to deal with them. This was widespread and interfered with what was supposed to be, by way of statutory obligations, independent functions, such as whistleblowing, complaints and data teams, and for them to be free from influence and prejudice, all of which was compromised by this unlawful and widespread protocol. How can you therefore say this was limited to one case, and that it was entirely acceptable, when it compromised and prejudiced those independent functions that UK consumers have a statutory right to?

83. What is your response to the report in the Times by Alistair Grant on the allegations of the intercepting and diversion of whistleblowers' emails?

84. Stephen Braviner Roman just implied that the emails of only one person were inappropriately diverted. Could the FCA please clarify how many people have been affected by this policy in total, and undertake to contact each of them to apologise and provide appropriate compensation?

Like many other organisations we do redirect some emails as part of our day-to-day work which aims to ensure the most appropriate recipient receives those emails, to help manage our resources effectively. As part of this we have in place a very small number of specific email redirections but recognise in this one case we made mistakes in the implementation of the redirection for which we apologised.

Woodford

85. The losses since suspension on the Woodford LFWEIF is £948m per LFSL accounts produced to 31 March 2023. The payment under the scheme of arrangement could be £230m, can you explain why investors have to suffer £718m of the failures of Neil Woodford, LFSL and others? These Chambers has indicated that a restitution order would be a suboptimal outcome for Woodford investors because Link would fight it. Does she accept that this is a classic case of, 'They would say that, wouldn't they'? The FCA has been investigating formally for more than four years and was aware of problems and engaged with the parties long before the Fund was suspended in June 2019 so knows how strong the case is against the firm. Why would it waste money and incur reputational harm fighting the case?

86. And does she accept that a restitution order could provide more redress for the gated investors, and also open the door to providing compensation for failures prior to the gating, such as departing from the equity income mandate and inappropriate related party transactions?

87. Why are the FCA not looking after the interests of the Woodford investors, who you agree are the victims, involving the Financial Services Compensation Scheme and seeking a restitution order which would be a better alternative to the proposed Scheme of Arrangement?

88. Regarding the Woodford situation, if the FCA attends the hearing on 10th October and is legally represented, will it represent the interests of investors, in keeping with its statutory objective to provide an appropriate degree of consumer protection?

89. Regarding the Woodford situation, does the FCA plan (i) to attend and (ii) to be legally represented at the hearing on 10 October?

90. Regarding the Woodford situation, if concerns crystallise about whether the process is being run fairly and transparently and in the interests of investors, will the FCA agree to work with investors to resolve those concerns?

91. Regarding the Woodford situation, was the FCA consulted on any arrangements for representing investors' interests set up by Link Fund Solutions that have not yet been made public (including, but not limited to, any arrangements for investors to attend and participate in the 10 October court hearing and any subsequent ones)? If so, what are those arrangements, is it happy with them, or has it made representations that Link Fund Solutions has declined to action? If so, what were they?

92. Regarding the Woodford situation, was the FCA consulted on the arrangements for representing investors' interests set up by Link Fund Solutions communicated to date (the Investors' Advocate, Investors' Committee, and choices of post-holders for these roles). If so, was it

happy with them, or did it make representations that were not actioned? If so, what were they?

93. Regarding the Woodford situation, does the FCA believe that its permission is required for a change of ownership of Link Fund Solutions? If so, does it intend to grant such permission while the issue of redress for Woodford investors (whether through the proposed Scheme of Arrangement, a restitution order obtained by the FCA, litigation or any other means) has been resolved? (Currently, according to the letter, the intention is for the sale to complete before the matter is resolved; we cannot see how a firm can undergo a change of ownership while it is at material risk of enforcement action and insolvency.)

94. Regarding the Woodford situation, is the FCA aware that many private investors in the Woodford Equity Income Fund in fact hold 'institutional' units in the Fund, because certain platforms were allocated their own, institutional-class units for customers at launch? Will the FCA ensure that any separation of voting by class of holding reflects the actuality of the type of investor as opposed to the nominal class of holding?

95. Regarding the Woodford situation, to what extent is the FCA engaged in dialogue with Link Fund Solutions about the proposed structure of any Scheme of Arrangement vote? In particular, will all classes of investor be treated identically, or will institutional shareholders vote separately to private ones (which we believe is essential because the former are unlikely to be FSCS-eligible, so have different economic interests to the latter)?

96. Regarding the Woodford situation, there are suggestions that the letter may not have been passed on to consumers by some platforms and IFAs (independent financial advisers). Was the FCA consulted by Link Fund Solutions on its plans for distributing the letter, and has it expressed any concerns either prior to or subsequent to the letter's publication?

97. Regarding the Woodford situation, does the FCA accept that a restitution order honoured by the FSCS (Financial Services Compensation Scheme) offers the potential to deliver materially greater financial redress to a significant number of Woodford investors, and that the probability of such an order being granted is extremely high given the evidence against Link Fund Solutions?

98. Regarding the Woodford situation, does the FCA agree that one of the routes by which investors might be compensated is the FCA obtaining a restitution order against Link Fund Solutions, which would then go into default, with the shortfall passing to the FSCS for payment, subject to the statutory limit of £85,000 per eligible consumer; and if so, is it concerned that this option is not spelt out and its merits considered in the letter?

99. Regarding the Woodford situation, it has been widely claimed that Link Group will contribute 'up to £60m' to the proposed settlement. In fact, the small print of the letter indicates that £50m will be retained to meet the liabilities of Link Fund Solutions, cover sale-related costs and fight any litigation from investors who exited the Fund before it was gated. On that basis, the contribution from Link Group may be as little as £10m. Does the FCA consider this to be a good deal for investors?

100. Regarding the Woodford situation, is the FCA comfortable that this letter fairly represents the facts of the case and the options available to consumers for achieving redress?

101. Regarding the Woodford situation, was the FCA given sight of the [letter](#) from Link Fund Solutions to investors dated 7 September 2023 prior to its publication?

The FCA has set out its [position](#) in an update on the Settlement Scheme (the Scheme) proposed by Link Fund Solutions Limited (LFS) in relation to the LF Equity Income Fund (WEIF or the Fund). The FCA considers that the Scheme offers investors the quickest and best chance to achieve a better outcome than might be achieved by any other means. If approved, the Scheme will create a Settlement Fund of up to £230 million for relevant investors that hold shares in the WEIF. This includes a voluntary contribution of up to £60 million from Link Group, the ultimate parent of LFS. This money would not be available to investors through either separate legal action or any other action, we or anyone else, could take.

On 12 October 2023, the Court [decided](#) that the Scheme should be put to investors to vote. The FCA attended that hearing and made representations on the Scheme. In reaching its decision the Court decided that there should be a single class of creditors voting on the Scheme.

- Scheme Creditors have until 5pm on 4 December 2023 to vote on the Scheme, unless they wish to attend in person to vote, in which case they must request to do so by 5 pm on 30 November 2023. The easiest way to vote is via the [online voting portal](#).
- The Investor Advocate, who has been appointed to represent Scheme Creditors in respect of the Scheme, is available to answer questions (contact josephbannisterIA@dacbeachcroft.com).
- LFS are also able to answer questions about the Scheme and how to vote (contact lfsoa@huntswood.com; or call their dedicated helpline at +44 (0)20 3991 0224).

The FCA has engaged with LFS regularly throughout the scheme process on a range of subjects and the firm continues to be supervised by the FCA. This has included discussions regarding the distribution of relevant scheme documents. For good reason, the FCA's discussions with LFS are conducted on the basis that their content will remain confidential. For that reason, we will not answer

questions about the specific nature of our engagements with, or supervision of, LFS.

The brokers, platforms and intermediaries should pass on communications in respect of the WEIF to their customers who are investors in the Fund. The FCA has engaged with those firms as well as LFS to highlight the importance of investors receiving this information. The Scheme documents are also available on the website created for the Scheme for online viewing. It is for the investors within the Scheme to consider how to vote having considered the documents provided under the Scheme. Those documents include information about what will happen if the Scheme does not proceed.

The FCA considers that investors leaving the Fund between 1 November 2018 and 3 June 2019 enjoyed a “first mover advantage” in that their units were redeemed by sales of more liquid assets, while the illiquid assets remained in the Fund and their proportion increased. Therefore, the FCA considers that an appropriate means to assess these losses is to compare the difference between:

- monies that the investors in the WEIF received post suspension; and
- what those investors would have received had the proceeds of the sale of assets realised from 1 November 2018 onwards been shared equally between those who redeemed their investments during that period and those who remained invested in the WEIF at the time of suspension.

The FCA concluded that the most effective way of quantifying the harm borne by the investors remaining in the Fund at its suspension was to divide the sale proceeds of all investments starting from 1 November 2018 (including those sold subsequent to suspension) among all investors from 1 November 2018 and to allocate the same proportionate amount of pre- and post-suspension sales to each investor.

The restitution proposed by the FCA reflects the FCA's position that loss was caused by LFS' failure to comply with Principles 2 and 6. It does not, nor is it intended to, reflect any losses caused by a deterioration in the performance of the underlying investments in the Fund.

A table setting out the FCA's calculation is available in the document entitled "FCA Investigation Summary and the FCA Redress Calculation" on the dedicated Scheme [website](#). It is important to note that LFS has accepted the calculation of loss for the purposes of the Scheme only. If the Scheme is not implemented, LFS has indicated that it intends to dispute the FCA's conclusions and findings of harm.

If the Scheme is not sanctioned, the FCA will commence its regulatory procedures, which includes if it succeeds in its case against LFS, seeking a restitution order.

LFS has the right to contest these proceedings and has publicly stated that it would intend to do so. If the FCA loses, investors would get nothing from this process. Even if successful, it is possible that the amount awarded could be

significantly less than the amount currently on offer. The FCA also considers it unlikely that any restitution arising from a contested process would reach investors for, potentially, a number of years. What is being offered therefore warrants serious consideration by investors.

If LFS contests the proceedings, the FCA's disciplinary process has several stages which are explained in [further detail](#).

LFS would also have the right to refer any decision of the FCA to the Upper Tribunal. The Upper Tribunal is an independent Tribunal with, among other things, the jurisdiction to consider decisions of the FCA. It hears cases in much the same way as a court. Any litigation before the Upper Tribunal would inevitably be complex, lengthy, and costly. While the FCA is confident that its case would be successful and that LFS would be required to pay redress, it is not certain, and neither is the amount of any redress. Whatever the result, such a process is likely to delay any payment of redress considerably and we estimate that this would likely take years. What is being offered therefore warrants serious consideration by investors.

The FSCS offers compensation to eligible claimants up to a limit of £85,000 in respect of claims that are deemed to be 'protected claims' under the FSCS rules. Not all investors will be eligible for coverage.

The FSCS is a fund of last resort and only offers compensation for claims made against firms that are in default. Currently LFS is not considered to be in default by the FSCS and so it has not made any determination in relation to whether any of the conditions are met that would enable it to pay compensation. For example, whether there are protected claims in respect of LFS and whether claimants are eligible for FSCS protection. If FSCS could ultimately pay compensation, given the need for FSCS to assess claims under its rules, it is likely to take longer to receive a payment from the FSCS than it would to receive a payment in the Scheme. If the Scheme is approved investors would have no recourse to the FSCS in relation to claims released by the Scheme.

The reason for the Reserve Amount is explained in the Scheme documentation. The Reserve Amount will be reviewed periodically, and any cash or assets not required for the Reserve Amount will be added to the Settlement Fund for distribution. The FCA continues to consider that the Scheme offers investors the quickest and best chance to obtain a better outcome than might be achieved by any other means. As such, the FCA encourages investors to consider it. We are liaising closely with Link and will continue to do so as the Scheme progresses.