

Dame Meg Hillier MP
Chair
Treasury Select Committee
House of Commons
London
SW1A 0AA

11 March 2025

Dear Dame Meg,

RE: FCA enforcement work and diversity & inclusion

I am writing to update you on two issues which have been the subject of considerable public debate and on which we wanted to provide clarity and certainty on our next steps.

Enforcement

Further to our previous exchanges of correspondence with the Committee about our proposals to increase transparency around enforcement investigations, I can update you on our position following the second phase of consultation.¹

We have significantly increased the pace and focus of our enforcement work and will continue to do so. Five recent investigations closed with a public outcome in less than 16 months, compared to an average length of 42 months in 2023/24. The number of open operations has fallen by around 35% since 1 April 2023.² No investigations into regulated firms opened since April 2023 have closed with no further action. These improvements have been widely welcomed. We can provide reassurance that our plan is so far delivering at least the same number of, if not more, enforcement outcomes, more quickly.

Alongside this focus and pace, we proposed in February 2024 a measured increase in transparency to serve the public interest, in line with a recommendation by the Public Accounts Committee in July 2022. In response to strongly expressed concerns from industry groups and successive governments, we set out 4 changes to our initial proposals in November 2024 for further consultation.

We have engaged extensively and appreciate the constructive dialogue with the sector. The consultation closed on 17 February, and we have rapidly worked through the feedback. We have also provided a data update in an Annex.

¹ <https://committees.parliament.uk/publications/45855/documents/227487/default/>

² An operation can incorporate more than one investigation into a number of firms.

When I wrote to the Committee on 7 May 2024, I set out an aim to build a broad consensus behind the proposals.³ While consumer and whistleblowing groups generally supported greater transparency, industry remains largely opposed to certain aspects – specifically publicising an investigation into a regulated firm carrying out authorised activity when a public interest test is met. Given the lack of consensus, we will not proceed with this and will therefore stick to our existing exceptional circumstances test to determine if we should publicise investigations into regulated firms.

We plan to proceed with the following aspects of our proposals, where there is broad support and much less concern:

- Reactively confirming investigations which are officially announced by others, typically market announcements or other disclosures made by firms themselves or sometimes announcements by a partner regulator. Of our 37 open investigations into regulated or listed firms, 22 are already public. But our current approach means that, even when the investigation is already known, we are generally not able to confirm or deny its existence.
- Public notifications which focus on the potentially unlawful activities of unregulated firms and regulated firms operating outside the regulatory perimeter, where doing so protects consumers or furthers the investigation. Around 60% of our investigations into firms relate to activities of unregulated firms, which are often frauds involving significant consumer harm, where we have no supervisory tools available.
- Publishing greater detail of issues under investigation on an anonymous basis, perhaps via a regular bulletin such as *Enforcement Watch*. This may help highlight more quickly significant areas of concern and where firms may consider making improvements.

Nine of the largest financial services trade associations recognised the value of these aspects of our proposals earlier this year.

We expect to continue to engage actively with stakeholders before publishing a final policy statement by the end of June, alongside an updated copy of our Enforcement Guide. I hope the Committee finds this update helpful.

We are also writing to the House of Lords Financial Services Regulation Committee with a similar update, given their interest in these consultations.

Diversity and inclusion

In September 2023, we jointly consulted with the Prudential Regulation Authority (PRA) on proposals aimed at boosting diversity in financial services. We have considered carefully the feedback received, including the

³ <https://committees.parliament.uk/publications/44667/documents/221908/default/>

recommendations in the 'Sexism and the City' report published by the Treasury Select Committee in the last Parliament.⁴

Diversity and inclusion within the firms we regulate can deliver improved internal governance, decision making and risk management. It can also support the competitiveness of UK financial services over the medium- to long-term, not least by ensuring firms can access the widest possible pool of talent.

In the last Parliament, the Committee stated that regulators have a role to play on this issue. The vast majority of respondents to our consultation agreed. However, the Committee recommended that we should not proceed with our proposals regarding data collection. We also recognise there is a very active policy and legislative agenda, including on employment rights, gender action plans and disability and ethnicity pay gap reporting.

Many of those who responded to our consultation wanted us to align our regulatory approach with such initiatives, to avoid duplication and unnecessary costs. We therefore do not currently plan to publish new rules on diversity and inclusion. We will continue to support voluntary industry initiatives.

I understand that the Prudential Regulation Authority (PRA) has also written to you on this topic today, having come to a similar conclusion.

Non-financial misconduct

We continue to prioritise our work to tackle non-financial misconduct, which we believe can help to improve outcomes for markets and consumers and reduce harm.

A corporate culture which tolerates harassment or other non-financial misconduct is unlikely to be one in which people feel able to speak up and challenge decisions or call out other types of wrongdoing. We know that failings in governance and culture can feed through into failings in consumer protection and market conduct.

We are committed to this work, so that all regulated firms are subject to the same standards. But it is important that our approach is proportionate and aligned with planned legislation. The legislative landscape has also changed since we consulted. We are therefore taking some further time to get this right and will set out next steps by the end of June this year.

Review of the removal of the bonus cap

We have previously said that we will work with the PRA to review the impact of removing the bonus cap on gender pay and inequality. Given the time it will take

⁴ <https://committees.parliament.uk/publications/43731/documents/217019/default/>

for firms to make changes, we will assess whether we will do this work in the 2026/27 financial year.

Ashley Alder and I would be happy to discuss these issues in further detail when we appear at the Committee later this month.

Yours sincerely,

Nikhil Rathi
Chief Executive

Annex 1: Data regarding open firm investigations

Our proposals on increased transparency related only to our enforcement work, not our supervision work. While many firms engage with our supervisory teams, this will only result in enforcement action in a tiny fraction of cases. Enforcement action typically follows an intensive period of supervisory engagement with many opportunities to resolve our concerns.

As of 5 March 2025, we have 105 open investigations into firms. This includes 37 into regulated and/or listed or publicly traded firms, of which:

- 22 are in the public domain (14 were made public by the firm, we made 6 public during the investigation stage and we made 2 public through our formal statutory processes around the publication of Warning Notice Statements and Decision Notices).
- We anticipate that investigations into 2 firms that are not in the public domain are likely to reach a public outcome by mid-2025.

In respect of the remaining 13 investigations that are not in the public domain, we have considered how we might have applied the public interest criteria that we consulted on to these cases:

- 7 are covert or involve sensitive information and we believe it would not be in the public interest to announce.
- 2 are cases where there may be public interest factors in favour of announcing but we consider it likely that any announcements would be on an anonymised basis also so as not to risk prejudicing a criminal investigation.
- 4 are cases where there may also be public interest factors in favour of announcing possibly on a named basis. All 4 were opened before April 2023 and have been subject to public supervisory action. 2 of these involve firms that were linked by a commercial relationship. There have been requests for information from MPs relating to 4 of the firms. 1 firm is now in administration. Developments in relation to 1 case may become public through court proceedings by mid-2025.