Annual Public Meeting 2024 – responses to unanswered questions

Subjects listed alphabetically and answers grouped where appropriate.

Advice guidance boundary review

1. **What is the progress on the Advice Guidance Boundary Review and when can we expect an update following feedback that was submitted earlier this year?**

The FCA and the Government published a policy paper – on the Advice Guidance Boundary Review - on 8 December 2023 outlining potential options to address the 'advice gap'. The feedback period closed on 28 February 2024. We are analysing the feedback to inform the next phase of policy development and are planning further research and engagement.

We have received responses from a wide range of stakeholders. As would be expected, some of these are very detailed. Various points of view have been offered in response to the three high-level proposals set out in the paper. We must take time to appropriately consider these responses, some of which suggest alternative approaches to those set out in the paper.

Annual public meeting

2. **A disadvantage to holding these meetings virtually is that people who submit questions before or during the event don't get a chance to follow up seeking clarification or challenging answers they consider unsatisfactory. For this reason would the FCA consider introducing a hybrid format for future Annual Public Meetings?**

We will consider carefully how we will run future public meetings. We will keep in mind the vital part these meetings play in our accountability to the public we serve, the resulting need to ensure as many people as possible can ask questions across the breadth of the work we do, as well as our commitment to delivering value for money and equal access for all across the UK, given we are a national regulator.

We will, of course, reflect on your comments as we consider the arrangements for our APM next year.

3. **When will the FCA Board as Executives of s significant public body stop hiding behind webinars and clinical control of questions and face their critics in person?**

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We will, of course, reflect on your comments as we consider the arrangements for our APM next year.

4. **How can I get a copy of this public meeting. I can see it is being recorded**

This webinar is available on our website alongside a transcript.

Authorisations

5. **When conducting due diligence on an FCA authorized firm how much reliance can we place on this authorization? When applying a risk based approach to customer due diligence can we consider FCA authorization (and firms being subject to FCA threshold conditions) to be a significant risk mitigating factor?**

For a firm to be authorised by the FCA, we have assessed that the firm meets the threshold conditions at the point of authorisation and that the firm is ready, willing and organised to meet the complex threshold conditions on an ongoing basis.

We believe that using an authorised firm with the correct permissions, while not removing all risk, can greatly reduce the risk of harm for consumers. We also understand that the FS Register is very technical and can be difficult to understand for consumers and particularly those with lower levels of financial awareness. Therefore we are working on a new tool aimed at consumers alongside the existing FS Register, to help them answer the question: Is the firm I am considering authorised to do what I am interested in? Its release is subject to internal review and consumer testing.

Banking products

6. **Most banks are selling generic retail banking products in a one size fits all format - which could/ does have detrimental impacts on the financially vulnerable. Is there a recommendation from FCA to consumer banks to look at segmenting products and contextually recommend products to end customers on how bespoke products could help their financial goals better compared to potentially predatory products?**

We expect firms to ensure their products and services are fit for purpose, and designed to meet the needs, characteristics, and objectives of a target groups of customers and distributed appropriately. This includes the needs of customers with characteristics of vulnerability.

Firms need to think about the design and features of a product or service, for example whether any features or exclusions mean a product isn't suited to some customers or would have an adverse impact, and make sure this is reflected in the target market the product or service is sold to.

We expect firms to monitor outcomes for their customers and to consider if groups of customers, including those with characteristics of vulnerability, are getting poor outcomes. If they identify issues, this could indicate they have not correctly defined

their target market and may want to change that, including how they are marketing and selling the product.

We have recently been doing work on the Advice Guidance Boundary review. In our discussion paper we included ideas for how we might change the regulatory framework so as to promote the provision of flexible forms of support whereby firms do more to help guide customers to products that meet their needs.

Blackmore bonds

7. **Information disclosed by the FCA in response to FOIA Requests [a response that had to be forced by the First Tier Tribunal] reveals that the FCA produced a comprehensive summary of every firm that played any role whatsoever in each of the six Series of Bonds issued by Blackmore Bond. These comprehensive summaries reference any firm no matter as to the extent of their role or whether they were FCA authorised & regulated or not. HOWEVER nowhere on this comprehensive summary is the name of Lonsdale Insurance Brokers the FCA authorised and regulated insurance broker that arranged the wholly inadequate and inappropriate Capital Guarantee Scheme for Series 1 bondholders with the Costa Rican insurance firm who employed at least two know insurance offenders one of whom, Robert Harrison, was the underwriter for this Blackmore Bond insurance and who The FCA knew had been guilty of issuing similar insurance for a similar UK property scheme in Liverpool years earlier where his company insured investor losses in that Liverpool scheme in excess of £50m in value but when but when the scheme collapsed it was discovered that his company never had more than $100,000 in assets. Did the FCA simply not review the role and conduct of Lonsdale Insurance Brokers despite their role being a regulated activity and squarely within the FCA perimeter? If so why was this not reviewed? Or: If the FCA did review the role and conduct of Lonsdale Insurance Brokers in their brokering of this insurance policy, why is there no mention of them in the FCA's comprehensive summary of all firms who played any role whatsoever be it limited or significant?**
8. **Given that the activity of Lonsdale Insurance Brokers is a regulated activity that is squarely within the FCA perimeter scope and authority why has the FCA never mentioned this firm or their regulated role in any statement in respect to Blackmore Bond made to the media, public, or victims and instead sought to wrongly and/or dishonestly limit the FCA's authority to only the marketing material for Blackmore Bond? TO BE VERY CLEAR the FCA internal comprehensive summary regarding series 1 of Blackmore Bond features the name of the Costa Rican insurance company ION but not the name of The FCA authorised and regulated insurance broker that brokered this enitely inadequate and inappropriate insurance product.**

It is not clear what document is being referred to as "comprehensive summary". However, generally, in line with our supervisory approach, the FCA has explored the

role played by firms known to have been involved in the issuing of the six series of Blackmore Bonds and were appropriate for the FCA to look into.

However, due to legal requirements around confidentiality, we are limited in the information that we are able to provide. It is public knowledge that Lonsdale was an insurance broker involved in placing the capital guarantee scheme.

Buy Now Pay Later (BNPL)

9. **Will the FCA continue to leave buy now pay later loans generally unregulated even following the Woolard report, is the plan still to instead advise consumers on debt management?**

The government released a consultation on 17 October to bring currently unregulated BNPL products into our regulatory perimeter.

We have long called for these products to be brought into our remit and we welcome this consultation.

We will consult shortly after legislation is finalised on our regulatory regime for BNPL. We want to ensure those who find BNPL helpful can still benefit from it, firms can innovate and grow, and consumers are appropriately protected.

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Claims Management fee cap

11. **You have said that you're not in a position to tell firms what to charge their customers. Please explain how you reconcile this against the Claims Management fee cap?**

Under the Consumer Duty, the price a customer pays for a product must be reasonable compared to the overall benefits that the customer gets from the product. These general Consumer Duty requirements do not set prices nor operate as a price cap. Firms continue to have flexibility in the way that they set prices.

Separately there are price caps in place in very specific contexts, such as the caps for high-cost credit and claims management activities on financial services claims. Firms operating in these markets are still expected to consider if their charges represent fair

value and should not rely on complying with a price or fee cap as a basis for concluding that they are providing fair value. These were put in place in response to requirements from Parliament in 2013 and 2018. The CMC fee cap does not set a price for fees. It protects against excessive charges, and is instead a maximum charge that firms can apply for their services.

Collateral

12. **Myself and many other Collateral Investors have been unable to ascertain what is happening with the "Chattel Loans". With regards to these loans please can the FCA advise the FCA's action which was taken following BDO's (The FCA appointed administrator) finding the following " ... significant discrepancies between the book value of "chattel" assets in the Companies' records and the estimated realisable values provided by the independent agents engaged by the Joint Liquidators." This quote was taken from BDO report 10 May 2021 to 9 May 2022.Please also advises what actions the FCA took following the discovery that the list of "chattels" supplied by the Collateral directors did not include many loans that investors including myself had 'invested' in , Please advise - as these can't just have disappeared and total a large sum of invested money. Investors have a right to know.**

The appointed administrator, BDO, continues to work through the administration of Collateral. The Joint Liquidators progress report from 10 May 2023 to 9 May 2024 details the work they are doing to verify the Companies' records and assets.

Peter and Andrew Currie were sentenced to 5.5 years and 2.5 years imprisonment for fraud and money laundering following prosecution by the FCA. A confiscation investigation remains underway. We believe that these actions dealt with the most serious instances of fraud by the defendants.

13. **Why does the FCA call the changing of vital Collateral company details on the FCA Register by a Collateral Director "a sophisticated hack" when the FCA knows full well it was nothing of the sort, the Collateral Director logged in, and simply and easily changed the vital details unchallenged?!**

The term "sophisticated hack" was used by an MP during the Treasury Select Committee in May 2021, it was not a term used by the FCA. The transcript of the TSC meeting makes it clear that this was a misunderstanding which was corrected. There was no hack and we have never categorised it as such.

The criminal case against Peter Currie and Andrew Currie clearly set out the circumstances around the changes made to the register by Peter Currie and the impact they had.

The FCA has since invested heavily in the Register to strengthen controls and make it easier to use, with more information available to consumers.

14. **Why would a personal letter to Mr Alder regarding Collateral be sent to the complaints bin to sit with 300+ complaints that have sat there for up to 6 and a half years? interpreted and sent to rot**

The FCA operates a Complaints Scheme which sets out the process for considering and dealing with complaints irrespective of who they are sent to within the organisation. The Complaints Scheme provides that investigation of complaints may be deferred.

In the case of Collateral it was important that we allowed legal proceedings to conclude, which meant that the investigation of complaints was deferred between January 2019 and July 2023.

When a complaint is deferred, the Complaints Team will provide regular updates to the complainant regarding progress and at the appropriate time, the complainant will be informed of the outcome.

We are sorry that investors in Collateral suffered financial loss, and we recognise that this can be deeply upsetting and a source of significant worry and frustration. It has taken longer than we would have liked to respond to these complaints, but these matters are complex and relate to events which occurred some time ago. It was important to investigate these matters thoroughly and to allow legal processes to conclude.

We are working expeditiously to complete our investigation, which is in its final stages.

Coleraine

15. **Will the FCA board ensure city deal funding comes back to Coleraine?**

Thank you for your question. However, this is not a matter for the Financial Conduct Authority.

Complaints

16. **Given Ashley Alder's espousal of the 'polluter pays' principle does the FCA believe that it should compensate consumers where they lose money as a result of regulatory failure through the Complaints Scheme and in the courts?**

The Financial Ombudsman Service can consider complaints against firms and, where appropriate, recommend or provide compensation to eligible complainants. The Financial Services Compensation Scheme (FSCS) can also consider claims for compensation in respect of firms where certain eligibility conditions are met. The FCA updated its Complaints Scheme in July 2023 to make our approach to compensation clearer where complaints are raised against the FCA. The revised Complaints Scheme, which came into force for complaints received after 1 November 2023, sets out the factors the FCA will consider in deciding whether to make a discretionary

compensatory payment for distress and inconvenience or financial loss. It is a matter for the courts to determine whether compensation is due in any case brought against the FCA through the courts. The Financial Services and Markets Act 2000 provides that the FCA will not be liable for damages for anything done or omitted in the discharge of its functions, subject to certain exceptions.

17. **On 5th July 2024 the FCA sought to defend my application for costs to the First Tier Tribunal and wrote the following: the allegations in which are not accepted Please confirm that you understand and accept the serious allegations within the application for costs as an expression of dissatisfaction and therefore are also processing this as a formal complaint and will be providing the substantive response you refer to in your email to the First Tier Tribunal and irrespective of the Tribunal's response. If you have not thus far interpreted and accepted this as a formal complaint you are hereby advised to do so with immediate effect and explain why you have not already done so.**

We are considering this as a formal complaint and have passed on to our complaints scheme team to handle.

18. **In December 2023 the FCA Complaints team had to admit that they and previously the CEO's office had made false representations to me when claiming that my incoming emails to the FCA had never been subject to interception and diversion prior to October 2022. The FCA Complaints team were forced to admit this after I produced an internal FCA email that they clearly did not know I was in possession of authored on 9th June 2020 by [redacted], then Personal Secretary to Andrew Bailey, which proved that my emails were being intercepted by the CEOs office. [redacted] writes referring to an incoming email from me saying I retrieved it from a segregated account that was set up. Having received this complaint response admitting that The FCA Executive Team and the Complaints Team had made false representations in December 2022 when denying that my mails were not being intercepted and diverted prior to October 2022. I made a new complaint on the basis that even this complaint response was false because the Complaints Team sought to claim that the earliest evidence of my emails potentially being intercepted and diverted by Mr Bailey's office was May 2017. WHEREAS the same June 2020 email from [redacted] that proved the much earlier interceptions also proved that my emails were being intercepted and diverted long before May 2017 and firmly establishes that it had been deployed against me in 2016. In his June 2020 email [redacted] confirms that I had told him never to contact me again. Indeed I told him this on 5th January 2017 so the email that he had retrieved from the segregated account' Baileys office setup to intercept and divert my emails must have been intercepted and diverted to the segregated account in 2016. a) Why therefore did the FCA complaints team make these further false representations as to the date the intercept and diversion of my emails was deployed? b) Why has**

the FCA refused to acknowledge and investigate the new complaint specific to these false representations made?

It is not appropriate to discuss individual complaints. However, the FCA operates a Complaints Scheme which clearly sets out the process for considering and dealing with complaints. That includes that if the complainant is unhappy or disagrees with the FCA's response to their complaint they can refer it to the Financial Regulators Complaints Commissioner for independent investigation.

Consumer Duty

19. **What are your thoughts on how well financial services are treating Vulnerable Customers this year in comparison to previous? - What metrics are you expecting firms to share to show how they are supporting vulnerable customers? What figures are you looking to see?**

We want to see firms acting to deliver good outcomes for customers in vulnerable circumstances. While we have seen examples of good practice, including firms responding flexibly to customers' needs and introducing organisational-wide training on vulnerability, we do still see gaps.

One area where firms need to strive to improve is in using data to identify and monitor customers in vulnerable circumstances. We've seen good examples of individual firms taking action to understand and meet the needs of customers in vulnerable circumstances through flexible customer service and developing staff skills and capabilities, including by creating dedicated support teams. But earlier this year we published our findings from our multi-firm review into insurers' outcomes monitoring under the Duty, where we did not consistently see firms demonstrating monitoring of the outcomes experienced by different groups of customers, including those with characteristics of vulnerability.

Firms need to determine the appropriate metrics and data to use to assess outcomes. Our Consumer Duty guidance sets out examples of what firms can use to measure outcomes, including business persistence data, reviewing whether certain customer groups are more likely to incur particular charges/fees, behavioural insights data and customer feedback data.

Importantly though, we want to see firms taking action where they see consumers in vulnerable circumstances experiencing poor outcomes and continually improving their approach.

20. **Consumer duty regulations are encouraging banks to analyse customer information to pre-empt harm before it happens - that's either via debt traps or affordability led forbearance of paying mortgages or loans. What progress do you see on this on how banks are approaching this?**

The Duty puts the onus on firms to be proactive and avoid causing foreseeable harm. Firms should aim to continuously address issues that risk causing consumer harm.

We have seen some examples of firms making significant changes, but some have more work to do.

In February 2024, we published good practice and areas for improvement on Consumer Duty implementation.

In terms of good practice, we have seen firms be more proactive with their communications to support better customer outcomes. For example, we have seen firms use data to identify customers not earning enough interest/cashback to cover product fees. They made these customers aware of their options and monitored the impact of these communications on customer behaviour.

In terms of areas for improvement, some firms still need to improve their customer communications, for example alerting customers to their options and doing so in a clear and prominent way. The Duty requires firms to proactively identify and address issues and risks of harm.

21. **When will the Consumer Duty grid announced by Sheldon in his CD one year on speech be published?**

We expect to publish our Consumer Duty programme of work in Q4 2024.

22. **One of the 4 key outcomes that consumer duty alludes to is price and value - how is FCA evaluating banks on how fair price and value is extended to end customers to meet their objectives better? Most customers still don't have visibility into what drives the product price points (interest rate/ fees) they are sold - what can/ should banks provide transparency in how products are priced for consumers?**

The Consumer Duty's price and value outcome is there to make sure the price customers pay is reasonable compared to the benefits they receive.

Importantly, whilst we expect firms to think about products or services' price points when assessing fair value, it is not the sole consideration. Our rules do not set prices, require prices to be low, or require firms to charge the same as competitors. Rather, we require firms to assess whether they are providing fair value, and take appropriate action to mitigate the situation if they are not.

Other requirements under the Consumer Duty are also relevant. This includes in particular the rules on product governance, requiring firms to ensure products are designed to meet the needs and objectives of consumers in the target market, as well as the rules on consumer understanding. Firms should think carefully about how they ensure they communicate their product's value proposition to customers in a way that equips them to make effective, timely and properly informed decisions.

Since the implementation of the Duty, we have engaged with industry to ensure firms understand our expectations– for example in our recent good and poor practices publication and our update on cash savings . We continue to work closely with banks

and building societies to ensure that they meet the high standards set by the Duty, and we will take appropriate action where we consider this is not the case.

23. **For effective consumer duty compliance that entails ability to curate products that meet to bespoke customer needs and granular financial outcomes reporting - does the FCA look at a minimum standard of technology ecosystems or platforms that ensure due functionality and reporting - essentially because ability for banks or firms to act on this regulations is only as robust their technical landscape is.**

The Duty is outcomes-based, and firms need to have appropriate MI, systems and processes in place to enable them to monitor whether they are delivering good consumer outcomes, and to track the success of the activities they undertake to mitigate harms and address issues. Our expectations vary depending on the circumstances of the firm, including their size, resources, and the complexity of their products, services, and overall activities.

For example, under the Duty, firms' monitoring needs to enable them to identify whether any group of customers is experiencing different outcomes compared to another group of customers of the same product. That MI should be of sufficient quality and depth for firms to be able to identify which products and processes are working well, and which might be causing detriment and need changing to improve outcomes.

The Duty's requirements need to be interpreted reasonably, in light of relevant circumstances. So, approaches can vary from firm to firm; we do not expect a small firm to deploy the same resources for monitoring and reporting as a large one.

Under our Senior Management Arrangements, Systems and Controls (SYSC) rules, firms must have systems and controls in place to effectively manage their businesses, and firms should also ensure they comply with our final rules and guidance for firms to strengthen operational resilience in the financial services sector. So firms should have effective processes in place to deal with strain on their operations when issues arise.

24. **In the Financial Services & Markets Act of 2023 the Government required the FCA to create a Consumer Duty of care when the FCA have only set up a Consumer Duty which is a much lower standard and is not as good. Why have the FCA ignored Government**

Section 29 of the Act required the FCA to carry out a public consultation on whether to make general rules providing that authorised persons owe a duty of care to consumers. It also required us to publish an analysis of the responses before 1 January 2022, and, having regard to that analysis, to make such general rules as we considered appropriate, before 1 August 2022, about the level of care authorised persons must provide to consumers.

The FCA consulted twice on proposals for the Consumer Duty, once in May 2021 and once in December 2021. As we set out in these publications, we carefully considered the requirements of the Act when consulting on the Duty, and we are confident that we met those requirements.

Enforcement

25. **What has prevented the FCA from taking action to protect consumers when individual directors are reported in their roles on other companies but those individual directors can go on to be directors of other companies that cause significant consumer harm?**

An individual who applies for a Senior Manager Function (who may also be a director) will be subject to checks as part of the Authorisation process. This will include considering matters relating to the individual's background. Regulated firms are responsible for assessing individuals who need to be certified for the roles they conduct.

26. **The FCA recently banned Martin Sarl for dishonest and reckless conduct. But the facts of that case demonstrate a case for fraud by abuse of position. Why was Mr Sarl not prosecuted?**

The FCA uses a wide range of enforcement powers – criminal, civil and regulatory – to protect consumers and act against firms and individuals that do not meet our standards. The FCA also works together with partner agencies to assist them in investigating and prosecuting criminal offences where appropriate.

Having considered all the relevant facts and circumstances, the FCA decided that its statutory objectives and the public interest were best met by taking regulatory action rather than a criminal prosecution.

27. **In May 2024, the Bank of England released details that 27, 000 private equity owned firms may have inflated their financial results in order to obtain finance illegally. What steps are the FCA taking in terms of sanctioning the private equity firms**

We are unaware of any such claim by the Bank of England. The latest assessment of private equity by the Financial Policy Committee of the Bank of England can be found here.

FCA operations

28. **It is essential that the papers that are relied upon by the FCA Board and Executive Committees when making key decisions present the relevant facts and options in an objective and balanced way. We are aware of concerns raised by some FCA staff that FCA Senior Managers have on occasion put pressure on FCA staff to prepare Board or Executive Committee papers in a way that is deliberately skewed so to support a**

pre-determined regulatory decision, regardless of the evidence. Is the Chair aware of this type of concern being raised by FCA staff, and if so, can he assure us that all such concerns raised by FCA staff have been fully investigated?

The FCA takes any concerns raised by employees seriously. There are a number of ways that a concern of this nature could be raised with either line management, Internal Audit or senior management including the Chair. The FCA's response to individual concerns of this nature would be based on a number of factors. The FCA may investigate, and if any issues were identified with the current governance arrangements, then the FCA would take the action required to mitigate potential risks to the organisation of this nature. We are satisfied that papers submitted to the Board and the Executive Committee have followed the correct governance.

29. **In 2020 the FCA suffered a major data breach and promised that it had "taken immediate action to ensure this cannot happen again. Since then, the FCA has warned firms about their handling of personal data and has handed out fines. This year, the FCA's internal auditors issued a damming report on the FCA's own data compliance. Findings included:**
    - **Significant gaps in the FCA's compliance with GDPR and Data Protection Act.**
    - **Controls to protect personal data could not be relied upon**
    - **Staff tasked with safeguarding personal data were junior, had not been trained and were not adequately supervised.**
    - **Limited data protection training that does not sufficiently explain the risks of mishandling personal information.**
    - **The FCA's own controls didn't identify breaches – had it not been for external parties pointing out breaches they FCA would have been unaware.**

Questions:1) It's good to know that the FCA is now taking steps to fix this, however which FCA Senior Managers are accountable for the FCA being in this position and what action has been taken to hold them to account? 2) Given the FCA's admission that its staff have a weak understanding of protecting personal data, how can the FCA credibly supervise how regulated firms are protecting customer data? 3) What engagement has the FCA had with the Information Commissioner in relation to these deficiencies? 4) Why have these deficiencies not been proactively disclosed in the FCA's annual report?

The findings referred to in question appear to be a summary from various historic reports; during this period the relevant SMF was the Chief Operating Officer but the position has changed over time. The FCA's full current SMR framework is accessible on our website.

The FCA has mandatory data protection training for all colleagues and regularly runs specific training sessions and updates to ensure colleagues can gain a deeper understanding of specific aspects of data protection.

The FCA has a focus on continuous improvement, and we look to our Internal Audit function to offer independent challenge on how we perform.

30. **Does the statutory immunity provided to FCA staff prevent or absolve them from being held accountable for their actions? Specifically when that action or non action contribute to a lack of regulatory oversight?**

The statutory immunity in Para 25 Schedule 1ZA FSMA prevents liability in damages for anything done or omitted in the discharge, or purported discharge, of the FCA's functions, subject to some exceptions. The statutory immunity does not prevent action being brought against the FCA or its staff, only liability in damages. It does not therefore prevent or absolve the FCA or its staff from accountability. The FCA is also subject to other accountability mechanisms, for example its statutory complaints process, which provides that complaints can be referred to the independent Complaints Commissioner.

31. **Can someone please explain how can the public trust that the FCA is effectively protecting consumers when its top staff are shielded from personal liability, potentially allowing them to act with impunity?**

The statutory immunity in Para 25 Schedule 1ZA FSMA does not prevent action being brought against the FCA or its staff, only (subject to exceptions) liability in damages. The exceptions disapply the statutory immunity where the act or omission was shown to be in bad faith, or was unlawful under the Human Rights Act 1998. It does not therefore shield the FCA's staff from personal liability, nor does it allow them to act with impunity.

32. **I have read a great deal of correspondence recently which contains the word 'meaningfully' without it ever being fully disclosed just what it actually covers. Is this not just another example of wordplay and if not what does meaning fully actually represent in real terms?**

We do not understand from your question the context in which this term has been used. However, we are not aware of any meaning given to this term other than its natural meaning.

33. **What is the FCA's policy on the retention of emails, documents and other records? When was the policy introduced and what was its practice beforehand?**

The FCA's Records Retention Schedule is published on the organisation's website, and can be found here.

The Schedule sets out the FCA's three main retention periods which are 7 years for operational records; 25 years for regulatory records; and "life of the FCA + 25 years" for corporate records. Where legislation or best practice requires a time period outside of the three main categories for certain information, exceptions are applied to those types of records. These exceptions are also detailed in the Schedule.

The FCA has had a Records Retention Schedule since its inception in 2013 and it is reviewed periodically to ensure the main retention periods and exceptions are up to date. The present Schedule has been in existence since 2020 and we are currently undertaking a review with a view to publishing a refreshed version early in the New Year.

34. **On Outcome 2 under Dealing with Problem Firms at DPF2-M03 for FY 2023 the FCA provides a figure of 268 additional FCA intervention tools. in the period July 2023 to March 2024. Could you explain a bit more what the additional tools are please. Does this number include actions on firms' risk mitigation plans**

In the "further detail on these metrics and limitations" section of the webpage we explain the following: *Our operational metric on the volume of stronger own-initiative interventions we take (DPF2-M03) involves getting firms or individuals to take specific actions, stopping or restricting their activities, withdrawing permissions or putting conditions on their approval. We have expanded this to also include the following additional tools:*

- *Attestation 1 - Notification*
- *Attestation 2 - Undertaking*
- *Attestation 3 - Self-certification*
- *Attestation 4 - Verification*
- *S. 166 - FCA contracts with skilled persons review*
- *S. 166 - Regulated firm contracts with skilled persons review*
- *Asset retention / restriction (insolvency)*
- *FCA initiated insolvency action*
- *Financial Promotions Banning Power*
- *Unfair Contract Terms Undertaking*
- *OIREQ*
- *OIVAP – Own Initiative Variation of Approval Power*
- *OIVOP - Fundamental*
- *OIVOP - Non-Fundamental*
- *Power of Direction under MLRs (own initiative) - Fundamental*
- *Power of Direction under MLRs (own initiative) – Non-Fundamental*
- *Power of Direction under MLRs (voluntary)*
- *Published undertaking*
- *Unpublished undertaking*
- *Voluntary Requirement*
- *Voluntary Variation of Approval Power*
- *Voluntary Variation of Permission*

For the 268 reported, the distribution was across the following tools:

- Asset retention / restriction (insolvency)
- Attestation 1 - Notification
- Attestation 2 - Undertaking
- Attestation 3 - Self-certification

- Attestation 4 - Verification
- FCA initiated insolvency action
- Published Undertaking
- S. 166 - FCA contracts with skilled persons review
- S. 166 - Regulated firm contracts with skilled persons review
- Unfair Contract Terms Undertaking
- Unpublished Undertaking
- Voluntary Requirement
- Voluntary Variation of Permission

35. **The Freedom of Information Act (FOIA) states that the public body must make all reasonable effort to engage with the requester and find a way to disclose the information being requested. Indeed the First Tier Tribunal decision in Carlier vs the ICO and FCA also specifically found against the FCA for breach of this legal obligation. The FCA was aware of the specifics of the law was aware of this First Tier Tribunal finding and was aware that the liquidator had already provided the waiver of this confidentiality and given authority to disclose information to a different requester. Why therefore did the FCA wrongly and unlawfully claim when eventually providing its response to these FOAI requests as ordered by the First Tier Tribunal that it had no obligation to contact the Liquidator of Blackmore Bond after I informed the FCA that the liquidator had previously provided a waiver of confidentiality and authority to disclose information in response to a FOIA request by a different requester and that they would likely do so again in respect to my FOIA requests that the FCA was refusing to disclose information in response to on the basis of confidentiality?**
36. **Immediately after the FCA made me aware of their unlawful approach and refusal to contact the liquidator I contacted the liquidator and asked them to provide the same waiver and authority that they had provided to a different FOIA requester who had also asked the FCA for information regarding Blackmore Bond and entirely as expected they provided the FCA with the same waiver and authority to disclose the information. I struggle to see any other reason to adopt this unlawful position other than an attempt to avoid disclosure of information that it had an obligation to disclose but would rather the public did not see. If this is incorrect can the FCA provide an alternative reason?**
37. **FURTHERMORE why did the FCA not inform me that it was adopting this wrong and unlawful position for more than two months after I had told them to ask the liquidator for their waiver and authority and only after it had undertaken its exercise to review documents for the purpose of disclosure? Within days of this communication of the unlawful approach the liquidator in response to my formal request upon discovery of the FCA failure to request provided their waiver and authority and The FCA confirmed it would run its entire documentary review again to see what information it could now disclose as a result of this waiver and authority.**

Does this not constitute a deliberate waste of FCA resources having to duplicate an exercise entirely because it had knowingly acted unlawfully when determining the criteria for its initial review?

Whilst we are unable to discuss the specific circumstances of individual cases, we would like to explain that, if a member of the public is unhappy about the handling or the outcome of a request they have submitted under the Freedom of Information Act 2000, they have the right to ask for an internal review of their request. If they remain dissatisfied with the outcome of the internal review, they also have a further right of appeal to the Information Commissioner.

38. **Given Nikhil Rathi's appreciative comments about the work of Transparency Task Force will he undertake to invite the organisation to join the FCA's Consumer Network? If not, why not?**

We have considered this and previous requests by the TTF to join the Consumer Network by looking at a number of factors including the nature and function of the organisation and concluded that there are more appropriate channels for engagement with the Task Force. As we have previously explained, we think that engagement with the Task Force is better conducted through a combination of channels of communication with the FCA which are more appropriate for an organisation of its type including the executive casework team, external affairs and directly with policy teams.

39. **Is the FCA worried about the 'trust deficit' revealed by its Financial Lives survey which shows that consumers trust the industry far less than they do the firms they are currently using. Does it accept that this is a barrier to growth for the sector? Is it conceivable that consumers distrust the industry because of the sizable number of scandals that have happened in recent years and the poor outcomes when such matters have come to light? If so does it acknowledge that swifter more assertive and more accountable (to consumers not the industry) regulation is in the interests of the honest majority of firms in the sector and that representations made for further regulatory laxity in the name of growth are best ignored?**

We have been committed to advancing our primary objectives, maintaining the high standards necessary to ensure an appropriate level of consumer protection, market integrity and effective competition, all of which are foundational to trust and confidence in financial services. This includes where appropriate, using a wide range of enforcement powers – criminal, civil and regulatory – to take assertive action to protect consumers and act against firms and individuals that do not meet our standards. Tackling financial crime, fraud and disorderly firm failure are fundamental to the delivery of our primary objectives. We have also been working on improving the quality of financial promotions, with our interventions in 2024 Q3 resulting in 10,593 promotions being amended or withdrawn by authorised firms, and increasing access to financial advice (through our advice guidance boundary review) and other forms of support for customers. Finally, our Consumer Duty is the bedrock for

promoting greater trust in retail markets, making sure authorised firms strive to focus on good outcomes for consumers and we are seeing improvements since the implementation of the Duty in 2023.

40. **Why FCA no longer give updates on Transformation programmes and progress against Dame Gloster?**

In December 2021 we provided an update against each of the recommendations made by Dame Elizabeth Gloster. We followed this up with an in our 2022/23 Annual Report summarising our actions in response to both the Gloster and Parker Reviews, as well as an update on assurance work conducted on these actions. At the end of 2023/24 we completed our Transformation Programme, with change initiatives continuing as part of business as usual. As an organisation we continue to look for opportunities to improve our operational efficiencies and effectiveness and will report on progress through our annual report.

41. **When should we expect the next edition of the regulatory initiatives grid and an updated issues with wider implications log (the last publication was November 2023)?**

Publication of the eighth edition of the Grid was postponed due to the general election. Due to the replanning required because of the change of government, the Financial Services Regulatory Initiatives Forum (the Forum) will not be able to provide a complete grid this year.

However, the Forum recognises that the Grid is a valuable tool for industry and stakeholders and we have therefore provided an interim update.

This update covers known regulatory initiatives impacting firms from October 2024 to March 2025. It is intended to support impacted firms and stakeholders in their planning.

More information can be found here.

Fraud and scams

42. **When Andrew Bailey as CEO of the FCA was provided with the name of the person at the NatWest Group who taught trainees how to forge signatures he did not investigate this and the Metropolitan Police have also refused to is that what you mean on working with the police on fraud matters that you cover them up together?**

The NCA looked into allegations of signature forgery by banks and wrote to the Treasury Select Committee with its findings in February 2023. The letter can be found here.

Funeral plans

43. **Why did the FCA fail to put in place a regulatory frameowork in the funeral plan sector following the RAO 2001 given that Aricle 59 did regulate the**

funeral plan sector and only companies complying with Article 60 (1) (b) should have been exempted from regulation?

44. **The RAO 2001 did not catagorically state that firms claiming Article 60 exemption should not be checked, vetted and reviewed. Why did the FCA fail to put such a framework in place?**
45. **Why does and did not the FCA not act consistently over time and between companies with regard to the RAO 2001? Article 59 of the RAO 2001 did actually regulate the funeral plan sector and this was confirmed in writing to Nicky Morgan MP by the FCA. The FCA chose not to put a framework in place under Article 59. How the FCA interpreted the RAO 2001 is the issue around Article 60 (1) (b). The Article 60 (1) (b) did not state not to put a framework in place for checks balances and a regulatory framework for those funeral plan companies claiming the use of the Article 60 exemption from Article 59 regulation.**

The regulatory framework that came into force from January 2002 provided that if a funeral plan provider did not rely upon the exclusions contained at Article 60 (1) (a) or (b) of The Regulated Activities Order 2001 (the RAO), the firm should have applied for authorisation from the FSA/FCA to engage in the activity of 'entering as provider into a funeral plan contract' as set out under Article 59 of the RAO.

No funeral plan providers applied to the FSA/FCA for authorisation in the period 2002-2022 because they sought to rely on the exclusions from regulation contained in Article 60 (plans covered by insurance or trust arrangements). Funeral plan providers were understood to be conducting business in compliance with the exclusions allowed under the RAO to 'undertake' that funeral plan funds were secured by way of a whole of life (WOL) insurance policy or in an independent trust.

Regarding the FCA's approach to unauthorised business (i.e. those firms acting outside of the Article 60 exclusions), the FCA's Unauthorised Business Department ("UBD") was responsible for assessing all reports about potential unauthorised activity and taking appropriate and proportionate action to stop harmful conduct. If a firm was reported not to be complying with the Article 60 exclusion, the FCA would have considered what further action was necessary, depending on the level of seriousness and risk of consumer harm.

Horizon

46. **When will the FCA uphold its published regulation – the banks and their lawyers as disclosed in the Post Office scandal are perverting the course of justice by their dishonest conduct**

Current account customers are able to withdraw and deposit cash at Post Office counters under contractual arrangements between the individual firms and the Post Office. We aren't aware that the basis of this agreement has been challenged as part of the Post Office Horizon IT Inquiry.

Insider dealing

47. **I research insider dealing regulations, and would like to hear more about the justifications behind keeping both the criminal and civil regimes against insider dealing. What is the (fundamental) purpose of the dual-regulatory framework? Thank you**

Preventing, detecting and punishing market abuse is a high priority for the FCA. It's important in fulfilling our statutory objectives of protecting consumers, enhancing market integrity and promoting competition.

Insider dealing is a criminal offence under Part V of the Criminal Justice Act 1993, and making false/misleading statement or engaging in conduct which created a false/misleading impression is are criminal offences under Part 7 of the Financial Services Act 2012. Insider dealing, unlawful disclosure, market manipulation and attempted manipulation are all civil offences under UK MAR. For breaches of UK MAR we can impose unlimited fines, order injunctions, and or prohibit regulated firms or approved persons. Criminal sanctions for insider dealing and market manipulation can incur custodial sentences of up to 10 years and unlimited fines.

It is important to note that UK MAR also gives us powers and responsibilities for monitoring the prevention and detection of market abuse by placing requirements on firms and issuers to maintain appropriate records and have robust systems and controls to detect and report possible instances of market abuse. As such, UK MAR provides the full holistic framework for combatting market abuse, whereas the criminal legislation relates solely to the actual offences.

The overarching purpose of a criminal regime is to provide a stronger deterrent and penalty for more serious market abuse behaviour. When deciding whether to prosecute market abuse or seek a civil resolution, we are likely to consider some of the factors set out in EG 12.3.2.

In deciding whether to commence criminal proceedings for market abuse, the FCA will apply the basic principles set out in the Code for Crown Prosecutors.

HMT and the FCA reviewed the criminal regime in 2023. We identified a number of areas where it would be appropriate to update the regime. Changes to that regime will be considered alongside any changes to the civil UK MAR regime. Please see the link here for more information.

Insurance

48. **What is the FCA doing to address the kind of APRs uncovered by Which? That insurers are charging customers who pay for their insurance via monthly direct debit?**

Premium finance allows people to pay for insurance in instalments. With the average yearly rate on the amount of money borrowed ranging between 20 to 30%, we are concerned that premium finance may not be providing fair value. Over 20 million

people are estimated to pay for their insurance this way and FCA research shows that 79% of adults in financial difficulty have used the product.

To help us analyse whether people who borrow to pay for motor and home insurance are receiving fair, competitive deals, we have launched a review, known as a competition market study.

This launch was part of a package of work we have announced in the insurance market amid concerns about rising prices, alongside the launch of a Government motor insurance taskforce. The Government's taskforce, which includes the FCA, will aim to identify any actions that may stabilise or reduce motor insurance premiums, while maintaining appropriate levels of cover.

Our work will see us analyse the causes of increased costs in motor insurance and will look closely at claims costs, reviewing claims handling arrangements and factors impacting different types of claim. We will also analyse the impact of rising insurance prices on different customer groups, such as younger and older drivers and those from ethnic minority backgrounds or on lower incomes.

This work will reinforce our recent correspondence with firms which has focused on price and value, including our portfolio letters, which inform the firms we regulate of our insurance priorities to 2025.

49. **What about regulating insurance brokers?**

Firms and individuals must be authorised or registered by us to carry out certain activities, including regulated activities undertaken by insurance brokers.

Our strategic objective under the Financial Services and Markets Act (FSMA) is to make financial services markets function well. Insurance brokers play a significant role in the UK economy, providing vital services for millions of consumers and businesses, and our insurance strategy reflects this.

We monitor which firms and individuals can enter the financial markets, making sure they meet our standards before we authorise them.

Firms must continue to meet these standards after we've authorised them, and we supervise how they work to make sure they do. If we find that firms aren't following our rules, we act. This may mean imposing fines, stopping them from trading or securing compensation for consumers.

A key aim for us is that the UK insurance market continues to be successful in helping customers achieve their financial goals and is there for consumers and companies when the worst happens. We work closely with industry, often attending events to talk about our work and to share messages, as we did recently when Emily Shepperd, Chief Operating Officer, attended and spoke at the British Insurance Brokers' Association (BIBA) conference.

50. **For insurance companies, what if any regulatory oversight is completed on the selection and oversight of underwriters for the provision of insurance?**

Our systems and controls and training and competence regime makes sure the financial services workforce is appropriately qualified and competent.

The regime includes:

- a high-level competence requirement (the 'competent employees rule') that applies to individuals engaged in the regulated activity in all UK authorised firms as set out in our Senior Management Arrangements, Systems sourcebook (SYSC)
- more detailed requirements for certain retail activities, including the need to attain a qualification where relevant, as introduced below and set out in our Training and Competence sourcebook (TC)
- A certification regime requiring firms to certify certain people as fit and proper to do their job.

We don't directly oversee individual underwriters unless they are also carrying out a senior management function, as this is the responsibility of the firm where they are employed.

Mini-bonds

51. **Why have FCA chosen to take some actions against some Firms which caused Losses for Lenders while chosen NOT to act against Firms again causing Losses to Lenders. For e.g., FCA chose to ban Mini Bonds forcing Wellesley into Administration causing heavy losses to all Lenders while keeping Silent on Acts and Omissions of Firms and knowingly allowing them to trade Illegally like MoneyThing (who illegally traded as a P2P with FCA's knowledge until FCA authorised it)?**

The FCA introduced a ban on the mass marketing of speculative mini-bonds to retail investors in January 2020. We did so initially as a temporary measure and then, after public consultation, permanently to protect retail investors and address concerns that speculative mini-bonds were being promoted to consumers who neither understood the risks involved nor could afford the potential losses. Our Policy Statement provides detail as to our reasons for this action, which was not against any particular firm but rather a market-wide protective intervention.

We have also more recently introduced measures to strengthen our financial promotion rules for high-risk investments, including P2P agreements. These requirements, which include strengthened risk warnings, enhanced client categorisation rules and a ban on incentives to invest, are designed to help consumers understand the risks of high-risk products and only invest where that is right for their circumstances. We are unable to comment on the position with individual firms.

52. **A common feature of investment scams, mini-bonds included, is the approval by authorised firms of promotions that turn out to be misleading. Currently approving third-party promotions is not a regulated activity which limits the FCA's scope to enforce against them and consumers' rights to redress through the Ombudsman then FSCS. Does the FCA believe that approving third-party promotions should be a regulated activity with the powers for it and rights for consumers that this implies? If so has it made representations to Government or the Treasury Committee to change the Regulated Activities Order accordingly or will it commit to doing so?**

Our regulatory remit is set by the Government and Parliament, and whether an activity is regulated by the FCA is a matter for the Government.

As of 7 February 2024, subject to a transitional regime, authorised firms require the FCA's express permission to approve financial promotions for unauthorised persons under s21 of FSMA 2000, unless an exemption applies. This follows changes to legislation made by the Financial Services and Markets Act 2023. In September 2023, we set out our final proposals for operationalising this new regulatory gateway. The Policy Statement includes our approach to assessing applications, introduces regular reporting requirements for approvers, and sets out our decision on the jurisdiction of the Financial Ombudsman Service in this context. Approvers must have sufficient competence and expertise in the type of promotions they want to approve, and we assess this carefully for all applicants. This gateway means we can, subject to the exemptions, assess firms at a regulatory gateway before granting them permission to approve financial promotions. After permission is granted we are able to better understand, monitor and record those firms approving financial promotions, which we were not previously able to do as effectively. We can also amend or withdraw permission to approve promotions in appropriate cases.

For a discussion of why the Government chose to implement this new regime in the way that it has, rather than creating a new regulated activity in the Regulated Activities Order, please see HM Treasury's consultation and subsequent response.

We have also strengthened our requirements for firms approving investment financial promotions and set out non-Handbook guidance for investment business approvals. Amongst other requirements, approvers need to consider their responsibilities under the Consumer Duty, ensure that promotions they approve are fair, clear and not misleading, and take reasonable steps to monitor the continuing compliance of a promotion through its lifetime.

Motor finance

53. **When did the FCA first become aware that firms were incentivising dealerships to overcharge consumers for motor finance through the use of discretionary commission arrangements? Why did it wait so long to act?**

Our work on motor finance commission arrangements has spanned a number of years and has moved through various stages of diagnostic work and consultation. This resulted in the ban on discretionary commission arrangements (DCAs) in 2021, and subsequently our current review into the historic use of DCAs.

Following a rapid growth in the use of motor finance we launched an exploratory motor finance review in 2017, to develop our understanding of these products and how they were sold, and to assess whether the products could cause harm to consumers and if the market was functioning as well as it could be.

In 2018 we highlighted to industry our concerns that if not properly managed, some of the commission arrangements in place incentivised dealers to arrange finance at higher rates. This fed into our final findings in 2019 where we set out concerns over the widespread use of commission models that linked the broker's commission to the customer's interest rate under the finance agreement and allowed brokers wide discretion to set or adjust that interest rate.

We then consulted on banning these. This came into force in 2021, to allow sufficient time for firms to implement the changes in a compliant way (the COVID-19 pandemic being one relevant factor). We also asked firms to review their practices and, where harm was identified, to address this.

54. **In February 2016, April 2016, June 2016 and again in February 2017 I Paul Carlier [and yes you can publish my name. I waive any right to confidentiality] made substantial reports to the FCA all accompanied by significant hard evidence proving that Black Horse were guilty of the industrial scale mis-selling of car finance and making of false representations to customers in response to complaints made alleging this. My evidence included documents and recordings of calls with Black Horse that proved the APR on their car finance agreement was being applied on whatever the dealer and Black Horse could get away with basis and by way of incentivised commercial agreements between Black Horse and their dealer network. The FCA confirmed that this intelligence was one of several factors in the launch of your review of car finance that commenced in April 2017 and was reviewed as part of that investigation. Can the FCA please therefore explain why they produced what they knew to be a dishonestly limited final notice in March 2019 that failed to mention the industrial and nationwide scale of these practises by Black Horse [and others] and even failed to name Black Horse?**

In March 2019 we published the final findings of our motor finance sector review and assume this is what the question refers to. This was not a final notice issued in the context of enforcement proceedings. The review was prompted by the rapid growth of the use of motor finance by consumers and a desire to develop our understanding of how these products worked and how they were sold.

These findings included a recognition that the "way commission arrangements are operating in motor finance may be leading to consumer harm on a potentially

significant scale" and that "customers are paying significantly more for their motor finance because of the way lenders choose to remunerate their brokers".

Following the completion of our review, the next steps we set out in section 6 of the publication included the following:

"Where we have identified concerns through our findings, we will follow up with the individual firms. Where necessary, we may consider supervisory or enforcement action. We may also ask firms to report to us on progress in addressing issues."

The purpose of our current review is to establish whether there has been widespread misconduct across the sector and if so, whether consumers have lost out. If we determine that redress is owed, we will identify how best to make sure people who are owed compensation receive an appropriate settlement in an orderly, consistent, and efficient way.

We are not permitted to share confidential information restricted by the Financial Services and Markets Act. This includes confidential information about the supervision work we do and enforcement investigations that we undertake.

55. **The FCA notice deprived victims of sufficient evidence with which to bring a claim and the FCA indicated that they were limiting any action to changing the rules going forward to prohibit these practises again by virtue of concealing the true nature of the mis-selling and the scale of it. WHEREAS the FCA knew exactly how widespread this was and knew that the way in which these firms were operating breached existing FCA codes, consumer law and legal precedents, and so deprive consumers of the redress to which they were entitled? b) In an article published by journalist Lindsey Rogerson regarding the FCA's new review of car finance Lindsey reveals that she asked the FCA what it could learn from this new car finance review that it did not know as a result of the investigation that you concluded in 2019? Your answer was that in that original investigation the FCA did not undertake any customer file reviews or other steps to determine if customers were damaged and to what extent. This was a false representation because from the FCAs own historic statements it confirms that it did undertake such actions in that original investigation. Did you make this false representation because as is my position there is nothing that you can learn from this new review that you did not already know when you published that final notice in 2019 or indeed nothing that you did not already know after my reports and significant evidence I made to you in April and June 2016 and agains in February 2017**

The final findings of our motor finance review (published in 2019) identified that there had been a widespread use of discretionary commission arrangements ("DCAs") in the motor finance sector.

We also stated that we had identified the potential for consumer harm on a significant scale as a result of the way commission arrangements were operating in motor finance.

We told firms to review their systems and controls, in light of our findings. We stated that where harm, or potential harm, was identified by firms, they should address this. Our review did not give any findings as to whether or not harm had been caused to consumers.

We then undertook policy work to assess the options for intervention to remove the risk of harm posed by the use of DCAs in the sector. The result was the ban on the use of DCAs in motor finance which came into force on 28 January 2021.

The purpose of our current review is to establish whether there has been widespread misconduct across the sector and if so, whether consumers have lost out. This review was launched in the context of a high number of complaints from customers to motor finance firms claiming compensation for commission arrangements prior to the 2021 ban, and firms rejecting those complaints. It is necessary to assess thousands of records spanning 14 years to properly assess whether there has been misconduct and consumer harm.

56. **The Financial Ombudsman Service (FOS) confirms that it denied 17, 000 complaints specific to these incentivised commission agreements between FCA authorised car finance lenders and their car dealer agents. I have evidence that proves that a 'senior stakeholder group in the FOS reporting directly to then CEO Caroline Wayman was tasked with intercepting all car finance complaint responses that were produced by FOS employees and regardless of the conclusion by the FOS adjudicator and regardless of the individual evidence and merits of the complaint ensuring that they were all denied and so as, and I quote, keep things joined up with the desired and pre-determined outcomes and if necessary forcing or pressuring the FOS employee to reverse a decision to uphold the complaint. Did the FCA put any pressure on The FOS or make any suggestion or direction to the FOS that was intended to influence or could possibly have influenced the way in which the FOS handled such complaints? Or did the FOS manipulate these investigations and outcomes of its own volition?**

We are not aware of any such interception as described in the question and do not recognise the assertions made.

When we first introduced the pause to complaint handling, we said that as at the beginning of December 2023, approximately 10,000 motor finance commission complaints had been referred on to the Financial Ombudsman Service ("FOS"), of which over 90% were referred since the start of 2022. On their website (where the page was last updated in May 2024), they state "We currently have around 20,000 open complaints related to car finance commission. In January 2024, we published our first, representative, final decisions fully addressing the arguments we've received across a range of motor finance complaints."

The FOS was set up by Parliament to independently resolve complaints quickly and with the minimum of formality based on what is fair and reasonable in all the circumstances of a case. It is operationally independent of the FCA. We work closely with the FOS under our statutory duty to co-operate, and we use the Wider Implications Framework as a way to comply with the duty. The framework provides a structure for us to work together to achieve a complementary and consistent approach, so far as it is consistent with our independent roles.

A suggestion or direction as described in the question would not be in line with this framework and did not occur.

Payments

57. **What is FCA recommendation to modernize UK Faster Payment scheme (2008) and support account to account payment? Countries like USA (FedNOW), India (UPI), Europe (SEPA Instant Payment) are focusing on instant payments.**

The UK's faster payments system is administered by Pay.UK and regulated by the Payments System Regulator. In accordance with our objectives, we are supportive of enhancements to the UK's payments infrastructure to enable it to deliver benefits to consumers, markets, competition and growth. The FCA is supporting account to account payments, as joint leads of the Joint Regulatory Oversight Committee (JROC). JROC is continuing to work closely with industry to deliver non-sweeping Variable Recurring Payments (VRPs) that provide competition to card services giving merchants and consumers access to fairer pricing, more control and better security.

58. **Why wasn't Confirmation of Payee not introduced in 2008/09 at the same time as Faster Payments?**

Faster Payments was launched as a voluntary industry initiative. It has achieved good customer outcomes by providing near real-time receipt of funds. However, it has also reduced the opportunity for fraud prevention by reducing the timeframe for investigation.

Since 2008, APP fraud has grown at a rate and scale that was not widely expected when Faster Payments was introduced. As a result, the Payment Systems Regulator (PSR) has directed firms to implement protection mechanisms to tackle APP fraud, including Confirmation of Payee (CoP) and a requirement to reimburse customers for APP fraud losses.

To implement CoP, Pay.UK needed to develop new rules and standards. However, to implement those rules and standards, firms needed to use new API technology that was not generally available when Faster Payments was first launched.

Philips Trust Corporation

59. **When will the FCA meet with the victims of the building societies scandal relating to the Philips Trust Corporation - a meeting has been promised.**
60. **PTAG has submitted a number of questions on behalf of victims. When will you answer these?**

We understand how keen the victims of the Philips Trust Corporation are on a meeting with the FCA. Prior to the recent General Election being called we were considering if we could facilitate an event with the APPG for the victims. Due to the general election, this had to be paused, as the APPG was dissolved. Since the election, we have been waiting on the formation of the new APPG to resume discussions. This has now happened, and we are in touch with the APPG to organise.

We have now responded to the questions submitted by the PTAG.

61. **Why has the FCA not investigated the activities of the Family Trust Corporation Limited circa. 2018 when as I understand it, FTCL was regulated at the time**

The Family Trust Corporation Limited were registered as introducer appointed representatives of the principal, Openworks Ltd between 2014 and December 2018 and were not regulated by the FCA.

Introducer appointed representatives are appointed by a firm whose scope of appointment is limited to effecting introduction and distributing non-real time financial promotions.

62. **The Compulsory Jurisdiction of the Ombudsman isn't limited to regulated activities, and DISP 2.3.1 of the rules specifically covers complaints related to ancillary services. After reviewing the evidence I provided, the FOS has agreed to investigate my complaint about the Building Society, determining that the referrals to third parties amounted to ancillary banking services—an activity within the FOS's scope. Why does the FCA disagree with the FOS on this matter?**
63. **Is the FCA able to clarify why it deems the Building Societies introduction not regulated or ancillary to regulated activities?**
64. **The Building Societies were introducing/recommending their clients to Companies I.e FTC EPG TWWC that were neither registered with a supervisory authority for anti-money laundering purposes nor authorised to carry out reserved legal activities, both of which constitute criminal offences. Given the severity of these violations why does the FCA continue to choose not to investigate the Building Societies involved in these serious breaches of regulatory and legal requirements? The lack of action raises significant concerns about regulatory oversight and accountability. I urge the FCA to provide a clear explanation for its inaction given the apparent contraventions of both anti-money laundering regulations and the laws governing legal services.**

The Financial Ombudsman Service's role under the Financial Services and Markets Act 2000 (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 Financial Ombudsman Service is operationally independent of the FCA and, therefore, we can't get involved in decisions it makes on individual complaints or how it handles them.

It is for the Ombudsman to decide whether it has the jurisdiction to consider the merits of an individual case referred to it.

Ancillary activities are activities that are not regulated but are carried on in connection with a regulated activity, or held as for being for the purposes of a regulated activity.

Based on the evidence we have reviewed, our view remains that the building societies' introductions for wills, power of attorney and estate planning services to Estate Planning Group (EPG) entities did not involve regulated activities under the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (RAO). The activities that are placed within the FCA's remit are decided by Parliament and the Government through secondary legislation.

The building societies in some cases endorsed the EPG entities and referred to them in promotional material, including having onsite seminars and using their branches. However, we do not consider that this, or any other evidence we have seen, constitutes advice or recommendations given by the building societies for products, or brings the matter within the scope of our powers under the Financial Services and Markets Act 2000 (FSMA).

We are aware that the building societies promoted these services and saw the EPG entities as 'partners', introducing to them in that capacity. However, we do not believe that these fall within the scope of rules governing financial promotions and are therefore not within our remit. For our financial promotions rules to apply there would need to be evidence that the building societies communicated an invitation or inducement to engage in a controlled activity. What amounts to a controlled activity is closely aligned to what would amount to a regulated activity under legislation in the RAO. Given this, and whilst the building societies promoted the EPG entities and referred to them in promotional material, including having onsite seminars and using their branches, we have not seen evidence that brings this within the scope of our powers under FSMA.

We are aware that, in some instances, customers may have received advice from other regulated entities, linked to building societies, about underlying investments that were subsequently placed in trust. There are specific circumstances in which this provision of advice may bring this matter within our perimeter. However, the decisions to move underlying investments to higher risk, non-standard assets were by Philips Trust Corporation (PTC); a firm the building societies did not have a relationship with and whose decisions they could not reasonably have foreseen. This therefore limits any action we could take in respect of the related regulated entities.

These were unregulated introductions, and from the evidence we have reviewed, do not appear to have involved ancillary activities. Ancillary activities are activities that are not regulated but are carried on in connection with a regulated activity, or held as for being for the purposes of a regulated activity. As a result, they are not subject to the same expectations of due diligence that would be in place for an introduction to an authorised firm providing a product/service that falls within our remit.

On the registration on the AML register, it is not for the FCA to comment. As these were unregulated entities, this was not an area that falls within our remit as supervising authority, this would be an area for HMRC to consider.

65. **As you are undoubtedly aware certain building societies are in the process of making voluntary payments to clients affected by the Philips trust matter. This action has brought into sharp focus the conduct of Taylor Rose, a regulated entity whose communications during this time were deeply misleading. It has come to my attention that Taylor Rose issued information regarding their acquisition of The Family Trust Corporation and Philips trust These communications ,which were later dismissed by Taylor Rose as mistakes were not only false but have led to catastrophic consequences for the affected clients The literature distributed carried the Taylor Rose heading and their representatives claimed to be acting under Taylor Rose indemnity insurance when they provided incorrect information The situation is particularly alarming as the building societies seemingly relied on these communications encouraging their members to engage with Taylor Rose ,likely based on false premises Taylor Rose explanation that these errors were the responsibility of an employee ,Richard P Wells is far from adequate If Mr Wells was acting under Taylor Rose's authority then Taylor Rose as his employer must be held accountable for the actions he took while in their employment This raises serious questions about the integrity of information Taylor Rose distributed and their regulatory oversight Given the severity of the matter and Taylor Rose role as a regulated firm I am compelled to ask Why has the FCA not conducted a thorough investigation into Taylor Rose involvement in this situation including the distribution of false information and the action of their representatives ? The lack of regulatory intervention in such a severe breach of trust and responsibility is concerning particularly in the light of the impact this has had on numerous clients. I urge you to take immediate action and clarify your position regarding the accountability of Taylor Rose must bear in this matter I look forward to your prompt response**

We have provided our response based on Taylor Rose Ltd
69 Carter Lane
London
EC4V 5EQ

Taylor Rose is an exempt professional firm and relies on its authorisation via the Solicitors Regulatory Authority (SRA). This type of firm (such as solicitors, accountants and chartered surveyors) can provide some regulated products and services as part of their normal professional services, without being authorised or an agent of an authorised firm.

The FCA does not regulate exempt professional firms, and this would be an area for the SRA to consider.

The FCA assessed all the information we received in relation to PTC, including information from whistleblowers, to ensure that the appropriate action was taken.

Because of the confidentiality obligations we are subject to, we are limited in the detail we can provide about the information obtained by the FCA and the actions that it took in response.

We will continue to actively monitor this situation and consider any further information, including Ombudsman decisions and if we need to review our wider approach.

66. **As a regulator tasked with protecting consumers and ensuring the integrity of financial markets, the FCA has increasingly come across as a Financially Complicit Authority, turning a blind eye to misconduct and prioritising settlements over meaningful enforcement i.e The Building Society Scandal. How can the public maintain confidence in your oversight when your actions often seem to facilitate the very financial failures and misconduct you're meant to prevent?**

The activities that are placed within the FCA's remit are decided by Parliament and the Government through secondary legislation. Based on our careful and extensive review of the evidence we have seen, the building societies' introductions for wills, power of attorney and estate planning services to companies within the Estate Planning Group did not involve regulated activities. Additionally, we have not identified any evidence of a regulatory breach in the areas we have considered.

67. **If evidence is provided to show that regulated building societies recommended not only unregulated but 3rd parties that were trading illegally, would you agree that that would prove their building societies due diligence was inadequate? Yes or no please.**
68. **Please describe what due diligence you would require as adequate before a building society recommends a third party? What precisely should they do to make sure they don't recommend a company trading illegally? Detail precise measures you would recommend please.**

We believe you are referring to Phillips Trust Corporation. If so, these were unregulated introductions, and from the evidence we have reviewed, do not appear to have involved ancillary activities. Ancillary activities are activities that are not regulated but are carried on in connection with a regulated activity, or held as for

being for the purposes of a regulated activity. As a result, they are not subject to the same expectations of due diligence that would be in place for an introduction to an authorised firm providing a product/service that falls within our remit. In coming to our conclusions, our extensive review has considered the activities of building societies against the application of our rules, including the Principles.

PTC did not exist for the majority of the period the building societies were making introductions, and PTC was not an entity they had a contractual relationship with. As a result, it would not have been reasonable for the building societies to have undertaken due diligence on PTC and, before its creation, impossible for them to have done so.

69. **Does the FCA believe that advising to invest in a Trust is a regulated activity?**

Introductions for wills, power of attorney and estate planning services to EPG entities do not involve regulated activities under the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (RAO). The activities that are placed within the FCA's remit are decided by Parliament and the Government through secondary legislation such as the RAO.

Advising to invest may constitute a regulated activity, but this will depend on the nature of the arrangement and the nature of the underlying investment the advice relates to. We cannot answer this question without more information.

70. **The FCA decided that it could not compel building societies to compensate elderly customers and their next of kin for losses caused by introductions to family trust formation companies because it argued those introductions were not ancillary to regulated activity (in this case the provision of current and deposit accounts and financial advice). Please provide a definition of ancillary activity perhaps with examples of activities that are and are not ancillary**

Ancillary activities are activities that are not regulated but are carried on in connection with a regulated activity, or held as for being for the purposes of a regulated activity.

These were unregulated introductions and we would have limited scope in terms of action or requirements, as these are not subject to the requirements that would be in place for a regulated introduction and, from the evidence we have reviewed, do not appear to have involved ancillary activities. We have not seen any evidence that suggests there were any regulatory breaches where we could take action.

We do not consider that it would be reasonable to expect the building societies to conduct due diligence on PTC, an entity that they had no contractual relationship with and that did not exist during the majority of the time they interacted with EPG entities. It is our view that any due diligence on EPG entities, given that these introductions went back as far as 2005 in some instances, would not have been able to foresee the subsequent actions of PTC.

71. **Given the link between Safe Hands and the Building Societies Scandal with shared directors why is the FCA not investigating? Plainly building society due diligence was lacking**

We are not aware that any of the societies linked to PTC had any relationship with Safe Hands. These were unregulated introductions, and from the evidence we have reviewed, do not appear to have involved ancillary activities. As a result, they are not subject to the same expectations of due diligence that would be in place for an introduction to an authorised firm providing a product/service that falls within our remit.

72. **Why does the FCA feel it was appropriate to effectively condone those Building Societies involved to not disclose key information and hidden payments prior to any referrals made by them to their third party unregulated partners?**

From the evidence reviewed, we have not identified instances where the Building Societies, or their subsidiaries, provided any advice or recommendations for these products, which was the responsibility of the relevant EPG entities. As these were unregulated introductions, we would have limited scope in terms of action or requirements, and we have not seen any evidence that suggests there were any regulatory breaches where we could take action.

73. **To what extent did the FCA pressure the Building Societies into offering voluntary financial settlements in an attempt to quietly resolve the situation?**

The decision by the relevant societies to offer a voluntary package was their own and given this did not fall within our remit, was not the result of any actions of the FCA.

<u>Regulatory bodies</u>

74. **Are you currently sharing information on active complex financial crime investigation by the Insolvency Services by High street group limited? Is the Ombudsman being consulted on results the ongoing investigation by the Insolvency Services?**

We have a variety of gateways through which we share information with our regulatory and law enforcement partners where appropriate.

We share information with other agencies on many matters if there is an appropriate gateway to do so. The FCA cannot comment on whether the Ombudsman is being consulted in respect of an investigation being carried out by another agency and we suggest your question is directed to the Financial Ombudsman Service and to the Insolvency Service.

75. **How would you recommend to liaise with yourselves to obtain information to prove complex fraud to the Ombudsman when critical information sits**

with the Insolvency Service that is not willing to disclose the scope of investigations?

We have a variety of gateways through which we share information with our regulatory and law enforcement partners where appropriate. However, these gateways would not allow us to share the information received with a consumer or the Ombudsman for the purpose of assisting a consumer make a complaint to the Ombudsman. We would therefore be unable to assist with obtaining any information from the Insolvency Service on behalf of a third party.

76. **I would like to inquire about the measures being considered to improve the coordination between the Serious Fraud Office (SFO) and the Financial Conduct Authority (FCA) in handling cases of fraud. Several of my clients have experienced a frustrating cycle of being passed back and forth between these two agencies leaving them in a state of uncertainty and limbo. Could you please provide insight into any initiatives or frameworks that may be implemented to bridge this gap and ensure that victims are not left without support or resolution? It is crucial for us to understand how these agencies plan to streamline their processes and enhance communication to effectively assist those affected by fraud.**

Both the FCA and SFO senior leadership are committed to closer collaboration on both operations and capability development. The FCA and SFO senior leadership currently meet on a quarterly basis to discuss strategic matters from an enforcement perspective. In addition, Enforcement Directors and their opposite numbers at the SFO meet on a regular basis. There is also a separate quarterly meeting between the FCA's Enforcement Triage and Assessment Team and the SFO that considers matter under triage of mutual interest and any changes to process and people in the triage and assessment process. Once a FCA Enforcement operation is opened and there is mutual interest, the operation Project Manager and the SFO equivalent will liaise on a regular basis.

77. **Why fca does not work with other financial institutions such as fos or fscs in sharing information during its investigation or sharing the results or outcome? This will streamline the investigations run by different institutions and make it ultimately more efficient**

The FCA, the Financial Ombudsman Service and the Financial Services Compensation Scheme (FSCS) regularly share information, including about ongoing issues.

There are laws that govern how we share information that are set out in statute. We are generally unable to share information that is confidential within the meaning of s.348 of the Financial Services and Markets Act 2000 (FSMA). However, Schedule 1 and 2 of the Financial Services and Markets Act 2001 (Disclosure of Confidential Information) Regulations (2001) allow us to share confidential information with the FSCS and the Ombudsman Service, if doing so a) enables or assists us in discharging our functions or b) allows them to discharge their functions under FSMA. The FCA,

Financial Ombudsman Service and FSCS use this gateway regularly to share information. We are unable to share confidential information where sharing does not meet the statutory test.

In addition to the sharing of confidential information through our statutory gateways, non-confidential information (such as case data) is shared regularly with us. The three organisations meet regularly to discuss both emerging issues, and crystalised events that we cooperate on. There are also more formal meetings through the Wider Implications Framework.

For further information on how we share information with the Ombudsman Service and the FSCS, please see our Memorandum of Understandings with both each party:

- **Financial Ombudsman Service:** https://www.fca.org.uk/publication/mou/mou-fos.pdf
- **FSCS:** https://www.fscs.org.uk/globalassets/mou/mou_fscs_-_fca_-2.pdf

Savings

78. **I would like to understand the rationale/justification for a given cash ISA provider (e.g. bank and building society) why you get a higher fixed rate on a savings bond than you do with a cash ISA of the same term (e.g. 2 year fixed term)? This does not strike me as meeting Consumer Duty (price and value) and Treating Customers Fairly requirements and is really taking advantage of cash ISA customers.**

Savings pricing is a decision for each firm to make and the FCA does not intend to set prices within the savings market.

The Consumer Duty does not require firms to pay a higher rate for one type of savings account compared to another, but we do require firms to assure themselves that each product is providing fair value to customers. Firms can consider benchmarking and outlier analysis to compare the price and value of their products and services across equivalent other options. The fair value assessment can take a range of factors into consideration, including non-price factors such as different notice periods and accessibility offered by the product or service.

Our September cash savings update identified that there is a wide range of rates available within the savings market. We continue to encourage customers to shop around for the best deals.

Sustainable finance

79. **In the light of the new Listings Rules and the greater burden of risk that will now fall on investors and their ultimate beneficiaries, what actions does FCA plan to take to mitigate these risks through higher standards of investor stewardship**

Listing rules

Our new listing rules better align the UK's regime with international standards. The move to a more disclosure-based regime also makes sure investors will be given the right information to make informed investment decisions.

We have engaged a lot with industry to help us get these rules right. And, we have been clear that the new rules involve allowing greater risk, but we believe this change better suits the country's risk appetite and required conditions for growth.

Our objectives are to protect consumers from harm, maintain market integrity and promote effective competition in the interests of consumers, so we are continuously reviewing the effectiveness of our existing rules and supervision against our objectives.

Stewardship

More broadly, effective stewardship remains a key priority area across the FCA.

We are supporting higher standards of stewardship transparency through the FCA-convened Vote Reporting Group (VRG). The VRG is in the process of developing detailed proposals to enhance shareholder vote reporting by asset managers operating in the UK – including a comprehensive, standardised vote reporting template. The VRG will publish their final outputs in due course. We will monitor the uptake of the proposals and whether they have had the desired effect of increasing asset manager voting transparency to their clients.

Beyond this, we will continue to monitor firm stewardship approaches in line with our rules as part of our ongoing supervision of the sector and will take action where we see any misleading or harmful practice.

80. **Does the FCA have any plans to strengthen its enforcement and supervisory activities to hold regulated firms accountable for their stewardship performance and sustainability commitments?**

Under our new SDR regime we will monitor for signs of greenwashing from a range of sources. This includes complaints to the Supervision Hub, intelligence gathered on quality of applications to Fund Authorisations and broader supervisory intelligence. We will apply our usual supervisory and enforcement approaches to this regime. We will respond to compliance issues when they arise and act if we have intelligence that indicates a firm may not be meeting the requirements. We may take enforcement action where we have reason to believe that serious misconduct may have taken place.

We will continue to monitor firms on their stewardship and sustainability requirements. It is important that firms do not act in a way that falls foul of our expectations under the Consumer Duty and other relevant rules, such as our anti-

greenwashing rule. Misalignment between a firm's statements and their activities has the potential to mislead consumers and negatively impact market integrity.

81. **How is the FCA's dealing with the proposed extension of SDR rules to portfolio management and when will it publish its response to the consultation?**

We are carefully considering the consultation feedback to CP24/8, and want to ensure that the regime firstly, protects consumers, but also takes account of any practical challenges firms may have.

We intend to publish the Policy Statement in Q2 of 2025 along with further information around implementation.

Ulster Bank

82. **I would like to ask why the FCA said the hidden credit line in favour of RBS Invoice Finance was a nominal 10% when the bank told my MP it was a full 100% but didn't affect our borrowing ability? It did. Will the FCA pledge to look into undisclosed hidden credit lines lodged against SME's in favour of the bank without their knowledge?**

We are aware of and considering the concerns raised by parties in relation to Ulster Bank but legal requirements around confidentiality mean we are limited in the updates that we're able to provide.

83. **In August 2018 the FCA brought in a new Rule COBS 22.5.17 to protect Retail Clients from the dangers of credit risk on derivatives and similar investments, limiting losses to money held in the clients margin account. Victims of the Ulster Bank Fraud and swap mis-selling victims were covertly and therefore fraudulently exposed to those same risks on an unlimited basis, so why have the FCA remailed silent on their knowledge of this when:i) Every court case dealing with this has come to the wrong conclusion that the credit line risk was not a real risk to the client?ii) When John Swift's report incorrectly stated that the credit line risk was an internal bank risk and not a risk to the client?iii) When David Capps misled the Treasury Select Committee that the undisclosed swap credit lines were not margin credit? After 10 years of covering up that risk to protect the banks exposure to the largest premeditated financial fraud in recent history, how will the FCA now redeem themselves and provide justice for the victims of that fraud?**

Swift KC found, in his review, that *'loans with embedded swaps or hedging (as opposed to stand-alone IRHPs) were not specified investments under the Regulated Activity Order. As such, entering into contracts for the sale of such products did not constitute a regulated activity. It follows that, even though many of these products had almost identical economic characteristics for customers, they were not regulated*

products and fell outside the FSA/FCA's regulatory perimeter. In other words, the FSA/FCA was not lawfully able to regulate them'.

We continue to consider carefully all the concerns that have been raised about Ulster Bank. But due to legal requirements around confidentiality, we are limited in the updates that we're able to provide.

84. **Since the Ulster Bank derivatives fraud has been exposed and admitted by the FCA, how is it possible that the FCA has not mandated a halt to all related litigation in the North and South of Ireland? Properties stripped on foot of the fraud continue to be pursued by legal enablers and those same legal enablers are vigorously defending litigation in which the victims have put such firms on notice of the fraud. This is a scandal of epic proportions.**

Our public statements have been limited to saying that we are aware of and considering the concerns raised by a number of parties in relation to Ulster Bank issues.

Whether to pursue borrowers' assets through the courts is a commercial matter for the lending firm. However, we would expect the firm, in making such decisions, to take in to account its own past conduct, where relevant.

We do not have powers to prevent a firm pursuing litigation. Ulster Bank's loans into the Republic of Ireland are also outside our remit.

85. **Why is it that when the Chairman of the FCA answered question from Steve Middleton and Chris Gordon at the AGM 2023 where the Ulster Bank Fixed Rate Fraud was acknowledged and confirmed that NatWest will be conducting a remediation exercise that over 12 months later neither the FCA or Natwest have done anything and victims of the fixed rate Loan fraud are still being pursued through the courts and face losing their assets?**

Our public statement was limited to saying that we are aware of and considering the concerns raised by a number of parties in relation to Ulster Bank issues. We have continued to consider these issues over the last year, but legal requirements around confidentiality mean we are limited in the updates that we're able to provide.

Whether to pursue borrowers' assets through the courts is a commercial matter for the lending firm. However, we would expect the firm, in making such decisions, to take in to account its own past conduct, where relevant.

86. **Questions are on behalf of Mr Declan Kehoe. "I was fraudulently sold a swap/hedge product by Ulster Bank executives in Ireland. They falsely stated that I was being given protection in a rising interest rate environment. They knew interest rates were falling and in fact, the parent, RBS was manipulating rates downward. Ulster Bank Whistleblowers have**

come forward and confirmed that they engaged in these frauds. The documentation was not industry standard, with no bank executive signing. It was a finance linked swap but none of the usual industry standard terms were negotiated. The product was used to fraudulently trigger an LTV breach in an effort to strip me of my assets. How is it possible or just that I am still in a position fighting Ulster Bank in the Irish courts in front of judges who may not understand what happened? Why is litigation in Irish courts continuing as if these frauds have not been admitted?"

Ulster Bank's loans into the Republic of Ireland are outside our remit. However, in the Northern Ireland context, our ongoing careful consideration includes all concerns expressed about the Ulster Bank loans.

87. **Following the meeting between Steve Middleton, Ian Tyler and Lord Sikka with the FCA in November 2022 where they disclosed the Ulster Bank Fixed Rate Loan Fraud Bank Confidential were tipped of by an FCA employee that no inquiry was taking place because the same Executives that had made the decision to block Northern Irish SMEs from compensation in 2013 were still at the FCA and did not want their actions investigating. Is it true that the FCA are refraining from investigating the cover up of this fraud and compensating Northern Irish SMEs to protect the careers and pensions of a few senior FCA executives whose dishonesty in 2013 and subsequent cover ups would be exposed by any inquiry? If that is not true just what is the excuse for the FCA's failure to investigate?**

We have been considering this issue, and the various materials provided to us about it. However, due to legal requirements around confidentiality, we are limited in the updates that we're able to provide.

88. **Why do the FCA continue to support banks misleading the courts and Parliament that swap and fixed rate loan credit lines were internal bank risks when these were undisclosed hard credit liabilities that led to the destruction of thousands of SME's**

Lending to businesses of sums over £25,000 (which is most such lending) is generally not a regulated activity and is outside the FCA's jurisdiction.

We are aware of and considering the concerns raised by parties in relation to Ulster Bank but legal requirements around confidentiality mean we are limited in the updates that we're able to provide.

89. **Why has the meeting failed to deal with any questions on undisclosed swap credit line and in particular the Ulster Bank Fraud which the FCA are ignoring**

We always receive a large number of questions at the APM which means that it is not possible to answer them all during the session. That is why we commit to publishing written answers to questions we were not able to reach during the session.

We have been carefully considering the concerns raised around Ulster Bank, including the evidence provided to us about it, for more than two years. However, due to legal requirements around confidentiality, we are limited in the updates that we're able to provide.

Whistleblowing

90. **On the 11th September 2019 I emailed Andrew Bailey as CEO of the FCA and named the person at NatWest who taught trainee managers to take a copy of a customer's signature, forge it on to a loan or other document and then scan it into the credit system as an original. I was never given a whistleblower reference, Mr Bailey never investigated and no doubt covering up that criminality helped secure his Bank of England Governorship. The Metropolitan Police under Sir Mark Rowley's guidance has now also refused to investigate. That lady and her husband who was the Regional Director, will have been responsible for likely hundreds of people losing their businesses, homes and some their lives due to bank claims based on forged documents. They still have their homes, pensions and he works at NatWest's head office. Can the FCA now agree with me that the only course of action I now have left is to expose that person and her husband via social media and in the press, in any of the victims of that crime are to hope to receive any form of justice.**

The NCA looked into allegations of signature forgery by banks and wrote to the Treasury Select Committee with its findings in February 2023. The letter can be found here.

91. **Why do the whistleblower team only deal with employees and ex employees of firms when the customer service team who collect all other reports have no experience or expertise in crime or whistleblowing and spend months responding without taking any action**

Whistleblowing reports are vital sources of information for us, giving us unique insights into the sectors and firms we regulate and helping us protect consumers. Whistleblowers are protected by the Public Interest Disclosure Act 1998 (PIDA), which means that whistleblowers may obtain a remedy if they are hurt, suffer detriment or are dismissed because they have blown the whistle in the public interest. PIDA was introduced to encourage and give workers the legal support to speak up if they have concerns about wrongdoing in their workplace.

The FCA has a special ('prescribed') role under PIDA. Under PIDA, if a whistleblower makes a report to a prescribed person, such as the FCA, they will potentially qualify for the same employment rights as if they had made a report to their employer. The information the FCA receives from Whistleblowers can provide valuable insights. We

continuously review our approach to this information to ensure that we make swift, effective use of it.

Our whistleblowing team is in place to ensure that the FCA is meeting its obligation as a prescribed person. The scope of who is considered a whistleblower is very limited in PIDA and is restricted to employees / ex-employees / relevant third parties. Consumers, advocacy groups, campaigners, etc do not meet this definition and so we do not feel it is appropriate for our team to deal with them via the whistleblowing process.

As you know, the FCA has a Supervision Hub which responds to queries from those who would not meet the criteria of a whistleblower. They nevertheless receive training to identify whistleblowers and would follow established process to connect them with the Whistleblowing team.

92. **Does the FCA CEO Mr Rathi ever deal directly with significant whistle-blowers**

We have established whistleblowing processes we follow, which involves senior engagement at appropriate stages.

93. **The FCA this week published a summary of an investigation into allegations that Ashley Alder 'outed' two FCA employees who blew the whistle about alleged wrongdoing within the organisation. The review was undertaken by Richard Lloyd who was the FCA's Acting Chair immediately prior to Alder's appointment. Did the FCA board consider whether appointing an independent person to conduct the exercise might be more appropriate - and if so why did it decide against doing so?**

Richard Lloyd, as the FCA's Senior Independent Director, was the appropriate person to carry out this review. He had the necessary independence and expertise to swiftly and effectively carry out the work, and then to publish his findings.

This decision was also consistent with corporate governance best practice. The UK Corporate Governance Code, its associated Guidance, and the FCA's own Corporate Governance framework recognise the important role of the Senior Independent Director in addressing concerns that are not suitable for resolution by either the Chair or Executive. Richard was assisted by external legal advisers, administrative support and had the opportunity to speak to any witnesses he chose, as well as outside experts such as Protect, the UK's leading whistleblowing charity.

<u>Woodford</u>

94. **Why did the FCA actively prevent investors in the failed Woodford Equity Income Fund from accessing legally available restitution in the form of FOS and FSCS?**

The FCA considered the Scheme of Arrangement to be the quickest and best way to return as much money to investors as possible compared to other options. The Scheme of Arrangement (which was approved by the vast majority of creditors who exercised their vote, including retail creditors) was ratified by the High Court and discharged Link Fund Solutions Limited's liabilities in relation to the fund. It is the Scheme that precluded investors from seeking compensation from the FOS or the FSCS.

95. **My wife and I were investors in the Woodford Equity Income Fund and when the Link Fund Solutions Scheme of Arrangement was approved creditors losses stood at over £1 billion with mine and my wife's joint losses being at over £107,000. Under the Scheme of Arrangement we received just £7,600, that being just 7p in the pound. Given that the FCA states on their website that they are there to protect consumers why did the FCA promote the Scheme of Arrangement by saying that investor creditors would get back 77p in the pound with Link Fund Solutions paying only £230 million redress, and the costs of the Scheme of Arrangement being paid for by creditors of up to £46 million out of that £230 million, and why did the FCA prevent retail creditors, i.e. consumers, from being able to access the Financial Services Compensation Scheme, believed to be a statutory right, and do the FCA think that their actions in doing this are morally just, and if so why?**

The 77p in the pound that investors would receive to which reference was made included both money to be returned via the Scheme of Arrangement (up to £230 million) and money returned by Link Fund Solutions Limited in five capital distributions amounting to £2.568 billion, totalling £2.798 billion out of the fund value at suspension of £3.56 billion.

The £46 million is not the costs of the Scheme being met out of the £230 million, but rather funds held in reserve to meet liabilities that were not released under the Scheme. Any funds not used to meet these liabilities will be returned to the Scheme for distribution to creditors.

The FCA considered the Scheme of Arrangement to be the quickest and best way to return as much money to investors as possible compared to other options. The Scheme of Arrangement (that was approved by the vast majority of creditors who exercised their vote, including retail creditors), was ratified by the High Court and discharged Link's liabilities in relation to the fund, as well as precluding investors from seeking compensation from the FSCS.

96. **Regarding the FCA's 4 year investigation into Woodford Investment Management (WIM) of their Woodford Equity Income Fund (WEIF); why is the FCA report at best a partial one covering only two main areas, as a FULL report is needed to cover all areas investigated for full transparency. An example being WIMs very risky investments that are not suitable for such a retail fund are not aligned the Fund prospectus. Why did the FCA report not cover in details Link Fund Solutions Limited abysmal sell off of**

WEIF which has resulted in £1bn of capital losses to Investors. The WEIF did start out (first 18 months) investing in low to medium risk Equities but then in 2017 and beyond moved away in illiquid and very high risk investments.

The Warning Notice statement published by the FCA on 11 April 2024 in relation to WIM and Mr Woodford did not constitute a final decision by the FCA, but rather a statement that it had issued Warning Notices proposing to take action in respect of the conduct summarised in the statement. The Warning Notices themselves are not published.

The FCA's process is that when a Warning Notice is issued by its Regulatory Decisions Committee (RDC"), the subject has the right to make representations to the RDC. The RDC then considers what is appropriate and decides whether to issue a Decision Notice. If the subject accepts the RDC's decision, a Final Notice will be issued and published. If the subject wishes to challenge the Decision Notice, it can refer the matter to the Upper Tribunal for an independent determination.

The FCA's Final Notice issued to Link Fund Solutions Limited was published on 11 April 2024. The FCA found that Link had failed to comply with its regulatory obligations as the Authorised Corporate Director of the fund in respect of liquidity in the period from 31 July 2018 to 3 June 2019, the date the fund was suspended, and the notice sets out the facts and matters relevant to its findings.

It is important to note that this restitution amount is the FCA's calculation of losses caused by the failures of Link as set out in the FCA's Final Notice against Link relating to the management of liquidity. It was not intended, and did not, reflect losses relating to investment performance.

97. **Nikhil Rathi says it has been his goal to reduce the FSCS levy, sometimes referred to as a regulatory failure tax, over time. Is this why the FCA has minimised the consumer losses ascribed to Link Fund Solutions and Woodford Investment Management in respect of the Woodford Equity Income Fund? The total losses suffered by all investors in that Fund not just those trapped when the Fund was dated**

The loss to investors that the FCA has calculated and set out in its Final Notice issued to Link Fund Solutions Limited is the difference between investors who sold their holdings in the fund between 1 November 2018 and 3 June 2019, and those who remained in the fund at suspension.

The harm borne by the investors who remained in the fund at suspension was calculated by dividing the sale proceeds of all investments from the fund (including those sold post-suspension) from 1 November 2018 among all investors from 1 November 2018 (i.e. those who sold their holdings and those who remained in the fund at suspension) and allocating the same proportionate amount to each investor. The restitution amount was calculated as £298 million.

It is important to note that this restitution amount is the FCA's calculation of losses caused by the failures of Link as set out in the FCA's Final Notice against Link relating to the management of liquidity. It was not intended, and did not, reflect losses relating to investment performance.