

# Report on the Call for Evidence about The Financial Conduct Authority



*The entirety of this work is dedicated to the memory of [Ian Davis R.I.P.](#)*

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## Foreword by Bob Blackman CBE MP, Co-Chairman of the APPG



Financial services represent around 8.3 percent of UK GDP and constitute the country's largest recipient of Foreign Direct Investment. They are also hugely important to the economic and emotional wellbeing of our citizens, enabling them to buy homes, set up businesses, insure against adverse events and save for life goals such as studies, parenthood and retirement.

The flipside of this positive contribution is a capacity to cause considerable damage if things go wrong. The purpose of financial regulation should be to prevent, minimise and mitigate such harms, so far as is possible without impairing competition or choice. Such regulation must be performed to the highest possible standard, to protect consumers and maintain confidence in the financial sector both in the UK and abroad.

In recent years, a series of scandals have emerged in which financial services firms have stood accused of mistreating

consumers and small businesses and the UK's principal financial regulator, the Financial Conduct Authority, has been blamed for doing too little too late - or nothing - to prevent and subsequently remediate and punish alleged wrongdoing.

The Purpose Statement of the APPG on Investment Fraud and Fairer Financial Services (formerly known as the APPG on Personal Banking and Fairer Financial Services prior to its Annual General Meeting held on 6 February 2024) is:

***'To advocate for the victims of financial misconduct, crimes, scandals, frauds and regulatory failures, by driving positive, progressive, and purposeful reforms that achieve a fair, trusted and just system, where the service providers, regulators and government agencies provide appropriate protection and deliver good outcomes, including redress for historical wrongs.'***

I am proud to be leading an APPG that is encouraging reform of the financial sector, such that it serves society better, especially because so many people in my own constituency of Harrow East, like so many other constituencies, are being routinely targeted by scammers.

Financial crime is a massive problem in the UK, and it is therefore vital that the Financial Conduct Authority (FCA), the UK's primary conduct regulator, is delivering on the objective Parliament has given it to provide an appropriate degree of consumer protection.

The FCA has been criticised in a series of reports by statutory bodies and in independent reviews commissioned following high-profile regulatory failures.

The APPG launched its Call for Evidence about the FCA because it wanted to hear in more detail from those who have interacted with the regulator, so it could better understand how such errors come about and whether claimed improvements had been effective. We described our objectives thus:

*‘The overall purpose of this Call for Evidence is to improve our understanding of how the FCA is perceived. If the evidence we gather indicates there are problem areas we can explore those issues further, with a view to proposing remedies. Ultimately therefore, this initiative may lead to fresh policy thinking and reform.’*

Sad to say, the testimony received suggests that there are very significant shortcomings to the FCA. It comes across as an opaque and unaccountable organisation, slow to act and even slower to admit it has got things wrong and to change. The individuals who generously shared their experiences with us told tragic tales of regulatory failure causing enormous financial and emotional distress. Perhaps some of the most compelling evidence comes from current and former employees of the regulator itself, who depict its culture and leadership as profoundly defective.

It is vital that the UK has a financial regulator that is fit for purpose, so it became something of a mission for the APPG to gather evidence about the FCA and to propose remedies to problems identified. Ultimately, we hoped our collective endeavour would find insights that could initiate fresh policy thinking and reform.

It is my belief we have done that, and more.

My Parliamentary colleagues on the APPG and I are confident that the end product, this report, is a potent, powerful and purposeful piece of work that I believe any Parliamentarian with a desire to improve consumer protections would be similarly proud to stand behind.

I wish to thank all involved, including:

- The 174 respondents that shared their testimony - it is their willingness to speak out about their interactions with the FCA that has made possible what is quite likely the most detailed assessment of the regulator there has ever been.

Within those that gave testimony, I wish to give particular thanks to three groups:

- All the whistleblowers who had the courage to speak out first time round, and then to do so again for the purpose of this exercise.
- The victims of regulatory failure, who in providing the testimony for this report had to relive unpleasant and often distressing experiences - it would have been difficult for them to do so and I ask all readers to be mindful and thankful of that.
- The current and former employees of the FCA. Their all-important ‘insider’ commentary has confirmed and given credence and credibility to what many



outsiders have been saying. Their statements prove beyond doubt that this collective endeavour has been both noble and necessary.

- The Panellists, because their independent subject-matter expertise has proven to be invaluable. They have dispassionately identified many potential improvements to the way the FCA can deliver on its consumer protection remit. The options for reform they have provided for the FCA's leadership, Government and Parliament to consider range from minor adjustments to major overhaul.
- The Secretariat, who have methodically, systematically and professionally gathered and handled a mountain of evidence. The sheer amount of work done is impressive and it has taken a sustained effort by unpaid volunteers working within the tight brief given to them by Parliamentarians.

I wish to add that the APPG owes a particular debt of thanks to the outstanding contribution of volunteer Secretariat member Mark Bishop in the production of this report. He has selflessly given a very considerable amount of his time and extensive expertise in pursuit of seeking ways to improve the FCA and through that, better outcomes for users of financial services. Mark's stringent attention to detail and his thorough grasp of good governance has ensured that the highest possible standards of accuracy and reliability have been applied throughout the development of this report.

This report represents the culmination of some two and a half years' work. I believe it may be the most detailed and extensive qualitative research ever undertaken into a single UK financial regulator. Thank you to all those mentioned above, and the countless others who contributed behind the scenes that aren't. Together, through their communitarian effort they have made this report possible.

Given the importance of change, I look forward to the FCA's and Government's responses to this report. I also hope that a way can be found to undertake similar reviews on a periodic basis, to establish whether recommendations have been implemented and improvements have fed through to stakeholders' experiences of the FCA.

And one final, important point.

It is imperative the reader doesn't fall into the trap of thinking that the FCA's Transformation Programme has already resolved the long list of problems the evidence that has been painstakingly gathered shows it has, because it hasn't.

We know that because many of the individuals that provided testimony commented in a very explicit manner in direct response to a question about the Transformation Programme that they did not have confidence that it was making a difference; their collective commentary was highly consistent in that regard.

Furthermore, we also know that because as the final stages of this report were being concluded, the FCA has continued to consistently demonstrate that it has failed to shake off the problematic culture that is at the heart of its problems.

The reader may be aware that significant further concerns have arisen about the FCA since this endeavour started, including issues relating to Woodford, debanking, Philips Trust corporation, WealthTek, the Independent Review of Interest Rate Hedging Products by John Swift KC and the FCA's own data about whistleblower satisfaction levels. All of these are 'here and now' issues where the FCA is alleged to be operating suboptimally, with unmanaged conflicts of interest that have once again put consumer welfare and the reputation of the UK's financial sector in jeopardy.

Let's hope this Report does what the FCA's Transformation Programme has failed to do - transform.

## COMMENT OF SUPPORT FROM BARONESS BENNETT OF MANOR CASTLE



*"Risk from the financial sector, to our economic system and to individuals, is a serious concern, which needs to be tackled by both the FCA and the government. We need a sufficient financial sector that meets the needs of the real economy. The FCA's role is crucial and there is evidence here of a great deal of work that needs to be done to ensure that it can live up to its responsibilities."*

## Disclaimer

The written testimony available in and through this Report, including any documents it links to, constitutes the personal perceptions of those who gave that testimony. Although the APPG does not have the means to verify the specific allegations made, and cannot attest to the accuracy of the testimony, nonetheless, we consider it important that it is reported as given, as part of what appears to be a consistent pattern of complaints made regarding the dealings of the FCA, with affected individuals.

This report is not about specific allegations against financial services firms - we do not attempt to analyse individual cases and it follows that we do not pass judgement about what happened beyond simply sharing what the testimony-giver has provided.

Rather, this report is about the performance of the FCA based on the lived experience of those who have interacted with it.

As such, the APPG, including its secretariat, cannot be held responsible for the accuracy of any allegations made by those that have provided testimony. We have acted in good faith, and to the best of our abilities, in executing our task, which has been to collate and report what has been stated by the testimony-givers without filtering, screening, censoring or quality controlling it beyond what has been absolutely necessary, to protect the integrity of the submissions.

### COMMENT OF SUPPORT FROM FORMER MP HENRY SMITH



*"My constituents in Crawley, like people across the UK, deserve to have a financial conduct regulator that is successfully achieving the objective Parliament has set it, to provide an appropriate degree of consumer protection.*

*This report is full of evidence that shows the Financial Conduct Authority is failing in that regard, so we as parliamentarians ought to consider what should now happen.*

*I would like to think it is not too late for the FCA to be reformed such that it becomes fit for purpose, and I believe it ought to be given the opportunity to do that. However, if the FCA is unable to improve in relation to its all-important consumer protection brief, then nothing should be off the table.*

*I make this point because it is of enormous importance to have trust in the UK financial sector that society at large can have trust and confidence in, and for that to happen we simply must have a regulatory framework that works; not just for consumers but for the wellbeing of our economy too."*

## Executive Summary

### Introduction

#### **Biggest report of its kind**

This report brings together, summarises and analyses the written testimonies of 174 individuals who have engaged with the Financial Conduct Authority other than through the normal course of working in the industry. To the best of our knowledge, there has never been a qualitative survey of stakeholder experiences and perceptions of a single UK financial regulator of greater depth or breadth than this.

Prompted by widespread concerns about the FCA, the Call for Evidence was initiated in the wake of a series of external reviews and inquiries in which the regulator was heavily criticised, including:

- The Connaught Income Fund Series 1
- London Capital & Finance plc
- Protecting pension savers from scams
- Interest Rate Hedging Products
- The British Steel Pension Scheme

#### **Identifying common themes**

The APPG wanted to explore whether shortcomings identified by standalone investigations might share underlying causes that had not yet been fully recognised, and wished to establish whether there were views held by relevant stakeholders that had not been adequately reflected in the public debate.

#### **Focus on cultural issues**

The APPG was aware of a [report](#) published by New City Agenda in 2016 which indicated that the FCA was hampered by a suboptimal organisational culture and made significant recommendations for change. The APPG was keen to explore whether, in the opinions of relevant stakeholders, such changes had been implemented, whether they had been successful - and whether any remaining cultural issues might be impairing current performance.

#### **Contribution to debate**

In addition to publishing extensive first-person testimony about stakeholders' interactions with and perceptions of the FCA, the APPG was keen to provide constructive ideas from a diverse range of subject-matter experts who were given early sight of the evidence, about how the FCA might reform itself, and be reformed, in order to address any perceived shortcomings.

## Methodology

### Delegation to Secretariat

With appropriate oversight, the APPG tasked its Secretariat<sup>1</sup> with constructing, executing and collating the findings of the Call for Evidence. At all key stages, every deliverable was signed off by the APPG.

### Creation of question sets

The APPG decided to seek the written testimony of engaged, non-industry stakeholders, that is to say individuals who had interacted materially with the FCA other than through ordinary employment in firms authorised and supervised by the regulator.

The Secretariat worked with representatives from the following discrete stakeholder groups to develop question sets that they believed would result in the submission of evidence that would help inform the APPG's inquiry:

- Victims of alleged pension and investment scams
- Victims of alleged bank misconduct toward SMEs
- Victims of alleged misconduct from payment institutions, and other non-investment scams
- Mortgage prisoners
- Whistleblowers
- Other stakeholders<sup>2</sup>
- Current and former FCA employees

### Promotion

The Call for Evidence was publicised via the APPG's website, Twitter, LinkedIn, Facebook, targeted media outlets, consumer and SME groups and informal networks such as those for FCA employees. The regulator's Chief Executive Nikhil Rathi was approached about promoting the exercise to employees but declined to do so.

### Privacy

Respondents were given the option of anonymity, excluding their name or testimony from the published version of this report and, for current and former FCA employees, using a nom de plume, redacting information that might identify them, or both.

### Structure

The main body of the report consists of a chapter for each stakeholder group, summarising and quoting from the testimony received. Each quotation is hyperlinked to a PDF of the original testimony. For this reason, the report exists only in digital format: a printed version would run to more than 1000 pages and be difficult to navigate. Thereafter, we summarise the recurring themes in the evidence and provide suggestions from the specialist panel on how weaknesses might be remedied.

<sup>1</sup> Provided on a voluntary basis by [Transparency Task Force](#), a certified social enterprise

<sup>2</sup> Principally individuals who lead or have led other statutory and civil society bodies, whose responsibilities would include interfacing with the FCA



## Principal findings

### **The FCA is widely seen as incompetent**

There is a compelling consensus among respondents that the regulator too often fails to perform its functions to a reasonable standard. This view is particularly strongly held in relation to its consumer protection remit, where criticisms abound that it is slow to spot and identify fraud and other misconduct, its responses to such wrongdoing are slow and inadequate, and it is insufficiently assertive in securing redress for consumers and penalising perpetrators.

### **Its integrity is called into question**

A significant number of respondents believe the FCA sometimes acts in bad faith. These allegations can be divided into two groups: some (especially SME stakeholders who have been victims of alleged misconduct by banks) claim that the regulator is captured, meaning culturally and economically aligned with banks and other large authorised firms and hence disinclined to act against their interests; others assert that the organisation displays a lack of honesty and transparency when called to account for its own decisions, actions and inactions. While some allegations are un evidenced, there are too many for these to be easily dismissed, especially since some others are supported by either circumstantial or case-specific evidence.

### **Its treatment of whistleblowers and their evidence is alarming**

Testimony from those who have blown the whistle about alleged industry wrongdoing paints a consistent picture of an organisation that fails properly to investigate and act on intelligence provided, and that fails to protect - and in some cases, actively harms - those who provide such information.

### **Defective organisational culture, driven from the top**

Current and former employees depict the FCA as having a defective culture, one that has got worse rather than better in recent years, in which errors and inaction are too common, where there is little accountability, and those who challenge a top-down 'official line' on any given issue are bullied and discriminated against, or even managed out.

### **Transparency and accountability is lacking**

There is plenty of testimony from people who have tried to hold the FCA to account in one way or another; almost without exception, their efforts have been thwarted. It is clear that any journey toward rebuilding confidence must be anchored in measures to lift the current cloak of opacity and lack of consequences for failure.

### **The Transformation Programme has not worked**

Across all stakeholder groups there is near unanimity that the FCA's claimed transformation has been ineffective, with cynicism from many respondents about whether it was ever intended to achieve genuine change

## **There's a high degree of consistency across the testimony**

In evaluating how much credibility to attach to the evidence received, we have considered the degree to which different stakeholders paint a similar picture: a high degree of consistency would imply that a consensus exists about the nature and causation of any problems identified, suggesting that the characterisations in the report should be accorded significant weight. We believe the degree of such consensus is striking: there is testimony from, for example, scam victims, whistleblowers, people who lead other public bodies and FCA employees who all criticise the regulator for the same shortcomings in specific, named cases; there are also recurring themes about slowness, inaction, biases toward firms, whistleblower mistreatment, opacity and unaccountability expressed widely by all stakeholder groups

## **Specific themes**

Analysis of the evidence identified these specific themes:

- The FCA's culture
- The FCA's immunity from civil liability
- The revolving door problem
- Conflicts of interest
- Regulatory capture
- Memoranda of Understanding with other organisations
- The FCA's general lack of integrity
- The FCA is poor at supportive stakeholder management and communications
- The FCA fails to act on the evidence available
- The FCA makes poor use of its powers and fails to carry out its operational duties
- The FCA shuns responsibility, and lacks scrutiny and accountability
- The FCA treats whistleblowers badly
- The way the FCA deals with the regulatory perimeter
- The FCA's Register lacks rigour and data integrity
- The way the FCA deals with international jurisdiction issues
- The way the FCA deals with Appointed Representative status
- The FCA wastes money
- The risk that the FCA's leadership team will get in the way of the change that is needed

## Recommendations

### Reform versus reinvention

The Recommendations Panel believes that initial efforts should focus on executing operational, governance and accountability improvements within the current regulatory landscape. Many of these changes can be implemented by the FCA, while some reforms require legislation. However, the Panel accepts that its proposals may not be implemented wholeheartedly or at all by the FCA, and that they may therefore fail; for this reason, it has also flagged up that in the event that the FCA fails to win the confidence of stakeholders, a fundamental reallocation of regulatory responsibilities may in time be required.

### The internal reform agenda

The key changes that the Panel believes the FCA leadership should introduce unilaterally and at the earliest opportunity include:

- The development and embracing of a consumer-centric mission statement, against which the organisation is tested and held accountable by a consumer oversight body
- The FCA's reward and promotion system should be explicitly aligned with its professed [objectives and values](#)
- Develop recruitment processes that recognise 'People are policy'
- Introduce a no tolerance policy for a lack of integrity
- Develop a specialist consumer-facing department for scam victims
- Facing up to the criticisms made of it by the public at large

### Government intervention required

The Panel believes that Government can help the FCA perform more effectively through legislative changes, including through these measures:

- The establishment of a Financial Regulators' Supervisory Council, which would conduct periodic reviews of the operational effectiveness of the FCA
- Remove the FCA's immunity from civil liability to consumers
- Put in place restrictions on whether/when regulators join regulated firms, and vice versa
- Strip out the fundamental conflicts of interest within the FCA's objectives
- Introduce a statutory, civilly actionable Duty of Care
- Give the Financial Services Consumer Panel a statutory remit, introduce Parliamentary oversight of the appointment of its Chair
- Change the way the FCA is funded

- Overhaul the way the FCA's senior leadership team is appointed
- Establish a new NGO to act as a counterweight to industry lobbying
- Replace the FCA's Leadership Team; if it proves necessary
- Carry out a Royal Commission for radical architectural reform, if all else has failed

### **The case for reinventing the regulatory landscape**

The Panel acknowledges that the FCA is a complex organisation, with many competing calls on it. The regulator has four operational remits (consumer protection, market integrity, competition<sup>3</sup> and, recently, competitiveness and growth) and conducts five principal activities (policymaking, authorisation, supervision prudential<sup>4</sup> and conduct supervision, and enforcement). Inevitably, there is huge scope for conflicts of interest and challenges in prioritisation and resource allocation to arise that may compromise the FCA's efficacy in any one area.

The Panel has considered whether stripping the FCA back to being only a conduct regulator, with no other responsibilities, moving all prudential regulation to the Prudential Regulation Authority, giving the CMA sole responsibility for competition matters and shifting competitiveness and growth to the Department for Business and Trade, would result in the FCA becoming a streamlined, unconflicted organisation with greater clarity of purpose and unambiguous accountability for a single, core activity.

We recognise that there is not currently a widespread appetite for such radical measures but suggest that if measures to reform the FCA are not taken or do not work, there may be a case for holding a Royal Commission along the lines of what took place in Australia. Such a vehicle might be the most appropriate forum for considering whether there is a need for generational changes to financial regulation in which proposals such as that outlined above are given serious consideration.

### **The time for action is now**

Above all, we believe that the testimony received by the Call for Evidence clearly demonstrates that the FCA is not performing as it should and does not enjoy stakeholder confidence. Under such circumstances, there must be a risk that levels of misconduct and poor customer outcomes in UK financial services are higher than they should be, and that levels of trust in the industry at home and abroad are being negatively impacted, with consequent impacts on transaction levels and access to overseas markets.

Against this background, we urge both the FCA leadership and Government to implement the recommendations of this report with alacrity and vigour. Should that not happen, we fear that more high-profile misconduct and regulatory failure scandals will occur, causing further deterioration in the standing and fortunes of the industry.

A window of opportunity exists now to prevent that descent. But it requires prompt and decisive action, not excuses and prevarication.

<sup>3</sup> Jointly with the Competition and Markets Authority (CMA)

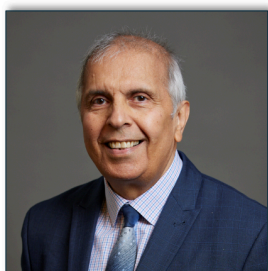
<sup>4</sup> For all but the ~1500 largest, systemically important deposit-takers and insurers on the FCA's register of some 50,000 firms

## Need for periodic review

Any report on stakeholders' interactions with a statutory body is necessarily backward-looking. The FCA may argue that it is now a different organisation than the one depicted here, as a result of its Transformation Programme; it might also claim that its Consumer Duty has set out new, higher expectations of authorised firms, which it can leverage to secure a higher standard of consumer outcomes. Perhaps, though we note that consumer ratings of the organisation on [Trustpilot](#) remain extremely disappointing.

We believe that there should be further, periodic, qualitative evidence-gathering from the FCA's stakeholders, to establish whether changes have been implemented and, if they have, the extent to which they have succeeded. This should be undertaken by a party appointed by an entity other than the regulator, to ensure independence. The APPG is open to performing the role, if a means can be found to fund it; otherwise, we believe that the National Audit Office would be the obvious choice. Such work would be more effective and impactful if granted co-operation by the FCA, especially in relation to access to its workforce.

### COMMENT OF SUPPORT FROM LORD PREM SIKKA



*"I have worked for many years to highlight all kinds of serious failings in the financial industry. It is my belief that the financial sector could, should and must do a better job to serve society – rather than exploit it - that led me to be part of the APPG for Fairer Financial Services in the first place.*

*The APPG's report on the Financial Conduct Authority pulls no punches; and rightly so. It's a justifiably hard-hitting critique of the regulator; a regulator that I have been convinced for quite some time to not be fit for purpose. The FCA is complacent, conflicted and captured; and without a major overhaul it will never deliver on the responsibilities Parliament has given it to protect consumers.*

*For all these reasons I am proud to stand behind what is a remarkably detailed, forensic and credible body of work. Well done to all involved, particularly those that stepped forward to give evidence, especially the former and existing FCA employees."*



## Introduction

The Purpose Statement of the All-Party Parliamentary Group on Investment Fraud and Fairer Financial Services is:

*‘To identify aspects of personal banking and financial services where the service providers **or regulators** have not delivered, or are not delivering, excellence and appropriate consumer protection; to facilitate and encourage all stakeholders to work together to resolve past and present shortcomings, and to bring about positive changes.’ [our emphasis, in bold]*

In an attempt to better understand whether the financial regulators ‘*have not delivered, or are not delivering, excellence and appropriate consumer protection...*’ the APPG set out to gather evidence on what people think about the Financial Conduct Authority (FCA), the UK’s primary conduct regulator for the financial services sector.

The Call for Evidence began on July 8th 2021, with a stated purpose of ‘*improving how the FCA is perceived.*’ The rationale behind the endeavour was simple: if the evidence the APPG gathered indicated there were problem areas, it could then explore those issues further, with a view to proposing remedies. Ultimately therefore, this Call for Evidence is a constructive endeavour designed to lead to fresh policy thinking and positive reform of the FCA, *if the evidence shows that to be necessary.*

The origins for the idea of a Call for Evidence about the FCA go back to December 2020, when the APPG openly expressed concerns about the performance of the FCA. You can see the press coverage of the APPG’s concerns from that time in two articles, in FT Adviser [here](#) and in Money Marketing [here](#).

The concerns in those articles were well founded, because two highly critical reports about the FCA had been published in the same month:

**Raj Parker’s [Review of the FCA’s Handling of the Connaught Income Fund Series 1 and Connected Companies](#).**

This review investigated the regulator’s handling of the supervision of a £106m collective investment scheme and its conduct in the three years following its collapse amid allegations of criminality. Parker found that ‘*the Regulator’s regulation of the relevant entities and individuals connected to the Fund was not appropriate or effective*’, noted that it ‘*could have acted in a more effective way to protect investors in the Fund*’ and observed that the regulator’s performance in connection with Connaught was not an isolated failing, being ‘*not ... at material variance from the regulatory orthodoxy at the time*’;

**Dame Elizabeth Gloster’s [Report of the Independent Investigation into the Events Relating to the Financial Conduct Authority’s Regulation of London Capital & Finance plc](#).**

This report explored the regulatory role in and response to the sale of some £237m of unlisted bonds to consumers, a matter that is now under investigation by the Serious Fraud Office. Gloster concluded that ‘*the FCA did not discharge its functions in respect of LCF in a manner which enabled it effectively to fulfil its statutory objectives... the Bondholders... were entitled to expect, and*

*receive, more protection from the regulatory regime in relation to an FCA-authorized firm (such as LCF) than that which, in fact, was delivered by the FCA'. She also criticised 'the FCA's delays and errors in providing documentation to the Investigation Team' and the representations made by it during the Maxwellisation phase of the report's production, especially in relation to demands 'to delete references to 'responsibility' resting with specific identified/identifiable individuals';*

Furthermore, this was published in March 2021:

**The Work and Pensions Committee's [Protecting Pension Savers – Five Years on from the Pension Freedoms: Pension Scams](#)**

*This report addressed how best to tackle the growing phenomenon of the perpetration of investment frauds on individuals following the introduction of 'pension freedoms' in 2015. It raised concerns about not only the FCA's operational effectiveness but also the integrity of the evidence it gave the inquiry: 'The FCA told us that there have been a very large number of prosecutions involving scams and unauthorised business. We do not agree with this assessment. Its own figures - revealed only through Freedom of Information requests - show that there were just 25 convictions. We have heard numerous criticisms that the FCA is not effective in stopping scams, punishing scammers or retrieving scam proceeds. There is a compelling case for a much more ambitious approach'*

Critical reports continued to be published even after the Call for Evidence was announced in July 2021. Take this, in December 2021:

**John Swift KC's [Independent Review into the Supervisory Intervention on Interest Rate Hedging Products](#)**, which dealt with the FCA's decisions not to impose a mandatory redress scheme on banks that 'mis-sold' derivative products to SMEs in breach of financial regulations, and to create a voluntary scheme that excluded most of the larger claimants. Overall, in addition to a lack of transparency, the Review found that *'the voluntary [Redress] Scheme was an inadequate regulatory response'*. It criticised the regulator for being reluctant to consider Enforcement action (*'Each time this came up for consideration, the decision was taken not to institute enforcement proceedings against any of the banks or individuals... [leaving it] without a viable fallback option and thus arguably in a significantly weaker bargaining position in establishing the Scheme. It also meant that elements of possible misconduct (other than those appropriate to be dealt with by way of a redress scheme) avoided any regulatory action – for example, potential issues such as inappropriate sales incentives and shortcomings in systems and controls were not addressed by the Scheme.'*). Perhaps the most serious findings by far are those to be found on pages 188-191, which reveal that the regulator came under intense pressure from both officials and HM Treasury ('HMT') Ministers to reduce the banks' liabilities to SMEs by reducing the scope of the Scheme; they also show that such pressure was commonplace, and not confined to the IRHP investigation. While Swift cannot prove that HMT pressure is the reason for 10,000 SMEs being wrongfully excluded from redress, he has also been unable to find an alternative explanation: *'This Review examined the contemporary documents and heard evidence from FCA employees engaged in those discussions and decisions at the time. It has found no explanation why that change was agreed'*

A further report was published in March 2022:

**The National Audit Office's ('NAO') [Investigation into the British Steel Pension Scheme](#)**. This evaluated the regulatory response to the provision of advice by independent financial advisers that

resulted in some 8000 members of the British Steel Pension Scheme (a ‘gold-plated’ defined benefit one) transferring savings out of it and into personal, defined contribution arrangements. Much (perhaps most) of that advice was flawed, with financial incentives influencing its quality. The NAO is careful to avoid overt criticism of the FCA, though its findings of fact are concerning. In particular, Figure 10 (page 30) raises serious questions about the FCA’s reluctance to pursue Enforcement action against bad actors: for each of the courses of action available to the regulator, five years after the transfer activity peaked, the number of concluded cases was either zero or one. We would add that many of the perpetrators had been associated with previous misconduct cases which resulted in either no sanction or none sufficient to deter them from further wrongdoing, and that there have also been credible allegations that those involved in BSPS transfers have since been associated with subsequent scams.

At this point it might be helpful to mention one more report; a report from October 2016. It is relevant because its recommendations, despite being well founded, entirely evidence-based and utterly compelling, *were not acted on*.

The report being referred to is **‘Cultural Change in the FCA, PRA & Bank of England: Practising What They Preach?’** by New City Agenda, available [here](#).

Here are snippets from the press release and a sample of the key comments about the report:

*The headline from the press release was:*

**‘Financial regulators need cultural change to avoid another crisis’**

Here are some comments about the report:

- From the Most Reverend and Right Honourable Justin Welby, Archbishop of Canterbury and New City Agenda Advisory Board Member, who said:

*‘New City Agenda’s report into cultural change in the UK’s financial regulators is an important piece of work which reminds us that restoring trust requires regulators to practise what they preach. The report sets out clearly the progress made by the FCA, PRA and Bank of England and where improvements are still needed....I commend this report and encourage all those who care about developing a financial regulatory system which prioritises the needs of society to read it and act on its recommendations.’*

- From New City Agenda Non-Executive Director Lord Sharkey, who said:

*‘The New City Agenda report serves as a warning against the culture of box-ticking which contributed to the financial crisis, allowed widespread misconduct to occur and let bank executives escape sanction. Andrew Bailey, the new CEO, has a unique opportunity to put cultural change at the heart of his plans for the FCA. It is encouraging that he has prioritised creating a clear mission for the FCA and ensuring that it can be held accountable for progress. It is vital that this process of cultural change in the FCA is consistent and helps restore confidence in the regulator.’*

- From the report’s author, Professor André Spicer, Professor of Organisational Behaviour, Cass Business School, who said:

*'Britain's financial regulators must change to avoid sleepwalking into another financial crisis that will have a devastating effect on our economy and political system. If we want to avoid this, just making minor tweaks to the ever expanding rule book is not enough. We need to ensure a meaningful change of culture at our major financial regulators – they must practise what they preach. There is evidence of positive change but more needs to be done – or there is a big risk these important transformations will be derailed.'*

Here are some of the key findings that were shared at the time:

- **Unless we change the culture of regulators, we will be sleepwalking into the next financial crisis:** *This will have a devastating effect on our economy and political system. Crucial change following the 2008 economic crash is already being watered down.*
- **New Financial Conduct Authority (FCA) chief executive Andrew Bailey** *will need to demonstrate his independence from politicians and the financial industry and prioritise cultural change. Leadership changes and the perception of political interference are in danger of making the FCA into a timid and cowed regulator.*
- **Politicians should support cultural change and tackle the culture of secrecy in UK regulators:** *Politicians must reform financial legislation so regulators are transparent and can be held accountable. Government must also appoint diverse leadership and board members.*
- **A deep seated culture of box-ticking:** *The UK's regulatory system is costly, complex, centralised and captured. The administrative costs of regulators are now over £1.2 billion a year – six times what they were in 2000. There are over 13,000 pages of rules, guidance and supervisory statements published by the FCA and PRA. The FCA handbook costs £3,641, the same as a second hand Mini Cooper. This creates regulation which is both bureaucratic and ineffective.*
- **Forgetting the lessons of the crisis:** *The FCA scrapped its review of bank culture and is failing to make effective use of its new powers. The CEO of the FCA was removed in what was widely perceived to be a political sacking orchestrated by the Treasury.*
- **External perceptions:** *...Stakeholders were less positive about the FCA. They pointed to the variable quality of staff, excessive box-ticking, a culture of secrecy, a lack of willingness to use new powers granted by Parliament, a lack of clarity about what the regulator was trying to achieve, a lack of independent evaluation, internal silos and poor engagement with small players in the financial industry.*

The report's recommendations:

- **Financial Conduct Authority**

*The FCA should ensure it does not get distracted from its attempts to institute a new culture.*

*This means developing a new comprehensive programme of cultural change, establishing the key purpose of the regulator and developing the metrics which will be used to measure success. Senior leadership must demonstrate independence from politicians and the industry and provide support for frontline staff to take a more proactive approach. The FCA must make use of the new powers to name and shame misleading adverts, secure redress for consumers and take action against senior executives. It should set up an Independent Evaluation Office, as exists within the Bank of England.*

- **Polycymakers**

*There is an urgent need to reform the legislation that has allowed a culture of secrecy to develop in regulators by removing section 348 of FSMA. The current framework has damaged efforts to hold regulators accountable. There remains a strong case for introducing a duty of care owed by financial services firms to their customers. Politicians must ensure they appoint boards that provide a diverse range of experiences – beyond people from the financial industries. Finally, they must develop a greater understanding of the views of staff, consumers and SMEs about the culture of the regulator.*

The 2016 New City Agenda's report's focus on cultural issues at the FCA being at the root of its many problems was a precursor to Dame Elizabeth Gloster's comments five years later, in June 2021: she also focused on its culture problems, when giving evidence in Parliament about the FCA's discredited handling of the LC&F scandal, as this snippet from Hansard shows:

Mr McFadden >

 [Share](#)

**Q** Thank you, Ms Ghani, and I thank all the witnesses for giving us their time. Dame Elizabeth, I would like to begin with you. You produced a hefty, detailed report of hundreds of pages with a number of different recommendations. Having looked into the collapse of London Capital & Finance so deeply, what is the single biggest lesson that you would like us to take from your report?

**Dame Elizabeth Gloster:** It is probably set out in the executive summary of my report, in chapter 2. I think the biggest lesson that should be taken away is that there has to be a cultural change at the Financial Conduct Authority in order to ensure that the FCA is able to regulate in accordance with its obligations in a digitalised world.

This point is being emphasised because *our report*, being written some seven years after the New City Agenda Report, also takes a close look at the culture of the FCA.

This report provides a second chance to get it right. We therefore urge all those with the power and position to make change possible to avoid failing to turn these words on pages into the kind of positive, constructive and purposeful reform that may be needed, for the benefit of all, including of course the FCA itself.

It is worth noting that the evidence available in [Violation Tracker UK](#) might tend to suggest that the financial sector may be [the most violating of all the parts of the UK economy](#).

Furthermore, a closer examination of the data suggests that some financial services companies repeatedly infringe, which raises the question of whether parts of the sector merely regard malpractice as a cost of doing business.

The Violation Tracker UK data suggest that the FCA's approach of punishing a firm's poor conduct by fining its innocent shareholders, whilst leaving largely unscathed the miscreant individuals responsible for what went on, is having little impact.

The reputational damage caused by excessive malpractice in the sector may jeopardise the trading prospects of UK financial services. Reputation matters, especially given the pro-competitiveness agenda that is expressed throughout the Financial Services and Markets Bill. It is of systemic



importance that the UK's financial sector and its regulatory framework are respected by overseas regulators and governments.

Earlier, we referenced the 2016 report by New City Agenda, the 2020 reports by Dame Elizabeth Gloster and Raj Parker, the 2021 reports by the Work and Pensions Committee and by John Swift KC and the 2022 report by the National Audit Office, all of which have been evidence-based and critical of the FCA.

It could be argued that looking at just the *existing* evidence about the FCA's consumer protection performance might warrant some concern.

On top of all the existing, established evidence, there is now a whole new body of testimony that can be added to the mix. That testimony is the fresh, new evidence the APPG has gathered that this report speaks to.

This report is a package of the testimonies of over 174 individuals who have stepped forward to respond to the APPG's [Call for Evidence about the FCA](#). Through it you have access to the evidence submitted, to our commentary in terms of the key emerging themes that came out of them, to our conclusions and to a series of well-considered recommendations by a Panel of stakeholders.

#### **COMMENT OF SUPPORT FROM FORMER MP YVONNE FOVARGUE**



*"This is an important report which rightly puts the end-user at the heart of financial regulation.*

*The work of the APPG on Fairer Financial Services is vital and chimes in with two APPGs that I chair - Consumer Protection and Debt & Personal Finance.*

*Together, we are committed to promoting the highest standards of consumer protection and the belief that all markets – including financial services – must work for everyone, and not just the few.*

*The FCA is a central player in this story and this report should be welcomed by all who have a stake in the provision of financial services."*

## Methodology

### Operational Responsibility

On the instructions of the APPG's Chairman, all the operational aspects of the Call for Evidence were handled by the APPG's [Secretariat](#), which is provided by the [Transparency Task Force](#), but with all important and strategic decisions made by Parliamentarians.

### Overall Approach

All reasonable efforts were made to publicise the initiative to relevant stakeholders, whether supportive or critical of the regulator. Respondents were allowed freely to express their opinions in their testimony, without being steered in any particular direction or censored. Clear instructions were provided to the potential witnesses on the APPG's [website](#) and within the question sets.

### Question Sets

Witnesses were provided with a question set to respond to in writing, with a selection of question sets to choose from so that the respondent could choose the most appropriate one.

The Secretariat developed several sets of questions, with each set of questions relating to a particular cohort of people, as follows:

- Question Set A, for victims of alleged pension and investment scams
- Question Set B, for victims of bank misconduct toward SMEs
- Question Set C, for victims of financial services misconduct from Payment Institutions and other non investment scams
- Question Set D, for Mortgage Prisoners
- Question Set E, for whistleblowers
- Question Set F, for other stakeholders
- Question Set G, for current and former Financial Conduct Authority employees

Given the APPG's overt remit to focus on consumer protection, the question sets tended to focus on people whose interactions with the FCA occurred other than as a result of working in FCA-authorized firms. However, Question set F, for other stakeholders was designed to include people from a wide range of perspectives including market participants.

The question sets were constructed as neutral i.e. they would be equally appropriate whether the witness had a positive or negative view of the FCA. They were then made available to download on the APPGs website, along with full instructions for the witness to follow, [here](#).

With the exception of Question Set G (see below), the question sets were created in online workshops with stakeholders from that community - so, for example, payment institution scam victims contributed to the drafting of questions in Question set C, and whistleblowers those in Question Set E.

Note that Question Set G, for current and former FCA employees, was a late addition to the options. It was created after the Call for Evidence started, in response to demand from current and former FCA employees who explained that none of the other question sets were appropriate for

them. The questions were co-created with a current FCA employee who contacted us on their own and colleagues' behalf, wanting to provide testimony but concerned that none of the current question sets accurately reflected the expected nature of their responses.

### **Raising Awareness**

The Call all for Evidence was promoted through social media, inviting anybody that had interacted with the FCA to download and complete the question set of their choice. The promotion encouraged potential respondents to read about the initiative on the APPG's [Call for Evidence web page](#) and to follow the instructions given. A press release was issued to a wide range of consumer and business to business media.

Nikhil Rathi, Chief Executive of the FCA, was asked whether he would be willing to help publicise the question set for current and former employees of the regulator within the organisation and on a LinkedIn group for former colleagues. Unfortunately he declined to do so.

### **Response Handling**

All responses were placed in a secure folder on Google Drive, accessible only by specific members of the APPG Secretariat. Contact details were transferred into a secure spreadsheet then redacted from the responses. Where respondents provided appendices, these were also added to the drive and hyperlinks to them embedded into the testimony.

On a 'best efforts' basis, redactions were made to the testimony and appendices of the contact details of respondents, other private individuals, and where they had requested anonymity, respondents' names.

Given the importance of preserving the integrity of the evidence received, a light touch was adopted in considering whether to redact or otherwise censor testimony critical of individuals, firms or organisations. Errors in spelling, grammar and typography were not corrected in the underlying testimony; the qualification 'sic' is used in places in the report to indicate uncorrected errors in quoted text. Thereafter, PDFs were created of the testimony documents and appendices and the originals stored in another secure drive.

Testimony was then transferred to another secure spreadsheet, from which extracts were selected by the authors of the relevant chapters. Inevitably, some subjectivity is involved in choosing which passages to include, and which to exclude. Authors were asked to select quotations they felt were representative of the testimony of the respondent in question, and also of the class of respondent of which the individual is a member, and to prioritise those that highlight experiences and opinions about the FCA over those that do not - as would be expected given the nature and objectives of the exercise. However, the full testimony is available via hyperlinks from the report, so readers can evaluate it for themselves.

The APPG's Secretariat wrote an initial version of the report for members of the APPG; a second was produced for wider publication. This was necessary because some respondents gave permission for their testimony, or their name, to be shared only with APPG members, whereas others consented to unrestricted publication. The version for APPG members was password

protected, and the password emailed to members separately, and clear instructions were provided by email and in the report itself not to breach privacy by sharing the report outside the Group. To provide further protection, the document itself was hosted on a secure Google Drive, with view-only access limited to their specific, Parliamentary email addresses.

A small number of respondents - principally but not solely current and former employees of the FCA, who answered question set G - provided two slightly different sets of testimony: one for APPG members and another for publication. In the main, the differences between the two versions involve small changes to information that might render them identifiable to the FCA, because they still work there, or in an authorised firm, and fear retribution. Changes typically involve removing specifics about roles, departments and dates and some details about specific incidents. We also permitted some respondents in this and the whistleblower category (question set E) to provide a *nom de plume*, rather than using their own name, for the same reason. Appropriate steps were taken to ensure that such respondents were genuine.

### **How this Report is Structured**

The heart of this report consists of seven chapters, each one reflecting the responses to a particular question set. They follow a common structure:

- Responses - a list of respondents, each one a hyperlink to a PDF of their full testimony; some testimony documents in turn link to appendices containing further evidence. We encourage readers to follow these links and read the evidence for themselves, and not simply to rely on our summaries and conclusions. Where a person has withheld permission for their evidence or their name to be placed in the public domain, the published version of the report is redacted accordingly;
- Key findings - a bullet-pointed synopsis of the responses we received to that question set;
- Summaries on each question - here we reproduce each question in that question set and, below it, some quotations from testimony that we felt was representative of the responses overall, or otherwise interesting. Each quotation is preceded by a hyperlink to the PDF of that respondent's full testimony, together with a page reference, so readers can easily read the quotations in context

The report also contains a foreword (written by the APPG Co-Chair, Bob Blackman MP), executive summary, introduction, this methodology chapter, and a conclusion (all initially written, like the seven question set-based chapters in draft form by members of the Secretariat, but then finalised by APPG members), and a recommendations chapter.

The recommendations chapter was co-created by a Panel of individuals selected by for their diversity of experience and understanding of matters relating to financial services regulation, whistleblowing, governance, consumer rights and related matters. All members of the Panel were approved by the APPG's members.

The Panel was given the report in draft, minus the foreword, executive summary and of course recommendations, and asked to co-create the recommendations.

Thus, the recommendations flow logically from the evidence received, but are independent of both the APPG Members and the Secretariat. They also benefit from a range of expertise from

stakeholder groups ranging from academics to journalists and market participants, which we hope will add both quality and credibility to this report. Not every Panel member agrees with every recommendation, and nor does the APPG necessarily endorse them; they are ideas published in good faith with the intention of prompting constructive debate.

### **The need for further work**

Testimony received accuses the FCA of slowness, inaction, complacency, capture, opacity, unaccountability and even dishonesty. It is not for the APPG to pass judgement on whether these claims are justified, though the many of the narratives contained within the submissions appear highly credible. What can be said with some confidence is that the regulator does not enjoy, and perhaps even does not warrant, a high level of stakeholder confidence.

Written evidence from those who have interacted with the regulator is necessarily backward-looking and gathering and processing it and producing a report of this scale and complexity on limited resources and volunteer labour necessarily takes time. The APPG accepts that the FCA may therefore argue that it is now a different organisation than the one depicted in this document, and that its Consumer Duty has given it additional powers that it can leverage to secure better customer outcomes from firms. Perhaps - though, at the time of writing, the most recent reviews of the organisation on [Trustpilot](#) remain dire.

For this reason, and because the APPG believes it is essential that there is independent verification of whether changes are implemented and are successful, the Group proposes that periodic, qualitative surveying of non-industry stakeholders is commissioned on an ongoing basis, by a party other than the FCA (to avoid any allegations of conflicts of interest). The APPG is open to continuing this work, if the Treasury is willing to fund it to do so; otherwise, it believes that the National Audit Office is the obvious body to perform the role, and is willing to provide it with any necessary help and support.

Any such work would be more effective if the FCA agreed to cooperate with the authors in inviting the regulator's employees to provide testimony; this is something the APPG requested, but was refused.



## Analysis of the Evidence

This edition of the report differs somewhat from the version produced for the APPG due to privacy considerations. Some individuals who provided testimonies have requested that their submissions remain confidential, and thus, they will not be included in this public release. Additionally, please note that certain names may have been changed. However, despite these adjustments, the overall message and contents of the report will remain largely unchanged.

## QUESTION SET A: For victims of alleged pension and investment scams

### Responses

We received **83** responses from victims of alleged pension and investment scams **of which 69 have consented to publication**. They are:

- [Anoop Vasishta](#)
- [Anthony Morris](#)
- [Atanu Saha](#)
- [Barrie Smith](#)
- [Bob Levin](#)
- [Brian Lander](#)
- [Christopher John Frewin](#)
- [David Turnbull](#)
- [Diane Clarke](#)
- [Fred and Linda Hotchen](#)
- [Gary Lomax](#)
- [Geoff Mountain](#)
- [Gordon Neave](#)
- [Graham Broadhead](#)
- [Graham Smith](#)
- [Ian Davis R.I.P.](#)
- [Jack Warren Rosenfeld](#)
- ["Turnbull"](#)
- [Jane Edwards](#)
- [Joan Pritchard](#)
- [John Cole](#)
- [Josephine Buonaguidi](#)
- [Julianna Lancaster](#)
- [June Lavery](#)
- [Karl Newman](#)
- [Lesley & Anthony Bracher](#)
- [Mark Bishop](#)
- [Mark Goble](#)
- [Michael Bland](#)
- [Paul Birch](#)
- [Paul Carlier](#)
- [Paul & Susan Warren](#)
- [Peter Cornell](#)
- [Philip Bryden](#)
- [Philip Resteghini](#)
- [R2i Valle de Uco Investor Group](#)
- [Raymond Oliver](#)
- [Roger Frederick Blank](#)
- [Sameena Ahmad](#)
- [Simon Wozniak](#)
- [Stephen Brabazon](#)

- [Steven Wilkinson](#)
- [Sue Flood](#)
- [Timothy Sykes](#)

The following wish their identity and testimony to be kept confidential to the public:

- [Respondent A2](#)
- [Respondent A3](#)
- [Respondent A8](#)
- [Respondent A10](#)
- [Respondent A12](#)
- [Respondent A17](#)
- [Respondent A24](#)
- [Respondent A30](#)
- [Respondent A36](#)
- [Respondent A42](#)
- [Respondent A43](#)
- [Respondent A47](#)
- [Respondent A48](#)
- [Respondent A49](#)
- [Respondent A50](#)
- [Respondent A53](#)
- [Respondent A54](#)
- [Respondent A59](#)
- [Respondent A61](#)
- [Respondent A66](#)
- [Respondent A71](#)
- [Respondent A72](#)
- [Respondent A73](#)
- [Respondent A77](#)
- [Respondent A80](#)

The following have provided a video testimony in addition to their written submission:

- Ian Davis R.I.P. - [click here](#) to watch; taken from a short speaking slot Ian had at an event
- Karl Newman - [click here](#) to watch
- Mark Bishop - [click here](#) to watch
- Sue Flood - [click here](#) to watch

### **Key findings**

- The respondents are private investors who invested their own money in Peer to Peer lending platforms and Collective Investment Schemes, and SIPPs. Many of the respondents are retired and used their retirement savings.
- The respondents felt they were making safe investments as the companies they invested in, or the persons they trusted to handle their money, were authorised by the FCA which implied their investments would be safe.

- Respondents felt that the FCA had failed to protect them as consumers by not acting quick enough to prevent the fraud from happening. In many of the cases the respondents said there were plenty of 'red flags' that should have alerted the FCA that something was wrong. A few of the respondents also mentioned that the FCA had ignored them when they reported concerns.
- The most frequent word used to describe their dealings with the FCA was 'frustrating'. Other words used were 'disappointing', 'slow', 'hopeless', 'upsetting', 'exasperating', 'painful', 'uncollaborative'.
- The respondents said what happened to them has had huge consequences, both financially and emotionally, to them and their families. It has caused them stress, anxiety, depression, and feelings of guilt and shame. Financially, many have had to make significant sacrifices in terms of their standards of living such as having to go on benefits, come out of retirement, downsize their homes. They are worried about their futures, and their children's futures.
- When asked to comment on the FCA's Transformation Project, some respondents welcomed the initiative and said it 'was about time'. Others felt that it is a pointless exercise and a 'white wash'.

### Summaries on each question

#### **1. Please tell us about yourself and outline, just briefly to begin with, how you came to interact with the Financial Conduct Authority?**

Most of the respondents are retired and/or private investors who either came into contact with FCA because they were checking on authorisation status of the company they were investing in, or to make a complaint following collapse of investment.

#### **Sample comments:**

- **Gary Lomax** ([p. 3 of 6](#)): 'I am an individual investor who came to interact with the Financial Conduct Authority after I invested into a P2P loan with a company authorised and regulated by the FCA that turned out to be fraudulent.'
- **John Cole** ([p. 3 of 13](#)): 'I am a 69 year old Male who retired in 2018 and took my savings and small pension and placed it with several investment firms and platforms with a view to increasing my Pension. Unable to obtain an adequate financial return from the regular bank and building society products at the time...

'...I went to the web as I had done previously and found many webpages offering fixed rate Bonds with good rates of return. Firms alongside the popular brands all advising FCA approved etc. There were many firms advertising a variety of rates from 4 to 12 percent... I was almost immediately inundated with calls from firms offering me products. Some I asked to send me details which they did.

‘...I did contact the FCA website before investing in London Capital and Finance as they advised me to as part of their scam. I found the site and believed what I saw but did not understand the complexities, exceptions, and multiple caveats exposed by the LCF scandal regards perimeters, or the fact firms could be regulated and products not etc.’

- **Respondent A36** ([p. 4 of 11](#)): ‘I am a retail investor who invested (meaning lent) on the Lendy and FundingSecure (FS) platforms. I contacted the FCA in 2014 to check that Lendy was authorised.’
- **Lesley and Anthony Bracher** ([p. 4 of 7](#)): ‘Following the collapse of Blackmore Bonds we contacted the FCA and have been allocated a Senior Investigator and at the present time investigations has been deferred.’
- **Mark Bishop** ([p. 4 of 50](#)): ‘I was an investor in The Connaught Income Fund Series 1 (‘the Fund’), a collective investment scheme originally promoted and operated by Capita Financial Managers Limited (‘CFM’), at the time (and now) the UK’s largest third-party provider of Authorised Corporate Director, depositary, trustee and related services to the financial services sector. I am the default chair of the Fund’s liquidators’ committee and have played the central role in its [Action Group](#). Prior to this I had never worked in the financial services industry or had any dealings with the FSA or FCA; so my relationship with the regulator came with no preconceptions, good or bad, and no agenda.

‘My first contact with the Financial Services (now Conduct) Authority took place on or around 4 July 2012, prompted by me identifying evidence of misconduct and regulatory failure in relation to the Fund, which had been suspended some four months earlier.’

- **Peter Cornell** ([p. 3 of 8](#)): ‘Retired Nuclear Engineer. When the FCA issued the original copy of this notice I started investigating. <https://www.fca.org.uk/news/news-stories/information-investors-collateral-companies> The sentence that pricked my interest stated ‘In fact, none of the Collateral Companies held any valid authorisation or permission to carry on regulated activities.’ This did not appear to be correct since Collateral was showing as authorised on the Interim Permissions Register (IP) when I checked it before investing.’
- **Respondent A66** ([p. 3 of 8](#)): ‘I consulted an Independent Financial Advisor (Mrs Sarah Mullen, working for Burgess Williams Financial Management Ltd) when I inherited some money from my father. I was reassured by the fact that the IFA was authorised and regulated by the FSA (the predecessor of the FCA). I was advised to make investments in a company called Alternative Investment Solutions (General) Ltd but I did not know that the advice I had received was not independent at all – I was not told that Mrs Mullen was a creditor of AIS or that the Director and shareholder of BWFM Ltd (Mr Paul Chandler, also an IFA) was also the Director and shareholder of AIS. After a few years AIS went into administration and subsequently liquidation. I made a claim through the FSCS who agreed that I had a valid claim on the basis

that I had received unsuitable advice from an IFA but although I received the full amount of compensation of £50,000 my overall loss was £120,000. I emailed my MP (Sir Nicholas Soames) in April 2019 saying that I considered that the FCA had failed in their duty to regulate the IFA adequately. My letter was passed on to the FCA's Chief Executive Mr Andrew Bailey who replied on 14th June 2019, admitting that there had been 'individual errors in the supervision' of the IFA which was 'clearly regrettable'.

- **Timothy Sykes** ([p. 3 of 6](#)): 'Small private investor wanting to get some return on my savings, away from standard bank accounts. Made a few investments which looked good on the surface... Having ended up in several aggrieved investor groups, where the platforms had failed, I was encouraged to approach FCA as they had failed in their statutory duties, in order to request guidance and compensation where appropriate.'
- **Brian Lander** ([p. 3 of 13](#)): 'I am a retired accountant in my mid-80s. I check the FCA Register (Financial Services Register) before investing my hard-earned savings, to ensure I am dealing with a firm that is FCA-authorized and regulated.'
- **Respondent A77** ([p. 3 of 6](#)): '...I've had health problems since I was 16 and now I'm 39, living at the same address with an elderly parent my entire life. Because of continuing health issues it has been hard getting fulfilment from life, but found purpose just in saving.'

'I got to know the FCA when I thought it was a body that ensured protection for everyday consumers in the financial environment, and was a sign a company was set-up properly. I put my entire savings into a company that proudly flaunted for 3 long years their FCA credentials, drawing in thousands of unsophisticated investors and taking £230m over that time. But it turned out they were using the regulator's presence like an official honeytrap.'

'When the company went into administration after the FCA FINALLY stepped in to stop things late 2018, relating to misleading information, it later was revealed to be a type of pyramid scheme with an FCA stamp. Thousands of old and young consumers were confused as was given a green light for so many years.'

- **R2i Valle de Uco Investor Group** ([p. 3 of 13](#)): 'We are the R2i (Ready2Invest Limited) Valle de Uco investor group and victims of a serious alleged investment fraud. Our group includes around 85 investors who continue to seek justice for the significant financial and completely avoidable loss we have suffered in connection with a five star 310 hectare development near Mendoza, Argentina. The investment scheme was promoted to retail consumers between August 2008 and February 2013. Around US\$13m was raised during that time....In May 2013, R2i was placed into liquidation...

'We are aware that there was interaction with the FCA by the R2i Investor Action Liaison Group from 2010 onwards when detailed submissions



(including supporting evidence) were sent to the FCA Enforcement and Financial Crime Division regarding a EUR 100m alleged fraud relating to the R2i Jersey Property Funds and linked vehicles. However, the FCA first became aware of R2i's promotional activities and serious fraud allegations back in 2006/2007 (i.e., before the Valle de Uco investment was marketed). A formal complaint was sent to the then FSA CEO, Martin Wheatley, in May 2014 for failure to take action against R2i for over 4 years or longer. We do not have any record of the FCA addressing this complaint.

'The R2i Valle de Uco investor group received bank statement evidence that investor funds relating to the Valle de Uco project had been misappropriated in 2017. The FCA, R2i liquidators and the Insolvency Service were informed of the serious irregularities. We also filed complaints against the two banks that had been involved in the facilitation of the serious economic crime and alerted the FCA accordingly. Further complaints were filed about R2i carrying out regulated activities without FCA authorisation. In 2020, a number of the R2i Valle de Uco investor group investors filed a complaint against the FCA for regulatory failure.'

## 2. What did you invest in; and when; and what went wrong?

79 respondents answered this question. Over half of the respondents invested their money in peer to peer lending platforms such as Lendy, FundingSecure and Collateral. 14 respondents said they invested in LC&F, seven in Blackmore Bonds, five in Alternative Investment Solutions. Others invested in the Connaught Income Fund, Park First, Moneything, Ablate, Ethical Forestry. Many of these went into administration.

### Sample Comments:

- **Respondent A2** ([p. 3 of 6](#)): 'I lent the money in the IFISA [Innovative Finance ISA] to a large number of FundingSecure borrowers during the first half of 2018. All of the loans were secured against various assets, mostly property, but also other items, such as a collection of antique clocks. All security items were, supposedly, independently valued and secured, and I ensured that there was a good safety margin between the total loan and the security valuation. Late, or failed repayment of loans started to become a problem later in 2018 with several having to be moved to special measures requiring possession and sale of the security. This process was slow but there was no sign of any fundamental issue. However, I have since become aware that an internal review in October 2018 identified several fundamental and serious issues, including:
  - Lack of capability and experience of FundingSecure's management performing the control functions.
  - Large scale defaults of loans issued by the site and the suggestion that some may have been obtained fraudulently.
  - Outstanding loans to directors from the company.

'FundingSecure went into administration in October 2019 and, in addition to the above, the administrators have identified that many loans had not been issued in line with the terms and conditions of the site. This includes loans

being issued to borrowers without the investor being the clear beneficiary of the proceeds which adversely affects the administrators' ability to liquidate security assets to return funds to investors. This will ultimately increase the likelihood and size of shortfalls.'

- **Barrie Smith** ([p. 4 of 7](#)): 'LC&F in 2018. FCA accredited company and ISA manager. Ponzi scheme. When FCA finally intervened the company went into administration and only 25% of initial investments could be identified.'

'Blackmore in 2018. Ponzi scheme. Company defaulted on interest payments and eventually went into administration with less than £1000 left in the bank. Investors were attracted by the Capital Guarantee Fund that said that initial investment monies were protected through an insurance policy, however that has to date failed to pay.'

- **Diane Clarke** ([p. 3 of 6](#)): 'My Financial Advisor, Paul Chandler, advised me to put my pension monies into a SIPP and sold me on the idea of investing in his own Investment services company, Alternative Investment Services and another Spanish building company, Stirling Mortimer. For a while all was well, and then I noticed I was not receiving my interest as income as promised. Despite requests I could not retrieve my investment and finally the whole set up went into liquidation.'
- **Jane Edwards** ([p. 2 of 3](#)): 'Blackmore Bond 5 year investment starting February 2017. Quarterly interest payments first unpaid in July 2019 after a prolonged delay, followed by an eventual default in October 2019, then going into administration with Duff & Phelps, with no funds left to repay investors.'
- **Respondent A30** ([p. 3 of 8](#)): 'Believing Lendy were a safe FCA regulated investment, and then gaining 'Full FCA Authorisation' in July 2018, I then invested much larger sums into the newly launched Lendy Wealth product. Thinking what could go wrong? especially having received advice from the Lendy Wealth advisors saying my new investments would be allocated to "safer, more secure property investments".'
- **Philip Resteghini** ([p. 3 of 5](#)): 'I had two investments with LC&F. The first was a 3 year bond taken out in January 2017 and a 2 year ISA taken out in January 2018. In December 2018 it was found that LC&F were actually [sic] operating a Ponzi scheme and FCA stopped them from any further trading.'
- **R2i Valle de Uco Investor Group** ([p. 4 of 13](#)): 'Retail consumers (most are British nationals and largely UK-based) invested in an overseas development project near Mendoza, Argentina which was represented as a safe hands-off development and R2i's flagship project...

'Unfortunately, the investment was falsely represented and R2i obtained investor funds by deception. There was an alleged fraud by false representation regarding the land valuation and security and an alleged fraud by failure to disclose critical information about upfront commissions

and the land. In fact, we discovered that the land had been double-pledged and that there were serious misrepresentations about the potential returns and the underlying land security which had been described as strong... The bank statements prove that our funds were largely misappropriated. In addition, there was a Ponzi style replacement scheme for investors in other failed investment schemes where these investors were offered land for a large discount or in some cases, they were offered land for US\$1.

'...there is little to show for the US\$13m investment except a badly maintained piece of land which is unlawfully occupied by a former employee. To add insult to injury, we inherited serious legacy issues which have taken a huge amount of time and cost (in excess of £0.2m to date) to resolve.

'In summary, R2i promoted and marketed many overseas developments from 2003 until 2013 which have resulted in significant retail consumer loss. Although we accept R2i was not regulated, it clearly should have been as it appeared that R2i was actively engaged in regulated activities such as offering regulated advice, offering financial promotions in breach of the financial promotion rules and establishing and operating a UCIS (Unregulated Collective Investment Scheme). The FCA had received much intelligence from 2006/2007 onwards about serious fraud allegations that posed a serious risk to retail consumers but failed to take any tangible action to protect retail consumers and stop the financial crime. The loss faced by the R2i Valle de Uco investor group was completely avoidable.'

### **3. If you're happy to mention it, how much money did you invest, and how much of that money do you have left?**

80 respondents answered this question but not all were willing to share the amount they invested/lost. A few of the respondents have been able to recover some of their losses, but for many they don't know if or when they will ever get their money back.

#### **Sample comments:**

- **Respondent A3** ([p. 4 of 6](#)): '[Invested in Lendy, Collateral, FundingSecure and MoneyThing] Approx £40,000 of which approx. £10,000 is either tied up in defaulted/non-performing loans, has been stolen by the operators of the business, or spent on advisors and administrators' fees.'
- **Respondent A8** ([p. 4 of 10](#)): 'At the date of the Fund's [Connaught Guaranteed Low Risk Income Fund Series 1] liquidation, my loss was £99,020.47 (being the sum of my capital invested plus outstanding interest at that date).

'Following receipt of compensation payable under the Capita redress scheme announced in the FCA's Final Notice dated 10 November 2017, I am still harbouring capital losses of £25,230.86.'

- **Respondent A12** ([p. 4 of 6](#)): '[Invested in FundingSecure] Invested circa £30k; I had bad feelings before the platform went into administration so managed to withdraw all bar £5k which is tied up in bad loans – many of which have been written off as bad debt.'
- **Respondent A24** ([p. 4 of 15](#)): '[Invested in LC&F] In total I invested £40,000. I received £535.89 in interest and £1000 repayment from the administrators. I do not have any of that money left.'
- **Respondent A66** ([p. 4 of 8](#)): 'I made a loan of £100,000 to AIS [Alternative Investment Services], none of which has been returned to me. I also bought £70,000 worth of shares which are now worthless; I have received £50,000 from the FSCS in compensation for these. I am therefore £120,000 out of pocket.'
- **Timothy Sykes** ([p. 4 of 6](#)): 'Invested £5k with BB [Blackmore Bonds], received c. £1.1k back in Ponzi-style "interest", and have all-but written off the remainder.'
- **Sue Flood** ([p. 5 of 10](#)): 'My Final Salary Pension Transfer from the BBC was £130 k which was sent to the New UK Pension Trustees Lancaster Pension Scheme, which was registered with both HMRC and the Pension Regulator. Currently Dalriada Trustees are unable to inform me how much, if any is left after 11 years of trying to track where the monies went, the cost of their legal wranglings with the various entities (both UK and overseas) in order to lay claim to have my pension monies and that of other victims returned. I did not invest my pension as I believe it was put into a common Trust'

#### 4. What was supposed to happen, and what actually happened, as far as you know?

74 respondents answered this question. The respondents expected their investments to generate a good return, and were under the impression that their money was safe. In many cases assets that were used as security were overvalued when the loans were advertised, and in some instances the assets didn't even exist.

##### Sample comments:

- **Ian Davis R.I.P.** ([p. 3 of 6](#)): 'Money was supposed to be invested in 100's of SME's at no more than 75% LTV [Loan to Value] money went instead direct to fund the directors & associates own interests I have evidence of mass money laundering via fake self loans, transferring of property along with concealment & deception by using & changing borrowing companies names only for the old name to be used on another company making it look like the same company while the original company still exists under a different name.'
- **Respondent A30** ([p. 5 of 8](#)): 'Supposed to happen:
  - Short term loans to vetted individuals
  - These Borrowers have Personal Guarantees in place such that they have sufficient assets to cover any shortfalls on main loan

- No more than 70% of property value lent (Loan to Value LTV)
- First charge against the security property
- Valuations carried out by RICS professionals, backed-up by their professional indemnity policies
- Transparent company with clear T&Cs authorised and monitored by FCA

‘What actually happened:

- Vetting process seems to have been non-existent
- Borrowers taken on with terrible track records
- Some Borrowers with track records of multiple instances of renegeing on loans
- Some Borrowers with history of bankruptcy
- At least one Borrower with history of taking dubious action against loan companies
- This Borrower initiated a court case that aimed to extract additional damages from the Investors!
- Borrowers identities hidden from us Investors so we couldn’t do our own due diligence
- Personal Guarantees worthless with Borrowers hiding assets
- Borrowers setting up Single Purpose Vehicles (SPV Companies) meaning their exposure is limited and they just lose the company and walk away without having to fund any shortfall
- Valuations grossly inflated, meaning massive shortfalls on recovery
- Directors siphoning money off-shore (current court case)
- Lendy changing T&Cs retrospectively to favour their profit over Investor Capital, with no ability to leave if you didn’t agree with these changes
- Directors making fraudulent withdrawals, including £1m in ‘personal expenses’ in the month or so before Administration, when the writing must have been on the wall and Lendy were under Special Measures with the FCA where every transaction had to be authorised
- Numerous other issues that are more thoroughly documented elsewhere’

- **Lesley & Anthony Bracher** ([p. 4 of 7](#)): ‘The money was to be invested in high quality property building and renovation. The purchased land and buildings were made SPV’s unknown to investors and mortgages were raised on them. When the company went into Administration there was less than £1000 in the bank. The building work was substandard which had to be rectified and the mortgages had to be paid. In order to fulfil these obligations it looks as though a Fire Sale took place with the remaining assets. No one seems to say what happened to the £45 million raised and why the company failed in the midst of a house building frenzy.’
- **Mark Bishop** ([p. 7 of 50](#)): ‘...I will give you the short version. The Fund was marketed as a bridging loan fund: investors would lend their money to the Fund (an English Limited Partnership), which would then lend it to a diversified mix of high-quality borrowers for bridging loans... Such loans are typically more expensive than conventional mortgages - those backed by the Fund were at an APR of around 17.9 percent - providing sufficient returns to enable the Fund’s investors to receive returns of a little over eight percent and for the parties involved in operating the Fund and making the loans to

generate sustainable returns. Measures were supposedly in place to limit loan-to-value ratios and ensure there were first charges on property, and guarantees were offered in respect of both income and capital.

‘What actually happened is described in some detail in [Raj Parker's external review](#) of the regulator’s handling of the case. Briefly, the Fund was a Ponzi-style fraud in which many of the loans (which were in fact almost all development funding, a much riskier, less liquid, unregulated category of lending) were made to refinance previous, non-performing lending, or were provided to connected parties (or both), often at increasingly fictitious valuations and underpinned by little or no tangible security. Sometimes loans were ‘approved’ but never proceeded with, but monies were drawn down nonetheless by Tiuta plc (‘Tiuta’) (the party responsible for identifying and approving borrowers), or when loans were ‘redeemed’, proceeds were retained. Tiuta failed to operate a separate client account for these monies so they were commingled with the firm’s own resources and used to meet its operating costs, including the lifestyle costs of its principals. Borrowers included convicted fraudsters and people with learning difficulties, LTV ratios were ignored, valuations were clearly fraudulent, charges on properties either absent or defective and audits negligent or dishonest.

‘This was made possible by the Fund’s operator, CFM, taking on and promoting the product with literally no due diligence into the Fund or its counterparties and with only minimal oversight of or involvement in how the Fund actually operated, which differed materially from the description in the Information Memorandum, a regulated financial promotion. When CFM realised what had happened, it and the FSA jointly sought a new Operator so CFM could rid itself of the business - and, it hoped, any resulting liability. After two false starts (firms that agreed to take on the role but walked away within days when they spotted problems with the Fund), a new Operator, Blue Gate Capital Limited (‘BGC’) agreed to handle the matter. Another Capita subsidiary continued acting as custodian of client assets until the FSA could grant BGC the necessary permissions, and CFM provided a seconded employee to help BGC administer the handover. At no stage was there full disclosure by either CFM or the FSA of the problems both knew existed with the Fund. Thus new investment continued to be attracted into the Fund and the commingling and dissipation of funds proceeded unabated.

‘As a result, by the end of 2011 - less than four years after the Fund’s launch, and despite having raised more than £100m from investors - the Fund was unable to honour the quarterly income distribution, which required less than £2m in cash, without support from another of the parties involved. The following quarter it was unable to pay, so the Fund was suspended. Between January 2011 and the Fund’s suspension in March 2012, the FSA was fully aware that Tiuta had been stealing investors’ money, that it was insolvent on a cashflow and balance sheet basis and that it was in breach of its capital adequacy requirements and multiple other threshold conditions.’

- **Respondent A53** ([p. 3 of 8](#)): ‘The company was to return our investment in 2022, but instead went into a CVA [Company Voluntary Arrangements]. The level of failure of the business called the Wellesley Group was hiding from



investors with accounts not being filed on time or accurately. Massive overtrading and using investors funds to finance the business was effectively a Ponzi scheme. The marketing gave a much better picture than [sic] actually what actually was the case and they gave the impression [of] success. The loan book failures were much larger than reported too.

‘The above company (WFP) was put into a CVA on the 24 September 2020. The investors in the three companies mentioned above were drawn into the CVA. There were 11,744 retail investors who are owed £134.7m. The CVA was forced through during the COVID-19 period without a creditor meeting being allowed. The CVA was illegal in many ways as advised to the FCA and Insolvency Services. Many investors, I suspect did not read the full 220 pages of the complex CVA, and were not able to comprehend this complex arrangement and the bigger picture. I got involved with a small group of disgruntled investors via Facebook in early October 2020 to try and find answers to this complex issue. The group calls itself Wellesley Investors Action Group (WIAG) in the relatively short time before the CVA vote was casted on the 13 October 2020. We worked together to decipher the fragmented CVA and gain a full understanding of the failures and its impact with over 200 hours of research being carried out.’

- **Respondent A72** ([p. 2 of 6](#)): ‘LCF [London Capital & Finance] were supposed to, as per their promotion leaflets, be loaning money to small/medium businesses on a basis of 75% loan to assets of the lending company. They were not doing this but were in fact lending money to themselves.’
- **R2i Valle de Uco Investor Group** ([p. 5 of 13](#)): ‘... we know that the FCA had knowledge of serious fraud allegations (property fraud and investor fund misappropriation) back in 2006/2007 or earlier and at least 12 months before R2i started to market the R2i Valle de Uco Investment Scheme... the FCA were provided with detailed submissions and evidence from 2010 onwards by the R2i Investor Liaison Action Group. The knowledge the FCA obtained in around 2007 (and before the Valle de Uco investment scheme was even marketed) should have been the catalyst for investigation and should have been referred to the FCA Enforcement and Financial Crime Team and the FCA Unauthorised Business Department as the allegations were so egregious. Given the numerous red flags known to the FCA, they should have considered that it was highly likely that R2i was carrying out regulated activities without FCA authorisation in breach of FSMA and the potential risk of harm to future retail consumers.

‘...We have heard arguments from an official source which states that the FCA does not have the power to investigate an unauthorised firm that is not carrying out regulated activities even if there is suspected fraud. This type of defence is of serious concern as the FCA’s role and its powers have been misunderstood (deliberately or otherwise). To ignore or dismiss warnings of serious fraud allegations which then results in avoidable retail consumer loss results in a failure to both protect retail consumers and reduce financial crime. The message to fraudsters is that the FCA will not investigate and that

fraud pays. This stance helps to support financial crime which is the complete opposite of the FCA's statutory duties.'

**5. Have you ever witnessed any actions or conduct that, in your reasonable belief, breached any law, regulatory code or applicable or relevant policy? If so, please explain which law, code or policy you believe was breached.**

21 respondents answered this question. The respondents said they had witnessed breaches such as mis-selling, violations of FCA's Principles, misappropriation of funds, breaches of the Financial Services and Markets Act 2000, the FCA Conduct of Business Sourcebook and the Fraud Act 2006.

**Sample comments:**

- **Atanu Saha** ([p. 5 of 7](#)): 'YES. Most of the defaulted Loans were Mis-Sold, deliberately Over-Valued by conniving RICS Surveyors and even outright Fraud (Loans to Directors without any Documentation, as was the case with Funding Secure.

'In case of Wellesley, they sold off the Assets to a newly formed sister Company (solely formed for this purpose a few days back) at roughly 50% discount, despite having NO Rights or Ownership of the Assets. FCA knew this very well and this had happened despite a FCA mandated VREQ imposed on Wellesley a few weeks back. Despite informing this to FCA, they did NOT intervene and let the Sale go through, which was later legalised by a contrived CVA Voting.

'In another case, Collateral, they allowed someone to officially change the FCA Register (using the FCA supplied Credentials, not by any Hack) to falsely Claim FCA Registration and Authorisation and FCA were Asleep on the wheels for 9 months.

'In Moneything case, they appointed Moorfields as Administrators, while Moorfields were already actively involved to the extent of managing the Funds and completing the Builds themselves. So, they appointed Moorfields to investigate against Moorfields with FCA's and ICAEW's Permissions and Supervisions and they DON'T see anything wrong in this and rejected the Complaints (particularly ICAEW, who went beyond their remit to paint the Administrators whiter than white. The Court has even allowed the Administrators (Moorfields) now to charge their Fees from segregated Client Money Funds, which neither Moneything nor Moorfields have any legal ownership of and despite them not being present in the Lender T's & C's.

'All of these blatantly violated all the Principles of Finance & Commerce and the FCA's own Principles (PRIN 2.1 The Principles).

'The Financial Ombudsman took 1-2 years to even allocate complaints, most of them were too late as the Companies went into Administration by then. For those that were still trading, the Ombudsman were acting as gatekeepers of the Firms, acting resolutely in defence of those Firms rather than investigating independently.

‘The Insolvency Service is too busy to investigate most of the Frauds and the IP Regulatory Services again act as defenders of their members.’

- **Respondent A47** ([p. 7 of 9](#)): ‘As I understand it, one of the FCA’s main objectives is to protect retail investors, in this respect they failed completely; in fact it was more a case of leading lambs to the slaughter.

‘The FCA gave FS [FundingSecure] full approval, giving retail lenders, such as myself, a false sense of security, whilst failing to ensure that the company had appropriate controls in place to safeguard the interests of lenders.

‘The FCA failed to ensure that FS had appropriate plans in place to safeguard lenders in the event of platform failure.

‘The FCA failed to take appropriate action to ensure the stabilisation of FS financials & capital resources, after the lack of controls were identified in October 2018, when the new shareholder and Director joined FS.

‘The FCA Failed to ensure that FS’ systems complied with the FCA’s own CASS regulations.

‘The FCA failed to ensure that information given on the FS website was factual, for example allowing it to issue “certified” copies of their loan holdings.

‘The FCA failed to ensure that loans offered by FS were suitable for retail lenders.

The FCA failed to ensure that asset valuations were realistic.’

- **Respondent A48** ([p. 4 of 6](#)): ‘Unbeknownst to lenders, Lendy’s contracts with P2P borrowers contained clauses that purposely favoured Lendy (rather than individual lenders).

‘For instance, in the event of borrower default, clauses concerning penalty interest inflated the proportion of borrower repayments that would become due to Lendy (even though Lendy bore no credit risk on the underlying loans). This directly disadvantaged lenders.

‘Furthermore, Lendy retrospectively altered its terms to create a ‘waterfall’ system for recoveries of bad debts. Likewise, this favoured Lendy rather than lenders, because Lendy would be able to deduct fees, penalty interest and other dubious amounts before returning any cash to lenders. Importantly, there was no exit mechanism available if existing lenders refused to accept those altered terms. NB: The ‘waterfall’ has recently been successfully challenged in court by lenders (under the umbrella of the self-funded Lendy Action Group).

‘In addition, it is alleged that the Lendy directors misappropriated almost seven million pounds of Lendy’s funds via offshore companies. This is currently the subject of a case in the High Court, brought by the administrators against the Lendy directors.’

- **Paul Carlier** ([p. 5 of 20](#)): ‘The actions and conduct I reported to the FCA in March 2017 and subsequently escalated direct to Andrew Bailey and Mark

Steward of the FCA in August 2018, were clear breaches of FSMA, FCA COBS and the Fraud Act 2006.

‘The actions of the FCA subsequent to my reports, and particularly following the collapse of Blackmore Bond in April 2020 amount to a dishonesty and fraud, and gross misconduct in a public office.

‘In short:

The FCA dropped the ball when they failed to act on my March 2017 reports. However, when they discovered that they had dropped the ball, instead of picking it up and admitting their mistake they sought to dishonestly conceal their failings and bury the ball, and all 2,000+ UK pensioner victims with it.’

- **Peter Cornell** ([p. 4 of 8](#)): ‘Parliament explicitly requires, in FSMA Section 55V, that the FCA ‘must in any event determine such an application within 12 months beginning with the date on which it received the application.’ The FCA exceeded its legal power by extending Collateral’s application to over 22 months, fully aware that it was putting a growing number of consumers at risk of harm’

## 6. What, if anything, do you believe the FCA could have done that may have prevented you from allegedly being scammed in the first place?

77 respondents answered this question. Many of the respondents felt that the FCA should have acted faster and kept a closer eye on what was going on. See for example Mark Bishop’s response to this question, quoted below, which identifies several things the FCA could have done to prevent investors from being scammed in the Connaught case.

### Sample comments:

- **Respondent A3** ([p. 4 of 6](#)): ‘Proper oversight of the operations, or a refusal to grant interim permissions if they didn't have capacity to do so. This would have meant investors would not have been misled into thinking their investments were more secure than they were.’

- **Anoop Vasishta** ([p. 4 of 6](#)): ‘FCA regulation & eventual authorisation was faulty despite having knowledge of wrong doings by the key company personnel & Directors.

‘Full Authorisation to operate should NEVER have been allowed & past/new investors warned accordingly – info in public domain very clearly confirms FCA culpability in this debacle – FCA were asleep at the wheel frankly !!

‘Also the new Lendy Wealth product launched in late 2018 should not have been allowed.’

- **Atanu Saha** ([p. 5 of 7](#)): ‘FCA should have kept a close eye on the Firms that they Claimed to have Authorised and Regulated and spotted these Red Flags much earlier and acted to protect the Interests of ordinary Lenders.

‘They didn’t even act on repeated warnings by numerous Lenders, as was the case with Wellesley.

‘In the Collateral case, their own Register was wrongly changed by the Firm that they were supposed to Regulate (using authentic credentials supplied by the FCA themselves) and later on they tried to justify it as a sophisticated hack ! They still have NOT accepted any Responsibility / Culpability for this Gross Failure..’

- **Barrie Smith** ([p. 5 of 7](#)): ‘FCA should have responded to whistleblowers who reported genuine concerns early in trading years of these companies. FCA should have protected UK citizens against such Ponzi schemes.

‘FCA should have ensured that commission rates paid to introducers should have been fully declared in marketing material to potential investors.

‘Safeguards should have been in place to ensure that marketing material was truthful, fair, balanced and not misleading.

‘The FCA should have been proactive to ensure such high risk products were not promoted to unsophisticated investors. A self-declaration of status that bears no checks is unacceptable and does not protect consumers.’

- **Respondent A12** ([p. 4 of 6](#)): ‘Had they properly reviewed the platform they would’ve seen that it didn’t meet the criteria for being allowed to offer IFISAs [Innovative Finance ISA] and, indeed, it was fraudulently advertising loans. I would not have opened an ISA with the platform.’
- **Fred and Linda Hotchen** ([p. 4 of 8](#)): ‘If only the FCA had vetted the activities of Burgess Williams which had already been highlighted to them, this could have been avoided and there is no way the FCA should have allowed their approved Advisors to be selling products which they didn’t regulate. We feel very strongly that the fact that the Financial Advisor was FCA approved, contributed greatly to our trust in him. We had no idea there were products that were not regulated.’
- **Geoff Mountain** ([p. 3 of 5](#)): ‘If they had done any routine checks or monitoring some of the many issues would have become apparent. It may be that they failed to stop the activities of The House Crowd post 21st December 2017 when they applied a restriction that they have so far refused to confirm what it applied to.’
- **“Turnbull”** ([p. 5 of 7](#)): ‘They shouldn't let companies like Lendy get these preliminary approvals to operate until they are confident that they are not criminal operators. The FCA need to step up to the plate and start taking some responsibility. I know they aren't the FSCS but at the moment, I literally do not think they offer any reassurance to people who have been scammed. What are they going to do differently in future, so that when people like me get scammed, we know they are on our side?’
- **Jane Edwards** ([p. 2 of 3](#)): ‘According to a freedom of information (FOI) request submitted by The Telegraph, the City of London Police first alerted the FCA to events at mini-bond provider Blackmore in 2018, 18 months before it eventually failed. It subsequently highlighted problems at the company 44 times prior to its demise in April 2020. The majority of those

warnings occurred in February and March of that year. FCA therefore ignored repeated warnings from London Police in 2018, 18 months before Blackmore collapsed.'

- **Respondent A42** ([p. 4 of 8](#)): 'More stringent monitoring of the platforms prior to authorisation. Clamping down on the companies and directors during the platform's existence, and forcing the company into an orderly wind down before they ran out of capital, not a selling out the lenders to a bunch of vultures (administrators, lawyers, and other service providers) all on the pretext of "helping" the lenders to recover pennies in the Pound! The FCA should have made sure the companies had a decent balance sheet and monitored it regularly. All possible with today's technology.'
- **Mark Bishop** ([p. 9 of 50](#)): '... [[Raj Parker's Independent Review](#)] identifies more than enough flaws in the regulator's performance to be confident that a reasonably competent regulator, acting in good faith on the basis of the information and powers available to it at the time, would have prevented me and almost 2000 Connaught investors being scammed. These shortcomings include (but are not limited to):
  - Authorising Tiuta despite knowing that its 'corporate controller' had previously attempted to defraud HMRC by falsifying invoices and failing to supervise it to a minimally competent standard<sup>5</sup>;
  - Failing to prosecute the founder and sole shareholder of Connaught Asset Management Limited ('CAM'), Nigel Walter, for operating an illegal collective investment scheme, namely UK Land Investments ('UKLI'), a boilerroom scam that defrauded consumers of [some £69m](#), and failing to track his actions after he applied unsuccessfully for FSA authorisation;
  - Failing to act on an alert from Jersey's financial services regulator, and another from a consumer;
  - Ignoring, and supposedly subsequently losing<sup>6</sup>, alerts from three whistleblowers;
  - Failing to act appropriately in response to concerns raised about the systems and governance at CFM in respect of accounting errors and alleged fraud in another collective investment scheme for which it was responsible, [Arch cru](#)<sup>7</sup>;
  - Immediately thereafter, facilitating the transfer by CFM of the Fund to at least two operators who immediately resigned upon identifying problems with the product and a third, BGC, that did not;
  - Failing to act on repeated, evidenced allegations that CAM was conducting regulated business despite being unauthorised, and that

<sup>5</sup> [Mark Bishop's footnote] The firm lacked the most basic systems and procedures from the outset

<sup>6</sup> [Mark Bishop's footnote] I do not believe they were genuinely lost. If that were so, how come the FCA knows how many there were?

<sup>7</sup> [Mark Bishop's footnote] The FSA required CFM to commission a report under Section 166 of the Financial Services and Markets Act 2000 ('Section 166 report') into its systems and processes. Even today, the FCA refuses to disclose that report in response to Freedom of Information Act requests. We suspect it paints a picture of systemic shortcomings that were never remedied, and wonder if it even identifies UCIS products, perhaps even the Fund, as an area of concern. If this is true, it casts new light on why CFM resigned its role as the Fund's Operator in 2009 and raises serious questions about the extent to which that decision may have prompted by the FSA and of how much the FSA knew about risk to investors in the Fund at that time



promotions for the Fund were misleading - despite knowing that the firm was led by a known fraudster;

- Identifying late, and failing to act when it became aware that, Tiuta's Compliance Manager Mike Davies was also Chairman of CAM - an obvious conflict of interest, and a flag pointing to collusion between the two;
- Allowing Tiuta to be supervised by a friend and former colleague of Mike Davies - another very obvious conflict of interest;
- Ignoring evidence that BGC may have been trading while insolvent, and allowing both it and (I would argue) CAM to operate with insufficient balance sheet strength and professional indemnity insurance to meet any liabilities that might arise, a breach of the threshold conditions;
- Ignoring concerns expressed by BGC that the Fund might be trading while insolvent;
- Failing to act appropriately on a SUP15/Principle 11 alert from George Patellis, Chief Executive Officer of Tiuta, that: he had concerns about the solvency of Tiuta<sup>8</sup>; there were risks to client monies belonging to the Fund; Tiuta's systems and records were defective and his fellow directors were conducting themselves with a lack of probity;
- After Patellis resigned from Tiuta and returned to his native New York and the FSA required him to return to London at short notice and deliver up to them any evidence he held that substantiated his concerns; yet when he did so, it inexplicably refused to accept handover of an entire suitcase of such documentation;
- Refusing to require Tiuta to go into administration, despite advice from BDO that this should happen, overruling an FSA employee whose clear recommendation was that an insolvency process was required;
- Thereafter, allowing Tiuta to continue to trade, further dissipating the Fund's money, relying on subsequent reports from BDO which it knew were paid for by Tiuta from the Fund's resources and which contained prominent disclaimers to the effect that those reports were based solely on inputs from Tiuta's management<sup>9</sup> and that BDO had undertaken no work of its own to establish the true financial position nor the deliverability of any claimed turnaround plans;
- Overruling a Supervisor who expressed the opinion that investors in the Fund should be notified of concerns about the solvency of Tiuta, not least because that firm was the provider of a guarantee to the Fund's investors which it was unlikely to be able to honour;
- Publishing a grossly inadequate and misleading 'arse-covering' statement on its website;
- Requiring Tiuta to cease all regulated (bridging loan) lending, by implication endorsing the unregulated (development finance) lending that was jeopardising the Fund's investors' money and which breached the description of the use of capital provided in the

<sup>8</sup> [Mark Bishop's footnote] substantiated by an independent report by insolvency specialists from BDO LLP ('BDO')

<sup>9</sup> [Mark Bishop's footnote] about which, the FSA already knew there were grounds for concern

(regulated) promotions<sup>10</sup>. This was seemingly driven by reputational concerns - the FSA believed that its own position could be enhanced by being able to argue that the small proportion of regulated lending had ceased<sup>11</sup>;

- Requiring Tiuta to return to the Fund the proceeds of all loan redemptions - a requirement that proves the FSA knew that such monies were being retained (theft); no attempt was made to notify the police or other law enforcement agencies of this criminality<sup>12</sup>;
  - Mistakenly believing that CAM was regulated by the Guernsey Financial Services Commission when in fact it was a UK-based company so if, as was the case, the firm should have been authorised, that authorisation should have come from the FSA itself'
- **Respondent A50 (p. 5 of 8)** 'The FCA should have been doing what they were supposed to do, regularly checking and vetting this company. Why on earth did the FCA give Lendy full authorisation in July 2018 knowing full well Lendy were in financial difficulty & trading unscrupulously. The general public, myself included, were totally unaware of anything being wrong and continued to invest.'
  - **Peter Cornell (p. 4 of 8)**: 'If the IP [Intellectual Property] register had been secure one of the directors of Collateral (Peter Currie) would not have been able to change the register from Regal Pawnbroker to Collateral (UK) Ltd.  
  
'When Collateral applied for Part 4A authorisation if the FCA had checked information they already held and/or Companies House they would have seen that the company numbers did not tie up. This was not possible for investors to see since the IP register did not contain the unique Company number.  
  
'If either of these actions had been taken the website would not have gone 'live' and no investors would have been able to invest/lose a single 1p.'
  - **Respondent A73 (p. 4 of 7)**: 'The FCA should have been more hands on with FS and all other P2P companies. This is a relatively new area of finance which is clearly open for abuse if not properly regulated. I believe the majority of P2P companies to be good and well intentioned but the ease with which FS was able to do what it did should have been clear to the regulator. The FCA should have kept a closer eye on things and validated FS loans and valuations to make sure that customers were not essentially being scammed.'

<sup>10</sup> [Mark Bishop's footnote] The Fund's investors were never notified of this change; it was buried on Tiuta's entry on the FSA register

<sup>11</sup> [Mark Bishop's footnote] This technique of encouraging a firm to run down regulated activity, and even to reverse a firm's authorisation, is a technique the FSA/FCA has used in other cases to create plausible deniability for itself in cases where there has been misconduct enabled by regulatory failure

<sup>12</sup> [Mark Bishop's footnote] The FSA varied Tiuta's permission (VOP) in June 2012. The variation required Tiuta to return redemption money to the appropriate funder when a loan redeemed. This VOP was added 3 months after the Fund was suspended and 17 months after the FSA first knew Tiuta was using redemption money for its own purposes - surely evidence of the FSA trying to create an evidence trail, after the event, falsely implying that it had been on top of events

‘I know there is an onus on lenders to do their own research on a loan but this is impossible when certain key details (such as borrower details and addresses of property used as security) are redacted, therefore there is not much lenders can do other than to trust the valuations and LTVs given by FS. The FCA would have been in a position to spot check and report on the accuracy of these.

‘The FCA should have made sure there was an adequate wind-down policy in place and forced FS to wind down as it approached the point where it still had enough money to actually perform the wind-down.’

## 7. What interaction have you had with the FCA about what happened?

77 respondents answered this question. Seven of the respondents said they have had no interaction with the FCA. Most of the respondents’ interactions with the FCA have been in the form of making a complaint or trying to get updates on an ongoing investigation.

### Sample comments:

- **Respondent A2** ([p. 5 of 6](#)): ‘I emailed a complaint letter on the 25th March 2021. I received an acknowledgement on 31st March which allocated a complaint reference, but on 29th April received notification that it was being deferred following the commencement of an enforcement investigation into FundingSecure. That is the last I have had.’
- **David Turnbull** ([p. 4 of 6](#)): ‘i mailed them my concerns numerous times on receipt [sic] of my last email i was told that any more mails would be filed and not considered so in other words i was being ignored’
- **Geoff Mountain** ([p. 3 of 5](#)): ‘A number of phone calls in which I have been fobbed off each time, followed by a failure to respond to a FOI within the prescribed timescale.’
- **Joan Pritchard** ([p. 4 of 7](#)): ‘...I approached the FCA on more than one occasion and have the responses received from them, should you want to see them. Basically, each time I approached them, they told me there was nothing they could do for me. A quote from one of their responses is:

‘We do have powers to consider the actions of firms, and where appropriate, take action against firms or individuals as part of our supervisory work, but where a firm is already in administration, it would be difficult to make any financial claims against them.

‘This did make me wonder why they could do nothing against the Directors or Owners of Basset & Gold – but they refused to consider this.’

- **Karl Newman** ([p. 4 of 6](#)): ‘I pit [sic] my application in for compensation to FSCS on 7 April 2020. They made me wait until November 2020 then rejected my claim.

‘I then made a complaint to Gallium Fund Solutions A. R for B&G they made me wait until end Jan 2021 and redirected me back to FSCS.

‘I then appealed to FSCS and they made me wait a further 5 weeks before rejecting my clsim [sic].

‘Now the FOS has my complaint and they have had it for 10 months with no end in sight.

‘I have also made a complaint to FCA which has been deferred.’

- **Lesley Bracher & Anthony Bracher** ([p. 4 of 7](#)): ‘We have received emails from a senior investigator but these have ceased at the moment and our case has been deferred.’
- **Paul Birch** ([p. 8 of 16](#)): ‘Since January 10th 2017 and July 22nd 2021 I have shared 121 emails with the FCA in addition to several letters with ever increasing detail of the roles played by their regulated individuals and entities in the huge pension scam being operated by MCT group companies, with the complicity of many other FCA regulated entities and individuals

‘Additionally my UK lawyers have separately submitted highly detailed complaints in writing on my behalf, as has my local MP.

‘The phrase knocking your head against a brick wall is the only polite way I can express the frustrations and the seeming blindness of those involved at the FCA to investigate the facts that have been shared with them, given the millions that have been ‘stolen’ from the members of the MCTML HMRC registered QROPS portfolios.’

- **Respondent A72** ([p. 2 of 6](#)): ‘I have written to the CEO of the FCA, I have logged a complaint with the FCA, and I have escalated that complaint to the complaints commissioner.’
- **Anthony Morris** ([p. 7 of 10](#)): ‘2 recorded Zoom calls [[here](#) and [here](#)] of over an hour each. Over 12 major submissions of evidence and a 404 page report. All were ignored and not followed up with me.’
- **R2i Valle de Uco Investor Group** ([p. 7 of 13](#)): ‘A significant number of R2i Valle de Uco investors filed complaints against the FCA for serious regulatory failure in connection with the R2i case. A large number of complaints were filed in September 2020 when it became clear there was an endemic problem at the FCA for failing to take action when warned of serious fraud allegations in the light of the London Capital & Finance (LCF) case.

‘However, as noted above, the FCA had knowledge of serious fraud allegations and other irregularities in 2006/2007 before the Valle de Uco investment scheme was marketed and attracted investor funds from August 2008 onwards. During 2010 and while R2i was still actively marketing the Valle de Uco investment scheme, other investors were sending detailed

submissions with supporting evidence about serious alleged fraudulent activity involving R2i.'

## **8. How well or badly do you think the FCA have performed in your case?**

79 respondents answered the question. Overall, the respondents did not have anything positive to say about how the FCA performed in their cases. Many felt that the FCA had failed to protect them as consumers.

### **Sample comments:**

- **Gordon Neave** ([p. 6 of 17](#)): 'Incomprehensively [sic] badly, beyond belief!'
- **Fred and Linda Hotchen** ([p. 5 of 8](#)): 'The FCA have completely and utterly failed us and to rub salt into the wound, after an extended period of complaining about our loss from an FCA approved advisor, they have never to this day done anything about it and he is still FCA approved, having lost his clients literally many millions of pounds. Yet the FCA professed to maintaining the integrity of the Financial Industry and Investors and taking action against bad practices. They have done none of this and to this day we have not received a penny in compensation as the product we were sold is outside of their remit.'
- **Joan Pritchard** ([p. 4 of 7](#)): 'I believe the FCA have performed very badly in their 'supervisory' role, especially as they claim to be 'responsible for regulating the UK's financial markets as a whole.' Their words, not mine! Despite being warned of Basset & Gold's 'shady' acts, they chose to do nothing until innocent creditors lost every penny they had. (My investments were my own Civil Service Superannuation and that of my late husband. I am so ashamed of losing his hard-earned money, that I'm glad he knows nothing about it.)'
- **Lesley and Anthony Bracher** ([p. 4 of 7](#)): 'At best the FCA has allocated a senior investigator at worst we are awaiting an outcome.'
- **Respondent A42** ([p. 5 of 8](#)): 'Abysmally at best. Other than an 'enforcement investigation' on a company(ies) that is in administration, nothing of benefit that the lenders can see has been done for the clients.'
- **Paul Birch** ([p. 9 of 16](#)): 'Total incompetence or conivance [sic] in conspiring to partake in the breathtaking breadth of the failures to identify the criminal activities of those implicated in these pension scams are the only words which are fit for public consumption which come immediately to mind.'

'The lack of interaction with other regulators and the law enforcement agencies in the other jurisdictions in light of the information which has been shared with them by myself, my lawyers and MP in such graphic detail staggers belief. Whether this is down to incompetence at a frankly unacceptable level right across the FCA or has more sinister overtones of wilful attempts to prevent justice being served is something I hope the APPG

can get to the bottom of.

‘Whatever the reality of the situation, the current position of the FCA is totally untenable.’

- **Peter Cornell** ([p. 5 of 8](#)): ‘Appallingly. They and their systems failed on so many levels on many occasions throughout the 22 months they were in discussion with the directors of Callateral [sic] and their advisors.’
- **Raymond Oliver** ([p. 5 of 7](#)): ‘Overall I think the FCA has performed badly. They were informed of the malpractices of LC&F in its early years but nothing was done about it. It was allowed operate drawing in more of us victims unchecked.’
- **Respondent A66** ([p. 5 of 8](#)): ‘Extremely badly. I think the FCA consummately failed to safeguard my interests by not monitoring closely enough the IFA involved.’
- **Respondent A73** ([p. 5 of 7](#)): ‘Badly. They should have been more aware about what was going on at FS [FundingSecure] (and other P2P companies) before the issue got out of hand.’
- **Sue Flood** ([p. 6 of 8](#)): ‘I believe the FSA /FCA have failed abysmally towards myself as a consumer by not providing clear guidance that could be easily understood by those who do not deal on a daily basis with financial advisors and the governing regulations / legislation which is what now appears to be extremely complex . That is why consumers like myself, seek professional regulated advice for help which we pay for, in this instance our life savings!’
- **R2i Valle de Uco Investor Group** ([p. 7 of 13](#)): ‘Overall, we have to conclude the FCA has performed very badly. Our biggest concern is the failure of the FCA to take action when they had knowledge of very serious fraud allegations which represented an ongoing risk to retail consumers. The consequence was that retail consumers who invested after the FCA had this knowledge now face significant financial loss which could have been completely avoided had the FCA taken action in an expedient fashion.

‘The FCA should be able to accept that there was a significant delay in their investigation of the two IFA’s involved in the Jersey Fund scandal and that they should have looked at the underlying source of the dishonesty when they had knowledge of the serious fraud allegations.

‘In dealing with complaints and concerns raised by numerous investors, the FCA appear to have turned a blind eye and acted in a defensive way. They have tried to resile away from their statutory duties of protecting retail consumers and reducing financial crime by arguing the products were not regulated by the FCA (in fact the same applied in LCF’s case) and that the complaint is out of time. We would argue the breach of statutory duty is so egregious that the case should be independently investigated regardless of the elapse of time, that the 12 month reporting requirement is not aligned



with the standard legal principles of a 3 year discovery window under the Limitations Act 1980, that due to the confidentiality of the FCA's investigations under s348 FSMA 2000 it is more challenging to determine if the FCA have or have not taken appropriate action and that the Complaints Scheme and retail consumers rights are not well understood by retail consumers.

'Furthermore, it is unfair to retail consumers as the FCA repeatedly ignored concerns (which arguably should be described as complaints) raised from 2010 onwards and failed to respond to the complaint submitted to the FCA CEO in May 2014. The awareness and knowledge that the FCA had an endemic problem of failing to take action when warned about serious fraud allegations emerged during Dame Gloster's investigation into the way the FCA regulated LCF and other cases that came to light when we investigated the matter in further depth.

'The FCA have been trying to argue that we should have had an awareness that we had a complaint against the FCA for serious regulatory failure at least 12 months before we filed the complaint. That argument makes no logical sense. Why would we choose not to file a complaint for 12 months? The fact is we had essentially raised other complaints about failing to take action far earlier but these concerns were simply ignored. To some extent this is irrelevant as the May 2014 letter could be considered to be the date when the complaint was first filed. The underlying complaint is identical being that the FCA failed to take tangible and effective action when they had knowledge of detailed fraud allegations.

'By way of balance, we should add that the FCA referred our complaint to the Complaints Commissioner who provided a comprehensive response and expressed sympathy for our loss but also advised us to raise ongoing concerns with our MPs.'

## 9. What do you believe the FCA could have done better once they were aware that there was a problem?

77 respondents answered this question. The respondents felt that the FCA should have stepped in and taken action sooner, acted faster to stop the fraud from happening, and not ignored whistleblowers.

### Sample comments:

- **Respondent A3** ([p. 4 of 6](#)): 'Stepped in and ring-fenced investor funds, frozen all assets of all directors.'
- **Atanu Saha** ([p. 5 of 7](#)): 'FCA should have immediately Acted and taken steps to minimise / mitigate Lender Losses, like putting a Ban on Distressed Asset Sale for a high Commission/Fee, Appointment of Administrators who charge £600/Hour (£250 - £300/Hr for a Trainee), etc. FCA Failed miserably to Ensure/Check that the Firms had an Proper Winddown Plan which was Adequate to Fund the costs of Winddown (rather than the Lenders footing

all the Bill).’

- **“Turnbull”** ([p. 5 of 7](#)): ‘Communicated promptly both about what they thought they were trying to achieve, but also to be clear about the timescales they were working to, and who could help me, if they felt they couldn't help. I still don't feel that they are there to really be on the side of the little victims of financial and investment fraud.’
- **June Lavery** ([p. 4 of 6](#)): ‘They should have acted on information given to them as early as 2015 although ideally they should have been doing the job they are supposed to do by monitoring companies such as LC&F’
- **Mark Bishop** ([p. 27 of 50](#)): ‘...I believe the regulator should take ownership of problems, instead of running away from them. When the Fund failed, the FSA should proactively have taken charge of communicating with investors, securing monies, appointing non-conflicted insolvency practitioners, and immediately begun the process of investigating what happened, with a view to identifying options for recovery (including the use of a restitution order). It should not have taken years of bullying and blackmail from us to get it to lift a reluctant finger, a tactic of passive resistance that continues even today.

‘Looking at the Fund in isolation, it is possible to speculate that it did not do this because the Fund’s collapse was not an unexpected event or one in which it had clean hands; the FSA had many years of red flags pointing to that outcome, and it had been liaising closely with Tiuta since Patellis issued his Principle 11 disclosure in January 2011...

‘Another area in which I suspect that the regulator could have served us better is by doing no harm, and more specifically, by not obstructing a police investigation. Early on, the Action Group decided to notify the police of our concerns about criminality in relation to the Fund. First, we went to the City of London Police, on the basis that the epicentre of any criminal activity was Tiuta, a firm located on its patch. After some reflection, CoLP decided it could not investigate. We understand (but cannot prove) that it sought guidance from the FSA about whether or not it should investigate, under the Memorandum of Understanding (‘MoU’) between the two; at the time, the FSA had even seconded an employee into that Police service to determine which cases should be pursued, and if yes, by which party.

‘We then took the case to the Metropolitan Police, on the basis that we believed there were obvious grounds to suspect that offences were committed by CAM and CFM, both of them located in the capital. It decided not to pursue the matter; we wonder, but cannot prove, whether it did so on the advice of the FSA, having contacted the regulator under the terms of the MoU between them. What we do know is that the officer we reported the matter to, [Paul Whatmore](#), was shortly thereafter seconded to, and subsequently became employed by, the FCA. While this could of course be a coincidence rather than a pay-off, the optics aren’t great. And a colleague who attended a meeting with the Met team said they used an argument we’ve seen the regulator use many times on politicians: ‘Connaught

investors were naive and greedy.’ What are the odds of the same ‘line to take’ being dreamed up by the coppers independently and not as a result of being steered away from the case by self-serving regulators? I recently learned that the specific officer at the Metropolitan Police who closed their file on Connaught was Whatmore. While I can’t prove that he was in any way influenced by the offer of a secondment that turned into a job with the FCA, it isn’t a good look.’

- **Respondent A53** ([p. 6 of 8](#)): ‘I believe the FCA are fully aware but have allowed Wellesley to practise and get away with it until the proverbial hits the fan. The FCA needs to get to terms with the financial integrity of investment companies.

‘Our financial markets are full of players who are either self-serving, corrupt or lie about their products offerings. Many fail investors over time, either by bad and corrupt practises or just gross incompetence. Wellesley, Lendy, Collateral, Blackmore, Basset & Gold are included in this.

‘They need to use the full remit of powers and use them without authority with proper enforcement. s166 should have used to call upon an independent investigation in the accounting and processes at Wellesley, they were clearly out of control including the credit risk management processes with the heavy bad debts not being realised until CVA. Why did they not call in for a review of this.’

- **Respondent A59** ([p. 4 of 9](#)): ‘...As for Lendy and Funding Secure, I don’t believe the FCA ever did a robust evaluation of the proposition and working methods. I believe I have been scammed as much by the FCA as by the P2P companies.’
- **Sue Flood** ([p. 6 of 8](#)): ‘Fundamentally the FSA/FCA I believe that they have demonstrated over the years that they are incapable of taking the appropriate regulatory action due to their complete lack of understanding as to what the actual problem was that was happening to me and hundreds/thousands of other consumers who ended up beeing scam victims.

‘Victims like myself and others, along with regulated bodies, eg the Pension Regulator tried in 2011 to 2013 to explain to the FSA/FCA what the issues where in respect of AES International and some of the Master Minds behind the transfer of Pension monies e.g. Stephen Ward and Premier Pension Transfer UK.’

- **Anthony Morris** ([p. 7 of 10](#)) ‘1. Spoken to shareholders who sent them contact details and consent to engage.  
2. Opened a formal enquiry into Umuthi’s business that included a review of the evidence they were sent.  
3. Involved the police in the UK...’

- **R2i Valle de Uco Investor Group** ([p. 8 of 13](#)): ‘...The matter should have been referred to the Unauthorised Business Department (if that did not happen). If the matter had been referred to the Unauthorised Business Department, the follow up was ineffective as no action was taken to investigate R2i and understand its business model and activities. If the FCA had taken appropriate action, they would have identified numerous red flags and established that R2i was engaged in regulated activities without FCA authorisation and in breach of FSMA (very similar to the failures identified in the LCF regulatory scandal). In fact, if the FCA had taken action on R2i and identified some internal policy gaps and weaknesses, it is possible that the LCF scandal could have been completely avoided. We also understand this would have been the case with Connaught but the FCA acted in a defensive way and was not receptive to open and constructive discussion about flaws in the FCA business model. We believe that was due to reputation being placed above retail consumer protection and an element of arrogance.’

#### **10. What would you say about the FCA’s effectiveness and timeliness in taking action to protect consumers?**

78 respondents answered this question. The respondents had nothing positive to say about the FCA’s effectiveness and timeliness in taking action to protect them. Many said they felt the FCA were slow and ineffective, and did not feel protected.

##### **Sample comments:**

- **Barrie Smith** ([p. 5 of 7](#)): ‘The FCA is too slow and ineffective to protect UK consumers, Taking months or years to act once alerted to a problem which served to expose even more consumers to losing their lifetime savings.’
- **Bob Levin** ([p. 4 of 6](#)): ‘Appalling. This has also demonstrated that where new forms of investment become subject to FCA approval, and there being little to no experience upon which FCA personal may draw, advice should be obtained from very experienced individuals in relevant and related areas, and also serve active as non-executive directors.’
- **David Turnbull** ([p. 5 of 6](#)): ‘It was appalling being as myself and another person were informing them and the SFO of the actions of the fraudsters they sat on the fence took not a blind bit of notice of the investors complaints until the report by Dame Gloster was published then suddenly decided that the rules applying to applicants for the FCA warrants needed looking at yes they saw us as stupid plebs who knew nothing but we used our heads and logical thought processes to come to conclusive answers that were viable’
- **Fred and Linda Hotchen** ([p. 5 of 8](#)): ‘Not only are the FCA very slow, they have repeatedly closed ranks and referred to their rulebook rather than take on board the seriousness of the issues. They have been appalling and instead of providing protection to consumers and maintaining the integrity of the financial industry, they have allowed the criminal fraternity to flourish with huge amounts of money continuing to be defrauded from innocent

investors like us who believed the FCA was a 'kite mark' for a Financial Advisor.'

- **Gary Lomax** ([p. 4 of 6](#)): 'As far as I can tell, being out of pocket by £50k + interest, the FCA does not protect consumers at all. As for timeliness, I have been nearly five years and I am still in the same situation as I was back then.'
- **Respondent A24** ([p. 7 of 15](#)): 'There was no effectiveness or timeliness as the FCA failed miserably in taking action until it was £237,000,000 too late. There was absolutely no protection given by the FCA at all for LC&F customers. Sadly the FCA is still not protecting us as they...are applying "the sole or primary cause of the loss", which isn't legally in the "Financial Services Act 2012" for deciding if they will repay the Bondholders investment.'
- **Respondent A30** ([p. 6 of 8](#)): 'The words FCA and effectiveness and timeliness are incompatible. The FCA's actions, in fact, has cost us very, very dearly.'
- **Respondent A54** ([p. 5 of 7](#)): 'The FCA is ineffective, too slow to act, and is failing to use its powers to prevent harm that it exists to prevent. The FCA is quick to look for excuses for its failures, and ways to avoid compensation investors who have losses as a result of its failures.'
- **Paul Carlier** ([p. 16 of 20](#)): 'There is no effectiveness or timeliness. The first criteria for the FCA before they will consider an investigation always appears to be; "Are we exposed?". If yes, there will be no effective or timely action, or likely no action at all. If no, then the FCA does appear more willing to act. The issue here is that on the vast majority of reports that come in to the FCA, be it from the public, victims, experts or whistleblowers, the chances are that the FCA is potentially exposed by them. For two reasons.

'Either:

- a) The FCA were not aware of what was being reported when clearly they should have been
- b) Or the FCA had been aware of it and chosen to do nothing.

'Either way the FCA is exposed or potentially exposed. Sadly, the FCA has shown itself to be no different from any other party when they face exposure or worse. A cornered rat is a cornered rat, and the FCA will do whatever it takes to prevent exposure and protect the reputations of its executives, no different from any other wrongdoer or criminal.'

- **Peter Cornell** ([p. 5 of 8](#)): 'Research shows that protecting consumers was almost absent from the FCAs actions. When the FCA discovered the 'problem' they asked the directors of Collateral to quietly remove all references to 'FCA approved' from their documentation and website. The FCA itself then changed the IP register from Collateral to Regal Pawnbroker and allowed the entry to lapse immediately. During the period when this was taking place (3 months) a further £3.8M was 'invested' in the full knowledge of that FCA that people were unknowingly investing in an

unregulated business with serious problems. Put bluntly the FCA attempted a cover up.'

- **Respondent A66** ([p. 5 of 8](#)): 'I was not at all protected by the FCA. They were completely ineffective. I have seen adverts on the television encouraging people to rely on FCA authorisation of advisers to ensure that they don't receive suspect investment advice and I am left seething with fury. I relied on it and it proved utterly useless..
- **Brian Lander** ([p. 10 of 13](#)): 'On timeliness, shockingly dilatory:
  - (a) over-extending the authorisation process for nearly double the legal time limit, despite a serious dispute with Collateral about whether it was undertaking regulated activities, and being aware that the FCA was placing consumers at great risk;
  - (b) taking over 2 months to act when it knew that Collateral was unauthorised. £3.8 million further investments were sold, with new accounts being opened by consumers who were not previously at risk;
  - (c) leaving Collateral to continue selling regulated investments even after asking it not to do so; and
  - (d) leaving client money unprotected for over 6 weeks after asking Collateral to cease regulated activities.'
- **R2i Valle de Uco Investor Group** ([p. 9 of 13](#)): 'The lack of action by the FCA following the receipt of evidence relating to serious fraud allegations or other irregularities shared by IFA's, finance professionals and others have resulted in avoidable losses being suffered by retail consumers on numerous occasions.

'The FCA has an overarching statutory duty to protect retail consumers and reduce financial crime. In conclusion the FCA has not been effective and timely in taking any action to protect consumers.

'The significant delays by the FCA in failing to respond to serious fraud allegations resulted in retail consumers facing significant but avoidable financial loss. We can quantify the R2i Valle de Uco Investment scheme as approximately US\$13m but the figure will be higher when other investment schemes from the FCA's date of knowledge (2007 or earlier) are taken into account. It is worth noting that the losses from the date of knowledge are a fraction of the LCF losses.

'The only appropriate remedy is to set up a financial redress scheme where the FCA failed to act when warned about serious fraud allegations which then allowed the unlawful and fraudulent activities to continue. By failing to take action when warned about serious fraud allegations, the FCA became complicit in the wrongdoing.'

**11. How helpful has the FCA been to you and others affected in securing redress from the alleged guilty parties, and in prosecuting or banning them so they can't do it again?**

79 respondents answered this question. Many of the respondents said that very little, or nothing, has been done to secure redress from the guilty parties. Similarly, not much has been done to stop the guilty parties.

**Sample comments:**

- **Graham Broadhead** ([p. 5 of 7](#)): 'I have waited Over 4 years and have instructed and paid a Solicitor to get Justice for this deception, The FCA are in the process of achieving an agreement with Park First which could result in a cva [Company Voluntary Arrangement] vote which will if voted for will see this company carry on Trading'
- **Ian Davis R.I.P.** ([p. 4 of 6](#)): 'Not helpful at all !! From experience this is not just a problem with the FCA but a failure of information sharing by all the Government "Agencies" Evidence gets dismissed by one department & goes no further I have had this with various Police forces.Action Fraud,NCA,CPS, Companies House, Insolvency Service etc. The SFO even told me not to send in evidence & did not tell the truth after I gave details of three helicopters belonging to associates of LCF after suggesting wouldn't it be wise to place freezing orders on these they told me later that restraint orders had now been placed on them when they hadn't resulting in three weeks later one being sold for, I believe 1.3 million. when it was shipped to the U.S.The lack of restraint orders were confirmed by the Civil Aviation Authority last year when I spoke to the person who de-registered it in the U.K. I was told they had no evidence of any restraint orders ever being placed on any of them !!'
- **Joan Pritchard** ([p. 5 of 7](#)): 'My answer to this is short and sweet – the FCA have done absolutely nothing in helping me to redress my losses. They have been of less use than a glass hammer. They have allowed disreputable companies to exist, such as Basset & Gold, and have allowed them to continue their business in leaving a trail of crippled and broken-hearted pensioners – all the time, holding suspicions of their practices. I lost all I had and they have been totally disinterested.'
- **June Lavery** ([p. 4 of 6](#)): 'They do not appear to have done anything apart from liquidating the company. The directors of this company have not been affected in any way.'
- **Respondent A42** ([p. 5 of 8](#)): 'Again, absolutely abysmal. I have been told that there won't be any financial redress coming from the FCA. If they are immune from persecution, what incentive do they have to truly help the many thousands of clients who have lost life altering funds in these fully authorised scam companies.'

'The lenders are not interested in banning the directors, they want their money back, and the directors locked up for fraud. If the FCA "bans" them,



this is nothing more than a slap on the wrist, and the directors get to walk away with a fortune of clients monies.'

- **Mark Bishop** ([p. 29 of 50](#)): 'On redress, it has done too little, too late, very reluctantly, and when staring down the barrels of a metaphorical gun. Why was a restitution order not sought, and why not in 2012? Why only a voluntary, partial redress scheme, negotiated in late 2017 and fulfilled a year later? On prosecuting and banning, it has done absolutely nothing. Every single perpetrator and enabler is still out there, at liberty to do it again. And the Capita/Link guys have done just that, resulting in Woodford customers losing billions of pounds, and being deprived of access to their savings for years. I find all this grossly unacceptable.'
- **R2i Valle de Uco Investor Group** ([p. 9 of 13](#)): 'The FCA have not taken any action in securing financial redress from the alleged guilty parties so they have been no help in this regard. The FCA has been defensive, tried to pass the buck and resiled away from taking any responsibility. They have simply informed us they were sorry to hear about our distress and the significant financial loss we face (which would have been completely avoided had the FCA taken action when warned of the serious fraud allegations back in 2007).'

## **12. What are your thoughts on whether the FCA lacks the powers that it needs; or conversely, that it doesn't make good use of the powers it already has?**

75 respondents answered this question. Most of the respondents felt that the FCA does not make good use of the powers it already has.

### **Sample comments:**

- **Atanu Saha** ([p. 6 of 7](#)): 'I think that it probably lacks some Powers, but they Definitely DON'T make Good Use of the Powers they already have.'
- **Bob Levin** ([p. 4 of 6](#)): 'Both apply. This is primarily born of lack of knowledge, expertise, and relevant experience.'
- **Gary Lomax** ([p. 5 of 6](#)): 'I don't believe a lack of power is the problem here. I believe the problem is lack of punishment for failure on the part of the regulators.'
- **Jane Edwards** ([p. 2 of 3](#)): 'The prevalence of fraud and the recent collapse of LCF and then Blackmore strongly suggest that the FCA either can't or won't use its powers effectively.'
- **Joan Pritchard** ([p. 5 of 7](#)): 'I think they don't make good use of their existing powers, or they would have stopped companies like Basset & Gold from mis-selling mini bonds to pensioners such as myself. If further powers are required to help them to 'police the financial markets', they should seek it from the appropriate authorities – and not just sit back and rest on their laurels. I believe it could be said they turned a blind eye to questionable

firms such as B & G. As things stand in my case, I have no confidence in the organisation.'

- **Julianna Lancaster** ([p. 5 of 6](#)): 'It is possible that the powers that FCA needed did not cover every possibilities [sic] or wrong doings; but FCA did not make good use of the powers it already had. It just IGNORED WARNINGS from Financial Advisers.'
- **Respondent A49** ([p. 5 of 7](#)): 'If [sic] has failed to properly use the supervision powers it had and failed to mobilise collective action with other government bodies (HMRC, SFO, Companies House, Overseas Embassies/Consulates). Even its appearances before the Treasury Committee have left LCF victims dismayed, and that Committee has not even asked about Hanover Merchant Capital as far as I am aware. Other oversight Committees of Parliament seem also to have accepted the new norms of corruption and fraud in UK financial services.'
- **Respondent A53** ([p. 6 of 8](#)): 'From my limited knowledge they seem to have powers to act, but do not use them. They are confused on their mandate, using perimeter fencing claiming matters are outside of their jurisdiction. This should not be the case. In our financial markets we need our regulator to have full powers without limit to intervene when they clearly know that something is awry or misleading to investors. The number of complainants knocking at their door in [sic] a good indicator.'
- **Paul Carlier** ([p. 16 of 20](#)): 'The FCA continually seeks to claim that it doesn't have powers or authority, just as they have done in this Blackmore Bond case. And invariably it is a smokescreen or default position to avoid investigation or conceal.'

'They cannot claim to lack powers when they cherry pick when to use those powers.'

'However, whilst claiming to lack powers, I have evidence to be presented in a separate submission that the FCA will seek to over reach their powers to prevent criminal investigations into matters that they know to be beyond the FCA perimeter, authority and powers, and where the FCA are potentially exposed.'

- **Paul and Susan Warren** ([p. 4 of 6](#)): 'It does not make use of the powers it has, through inept management and oversight of staff and leadership which lacks a robust approach.'
- **Respondent A59** ([p. 6 of 9](#)): 'I am not qualified to say. However, as a Government approved body, it should have full powers to control, as well as to give impartial and informed advice. I now understand that it is independent of the Government, although approved by it and the B of E [Bank of England], but the Government cannot claim innocence to allow the FCA to operate in an unsafe manner.'

- **Raymond Oliver** ([p. 5 of 7](#)): 'It doesn't make good use of its powers. Andrew Bailey needs to take responsibility of this inaction when the FCA was under his watch.'
- **Respondent A80** ([p. 4 of 4](#)): 'It does not use the powers it has. I appreciate it is a complicated task but the FCA cannot regulate itself & admit its own failings'
- **Anthony Morris** ([p. 8 of 10](#)): 'It misuses the powers and hides behind confidentiality clauses and privacy needs which disadvantage shareholders. They do not bring in the SFO [Serious Fraud Office] fast or early enough to investigate obvious criminality. We submitted over 20 police sworn-under-oath statements in May 2021... The FCA has yet to involve the police in the UK.'

### 13. In general terms, how would you describe what it's been like dealing with the FCA?

72 respondents answered this question. The most frequent word used to describe their dealings with the FCA was 'frustrating'. Other words used were 'disappointing', 'slow', 'hopeless', 'upsetting', 'exasperating', 'painful', 'uncollaborative'.

#### Sample comments:

- **Gordon Neave** ([p. 7 of 17](#)): 'Indescribable, words cannot express the pain; anguish & public humiliation of losing your pension at the age of 64 after 50 years of working to create it'.
- **Barrie Smith** ([p. 6 of 7](#)): 'Frustrating that such a regulator is total ineffective and Great Britain citizens are so unprotected from Ponzi schemes'
- **Respondent A10** ([p. 7 of 9](#)): 'It has been the worst experience I have ever come across trying to establish information which I was entitled to know.'
- **Fred and Linda Hotchen** ([p. 6 of 8](#)): 'It has been a horrendous experience. A huge amount of time spent, getting absolutely nowhere dealing with people who don't actually give a damn. If only the FCA were funded in a way that they had the power to impose heavy fines and penalties on the law breakers and using these funds to recompense innocent victims like us.'
- **Jack Rosenfield** ([p. 5 of 6](#)): 'A nightmare, a waste of time and a complete denial by them of any wrongdoing.'
- **Respondent A36** ([p. 10 of 11](#)): 'Waste of time, they just make notes and you hear no more. They refuse to tell you if they are making progress. They admit that they have difficulty with Administrators.'
- **Paul Carlier** ([p. 17 of 20](#)): 'An exercise in futility, and like dealing with a mafia. If your reports, disclosures or complaints challenge them or expose them, there is no limit to the extraordinary lengths that they will go to so as to protect themselves. This includes engineering false smears and using

these as threats and means to discourage media and Parliamentarians from having any involvement with you, or publishing anything that you provide them with...

- **Respondent A59** ([p. 6 of 9](#)): 'It has been entirely impersonal, without any apparent understanding of the impact their poor practice has had on our lives. Although we had both retired, my wife has had to go back to work and, despite trying, I have not been able to get any work at all.'
- **R2i Valle de Uco Investor Group** ([p. 9 of 13](#)): 'We have found the FCA Consumer Centre to be slow, defensive (where they place their own reputation above retail consumer protection), opaque and uncollaborative (as they hide behind a cloak of confidentiality). They have also failed to address our primary concerns.'

'The FCA Complaints Commissioner did show some empathy although we did not agree with the conclusions for the reasons set out. We believe there needs to be proper financial redress when the FCA turn a blind eye to fraud allegations as this represents a breach of their statutory duties towards consumer protection and financial crime reduction.'

## 14. What is your perception of the culture of the FCA, and what do you think about it?

75 respondents answered this question. The respondents perceived the culture of the FCA as complacent, lackadaisical, lacking empathy, avoiding responsibility, 'untouchable'. A few of the respondents mentioned the revolving door problem.

### Sample comments:

- **Barrie Smith** ([p. 6 of 7](#)): 'Culture of FCA as an organisation is complacent and does not do sufficient to protect unsophisticated investors. There is a lack of true empathy with victims who are branded as "greedy" and of showing "addictive tendencies". As a victim I feel more mocked by the FCA and blamed as being foolish.'
- **Respondent A8** ([p. 8 of 10](#)): 'I worry about its independence. There are too many Capita employees working in different government and regulatory areas.'
- **Jane Edwards** ([p. 2 of 3](#)): 'A pervasive culture of inaction, avoidance of responsibility and complacency.'
- **Joan Pritchard** ([p. 5 of 7](#)): 'I have no idea of the FCA's culture. They make me feel like they're a government department with all the shades pulled down, so no-one can see inside.'
- **June Lavery** ([p. 5 of 6](#)): 'I think the culture of the FCA portrays that of an 'old boy's network' 'you scratch my back I'll scratch yours.'

- **Mark Bishop** ([p. 31 of 50](#)): ‘...The FCA is an organisation of some 4500 people. Some of them are extremely capable, some passionately want to help consumers, and a few meet both criteria. But even these exceptions are operating within a very specific cultural environment, led by people who have followed very particular career paths and who are subject to very obvious financial incentives.

‘... I thought it best to link to [this document](#), which is the Transparency Task Force’s response to the regulators’ recent consultation on [diversity and inclusion](#). Notably, the regulators did not ask respondents to comment on how *they* are performing against these criteria, but rather on how the *industry* is doing. We decided to ignore this omission and provide a frank assessment (see our response to question 2). It provides multiple examples of what we see as the FCA’s dysfunctional corporate culture, including:

- insider and crony hires;
- lack of educational and class-based diversity
- Under-representation of certain protected but low-priority demographic groups
- London-centric world view
- political and cultural biases
- misunderstanding organisational objectives
- too close to the industry
- too distant from consumers and whistleblowers
- ‘the revolving door’
- culture of secondments
- insufficient staff turnover
- bonuses for failure

It’s quite a read!’

- **Paul and Susan Warren** ([p. 4 of 6](#)): ‘Lackadaisical... What’s more, those in positions of responsibility during the LCF debacle have been promoted to lead the ‘new culture’. So, do we expect the same sluggish and non-active approach going forward.

‘Any faith we have had in the FCA and the ‘establishment’ has been lost particularly due to the fact that the Leader of the FCA during the debacle has been promoted to [sic] Governor of the Bank of England, which suggest to us that financial probity is not considered a priority by the current Government.’

- **Peter Cornell** ([p. 6 of 8](#)): ‘There has undoubtedly been serious regulatory failures at the FCA with respect to Collateral, gaining any recognition of this from the FCA has proved impossible so far due to ‘the investigation’. Time will tell.

‘Whilst Andrew Bailey gave a muttered ‘biggest regret’ when questions regarding Collateral were shoehorned into one of his examinations by the

Treasury Committee the attitude that I have seen (at the higher level) is one of arrogance. Basically 'we are untouchable'.

- **Philip Bryden** ([p. 4 of 5](#)): 'A bureaucratic government quango, ineffective and self-serving.'
- **Simon Wozniak** ([p. 7 of 9](#)): '- Driven by the money they receive from the companies they Authorise  
  
'- NOT by the need to protect the Individuals investing  
  
'- This seems like a Conflict of Interest'
- **Respondent A71** ([p. 6 of 7](#)): 'It was, and still is, a political office that is structured to protect incompetant [sic] management rather than the people it is meant to protect, the consumer.'
- **Sue Flood** ([p. 8 of 10](#)): 'At both Board and senior management level at the FSA/FCA it appears to be a 'evolving door and a boy's club'. Below these levels, it seems that the operation staff are struggling to carry out their regulated functions as there is no clear effective leadership and sense of direction on how to apply their regulatory mandate.'
- **R2i Valle de Uco Investor Group** ([p. 9 of 13](#)): 'Our perception is that the FCA puts its own reputation ahead of retail consumer protection and the reduction of financial crime. Consequently, we see a defensive and opaque organisation which fails to communicate effectively between departments and take action when warned of serious fraud allegations which can pose a serious risk to retail consumers. The FCA fails to take a holistic approach to regulation and its wider remit towards retail consumer protection. If there are strong suspicions of investment fraud, then it is likely that outfit is probably engaged in unlawful regulated activities in breach of FSMA and consequently poses a risk to retail consumers. The FCA is not collaborative and has been dismissive and disrespectful of retail consumers and professionals who provide evidence of serious irregularities for free. To improve the situation, Non-Disclosure Agreements (NDA's) could be signed so that there can be better collaboration as that would make the FCA far more effective and cost efficient.'

'The defensive nature of the FCA has resulted in a failure to accept responsibility when things have gone wrong and a failure to prevent a recurrence. The biggest recurring failure we have identified (although that is limited to our narrow experiences on this economic crime) is the failure to take action on a timely basis when warned about investment fraud that posed a risk to retail consumers. That failure to act has resulted in retail consumer loss which should have been prevented as the FCA had prior knowledge of the risks. This is common to LCF (the unregulated bond element of the business), R2i and Blackmore but there are several other examples as well.'

## 15. What do you think about the possibility of conflict of interest issues at the FCA?

64 respondents answered this question. Most of the respondents believed there is a possibility of conflict of interest issues at the FCA. Some of the examples of this given were the revolving door culture at the FCA, the FCA getting to choose who conducts the independent review in the Connaught case, a feeling that the FCA are more interested in protecting the financial institutions they are supposed to regulate rather than the consumer.

### Sample comments:

- **Atanu Saha** ([p. 6 of 7](#)): 'It is very evident that it is a Close-Knit Big Boys Club who look after each other. The Financial Regulators in the UK are Not Independent and are Heavily Influenced by Vested Interests (e.g., the City), as can be seen from the Revolving Door Culture.'
- **Respondent A8** ([p. 9 of 10](#)): 'I think that it is difficult in the matter of Connaught to conclude that the FCA acted without conflict. It is a fundamental principle of regulation that you do not negotiate. You judge based on evidence whether the regulated body is negligent and if they are you hold them responsible. Capita were responsible. They paid over £60m. The FCA's conflicted position caused them to seek settlement.'

'It may be that the failure to action Patellis' evidence of fraud constitutes the FCA acting in bad faith and thus they may have been desperate to find a solution.'

'Capita might have had the negotiator in a very compromised position.'

- **Respondent A30** ([p. 6 of 8](#)): 'Yes, I believe thats probable. The FCA being paid in fees by the financial companies who are trying to tempt investors, the same companies the FCA are supposedly regulating/Authorising.'
- **Respondent A36** ([p. 10 of 11](#)): 'The FCA are totally conflicted. They are paid by the levies they get from the firms they authorise. The more they authorise, the more money they pull in to pay their wages, their pensions and their bonuses. I cannot believe they even get bonuses.'
- **Mark Bishop** ([p. 37 of 50](#)): 'I hope that I've already identified a number of examples in this document, some specific to my experiences with the Fund (but illustrative of organisational flaws), others generic. These include:
  - FCA personnel able to supervise, and even investigate, firms in which key positions are held by former colleagues/friends<sup>13</sup>;
  - The inherent tensions involved in being an omniregulator, which the FCA is for all non-systemically important firms;

<sup>13</sup>[Mark Bishop footnote] I should add that in addition to the Wadhams conflict, I learned last year that a member of the FSA team called in to look at Tiuta after Patellis' principle 11 disclosures was a close friend of one of the directors of Tiuta. Patellis provided evidence of this to Parker but he chose to exclude it from his review. Why?



- Governance structures dominated by those appointed by the FCA or Treasury;
- FCA control of the Complaints Scheme and appointment of the Complaints Commissioner through which consumers ought to be able to achieve redress for regulatory failure, but can't;
- Insider and crony hiring, and a cultural predisposition against hiring for diversity of experience and economic alignment;
- The economic incentives presented by the potential for revolving door appointments

'To these I would add one more. It surely cannot be right that when the FCA is accused of regulatory failure so egregious to merit an independent review, the FCA is allowed to:

- Choose who conducts the review (in the Connaught case, choosing someone who's a former colleague of at least two of those whose work he was expected to evaluate<sup>14</sup>);
- Determine what he or she is paid;
- Set the terms of reference and protocols under which he or she operates;
- Require all evidence submitted to be sent to an email address hosted by the FCA;
- Require the reviewer to request all meetings with current and former employees through the FCA;
- Award itself asymmetric Maxwellisation rights<sup>15</sup>;
- Once the report is published, award the reviewer a cushy part-time job, without advertising it, briefing it out to search consultants or considering any other candidates for the position

'All these things happened in the Fund's case! I have already linked to my complaint in which all but the last of these issues is raised, and the final item is included in the 'insider and crony hires' section of the diversity consultation response.'

- **Respondent A53** ([p. 7 of 8](#)): 'The revolving doors is clearly a massive conflict of interest. Promotion and reward seem to be given for failure in our financial markets, with many companies providing incorrect, misleading data, basically lies and getting away with it. Our Regulatory system does not prosecute the persons who have carried these activities.'

<sup>14</sup> [Mark Bishop footnote] Nausicaa Delfas (head of Complex Events Team), Sean Martin (General Counsel)

<sup>15</sup> [Mark Bishop footnote] It seems to me that [Maxwellisation](#) is legitimate when a person criticised by a statutory report has the right to include their defence, or their version of events, alongside an allegation; it is less so when permitted to remove that criticism, especially when other stakeholders who might have evidence that challenges the legitimacy of that person's objections is denied the opportunity to argue the case for a criticism's retention (which is what happened with Parker's report). Also the original intent of the right was to prevent a private individual being unfairly maligned by a statutory body, where there's the potential for an imbalance of power in favour of the latter. In granting itself Maxwellisation rights in relation to Parker's report, the FCA upended this principle, turning it into a right for a statutory organisation to reject criticisms made of it by an individual - something never envisaged when Maxwellisation became commonplace following the Pergamon report

- **Paul Birch** ([p. 11 of 16](#)): 'I would suggest that any reasonable examination of the copious correspondence submitted by myself, my lawyers and MP to the FCA would lead to the conclusion that there are huge conflicts of interest where the FCA is seemingly working to protect the interests of the financial services 'big hitters' rather than exposing the financial malpractices committed by these "big hitters".'
- **Paul Carlier** ([p. 17 of 20](#)): 'The FCA is consumed by conflicts. They hire lawyers only from law firms that typically or exclusively defend and represent banks.  
  
'Numerous senior executives leave to work for the banks they previously 'regulated', or vice versa, bank employees join the FCA.  
  
'Clive Adamson, Jane Attwood, Andrew Brodie, Andy Clark to name but a few.'
- **R2i Valle de Uco Investor Group** ([p. 10 of 13](#)): 'There appear to be many conflicts of interest such as a revolving door issue between the Treasury, Bank of England, FSCS, the FCA and other regulated entities. Staff frequently move from a regulatory role to a senior position in a regulated entity without a sufficient lapse of time. This creates a cultural lack of independence between the regulator and the regulated entities.  
  
'We also have to conclude that self-regulation does not work. The regulator's main role appears to be the protection of the firms it regulates and this takes precedence over their statutory duties around retail consumer protection and financial crime reduction.'

## 16. Have you ever complained officially about the FCA; if so to whom? What happened, and how do you feel about what happened? What feedback, if any, have you had about your complaint? How helpful was the feedback? How long has it taken for your complaint to be processed?

73 respondents answered this question. Respondents have complained directly to the FCA, the FRCC, their MP, Treasury Select Committee. Depending on the status of their investigation, many could not receive any feedback as the 'investigation is still ongoing'.

### Sample comments:

- **Atanu Saha** ([p. 6 of 7](#)): 'I Complained to the FCA about their Failures and on one occasion (where they rejected some of my issues/concerns) have taken it to the Complaints Commissioner.  
  
'Unfortunately, the Complaints Commissioner seems to be the part of the same Club, as they merely repeat the same FCA Statements despite Evidence to the Contrary. I am Not aware of any other Route.  
  
'FCA acknowledged my Complaints against them, and all the Investigations are still Pending/Deferred.'

- Respondent A10** ([p. 7 of 9](#)): 'I did email the Treasury who I believe are responsible for the FCA. Nothing happened that I am aware of. I feel let down, annoyed, frustrated as I have just been going round in circles for years getting absolutely nowhere. As I have said, Mr Mark Ormston, who has been extremely helpful, is looking into the administration of this pension on my behalf. The only person within the FCA who has been helpful is Kirstie Jackson who confirmed this contract was regulated in respect of the advice and sale only as did other staff members. Mr Mark Bowerbank within the Financial Ombudsman also confirmed the non regulation to me. I said to him that this contract is not regulated. His answer being that it's not regulated, you would not expect it to be? However, I do believe that he does regret saying this having been in contact with the Financial Ombudsman regarding a complaint in respect of mis information by Aviva regarding the regulation which was rejected.'
- Jack Rosenfeld** ([p. 5 of 6](#)): 'I complained to the FCA complaints department. They took months to officially reply and said that the fault was all mine. I then complained to the Financial Ombudsman who agreed with my complaint and said the FCA should make an ex gratia payment due to the FCA's failures. The FCA totally ignored this finding. The Financial Ombudsman's findings and reply was very quick'
- Respondent A36** ([p. 11 of 11](#)): 'Numerous complaints to the FCA about the FCA over its regulation and supervision of Lendy and FS. Complaints to MP's about the FCA. Apart from the odd one, most MP's are not interested and refer you back to the FCA.  
  
'Rishi Sunak has done this with a constituent, TWICE.'
- Julianna Lancaster** ([p. 5 of 6](#)): 'About 3 weeks ago the FCA informed me by email that they could offer me £50 and that I could complain to the COMMISSIONER [sic]. I wrote to the COMMISSIONER but I had not yet received anything from anyone. I FEEL GUTTED about what happened.'
- Karl Newman** ([p. 5 of 6](#)): 'Yes I compained [sic] to FCA about Basset and Gold roughly 9 months ago. I have had to chase up and now my complaint has been deferred until a further notice.  
  
'I a I do [sic] complained about Charles Randall and Chris topher Woolard ignoring my warning emails about Blackmore Bonds again no final response as of yet and it 10 months ago.'
- Respondent A50** ([p. 7 of 8](#)): 'Have complained to and about the FCA through the Lendy Action Group. The only feedback received is that "they can't do anything about the complaint due to an Ongoing Investigation". I'm not sure anything is happening though as it's taking years.'
- Respondent A61** ([p. 10 of 11](#)): 'There is nobody you complain to officially about the FCA, the government has made them untouchable as independent non-governmental bodies! I have complained to both my most

recent M P's but they have only been able to report that the government somehow considers that their lack of involvement provides the FCA with, 'credibility, authority and value to consumers would be undermined if it were to intervene'. I find this stance delusional and truly laughable. How independent can they be when they are funded wholly by the financial industry.'

- **Respondent A73** ([p. 6 of 7](#)): 'The complaint I submitted about FS [FundingSecure] was actually a complaint about the FCA to the FCA concerning many of the issues mentioned (that they should have been aware of the situation and dealt with it earlier). I complained in December 2020, I still await a full response from them.'
- **Brian Lander** ([p. 11 of 13](#)): 'I complained to the FCA Complaints Scheme in early 2019. Complaints remain deferred while there is an ongoing enforcement process. I have also written to my Member of Parliament. I consider that an independent investigation into the FCA's handling of Collateral is necessary under the requirements of the Financial Services Act 2012, so that critical lessons are learned and the FCA is properly accountable.'
- **Sue Flood** ([p. 8 of 10](#)): 'You must be joking! Given that it has taken me so many years for me to get the FCA to recently consider that they may have made an error and that they need investigate and review the information following a meeting in 2019 (nearly 8yrs plus from when I first approached them), making complaints about/to them was a nonstarter.'

'I have had more success with other regulated/Parliamentary members in power in recent years who realise that many victims have been scammed. The effort and sheer exhaustion to finally get the MPS on board has been monumental. I have very little faith that had I made a complaint it would have registered with anyone that would have considered taking up the issue.'

- **Respondent A80** ([p. 4 of 4](#)): 'I have complained to the FCA but that got nowhere some bondholders have hired FS legal to represent their case which was submitted to the FOS. They also have a backing of the cases & after 8-9 months we are still waiting to hear back from FOS'
- **R2i Valle de Uco Investor Group** ([p. 10 of 13](#)): '...a formal complaint was filed in May 2014 to the then CEO, Martin Wheatley. As far as we know, there has been no feedback or response to that complaint so it remains outstanding. To date, it has taken over 8 years for a response to be received. We are still waiting.'

'The R2i Valle de Uco investor group raised a further complaint against the FCA for regulatory failure in September / October 2020 when it became clear that the FCA had failed to take action when warned of serious fraud allegations from 2007 onwards. The FCA responded around five months later although they apologised for the delays. There were then further delays. A

final response letter from the FCA Complaints Commissioner arrived in January 2022 so the entire complaint process took 16 months. However, we would prefer a substantive response that took a bit longer to a dismissive and inadequate response that was provided in a shorter timeframe. However, the process was very slow and frustrating.

‘The 2014 complaint raised the same concerns as the complaint that was filed in 2020. The R2i Valle de Uco investor group only became aware of the FCA’s state of knowledge more recently. The Jersey Fund scandal was promoted in 2003 while the Valle de Uco investment scheme was promoted in 2008.

‘The FCA argued that the R2i Valle de Uco investors should have complained earlier but they are not considering the challenges faced by the retail consumers who were not familiar with the Jersey Funds at the time, the FCA’s involvement and the FCA complaint scheme for regulatory failure. The FCA also appeared to conflate an awareness that we had a complaint against the individuals involved in promoting the alleged fraud with an awareness that we had a complaint against the FCA for serious regulatory failure. If the FCA was aware of the regulatory failure why did the FCA not carry out their own internal investigation?’

**17. Overall, what have been the consequences to you (and if relevant to your family) as a result of what happened?**

76 respondents answered this question. The respondents reported both financial and emotional consequences to both them and their families as a result of what happened. Many said what happened has caused them stress, anxiety, depression, and feelings of guilt and shame. Financially many have had to make significant sacrifices in terms of their standards of living such as having to go on benefits, come out of retirement, downsize their homes.

**Sample comments:**

- **Gordon Neave** ([p. 7 of 17](#)): ‘Destruction of our family life, penury, shame and solatium’.
- **Respondent A3** ([p. 5 of 6](#)): ‘£10,000 is a significant sum for us, which I have no confidence of ever recovering. Therefore, we have had to make significant sacrifices in terms of living standards in recent years.’
- **Christopher Frewin** ([p. 6 of 6](#)): ‘A loss of a large amount of money and severe stress and angst!’
- **Graham Broadhead** ([p. 6 of 7](#)): ‘I have Come out of retirement and been working to replace the money I invested’
- **Respondent A24** ([p. 13 of 15](#)): ‘I have had my life stolen from me with the constant worry of having my money stolen. This feeling is with me from the time I wake up to the time I go to sleep. It’s a constant burden which has

taken so many hours of my time and if I'm not in the right head space to deal with writing emails, letters, filling out questionnaires etc. I cannot concentrate or enjoy anything else as I feel guilty know I have to address this mammoth problem which I find daunting. It's unforgiving.

'I invested that money as part of a 3 year plan to give me a small income and some time to find an area that I liked and buy somewhere to live. That is now no longer possible. My family have tried to be supportive but they have their own lives and worries.'

- **"Turnbull"** ([p. 6 of 7](#)): 'I went from being comfortable to being on benefits, and ending up sectioned under the mental health act, due to the strain and depression that I experienced by this saga. I fully accept that not all of this was the FCA's direct cause or responsibility, but their failure to deliver proper resolution of the Lendy situation was a major exacerbating factor.'
- **Respondent A30** ([p. 7 of 8](#)): 'Apart from losing very large sums of money. We have suffered anxiety, depression and stress associated with that. We had to downsize our house to be able to live off the house sale proceeds.'
- **Lesley and Anthony Bracher** ([p. 6 of 7](#)): 'To foolishly lose £50,000 is a financial blow to our retirement plans and also may impact on our children's inheritance.'
- **Mark Bishop** ([p. 40 of 50](#)): 'The financial cost is many millions of pounds. The emotional cost is incalculable. Low points have included:
  - The suicide of [Alistair Mawdsley](#), someone who was on the periphery of the fraud; he emailed a great many people, me among them, blaming me for the decision to end his life;
  - Having to sell a much loved holiday home to provide liquidity so I could continue the fight;
  - The death from cancer of one investor in the Fund who persistently begged me to get the matter resolved before he died because he didn't want his daughter, a single parent with a disabled child, to have to deal with it once he'd gone (I was unable to deliver for him);
  - The recent death from cancer of Charles Rodbourne, a fellow member of the liquidators' committee and Action Group activist who had been a particularly positive, engaging and supportive ally and who was an exceptionally decent and principled man. The matter really should have been resolved long before his passing. Everything I do now in relation to the Fund is in his memory.

'On a personal level, the pain caused to me by the FCA arises from a combination of anger at its failure to prevent, stop and remedy what happened with the Fund, its refusal to 'fess up and pay up' when banged to rights and, perhaps worst of all, its shameless playing fast and loose with the truth to dodge the day of reckoning in which it is either abolished or made subject to radical, externally-imposed and -verified reform...'

- **Respondent A59** ([p. 7 of 9](#)): 'Trusting the FCA to provide impartial advice was the biggest mistake of my life. I put all my redundancy and pension money into P2P, as well as the proceeds from my mother's house sale when she was taken into dementia care. We have recovered very little and it looks as if administrators costs and other fees are causing returns to be about 10% of the original amount I invested. We have been devastated by this loss.  
  
'I cry myself to sleep at night, knowing that I have ruined the live [sic] of my wife and my school-age children. It is awful.'
- **Sue Flood** ([p. 9 of 10](#)): 'In 2011 following the realization that all of my pension monies may have been completely lost, I suffered a mental breakdown and the damage to my family can never be repaid. As described above, I approached the FSA/FCA in 2011 to try and get support/redress given the financial consequences of the pension scam I had suffered which were (and still are) no time did the FSA/FCA provide/refer me and/or others to a VICTIM support.'
- **R2i Valle de Uco Investor Group** ([p. 11 of 13](#)): 'Our group face a nightmare which is stressful and has caused adverse effects to our physical health and emotional wellbeing as well as the significant financial loss we face, the time and frustration we have suffered and the lost opportunity cost of those funds. Yet, this potential loss should have been completely avoided as the FCA already had knowledge of serious fraud allegations and integrity issues involving R2i and its associates before the Valle de Uco scheme was even marketed. This entity posed a serious risk to retail consumers. There were many red flags which would have been easier for the FCA to identify earlier than us given the intelligence the FCA had received. R2i should have been considered a high risk to retail consumers. An investigation would have revealed that R2i was carrying out regulated activities without FCA authorisation. The FCA should consider the potential consequences and risk to retail consumers of not carrying out an investigation when warned of serious fraud allegations.'

## 18. If you could change three things about the FCA, what would they be?

72 respondents answered this question. Some of the suggestions include carrying out independent audits on the FCA's workings, sever all links with the City, no bonuses for FCA employees, ensure there is a fair financial redress scheme in place and greater transparency.

### Sample comments:

- **Respondent A3** ([p. 5 of 6](#)): 'More funding, higher calibre staff, greater transparency and scrutiny.'
- **Anoop Vasishta** ([p. 6 of 6](#)): '1. Make them liable for their actions  
2. Give full powers to protect investors & pursue wrong doers  
3. FCA Regulation & authorisation workings should be annually &



independently audited’

- **Atanu Saha** ([p. 7 of 7](#)): ‘1) Severe [sic] all Links with the City and other Financial Institutions and Elect Governors and other Chair Holders  
2) Make it Accountable and remove the Legal Immunity from Prosecution  
3) Stop any Bonus whatsoever - they are not a Profit-making Firm’
- **Fred and Linda Hotchen** ([p. 7 of 8](#)): ‘1. Disband the FCA as it is totally ineffective.  
2. Create a Government body which has legal enforceable powers to prosecute and sue fraudsters and provide genuine protection to consumers.  
3. Impose heavy fines on companies and Financial Advisors who have defrauded their clients by following bad practices and use these funds to ensure consumers are properly compensated.’

- **Respondent A24** ([p. 13 of 15](#)): ‘The FCA needs to have a versatile system whereby any department can have access to a firm’s details. This can be multi level access according to the relevance of sensitive information?’

‘They need to have a clear structure on what to do when anomalies arise and how to deal with them or escalate them.’

‘They need to have transparency and be held accountable as at present the FCA does not adhere to the standards it imposes on other firms that it regulates’

- **Ian Davis R.I.P.** ([p. 5 of 6](#)): ‘(1) Make sure the FCA has a proper system of due diligence in place to be carried out on companies for regulation  
(2) A functioning system for reporting & recognizing crime.  
(3) Information Sharing with other agencies with swift action taken as a result.’
- **John Cole** ([p. 11 of 13](#)): ‘Remove its immunity when it has been clear their failure has cost investors loss and remove the cap on compensation when its their fault

‘Define advice and information in a clear transparent manner such that ambiguity is beyond doubt and make it transparent that advice has to be sought to have any right to a claim for failure of a regulated firm

‘all financial products in the UK market place should be under their scrutiny, not some in some out of the perimeter, not some firms being regulated but their products may or may not be, if the firm is regulated so should its products, if sold to the general public. If not regulated then its products should be removed from public sale’

- **Respondent A53** ([p. 7 of 8](#)): ‘FCA should have full remit on all financial products before they come to market, financial products should ALL BE REGULATED and covered by FSCS.  
‘Rearrange the Board structure and appoint an investors panel who is

independent and attends the board meeting and has a vote. This Investor Panel should be appointed by HMT not the FCA. Reading the board minutes, it appears not much get done at the meetings.

‘Do not allow any financial organisations to use the cover of FCA approval when only partly regulated. Regulation must be mandatory for all financial products that use consumers funds and they must be fully approved or not at all.’

- **Paul Birch** ([p. 13 of 16](#)): ‘Have an independent Judicial Review of the way the FCA has been allowed to operate against the interests of those whose interests they are meant to protect. I was at Hillsborough the day of the disaster and it was only the perseverance of the families of the 97 victims fighting for justice which eventually led to the decision to confirm that the 97 had been unlawfully killed. The victims of these QROPS pension scams run into probably many tens of thousands and a strong argument can be made that those who have committed suicide or suffered an early death because of the strains and stress these scams have caused have also been unlawfully killed,

‘Make use of the powers they are entrusted with to protect consumers from financial crimes no matter where in the world they are committed if the evidence of collusion etc is clearly traced back to UK individuals and entities. Then ensure that full financial redress is paid to the victims of these crimes and that the criminals identified in these scams are put in jail.

‘Consider restructuring the FCA so its sole role is to champion and protect the consumer. It cannot be seen to be the face of the Government where its perceived role can be considered to be to attract financial services to the UK, as seems to be the logical conclusion when its failures to enforce its own rules and powers are so evident.’

## 19. What positives are there about the FCA that you would like to comment on?

70 respondents answered this question. Not many respondents had anything positive to say. A few acknowledged that there are some good people that work at the FCA, and one respondent mentioned that the FCA handbook is very well structured. Some also acknowledged minor positive actions by the FCA, but overall the response was negative.

### Sample comments:

- **Respondent A3** ([p. 5 of 6](#)): ‘They are perceived by many to be in control of the financial industry; for some of us this perception has been badly damaged, but generally it should be possible for the FCA to build on this reputation if the above changes were made.’
- **Anoop Vasishta** ([p. 6 of 6](#)): ‘Concept is positive but application & policing is faulty’

- **Barrie Smith** ([p. 7 of 7](#)): 'The staff who took witness statements for my 91 year old father were professional and empathetic.'
- **Respondent A8** ([p. 9 of 10](#)): 'Without a regulator, matters would be considerably worse.'
- **"Turnbull"** ([p. 6 of 7](#)): 'I'm sure individuals are trying their best. Nobody goes to work to deliberately do a bad job, but the agency is not fit for purpose because at its heart, it does not have the right mindset of 'pursuing the best interest of victims of fraud''
- **Respondent A43** ([p. 5 of 6](#)): 'Nice name, sadly not descriptive of what they do.'
- **Mark Bishop** ([p. 45 of 50](#)): 'My initial reaction is, 'you've got to be joking!' My more considered, and more generous one, is to say that some people who work at the FCA genuinely want to do a good job, and are intellectually capable of the same, given the right training, leadership and incentives. It behoves politicians to change the rules such that the preconditions are put in place that make it possible for this potential to translate into performance.'
- **Respondent A47** ([p. 9 of 9](#)): 'There are none, it would have been better for me if they did not exist, that way I would not have lent money through FS [FundingSecure].'
- **Respondent A53** ([p. 8 of 8](#)): 'I'm struggled to answer this question. They appear to be moving forward but the pace it so slow. The Treasury should be more pro-active with support and financing for this organisation if it is deal with growing raft of financial scandals that are hitting investors and pensioners.'
- **Paul and Susan Warren** ([p. 5 of 6](#)): 'None that we can immediately think of. Recent changes do not inspire any increased confidence in its oversight, powers or leadership.'
- **Raymond Oliver** ([p. 6 of 7](#)): 'None. It is too late for us but finally the FCA is taking a long good look at itself and hopefully become more proactive in getting a grip of the fraud epidemic.'
- **Respondent A66** ([p. 7 of 8](#)): 'Mr Baileys' letter gives me some very small hope that supervision of IFAs will be tightened up such that being authorised by the FCA actually carries some weight.'
- **Brian Lander** ([p. 11 of 13](#)): 'With the degree of harm the FCA has done, this is difficult to answer. The FCA did at least act to have the original insolvency practitioner removed, which was probably necessary, albeit replaced with insolvency practitioners that are very expensive. This would not have been

necessary if the FCA had performed its basic duties.’

- **R2i Valle de Uco Investor Group** ([p. 12 of 13](#)): ‘The FCA principles and the FCA handbook are well structured. The FCA has sufficient powers to protect retail consumers and reduce financial crime. The FCA has taken action on some cases and been successful where unregulated entities have been carrying out regulated activities without FCA authorisation such as the Asset Land scheme where an Unregulated Collective Investment Scheme (UCIS) was operating without FCA authorisation. The FCA probably compares well with regulatory regimes in other countries where there is little democracy.

‘The FCA or the individuals who agreed on the appointment of Dame Gloster QC for the LCF independent investigation should receive some credit. Dame Gloster QC proved to be fiercely independent and conducted a robust and fair assessment of the flaws in the FCA regulatory regime in respect of the way the FCA managed serious fraud allegations that had been received from third parties. This report can and should form the catalyst for positive change but it is only right and fair that there is some justice for others who have suffered similar regulatory failure.’

## **20. Do you believe there should be spot checks by the FCA on regulated and/or unregulated entities, perhaps similar to the spot-checks by VAT inspectors**

79 respondents answered this question. Many of the respondents agreed that there should be spot checks by the FCA on both regulated and unregulated entities. However, some of the respondents said they assumed spot checks were already being carried out. A few of the respondents pointed out that although they believe spot checks are a good idea, they would need to be carried out by people who had the right training and knew what to look for.

### **Sample comments:**

- **Respondent A2** ([p. 6 of 6](#)): ‘Yes, that may help, but I’d expect them to maintain some contact and oversight on all regulated schemes at all times.’
- **Atanu Saha** ([p. 7 of 7](#)): ‘Definitely. This should be part and parcel of any Regulatory Organisation. After all, even FCA has Intelligence and Compliance Units.’
- **Respondent A8** ([p. 9 of 10](#)): ‘No. All regulated bodies should be actively regulated. If good internal controls backed by a world renowned firm of auditors performing their duties the FCA could scale their work accordingly.’
- **Respondent A24** ([p. 14 of 15](#)): ‘Yes, definitely, to both regulated and unregulated entities otherwise firms can get authorised status then carry out business outside its remit. There needs to be tighter supervision and monitoring to make sure that companies are complying within the parameters of the FCA regulations.’

- **Jack Rosenfeld** ([p. 6 of 6](#)): ‘Absolutely, though perhaps there should be checks on the FCA as well which should be legally binding.’
- **Respondent A42** ([p. 7 of 8](#)): ‘Aren’t there? If not, I am shocked, and would question why there aren’t?’
- **Mark Bishop** ([p. 45 of 50](#)): ‘I think there could be value in this idea, provided the FCA’s culture and people problems were resolved such that it employed more people who were streetwise, astute and proactive at spotting and challenging anything suspicious. Without that change, such checks are unlikely to be of much value, because one of the FCA’s many cultural weaknesses is that it employs few people who could spot a fraudster if one pirouetted throughout its Head Office in a pink tutu holding a neon sign flashing the words, ‘I’m a fraudster’ and fewer still who feel empowered to challenge wrongdoing when they see evidence of it...’
- **Respondent A53** ([p. 8 of 8](#)): ‘Yes, impromptu visit to inspect areas would be welcome. Particularly if this is a result of complaints made. This is clearly needed. S166 of FSMA is useful to that allows the FCA to call for independent checks as well, this could be deployed more frequently. It is clear the audit function is lacking and this function for independent review could be used to greater extent on funded companies.’
- **Paul Birch** ([p. 13 of 16](#)): ‘Absolutely, but these checks need to be carried out by those who have a full understanding of the ‘tricks of the trade’ used by the individuals and entities to ensure that any spot check reveals nothing untoward and who are themselves regularly subject to random spot checks to ensure they are not being tempted to ignore the warning bells.’
- **Paul Carlier** ([p. 20 of 20](#)): ‘They already have the powers to do this, and indeed do undertake such checks.

‘However, and most disturbingly, these supposed random spot checks appear to be focused on firms or persons that have challenged the FCA or made reports to the FCA, and with intent to intimidate and retaliate. Not with intent to regulate.

‘I personally have been a victim of this.’

- **Roger Frederick Blank** ([p. 5 of 7](#)): ‘Before retirement I was self employed and VAT registered for many years, so I was accustomed to spot checks and accountability by both the Inland Revenue and Customs and Excise, to ensure my compliance with all procedural regulations.  
  
‘In the case of Funding Secure Ltd, it was my impression, that spot checks were already ongoing or had been done, which suggests that those checks were not thorough enough.’
- **Sue Flood** ([p. 9 of 10](#)): ‘It’s my understanding that it has always been part of the FCA’s function to carry out spot checks on all registered regulated entities and unregulated entities, hence why they have an authorised

business unit and an unauthorised business units that exists.’

- **Respondent A80** ([p. 4 of 4](#)): ‘No . Perhaps there should be no such thing as an un-regulated entity. It just opens the flood gates to fraud.’
- **Anthony Morris** ([p. 9 of 10](#)): ‘I believe that such a structure would go a long way to stem the haemorrhaging [sic] of investor value that is taking place on the FCA’s watch due to gross incompetence, negligent misconduct and criminal recklessness.’
- **R2i Valle de Uco Investor Group** ([p. 12 of 13](#)): ‘Yes. We believe the FCA should adopt a risk-based approach and act on intelligence provided by IFA’s, witnesses or other finance professionals to understand the holistic nature of an entity’s business and establish whether they are in breach of their regulatory responsibilities or involved in regulated activities without FCA authorisation. If the FCA receives serious fraud allegations about an entity whether it is regulated or not, we believe it is critical the FCA takes urgent action to assess the risk to retail consumers rather than turning a blind-eye and simply referring the matter to a fraud agency.

‘Clearly entities operating on or around the perimeter pose a far greater risk to retail consumers so there should be a focus on high risk entities and investigations carried out to understand the holistic business model and the integrity of the directors (i.e. they should have a checklist of red flags so they can assess the risk posed by an entity to retail consumers).’

## **21. The FCA is undertaking a Transformation Project. Do you have any comments to make about that?**

68 respondents answered this question. Some of the respondents said ‘it’s about time’ and that they welcomed the effort, others felt it was pointless and would not make a difference.

### **Sample comments:**

- **Anoop Vasishta** ([p. 6 of 6](#)): ‘Self Regulation & Transformation [sic] is recipe for disaster for a tainted organisation – so I have zero confidence in its sincere intentions & deliverables’
- **Christopher Frewin** ([p. 6 of 6](#)): ‘To little to late !’
- **Julianna Lancaster** ([p. 6 of 6](#)): ‘I hope it works and take note of what the Investors, Financial Advisors, The Independent Enquiry Report by Dame Elizabeth Gloster say. As above, 5) Work with other regulators such as the FROUD [sic] SQUAD, The Financial Compensation Scheme, etc. AND SHARE INFORMATION between them.’
- **Lesley and Anthony Bracher** ([p. 6 of 7](#)): ‘We just hope that it will not be a whitewash and that complacency does not take over and that in a few years time the FCA will not be accused of failing investors.’

- **Respondent A53** ([p. 8 of 8](#)): ‘All looks like a cover up and nothing appears to be improving and moving forward.

‘I am aware that the DES (Delivering Excellence Supervision) program that Andrew Bailey started. The transformation program does need new thinking and approach, otherwise it will be a non-effective transformation with the just the same lack lustre energy in resolving matters. I must admit I am not fond of Mr. Andrew Bailey. He does appear to be a revolving door banker, moving on to the BoE in March 2020 after failing at the FCA.

‘I believe that firms who call for funds from investors all must be fully regulated without exception. That would be best starting point for transformation. They cannot use the funds secured in regulated entities and move to unregulated entities within their group or where they have direct investment over. This should not be allowed. Also, they cannot use the “halo effect” of regulation to create a business which appears to be compliance and regulated but isn’t. This must be stopped and prevented by full powers of law and this should be criminal act.’

- **Paul and Susan Warren** ([p. 5 of 6](#)): ‘Yes. Absolutely necessary. There needs to be more proactive regulation and scrutiny as well as a more speed in dealing with consumers. The financial practitioners who are “honest” also need protection so they are not burdened with increasing subscriptions to protection funds etc...’
- **Peter Cornell** ([p. 7 of 8](#)): ‘I have read a great deal about it, watched Nikhil Rathi and Charles Randal talk about it at several committee meetings (LC&F etc) but the proof of its worth will be in action not words.’
- **Respondent A61** ([p. 11 of 11](#)): ‘It is obviously needed as the FCA has ceased to be fit for purpose with so many consumers being let down suffering losses and exploitaon [sic] by certain sectors of the financial industry. It should not have come to this with so many consumers individually bearing the brunt of the costs and distress for the FCA to learn their mistakes and be reminded what their purpose and dues are.  
  
‘The transformaon [sic] should not be a reason for the FCA to be able to carry on as they have been without impunity.’
- **Respondent A72** ([p. 6 of 6](#)): ‘I do not believe it can be successful as those how held senior positions before this fiasco are still in place, and have in fact been promoted. The saying “new broom sweeps clean”, but old broom just pushes old dirt around the floor.’
- **R2i Valle de Uco Investor Group** ([p. 12 of 13](#)): ‘We are supportive of the FCA implementing the recommendations in Dame Gloster QC’s report. We also support the proposed amendments by the TTF to the Financial Services and Markets Bill. In summary, we believe a historic redress scheme should be set up for the victims of regulatory failure defined where the FCA was warned of serious fraud allegations and its failure to take action resulted in retail consumer loss which could have been



avoided had the FCA investigated on a timely basis. The historic redress scheme should be financed from those who committed the economic fraud and any regulated companies that facilitated or were complicit in the fraud (through failure to conduct appropriate due diligence as required by their regulatory bodies).'

## 22. Are there any other comments that you would like to make?

52 respondents answered this question.

### Sample comments:

- **Anoop Vasishta** ([p. 6 of 6](#)): 'As a retired financial professional I'm pained how families can be devastated when financial institutions like FCA don't meet their responsibilities & consequently jeopardise innocent investors – FCA should be held to account urgently & retribution implemented [sic] asap. The UK Financial industry authorisation / regulatory control is of a poor standard in comparison to their peers & continually tarnished image'
- **Atanu Saha** ([p. 7 of 7](#)): 'Financial Ombudsman Service and FSCS are two other Organisations which need to be thoroughly Reformed. The Regulatory bodies for the Insolvency Practitioners (IPA, ICAEW, IPA) too need to be overhauled.'
- **Bob Levin** ([p. 5 of 6](#)): 'The FCA should be fully answerable and accountable to a Minister (Minister for Regulatory Financial Accountability), as it seems that currently the FCA and the Treasury are very adept at developing slopping [sic] shoulders.'
- **Fred and Linda Hotchen** ([p. 8 of 8](#)): 'My experience with the Financial Ombudsman, FCA and FSCS has been horrendous. The existence of the FCA has encouraged the likes of me to trust a Financial Advisor to make some sensible investments as we lacked the knowledge and experience to do so ourselves. Never in our wildest dreams did we expect to lose money, let alone the amount we did and then to find that with all the complaints we made and evidence we provided, the FCA have just humiliated us by taking no action to the Financial Advisor. It's truly shocking and quite unbelievable.'
- **Josephine Buonaguidi** ([p. 4 of 5](#)): 'It should quite simply be illegal to offer investments not covered by the authority. As an authority it should have powers to close websites the are offering investments to private investors where it is clearly stated that the investment is NOT covered by the authority.'
- **Mark Bishop** ([p. 46 of 50](#)): 'I hope that anyone who reads my evidence will ask themselves this question: if the FCA is not up to the job of detecting, deterring and punishing those who scam and mistreat consumers, what's the chance of them policing competition, or wholesale markets? The defining feature of scams such as Connaught is that they're actually really,

really easy to spot, and to prosecute: by definition, they involve making false representations to large numbers of consumers (so ample evidence of fraudulent claims exists) and of using the money raised other than as described (easily demonstrated by following the flows of capital through bank accounts and into other assets). If the FCA, more than 12.5 years after it was first alerted to the risk of wrongdoing with the Fund and almost 9.5 years after the money ran out, has achieved zero prosecutions, what chance does it stand against a shadowy network of investment bankers rigging an obscure index via messages over the dark web, across multiple jurisdictions? Anyone who seriously thinks the Keystone Cops are a match for that kind of thing must be delusional.'

- **R2i Valle de Uco Investor Group** ([p. 13 of 13](#)): 'We are supportive of the FCA implementing the recommendations in Dame Gloster QC's report. We also support the proposed amendments by the TTF to the Financial Services and Markets Bill. In summary, we believe a historic redress scheme should be set up for the victims of regulatory failure defined where the FCA was warned of serious fraud allegations and its failure to take action resulted in retail consumer loss which could have been avoided had the FCA investigated on a timely basis. The historic redress scheme should be financed from those who committed the economic fraud and any regulated companies that facilitated or were complicit in the fraud (through failure to conduct appropriate due diligence as required by their regulatory bodies).'

## QUESTION SET B: For victims of bank misconducts towards SMEs

### Responses

We received **20** responses from victims of bank misconduct towards SMEs of which **18** have consented to publication. They are:

- [Andy Keats](#)
- [Clive May](#)
- [Dave Brotherston](#)
- [David William Taylor](#)
- [Dr Htay Kywe & Mrs Thida Kywe](#)
- [Gordon Neave](#)
- [Jane Farmer](#)
- [Julie Anne Davey](#)
- [Keith Elliott](#)
- [Lee Henry](#)
- [Mark Greenwood](#)
- [Maureen Carnegie Neave](#)
- [Paul Pascoe](#)
- [Robert Kibbler](#)
- [Stephen Barker](#)
- [Stephen G. Lilley](#)

The following wish their identity and testimony to be kept confidential to the public:

- [Respondent B1](#)
- [Respondent B2](#)

The following has provided a video testimony in addition to their written submission:

- Stephen Barker - [click here](#) to watch

### Key findings

- £547.6 million reported in total 'losses' caused by the alleged misconduct that was reported to the FCA, across the 20 respondents.
- Similar complaints are made by several respondents that the FCA refuses to look at 'individual cases', or that staffers had told them that their complaints could only be examined by the police.
- When asked how helpful the FCA had been, all but one respondent said that they were not helpful. Four used the word 'obstructive' to describe the regulator.
- 13 respondents, when asked what the FCA did about their case, said the watchdog did 'nothing', or 'absolutely nothing', or that the watchdog 'avoided' looking at evidence.

- In several cases, respondents reported that they had engaged with Andrew Bailey personally when he was leading the Financial Conduct Authority and that he had not acted.
- A further 2 respondents alleged that the FCA hindered their case by sharing information – and in one case, confidential whistleblowing information – with the institution they complained of. Or that the FCA's action amounted only to asking the institution complained of to explain themselves to them.
- Reasons for contacting the FCA included, in more than half of cases, alleged fraud, forgery or misrepresentation causing business detriment.
- Several cases relate specifically to detriment to small to medium sized businesses by Interest Rates Hedging Products or Interest Rates Swap Agreements (e.g. 'IRHPs', 'IRSAs', 'swaps', 'collars').<sup>16</sup>
- Some respondents testify additionally on: homelessness, the seizure of personal assets, health impacts, vulnerability, excessive legal costs or other personal impacts of disputes with banks.
- More than half of respondents alleged fraud or other criminal conduct by individuals either within banks or connected to the insolvency industry.

### **Summaries on each question**

#### **1. Please tell us about yourself and outline, just briefly to begin with, how you came to interact with the Financial Conduct Authority?**

All 20 respondents answered this question. Reasons for contacting the FCA included:

- In more than half of cases, alleged fraud, forgery or misrepresentation causing business detriment.

Or:

- Detriment caused to small to medium sized businesses by Interest Rates Hedging Products or Interest Rates Swap Agreements (e.g. 'IRHPs', 'IRSAs', 'swaps', 'collars').

Or / in addition to:

- Homelessness, the seizure of personal assets, personal or health impacts of disputes with financial institutions.

<sup>16</sup>With regard to interest rates hedging products sold to SMEs, the FCA this year accepted the view of a reviewing barrister that it appointed, Mr John Swift QC, that 'there had been largely no relevant regulatory action prior to 2012', and that 'failure to identify the risks early and intervene meant the problem grew.' However the FCA disagrees with Mr Swift that it should now use its powers to push for redress for SME customers who were excluded from voluntary redress schemes in the past.

The FCA's response to Swift's review is here:

<https://www.fca.org.uk/publication/corporate/independent-review-irhp-fca-response.pdf>

The FCA's decision not to use its powers to secure more customers redress, is currently subject to an application for judicial review by the All-Party Parliamentary Group on Fair Business Banking.

### Sample comments:

- **Julie Anne Davey** ([p. 3 of 11](#)): 'I am the former sole shareholder and director of Angel Group of Companies (banked with HBOS) and Angelic Interiors Limited (banked with Lloyds TSB).

'In 2007, Angelic Interiors Limited was mis-sold a toxic £20m 5yr collar on the back of a £9.7m 3.5yr facility. In 2010 the Bank replaced the £20m Collar with a £40m Swap. ...

'Angelic Interiors was wrongly excluded from the FCA IRHP review scheme ...

'... The FCA received details of my case in 2013 and in September 2018 the APPG for Fairer Business Banking highlighted my case with Andrew Bailey personally. In November 2018, [a] whistleblower attended the offices of the FCA to attend an interview whereby he provided the FCA with the evidence of the Banks collusion with its partner firms to orchestrate the administration of my company.

'In December 2018, I provided the FCA with a USB memory stick containing some of the pertinent evidence of the Banks wrongdoing. In November 2020, a submission was made to the Treasury Select Committee [TSC] on my behalf and relating to my case (attached) [[see here](#)], following their request for evidence of economic crime. Further to this submission, the TSC have gone to extraordinary lengths to prevent the details of my case from being included within the discussion held in Parliament on the matter and to prevent the details of my case becoming public ....

- **Paul Pascoe** ([p. 3 of 9](#)): 'My former business partner, Noel Edmonds, and I were both victims of the HBOS fraud which was conducted by Mark Dobson who was effectively the bank manager of the Unique Group of companies.

'I only discovered the fraud following the criminal trial in 2017 and as a result of various consequences of that raised certain issues with the FCA.'

- **Robert Kibbler** ([p. 4 of 6](#)): 'I was a director and shareholder of a contracting business that had a bank mandate which required 'two authorised signatories' to make changes to the banking facility. Lloyds Bank have refused to provide proof of the correct authorisation necessary to increase a facility credit limit which was then paid out to personal accounts. I have contacted the FCA who have, at second attempt, agreed that Lloyds Bank need to prove they gained the correct authorisation but have refused to get involved because 'they do not get involved in individual cases'!
- **Andy Keats** ([p. 3 of 12](#)): 'I am now the CEO of SME Alliance and before that the CEO of the Serious Banking Complaints Bureau.

'I began collecting bank, particularly RBS and NatWest, falsifications of my

customer records in 2006 which resulted in a member based initiative in 2014 with SBCB.

‘By 2015 we had amassed substantial evidence of systematic file manipulation by RBS and NatWest and put together 8 Case History Studies to demonstrate eight different ways in which RBS/NatWest alter/amend/misrepresent/forge customer records and files.

‘We approached the FCA and secured a meeting on 23/09/2015 with the Head of Banking Supervision Karina McTeague (KMT) and her assistant Clare Bollingford.

‘At the meeting KMT refused to look at the files claiming this was a matter for the Police and not the FCA’s remit.’

- **Lee Henry** ([p. 3 of 7](#)): ‘I am British born of Windrush parents. Gained a degree at the London School of Economics (and much later became a Governor at the LSE), worked in the city for a few years and then started my business Internet Hotel Marketing Limited with personal capital resources. Grew the business to £16.4m in sales in 2008 before falling victim to fraudulent misrepresentation at the hands of Bank of Scotland which resulted in a net loss of cash flow of £530,000 in one calendar year. This was enough to turn a profitable business with EBITDA of £648k into a loss making business which eventually went into liquidation in March 2011. I contacted the FCA shortly after the liquidation FCA to report Bank of Scotland but my company falls into an SME grey area. With turnover well in excess of 2 million euros there is very little help available from the FCA or the financial ombudsman.

‘... My solicitors claim it would take north of £750k in legal fees just to get to the discovery stage if the case were taken to the high court. Therefore an SME that falls victim to banking malpractice will need to have a spare £1.2m gross to pursue the bank. It surely cannot be right that banks who were supported with taxpayers funds are able to use those funds to stymie the attempts of SME’s (the victims and taxpayers) from gaining some form of remediation.’
- **Keith Elliott** ([p. 3 of 5](#)): ‘My company (Premier) has been the subject of Fraud by Lloyds and PwC. Amongst other complaints, I complained to the FCA and had a meeting with Andrew Bailey and his number 2 Matt Brewis. Correspondence followed that meeting.’
- **Clive May** ([p. 3 of 10](#)): ‘I was a director and owner of a brickwork contracting firm. My bank used a govt scheme to improve their balance sheet whilst planning on destroying business’s’
- **Dr Htay Kywe & Mrs Thida Kywe** ([p. 4 of 9](#)):  
 ‘1) IRHP mis sold for non existent bank loan and non existent business we paid £120,000 for that swap

FCA did not respond about this issue.

'2) Barclays bank support team Steve Gerver, its unfairly appointed receiver Ian Walker at Begbies Traynor who destroyed our 2 assets ... and fraud miscancellation of my CQC registration without my knowledge and authority criminally ... the FCA Consumer Queries Campaign chief Director did not take any action and just simply mislead us to complain to Begbies Traynor The FCA has No interests in our financial abuse and Fraud issue they are negligent and discriminative to old vulnerable SME customers of Ethnic Minority British with double standards'

- **Jane Farmer** ([p. 3 of 8](#)): 'I wrote to the FSA and FCA about a personal guarantee.'
- **Mark Greenwood** ([p. 2 of 5](#)): 'A major UK bank registered numerous defaults on my personal credit profile every month, which caused a second bank to take advantage of the situation and asset stripped my business and me. When I took the first bank to court, both banks worked together to create a false story and they forged and withheld documents, lied in witness evidence, ignored court orders, used scorched earth litigation tactics to run me out of money and even planted a forgery in some random but useless documents they did disclose and then had the audacity to accuse me of forgery. I took my evidence to the FCA on numerous occasions, but the FCA said that they do not investigate individual cases and they were not interested whatsoever.'
- **Maureen Carnegie Neave** ([p. 4 of 9](#)): 'I am 72 and the joint founding director & trustee of Ellant Ltd & Ellant Pension Fund respectively, and joint claimant in "OP MEADOW" case 52. Although not being a customer of Bank of Scotland (BoS), I am a shareholder in Lloyds Banking Group, having been issued shares on the de-mutualisation of Halifax Building Society in June 1997.  
  
'In 2005 I set up two property investment companies in New Zealand with a book value of \$1,563kNZ and borrowings of \$819kNZ which, because of Bos's criminality, set out in our "OP MEADOW" case, were put into liquidation by Westpac Bank, who pocketed the equity thereby destroying my credibility as a business woman in NZ.'
- **Respondent B1** ([p. 3 of 7](#)): 'I'm one of the team who made it impossible to sell endowments in the UK, the FCA berated us, financial press called us crooks and much worse but we won.'
- **Respondent B2** ([p. 3 of 5](#)): 'Was a property developer, now just an architectural designer. After 10 years successful business relationship with HBOS Edinburgh, accounts were then transferred to Reading without good reason. Then was a victim of the HBOS Reading fraud.'



- **Stephen Barker** ([p. 3 of 18](#)): 'My interaction with the FSA then FCA began following the mis-selling of Interest Rate Hedging products. It is only around that topic that I have had any dealings with FCA...

'...My Company banked with Bank of Scotland (BoS), subsequently acquired by Lloyds Banking Group. In 2001 BoS provided a 7-year term facility to build and operate a hotel in Manchester. The hotel was built and opened and operated successfully. In 2004, under Clause 3 of the loan agreement, the Company was *obliged to consult (the precise word of Clause 3)* with BoS and enter into a financial product offered by the BoS (and only BoS) to *protect* against movements in interest rates.

'...In 2004 the Company entered into what was represented by BoS as an ISDAFix swap for 5 years, to June 2009. The 5-year post construction completion period (of the 7-year loan term) for the hotel came to an end in September 2009. The swap came to an end in June 2009 before the end of the term loan.

'... In early 2008 BoS wanted to know what arrangements for repaying the loan or renewing the facility the Company intended. In reply, the preference was to renew the facility for another 5-years on similar or better terms. BoS then said that it believed better terms on the swap could be obtained and that would make renewing the facility even more attractive to 'credit' because there would be more left in the cash sweep to repay the capital sum if the ISDAFix costs were lower....There was no hint of hesitation or uncertainty about renewing the loan for another 5 years. 'Rolling over' was the phrase used.

'... The telephone trade took place on the 22<sup>nd</sup> April 2008 and ISDA headed documents for signature supplied later. By September 2008 BoS was reportedly insolvent. This fact was unknown to the public, but not the Regulator, that BoS was trading whilst insolvent'

## **2. What was the arrangement you entered into, with what entity/ies and when?**

16 of 20 respondents considered it applicable to answer this question. The majority of the arrangements described were with major banks, namely Bank of Scotland (3X), Barclays (2X) Lloyds or HBOS (5X), HSBC (1X), RBS / NatWest (3X), Clydesdale & National Australia Bank (1X). In addition one arrangement was reportedly with Virgin Money and one with Black Horse Finance. Other organisations mentioned were the PwC, Care Quality Commission.

### **Sample comments:**

- **David William Taylor** ([p. 2 of 6](#)): 'A loan to purchase the Woodstock Depot and further development.'
- **Paul Pascoe** ([p. 3 of 9](#)): 'Bank of Scotland was the banker to the Unique group of companies.'

- **Julie Anne Davey** ([p. 4 of 11](#)): 'In 2004 The Angel Group Limited entered into a £50m Revolving Credit Facility with Bank of Scotland.'

'In 2006 Angelic Interiors Limited entered into a First 5 year £20m Facility.

'In 2007 Angelic Interiors entered into a Second £20m 3yr 9mth Facility with Lloyds TSB.

'The Bank only permitted £9.7m of the Second £20m Facility to be drawn by Angelic Interiors Limited. ...

'In 2010, the Bank replaced the £20m Collar with a £40m SWAP on the back of the £9.7m facility. By 2010 the hidden credit line had increased to £3.8m.'

- **Dr Htay Kywe & Thida Kywe** ([p. 4 of 9](#)): 'Devaluation 2019 and sale of our assets during Covid 19 lock down period 2020 and 2021 ... During Covid 19 Lockdown period CQC Care Quality Commission let the buyers to be registered with them and facilitates the sale of care homes in my absence and we were not informed ... There may have been involvement in the Barclays bank and the receivers'
- **Clive May** ([p. 4 of 10](#)): 'RBS converted my overdraft into a £150 EFG & left a £70k overdraft previously we had a £245k overdraft. This was during the latter part of 2020'
- **Robert Kibbler** ([p. 4 of 6](#)): 'Business bank account with Lloyds Bank in 1992 with a mandate that required 'two authorised signatories'.'
- **Dave Brotherston** ([p. 4 of 9](#)): 'Entered a business development Loan with Black Horse Finance, and its "Mandatory PPI" where we were misled about terms and conditions ...'
- **Respondent B1** ([p. 3 of 7](#)): 'We had a number of phone calls and reached an agreement about how we could use 2 of our 11 bedrooms for Bed and Breakfast and do occasional Weddings. We have averaged 1.9 Weddings per year since ...'
- **Lee Henry** ([p. 4 of 7](#)): '... We entered into a merchant services agreement with Bank of Scotland after being cold called in Oct 2007. At the time we had been in a very successful eight year relationship with Barclays Merchant Services.'
- **Jane Farmer** ([p. 3 of 8](#)): 'I had no arrangement with NatWest apart from being a shareholder in a business that banked with them. NatWest openly acknowledge that they put my home at risk by demanding a personal guarantee in September/October 2008. No security was demanded at point of lending to the business. The personal guarantee was demanded only after the bank had allowed a significant business overdraft which was 200x the business' agreed overdraft limit. The bank refused to look at business assets.'

NatWest admit that they had identified my home as the means of settling business lending ...'

- **Gordon Neave** ([p. 3 of 5](#)): 'In May 2003, I entered a Multi Option Facility (MOF) agreement, otherwise known as a revolving credit contract with BoS [Bank of Scotland] Business Banking'
- **Stephen Barker** ([p. 6 of 18](#)): 'BoS term loan November 2001: floating 3-month LIBOR rate plus margin. ISDAFix swap 2004 *and* ISDAFix swap April 2008: Both referenced to 3-month LIBOR and in GBP.'

### 3. If you are happy to mention it, approximately how much money was involved?

18 of 20 respondents answered this question. They estimated that they have lost at least half a £billion collectively (£547,668,141). These estimates are not always including interest or the loss of land or other assets. The majority of this estimated loss was to Julia Anne Davey's Angel group of companies and Angelic Interiors Limited.

#### Sample comments:

- **Julia Anne Davey** ([p. 5 of 11](#)): 'a) Principal? £90m Facility with £71m of debt; b) Total losses? In excess of £300,000,000.00'
- **Mark Greenwood** ([p. 2 of 5](#)): 'a) Principal? Circa £3 Million; b) Total losses? £10 Million'
- **Keith Elliot** ([p. 3 of 5](#)): 'a) Principal? £ 55m b) Total losses? £ plus interest'

### 4. What was supposed to happen as you understood it; and what actually happened?

All respondents answered this question. Many appear to describe the initial circumstances that reportedly caused detriment or caused them to contact the regulator. Some instead describe the regulator's response to their complaint as they perceived it. Some allude to both.

There are several instances in which respondents claim that the FCA either contacted the institution they complained about, or directed them to do so, instead of independently investigating the allegations made.

#### Sample comments:

- **Julie Anne Davey** ([p. 5 of 11](#)): 'What was supposed to happen: I believed that the FCA would conduct a thorough investigation of my case and the evidence of the whistle blower and would take sanctions against the parties involved. What actually happened:

The FCA have dismissed all of the whistleblowers and my evidence against the Bank, taking the opinion of the Bank over this evidence, despite being provided with evidence to demonstrate that the Banks position is unequivocally false.

The FCA has closed my complaint and refuses to engage on key areas that ultimately demonstrate that the Bank were in the wrong, and without addressing any of the issues specific to FCA regulated products or services.'

- **Paul Pascoe** ([p. 4 of 9](#)): 'UGL was meant to receive honest banking services and instead was deliberately targeted by Mark Dobson as part of the wider criminal enterprise he was involved in with David Mills, Quayside and others. To force the sale of a substantial asset at an undervalue to colleagues of David Mills (that I was resisting and could prevent) Mark Dobson undermined my long standing partnership with Noel Edmonds by telling increasingly egregious lies.  
The results were that :  
The asset was sold for about 25% of its fair value  
My relationship with Noel was destroyed  
And as a result some of our businesses failed and others were materially undermined'
- **Gordon Neave** ([p. 3 of 5](#)): 'The borrowings were to expand our property investment portfolios both in the UK & New Zealand. In March 2007, BoS Corporate Banking withdrew my MOF (working capital) on 30 days' notice, breaching their covenant with me, coercing me to repay the borrowings by the early redemption of our SME & Pension Fund's secured term loans & re-bank with Clydesdale Bank plc.'
- **Maureen Carnegie Neave** ([p. 5 of 9](#)): 'The unregistered standard security we signed had been altered by the Bank's legal department, to include me as a debtor', which was not picked up by our conveyancing solicitor and which I could not be, as BoS were knowingly and deceitfully putting a first charge over the LoL Guarantee, in breach of my husband's underwriting agreement ...'
- **Andy Keats** ([p. 6 of 12](#)): 'SMEA [SME Alliance] asked to be considered as a whistleblower organisation with c500 bank complainant members. That request was not followed up by the FCA.

'SMEA expected Karina McTeague and then the High level Management at the FCA to be very concerned and that the FCA would begin a confidential enquiry into RBS and NatWest to establish whether the file fixing was systematic and how widespread.

The FCA shared the information with the bank when it should not have. ...'

- **Clive May** ([p. 4 of 10](#)): 'The EFG was used to repay off some of our utilised overdraft. The bank said it was part of a long term plan but once the EFG was in place the bank sent me into their restructuring dept pulled the overdraft after trying to obtain our home ( against the govt EFG rules) We were told the EFG had a 2% insurance premium which covered the 75% which the govt guaranteed leaving me liable for 25% The bank explained

this to me and my accountant but denied they ever said it stating it the bank said that that I would be liable for the whole amount'

- **Keith Elliott** ([p. 3 of 5](#)): 'I expected that Bailey/Brewis would launch their own investigation following the evidence I supplied , but instead they said that there was nothing they could do other than ask Lloyds to explain themselves to me'
- **Stephen Barker** ([p. 7 of 18](#)): ' The 7-year term loan should have been renewed to a point in time 5 years beyond the end of the 2008 swap in 2013. It was not.

'We became 'over-hedged' as a direct result of the bank's actions. If the bank was in any doubt it would renew the loan it should not have sold the swap in 2008 on the basis it would lead to the loan being renewed (rolled over).'

#### 5. What have been the consequences to you, your business (and if relevant to your family) as a result of what happened?

All 20 respondents answered this question, their claimed impacts include upwards of 300 job losses for employees, business loss, career impacts, the loss of personal assets including homelessness, bankruptcy, professional and personal relationship breakdowns and health impacts including hypertension, antidepressant prescriptions, suicide attempts and at least one death. The APPG also received almost 20 separate allegations of fraud or other crimes, in response to this question.

##### Sample comments:

- **Julie Anne Davey** ([p. 5 of 11](#)): 'The consequences to me and my family have been catastrophic. 250 employees lost their jobs, additionally affecting their families. In 2012, my Angel Group of companies was placed into Administration ...'
- **Dr Htay Kywe & Mrs Thida Kywe** ([p. 5 of 9](#)): 'We have lost our Livelihood and lost everything. Surgery premises, Care Homes, Family home'
- **Robert Kibbler** ([p. 4 of 6](#)): 'Total financial decimation to myself and my family. The company encountered cashflow problems on top of distrust of co-director which led to appointment of liquidator. All information passed to liquidator who has been totally inadequate in dealing with this fraud.'
- **Paul Pascoe** ([p. 4 of 9](#)): 'My emotionally and financially rewarding career effectively ended; valuable businesses lost substantial value ...'
- **Mark Greenwood** ([p. 3 of 5](#)): 'We lost everything, although armed with new evidence that the bank committed fraud during my previous proceedings which cost me circa £1 million in lost legal fees, I am now about to re-open the case ...'

- **Maureen Carnegie Neave** ([p. 6 of 9](#)): ‘ ... Our homelessness has destabilised our family and destroyed our business & personal lives due to our gross investment income of £170k , in 2007, being reduced to £3k pa, in 2014; where it remains today .’
- **Andy Keats** ([p. 8 of 12](#)): ‘The FCA has written off the evidence of file manipulation by RBS/NatWest as inconsequential or worse nothing to investigate. A case of Property Possession that began in 2012 with false information provided to the court taken from false file entries (now proven) has concluded in 2017 with a possession order based on further false information ...’
- **Clive May** ([p. 5 of 10](#)): ‘The business failed 18 months after our overdraft was cut. We lost our business our shareholdings and left me suffering with long term heart conditions.’
- **Dave Brotherston** ([p. 5 of 9](#)): ‘Our Businesses failed, and we were all made homeless by their Fraud, Forgery and Crime which we can prove, and have the evidence of this’
- **David William Taylor** ([p. 3 of 6](#)): ‘The business was engineered into administration. Loss of over 90 jobs and a 40 years prestigious ( Tesco haulier of year 2015) haulage business ...’
- **Keith Elliott** ([p. 3 of 5](#)): ‘I lost my life’s work and had to sell assets’
- **Lee Henry** ([p. 4 of 7](#)): ‘When IHML went into liquidation in March 2011 I was forced to sell my home of 25 years to fund a new business and meet expenses. I [g]ave up a career in the city to start a business and managed to grow that business to £16.4m in revenues – only to fall victim to fraudulent practices ...’
- **Stephen G. Lilley** ([p. 4 of 8](#)): ‘... I borrowed £54,000 on credit cards to stop the bank taking our home but sought help from the charity Step Change in June 2015. So far I have repaid £35,000 with £19,000 remaining.’
- **Jane Farmer** ([p. 5 of 8](#)): ‘my husband was forced to take out personal loans for the business because NatWest did not advance further funding. He was already suffering from mental ill-health. By Christmas 2008, his mental health had deteriorated and he attempted suicide ...’
- **Respondent B1** ([p. 4 of 7](#)): ‘No Holidays for 12 years. Unable to reduce the capital outstanding due to excessive over charging \* unjust enrichment. Both of us suffered from stress with each being prescribed anti-depressant medication at various times.’
- **Respondent B2** ([p. 3 of 5](#)): ‘Possession claims. We sold holiday home urgently at gross under-value, & bank blundered £40k. HBOS pursuing possession of our family home, but stayed pending our eligibility for BBRS

review. Severe stress, my wife's depression and resulting heart failure.'

- **Stephen Barker** ([p. 7 of 18](#)): 'Substantial reputational damage for the outcome in a significant project awarded best property development in Manchester in 2005 by the Manchester Chamber of Commerce.'

'To have reported my business 'collapsed into receivership' is both inaccurate and damaging to my personal standing.

'On a cash flow basis the business was solvent, as evidenced by all unsecured and secured creditors being paid or agreed with BoS to take a particular settlement.

'I was disenfranchised of what had become my core business over 10 years from 2001-2011 through a conspiracy to cause harm by lawful means.'

## 6. What could the FCA have done that might have protected you from harm?

All 20 respondents answered this question and all stated that the FCA could have investigated their claims. Some say that the watchdog could have taken specific preventative measures to protect consumers. Some say they could have acted on information, or (in one case) enforced what action they did take. One says that the FCA give insufficient regard to SMEs when compared to larger companies.

### Sample comments:

- **Julie Anne Davey** ([p. 6 of 11](#)): 'Requested for the Bank to agree to a stay in the court proceedings against me and to then investigate my case from an entirely impartial standing and without the influence of the Bank.'
- **Robert Kibbler** ([p. 4 of 6](#)): 'The FCA could have instructed Lloyds Bank to provide their proof of correct authorisation, but instead they have chosen to turn a blind eye.'
- **Paul Pascoe** ([p. 4 of 9](#)): 'Whilst it may not have been able to prevent me being harmed initially, had it acted with objective professionalism and alacrity the consequences would have been massively reduced and my career would have re-started. It appears that the FSA/FCA was aware of the underlying HBOS fraud from as early as 2008/9 ...'
- **Mark Greenwood** ([p. 3 of 5](#)): 'They could have looked at my evidence and ordered the banks to compensate me and apologise to my family and me and told them to play fair in future or risk losing their banking licence.'
- **Gordon Neave** ([p. 3 of 5](#)): 'Not colluded with the FOS and the banks, properly investigating our claims of fraud, false accounting & money laundering in their defence of the indefensible.'



- **Maureen Carnegy Neave** ([p. 6 of 9](#)): ‘Done due diligence and properly investigated the bogus FSA RMC and MY separate complaints of false accusations, fraud & money laundering to which they were alerted.’
- **Andy Keats** ([p. 8 of 12](#)): ‘... Had an investigation taken place it is highly likely that the file manipulations would have been discovered to be a part of a far wider systematic re-engineering/data cleansing operation within RBS/NatWest.
- The protection from such conduct has not been provided ...’
- **Dave Brotherston** ([p. 5 of 9](#)): ‘Enforced their own Ruling on the Bank ...’
- **David William Taylor** ([p. 3 of 6](#)): ‘Held the bank to account’
- **Keith Elliott** ([p. 3 of 5](#)): ‘They knew the shortfalls in their remits and have done for a long time but declined to do anything about it, rather staying with the status quo.’
- **Lee Henry** ([p. 5 of 7](#)): ‘The FCA can only act on cases it has knowledge of and in my case the FCA is not interested in cases involving SME’s with turnover in excess of £2m euros. The FCA is in my opinion deliberately [sic] lenient when it comes to fines against banks who act badly. The FCA “expects” banks to follow financial regulation guidelines and then is lenient when they do not.’
- **Stephen G. Lilley** ([p. 4 of 8](#)): ‘Currently the FCA is looking into a complaint made about the sale of Regulated Mortgage Contract by the business bank manager who was not an authorised or exempt person.’
- **Jane Farmer** ([p. 5 of 8](#)): ‘I believe the FCA could have noted and monitored the worrying trend of PG [personal guarantee] abuse. Mine is not an isolated incident.

‘I believe that the FCA should have proactively identified this as a consumer issue, not as unregulated business lending.

‘I believe the FCA should have helped with historic cases instead of refusing to release evidence they hold.’

- **Respondent B1** ([p. 4 of 7](#)): ‘The FCA should have been unbiased in their deliberations instead they have a couple of consumers on one hand and a company who spend millions on a department of people who build relationships with the FCA and in some cases have worked for them or intend to work for them (revolving door)’
- **Respondent B2** ([p. 3 of 5](#)): ‘With knowledge of the HBOS fraud & criminal convictions of bankers, they should have instructed the bank to cease all legal actions & claims against customers who were potential victims of the fraud and criminal culture at Reading.’

- **Stephen Barker** ([p. 7 of 18](#)): 'It should have paid more attention to what BoS (and other banks) was doing with customers/clients and the products they were selling that were harmful to their Retail customers/clients (clients after November 2007). The banks knew FCA scrutiny was easily avoided.'

'They could and should have used the available powers under the FSMA 2000 particularly s384 Power of Authority to require restitution and s382 Restitution orders. Powers the FCA know they have and do use; and have had the statutory authority to use them confirmed by the Supreme Court (*Ref: Asset Land plc v FCA [2016] confirmed the Regulator has powers to issue interim and final restitution orders*).

'The FCA has a Statutory duty (*FSMA 2000 s5 The protection of consumers*) to Retail clients (*Consumers because they are not professional clients under MiFID and defined s138(7)(a)(i)FSMA 2000*) and failed to carry that out.

'They wilfully excluded some 10,577 (*Ref FCA website 14<sup>th</sup> May 2020*) Retail clients from the FSA 2012 Voluntary Agreement by reclassifying them as 'Sophisticated'. Described by the Treasury Select Committee, in its March 2015 report on lending to SMEs, as an 'arbitrary' designation.'

## 7. What interaction have you had with the FCA about your case?

All respondents say that they contacted the FCA about their case. Some say they emailed or wrote letters and received no response or 'auto-replies', others that they had direct meetings or correspondence with senior executives, up to or including the CEO at the time.

### Sample comments:

- **Paul Pascoe** ([p. 5 of 9](#)): 'I contacted them in November 2017 to offer evidence to assist any ongoing investigation. The response was underwhelming and did not result in any engagement with me.'

'I then wrote to them late last year to ascertain what investigations into LBG arising from various aspects of the fraud and LBG's failures/cover up relating to it were ongoing, when they could be expected to conclude them with the intent of providing evidence to help such investigations.... the FCA said that it couldn't answer a single one of my questions due to S348 FSMA 2000. As a result I have no idea whether the FSA[sic] has begun, let alone completed, any investigation into the conduct of LBG concerning the suppression of the fraud and treatment of victims for the last 12 years. In view of the available information it is extraordinary if no investigations covering the period since 2009 have not been undertaken and there seems no reason why, to protect consumers, we should not be able to know what is happening and the likely timescale.'

- **Maureen Carnegie Neave** ([p. 6 of 9](#)): 'Our first letter from FCA ref: 202149423 dated 09/07/14, stated that "Government legislation does not permit the FCA to have any dispute resolution powers. Our role is to regulate firms and as such we must remain impartial". That is how matters lie today.'

- **Andy Keats** ([p. 9 of 12](#)): ‘See above. [“The FCA were provided with evidence of eight different ways in which RBS/NatWest falsify customer records for the bank’s gain and customer loss including evidence for courts, transcripts of a telephone call with over 1,000 material changes to it, re-engineered customer emails even removing parts of sentences to make a new sentence, false meetings and transcripts of meetings that did not take place, entirely re-written customer presentations and more. This was sufficient evidence to commence a covert enquiry into RBS and NatWest which did not take place and was written off as you can see from the 31/3/2016 response from the FCA”]’
- **Clive May** ([p. 5 of 10](#)): ‘Lots :- my MP wrote to them about the abuse of the scheme, he also wrote to the then business secretary Vince Cable about the abuse of the scheme. I gave them evidence of the bank using falsified letters on file of them exposing the identity of a whistleblower back to RBS which resulted in the CEO Mr Bailey becoming personally involved in my case. We gave them evidence of the bank placing credit lines against customers like me without our knowledge putting assets at risk.’
- **Keith Elliott** ([p. 3 of 5](#)): ‘I have had a meeting with Andrew Bailey and Matt Brewis with following correspondence.’
- **Lee Henry** ([p. 5 of 7](#)): ‘I emailed them on two occasions but received just an automated email response.’
- **Stephen G. Lilley** ([p. 5 of 8](#)): ‘A complaint was made several years ago the FCA had failed in their responsibility to do their duty in protecting us as a business.’
- **Jane Farmer** ([p. 6 of 8](#)): ‘I have written letters outlining my complaint. FCA responses were composed with standard clauses of sympathy, some respond to me as if I were in debt. In short, totally irrelevant ...’
- **Respondent B2** ([p. 3 of 5](#)): ‘I had informed the FCA directly about the problems we had, but they did not appear to do anything. They said they could not inform me of what they were doing. I was advised to go to the FOS, as the FCA do not deal with individual cases. But this would have been several cases emanating from HBOS Reading. In December 2020, the APPG for Fair Business Banking’ formal complaint to the FCA about Lloyds specifically cited my case that required an independent review.’
- **Stephen Barker** ([p. 8 of 18](#)): ‘I have a correspondence file with the Regulator. It starts with polite responses by them to questions I have not asked and fails to answer any of the ones I have asked. After several more letters the FCA say they have nothing more they can usefully add and terminate the correspondence.’

## 8. To your knowledge, what did the FCA do about your case?

All respondents answered this question. 13 of them allege the FCA did ‘nothing’ or words to that effect. Two additionally alleged that the FCA had revealed sensitive information, themselves or somebody else to the institution complained of as a ‘whistleblower’.

**Sample comments:**

- **Andy Keats** ([p. 9 of 12](#)): ‘Shared the confidential information with RBS/NatWest within days of being provided it by the SMEA as whistle-blower organisation.’
- **Clive May** ([p. 5 of 10](#)): ‘They tipped off the bank over false letters on file and the then police investigation along with exposing the identity of a whistle blower helping me in my case’
- **Gordon Neave** ([p. 4 of 5](#)): ‘Between 2014 & 2020 the FCA Executive & their Complaints Team, filed our correspondence and did nothing.’
- **Julie Anne Davey** ([p. 7 of 11](#)): ‘Nothing. In fact evidence and correspondence from Andrew Bailey to my MP demonstrates that Mr Bailey made contrived and false representations so as to avoid even reviewing the evidence we had.’
- **Keith Elliott** ([p. 3 of 5](#)): ‘Nothing other than ask Lloyds Bank to explain themselves to me.’
- **Respondent B1** ([p. 4 of 7](#)): ‘The FCA were dilatory and slow in their responses with the exception of one officer who is now no longer in active service and who’s[sic] email is disabled.’

‘The FCA failed to disclose that Virgin Money had asked the FCA to ignore my complaint whilst also writing to say they were “unaware” if Virgin money would object when the FCA knew the same to be true thereby further allowing the passage of time to work against us.

‘The FCA appear to take the lead from Virgin Money in order to prevent a decision being made based upon more closely with the lender than with us to assist the case of the lender’

**9. Do you believe the FCA could have done better once they became aware that you had suffered detriment?**

Nineteen of the respondents answered this question; all said that the FCA could have done better. Some of the respondents described what they perceive as specific shortcomings that could have been avoided.

**Sample comments:**

- **Julie Anne Davey** ([p. 7 of 11](#)): ‘The FCA could have done better, if they had been impartial in their investigation of my case. Equally, the FCA could have

done better had they not gone to such extraordinary and dishonest lengths to avoid reviewing evidence and investigating the case before them.'

- **Dr Htay Kywe & Thida Kywe** ([p. 6 of 9](#)): 'Yes; very strongly believe'
- **Paul Pascoe** ([p. 7 of 9](#)): '... they could not have done less. They seem to find excuses for being opaque and inactive.'
- **Andy Keats** ([p. 9 of 12](#)): '... The short answer is that the FCA failed the SMEA [SME Alliance] and many customers of RBS/NatWest as a result.'
- **Clive May** ([p. 5 of 10](#)): 'Absolutely by way of example I gave the FCA's CEO 2 letters giving reasons why the bank said it's RM asked me to delete assets, in one version they said my wife had inherited the property due to a death.....no one had died the bank made it up Mr Bailey put forward a reason that perhaps my file got mixed up with some one else's'
- **David William Taylor** ([p. 3 of 6](#)): 'Yes. The FCA have the power of prosecution. And failed to prosecute.'
- **Lee Henry** ([p. 5 of 7](#)): 'Something is better than absolutely nothing.'

#### **10. What would you say about the FCA's effectiveness and timeliness in taking action to protect other business owners from this kind of harm?**

Almost all - 19 of 20 - respondents answered this question. None describe any action to protect business owners from harm. Detail beyond this ranges from saying the FCA was 'ineffective' or 'failed to enforce', to saying that FCA staff had 'gone out of their way' to ignore claims. In a small number of cases respondents allege that the FCA in some way assisted the institution complained of or hindered the complainant's cause, regardless of what motivated such actions by the watchdog.

#### **Sample comments:**

- **Respondent B1** ([p. 5 of 7](#)): 'In my experience the FCA have demonstrated themselves to be unfit for purpose, biased and contributory to the low standards within certain companies. They are a comfort blanket for institutions who know they can flout the law, bend the rules without being held to account. The FCA very rarely publish meaningful data about cases other than X institution paid £450 to Mr and Mrs Y when the body of evidence demonstrates far larger cases exist which are being ignored.'
- **Clive May** ([p. 6 of 10](#)): 'The FCA were completely ineffective over RBS and the GRG scandal'
- **Julie Anne Davey** ([p. 7 of 11](#)): 'The FCA have gone out of their way to protect the Banks from potential claims from other victims. Even when the FCA knows that the conduct of the firms in question is a breach of UK law and FCA Codes, and that the consequences for victims will be catastrophic and even deadly.'

- **Andy Keats** ([p. 9 of 12](#)): 'Non existent or worse collaborating with the bank by sharing confidential whistle-blower information with a view to avoid the allegations entirely.'
- **Stephen Lilley** ([p. 5 of 8](#)): 'The FCA has not been effective taking action to protect other business owners, the banks continue to call the shots.'
- **Robert Kibbler** ([p. 5 of 6](#)): 'The FCA needs to be run by independent people not associated with the financial services industry.'
- **Dave Brotherston** ([p. 6 of 9](#)): 'They did nothing whatsoever about enforcement for Lloyds refusal to comply with the Rulings on the Crimes they were FINED for'
- **Mark Greenwood** ([p. 3 of 5](#)): 'It is / was completely non-existent and those in charge should be brought to account'
- **Stephen Barker** ([p. 10 of 18](#)): 'The FCA is a failed institution of State. I only know of its conduct in the mis-selling of interest rate hedging products (IRHP) to Retail customers – renamed ‘clients’ after November 2007. That is the basis of my summary opinion as to the FCA’s conduct and effectiveness.'

## 11. How helpful has the FCA been to you and others affected in securing redress from the Financial Institutions that have caused you harm?

As no respondents reported satisfaction with the outcome of their case, or the watchdog helping to do so, this question became quite redundant but. However, four respondents use the word ‘obstructive’ to describe the regulator with some respondents giving reasons why they found the regulator unhelpful. One respondent described the FCA as showing ‘empathy, but that is all’.

### Sample comments:

- **Clive May** ([p. 6 of 10](#)): 'Files obtained from the FCA under a DSAR showed that my firm went into GRG in 2010 and that I’d suffered a detrimental effect at the hands of the bank. When RBS undertook the GRG compensation scheme I was told that I was never in GRG despite the files showing differently. The FCA agreed with the bank despite their own file notes saying otherwise. Obtained under a FOI the requirement notice for the 166 by the FCA defined GRG as being certain depts. Within the bank one being SRM The FCA never took it any further'
- **Dave Brotherston** ([p. 6 of 9](#)): 'Gone out of their way to not help.'
- **Robert Kibbler** ([p. 5 of 6](#)): 'Not helpful at all. In fact I would say it is obstructive.'
- **Stephen Barker** ([p. 10 of 18](#)): 'No help whatsoever.'

'It has been the main obstacle to redress by restitution for the banks irregular activity.'

## 12. How effectively did the FCA act to prevent them doing it again?

All the respondents to Question 11 characterised the FCA as unhelpful, or not helpful, in their previous answers. It follows that this question does not truly apply to the situations described. However some respondents used this answer to expand on their description of why the opposite may be true in their view, outlining what they see as the watchdog's sub-par performance. We have printed some of these more specific answers below:

### Sample comments:

- **Julie Anne Davey** ([p. 8 of 11](#)): 'The FCA's actions have enabled the Financial Institutions to take whatever actions they wish, without any concerns as to sanctions being issued against them. Herein lies the vicious circle. The FCA time and again have been exposed for either having failed to notice what was going on within financial industry when they should have, or having known what was going on and failed to act.  
  
'The consequence is that in almost all cases where wrongdoing is identified or discovered by victims or whistleblowers, the FCA is potentially exposed for the above reasons. This creates a conflict and the FCA has repeatedly shown that it will do whatever it takes, lawful or unlawful, to protect itself, it's senior managers and the banks, at the expense of victims and justice.'
- **Paul Pascoe** ([p. 7 of 9](#)): 'As the public ( and other potential employers) remain completely in the dark over who has been grossly incompetent or potentially complicit in misleading the regulators, Board and shareholders the individuals are free to continue their careers in a similar manner. As with any wrongdoing, the delay in highlighting it and identifying those individuals responsible exposes more and more people to risk.'
- **Andy Keats** ([p. 10 of 12](#)): 'The opposite, the FCA enabled the bank to continue unabated.'
- **Clive May** ([p. 6 of 10](#)): 'They haven't. The skilled persons were to move onto phase 2 of the investigation into RBS including a forensic analysis of all the cases The FCA took it internally never carried out phase 2 and assisted the bank in saving millions in redress due to those who were affected'
- **Dave Brotherston** ([p. 6 of 9](#)): 'Gave them a £167 million fine, discounted by £50 million for Osorio's lie to "Early settle all disputes" where I have had nothing, not even a token gesture, as BH ruled that they never committed a Premeditated Crime, despite all the evidence, they Lied to the FOS, Police and FCA.'
- **Lee Henry** ([p. 6 of 7](#)): 'I do not believe the FCA are even aware of the various types of merchant services fraud.'



- **Jane Farmer** ([p. 7 of 8](#)): 'There has been no attempt to stop the abuse of personal guarantees. I was informed that the FCA do not look at individual cases. My response is that they can and that this is not an isolated case.'
- **Respondent B1** ([p. 5 of 7](#)): 'The FCA have collaborated and prevented an investigation as shown by their own admissions.'

### 13. What are your thoughts on any shortcomings at the FCA?

This question garnered diverse responses, some of which refer to precise circumstances. One respondent talked specifically about the culture of the FCA as they saw it, others talked about the revolving door of skilled staff between financial institutions and the regulators of them.

#### Sample comments:

- **Julie Anne Davey** ([p. 8 of 11](#)): 'The actions of the FCA in protecting the financial institutions at the detriment of victims is as a result of a culture that exists within the FCA.

'A toxic culture of concealment and non-disclosure at every turn. And perhaps more so the culture of non-engagement with professionals, experts or victims.

'Whenever there is an enquiry or a review to determine why there had been a failure or wrongdoing within a firm or public body, the first thing that the review does is interview and engage with everyone involved, be they victim or witness. This includes the Dame Gloster enquiry into LC&F and the Swift investigation into the IRHP review. It is universally understood that to investigate a matter and to find answers, you must investigate, you must engage with victims, witnesses and all involved and you must take in the evidence and testimony of the aforementioned groups.

'WHEREAS, the FCA in ALL cases go to extraordinary lengths to do none of the above. In other words the FCA approach is contrary to universal convention and therefore designed to fail.'

- **Andy Keats** ([p. 10 of 12](#)): '... Not fit for purpose and has a conflicting remit to protect the market and protect bank customers.

'Business lending and banking services are not regulated. Banks make the most of this and so does the FCA!

'Banks need proper regulation by a regulator that actually has a remit to protect customers from harm.'

- **Clive May** ([p. 6 of 10](#)): 'The revolving door within the finance industry. An example is [redacted] who worked at the FCA undertook the IRHP review with potential redress to firms over £32 billion. [Redacted] allowed the banks to rewrite rules to save them paying out. In the end the [sic] paid just

over [redacted]. [Redacted] now works for [redacted - a bank that was associated with misselling of IRHPs]

- **Stephen G. Lilley** ([p. 5 of 8](#)): 'The FCA's shortcomings will continue until the law is upheld.'
- **Jane Farmer** ([p. 7 of 8](#)): 'I believe they are an extension of the banks and have no will to protect consumers. I believe personnel move too freely between banks/regulator and have no individual accountability. I believe there is no ethos of integrity or purpose to protect customers or individuals. I believe this body is run by a legal department and former bankers. I believe that it should not be run as a quasi business.'
- **Respondent B1** ([p. 5 of 7](#)): 'They need to be dismantled  
  
'Third party comprised of compliance officers with at least 20 years experience sworn like judges to declare any conflicts of interest should review cases. The independent ombudsman cannot be independent when working from the same offices, same email system and same mailservers they are little more than a box ticking exercise.'

**14. What are your thoughts on whether the FCA lacks the powers that it needs; or conversely, that it doesn't make good use of the powers it already has?**

Most of the respondents believe the FCA doesn't make good use of the powers it already has. Most of the respondents to this question present the Regulator promoting the City and argue that this amounts to a conflict that encourages the watchdog **not** to intervene, even if they receive allegations of severe consumer detriment. A minority of four respondents answered to the effect that they were unsure precisely what powers the FCA has, or believed that the FCA would need to alter its regulatory perimeter to act, or that the FCA lacked powers. The majority, though, stated that they felt the FCA had **enough** powers within its current regime, but chose not to use them. All respondents shared a common perspective that the FCA must - in one way or another - become more active against harm in the sector.

**Sample comments:**

- **Julie Anne Davey** ([p. 8 of 11](#)): 'THE FCA has shown that when it wishes to step outside of its regulatory perimeters, it can, however the evidence shows that this does not happen when there is a threat to a financial institution of the FCA.  
  
'For the most part this is a smokescreen. There are invariably sufficient powers and authority, just a 'convenient' application of them.'
- **Paul Pascoe** ([p. 7 of 9](#)): 'The problem is its lack of motivation. ... Its two roles (promote the City and protect consumers) are inherently conflicted because exposing financial incompetence or criminality necessarily undermines confidence in the city.  
'But it would be simple to:

1. obligate it to report when it starts an investigation and to give an update every year.
  2. grant it immunity ( eg as with Parliamentary privilege) for it to be free from being sued as long as its reports and updates are made honestly and in good faith. ...'
- **Mark Greenwood** ([p. 3 of 5](#)): 'I do not fully understand what powers they had / have but they should have the power to step in and force a bank to make swift compensation payments and to put things right in short order.'
  - **Andy Keats** ([p. 10 of 12](#)): '... There is no appetite within the FCA to even challenge poor/egregious/negligent/dishonest/criminal bank or financial institution conduct. The FCA is conflicted in its remits.'
  - **Clive May** ([p. 7 of 10](#)): 'The FCA lacks the incentive to use the powers. SMCR has been set up to take action against managers but have allowed the legal departments within banks to be exempt. All complaints against banks are sent to the legal departments for them to deal with knowing they are outside the regime'
  - **Dave Brotherston** ([p. 6 of 9](#)): 'Under Bailey it had the Powers, and still does, but fails to use them properly and effectively.'
  - **Keith Elliott** ([p. 4 of 5](#)): 'As I said the FCA lacks powers but until they do something about it then nothing will change. Or is that what they want?'
  - **Respondent B2** ([p. 4 of 5](#)): '... it seems to lack the powers, as it should be able to deal with multiple cases and keep the complainant informed of what it is doing, or even not doing.'

### 15. In general terms, how would you describe what it's been like dealing with the FCA?

'Waste of time' or 'pointless' is the most common response to this question. Some respondents further state that it was 'frustrating', or 'soul destroying' or akin to 'a nightmare'. One respondent said it sparked 'serious depression'. The most positive response was that the FCA 'are polite, show empathy, and advise, but that is all'.

#### Sample comments:

- **Mark Greenwood** ([p. 4 of 5](#)): 'It was like being in a nightmare. I simply could not believe that the FCA were not interested in the slightest.'
- **Andy Keats** ([p. 10 of 12](#)): 'Appalling and frightening in its blatant refusals to deal with complaints about the banks.'
- **Respondent B2** ([p. 4 of 5](#)): 'They are polite, show empathy, and advise, but that is all.'
- **Jane Farmer** ([p. 7 of 8](#)): 'Impersonal, frustrating, irrelevant to individuals and consumers.'

- **Paul Pascoe** ([p. 8 of 9](#)): 'Not fit for purpose. Impenetrable. Gratuitously unhelpful.'
- **Lee Henry** ([p. 6 of 7](#)): 'A waste of time for a company of my size.'
- **Respondent B1** ([p. 6 of 7](#)): 'Frustrating  
  
'They fail to respond in a timely manner.  
  
'They do not return phone calls but hide behind emails.  
  
'They are inconsistent and fail to adhere to an agreed course of action  
  
'They admit to previous errors and indicate £166k compensation and then gloss over the previous report.  
  
'The FCA were party to a course of action we discussed with them before doing it. We explained what we were going to do and how it would prove our case which they agreed to. The outcome proved our case however the FCA back peddled so fast it's been embarrassing even though we lowered our mortgage cost by over £2,500 a month.  
  
'Biased  
  
'They spend more time speaking with the institutions than those they are meant to help.  
  
'In our case they argued the case for the institution with any evidence to support them and whilst armed with significant proof including the institution now saying that our version of events was TRUE.'
- **Stephen G. Lilley** ([p. 6 of 8](#)): 'In general terms dealing with the FCA has been a waste of time, there has been a failure to take regard of the facts or what they are being told.  
  
'In general terms I can not say anything positive about my dealings the FCA.'
- **Stephen Barker** ([p. 13 of 18](#)): 'Totally unsatisfactory.  
  
'A complete betrayal of Parliament's intention and a work of fiction that the original legislation was defective to avoid acting on circumstances known about and evidence received.  
  
'The FCA criticism of the legislation is easy for the FCA to make in the full knowledge the Parliamentary persons who drafted the legislation have no right of reply. Private Eye's moniker 'Financial Complicit Authority' is well deserved.'

## 16. What is your perception of the culture of the FCA, and what do you think about it?

This question garnered a range of negative responses, with all respondents accusing the FCA of being to some extent biased towards, complicit with, or disabled by the institutions complained of.

### Sample comments:

- **Robert Kibbler** ([p. 5 of 6](#)): 'Before dealing with them, I thought they were a good organisation. 'Now I have had dealings with them I can state that they are definitely more inclined to assist the bad actors rather than chastise them.'
- **Clive May** ([p. 7 of 10](#)): 'The culture within the FCA is one that seems to treat complainants with contempt whilst always taking the banks side'
- **Respondent B1** ([p. 6 of 7](#)): 'Worse than an old boys club in a small village'
- **Dave Brotherston** ([p. 7 of 9](#)): 'They intermix their staff with Bank staff, an unhealthy culture of maladministration.'
- **Jane Farmer** ([p. 7 of 8](#)): 'I believe it is just a job to many foot-soldier employees and an inroad into a lucrative banking job for others. I do not feel they are particularly well-trained or effective. Management of the FCA is too close to the government and banks.'
- **Mark Greenwood** ([p. 4 of 5](#)): 'If you look at the notes to the accounts of the Asset Protection Agency Limited (APA) and UK Financial Investments Limited (UKFI) that were set up by HM Treasury as 'arms-length organisations' (quote from Harriett Baldwin MP), it states very clearly that they on behalf of HM Treasury 'materially influenced' banks to asset strip their customers to recapitalize the banks. The FCA have clearly been shut down to allow HM Treasury, their various quangos and the banks silently steal from British people and businesses to repair the banks and the Country's financial well-being. They have clearly done this to save face, but what the Government should have done was take a bit of money from every bank account so that the process was transparent and fair, rather than use underhand tactics to ruin the few to save the many.'
- **Stephen Barker** ([p. 13 of 18](#)): 'Being at the FCA is a step to something else.  
  
'Within the FCA there is a hesitancy and perception of fear of offending the constituency of Licenced Firms particularly the bigger players such as the banks.'

## 17. Have you ever complained officially about the FCA; if so to whom? What happened, and how do you feel about what happened? What feedback, if any, have you had about your complaint? How helpful was the feedback? How long has it taken for your complaint to be processed?

Most respondents said that they had not pursued a complaints process against the regulator. There were a variety of reasons given for this. A minority said that they had complained either to an MP or to the FCA directly, but that they have not received a response to those complaints in a number of years.

#### Sample comments:

- **Julie Anne Davey** ([p. 9 of 11](#)): 'I have not yet complained about the FCA, as I do not believe that the Complaints Process has been designed to provide an impartial review of the FCA's actions and is simply a further stage of the systematic protection of financial institutions.'
- **Robert Kibbler** ([p. 5 of 6](#)): 'I have complained to the FCA about their website which states that it protects consumers when it obviously does not. I have asked them to remove the wording from their website that they assist consumers and it is currently under investigation by the hub supervision team, whatever that is !.'
- **Andy Keats** ([p. 10 of 12](#)): 'What is the point of complaining to the organisation you are complaining about?'
- **Mark Greenwood** ([p. 4 of 5](#)): 'Yes, I complained to my MP who complained to the Treasury Minister Harriett Baldwin and she just sent me to the Police and West Midlands Police were way out of their depth and basically took me into an interrogation room and threatened me to go away or they would make my life a nightmare.'
- **David William Taylor** ([p. 5 of 6](#)): 'Yes to the Complaints Commissioner. And was again fobbed off.'
- **Stephen Barker** ([p. 14 of 18](#)): 'I wrote to my Member of Parliament, then Mr George Osborne who was at the time also the Chancellor. He was not interested at all and not willing to see me. A couple of short letters thanking me for bringing the matter to his attention in a file of information he had requested – then silence.'

'Perhaps he felt conflicted as Chancellor because the Treasury has specific duties and responsibilities under the FSMA 2000 that he would prefer not to be looked at or to explain why those powers under Act were not used.'

#### 18. What do you think about the possibility of conflict of interest issues at the FCA?

Respondents state that they do believe there is a conflict, the majority refer to a 'revolving door' between FCA staff and bank staff, e.g. where former FCA staff go and work for banks. Some respondents level more specific criticisms:

#### Sample comments:

- **Keith Elliott** ([p. 4 of 5](#)): 'There must be a conflict as confirmed by Sir John Kingman in his final report into the FRC'

- **Andy Keats** ([p. 11 of 12](#)): 'There is a revolving door whereby banks supply bankers to the FCA and the FCA supplies personnel on secondment to banks.

'Retiring bank and FCA personnel take up positions in each other's firms as I understand it. As stated the aims of the FCA conflict in any event.'

- **Julie Anne Davey** ([p. 9 of 11](#)): 'Herein lies the vicious circle. The FCA time and again have been exposed for either having failed to notice what was going on within financial industry when they should have, or having known what was going on and failed to act. The consequence is that in almost all cases where wrongdoing is identified or discovered by victims or whistleblowers, the FCA is potentially exposed for the above reasons. This creates a conflict and the FCA has repeatedly shown that it will do whatever it takes, lawful or unlawful, to protect itself, it's senior managers and the banks, at the expense of victims and justice. Furthermore, the revolving door whereby recruitment exists largely to and from the FCA and large financial and legal firms, ensures another layer of conflict and another barrier to justice.'

### 19. If you could change three things about the FCA, what would they be?

Some call for a change in the FCA's remit to remove any perceived conflict of interest. Some respondents said the FCA should be disbanded and replaced. Some argue for a change in hiring/personnel; some even argue that victims (eg of financial misconduct or crime) should have a formal role in regulation. Many advocate for transparency towards complainants, e.g. telling them if it has acted on their complaint.

#### Sample comments:

- **Andy Keats** ([p. 11 of 12](#)): '...Prevent FCA and Bank personnel working for the opposite when they leave their employment for at least 5 years or longer (no revolving door). A Police officer cannot be a juror, the same should apply for a banker and regulator.'
- **Keith Elliott** ([p. 4 of 5](#)): '(1) Totally independent, (2) new Directors with half of them from outside the industry and (3) a full review of their remit.'
- **Paul Pascoe** ([p. 8 of 9](#)): '1. remove its role to generate confidence in the city- devolve it to a different organisation  
2. Obligate it to report when it was looking into an organisation and to provide regular updates  
3. Encourage and protect whistle-blowers and respond with alacrity to anyone who provides information and establish simple processes [sic] (with AI) to ensure patterns and volume of complaints etc can be picked up swiftly'
- **Julie Anne Davey** ([p. 9 of 11](#)):  
'Culture



‘Transparency

‘Disband the organisation and introduce an impartial body where the interests of consumers are represented in equal measure to those of the firms.’

- **Stephen Barker** ([p. 16 of 18](#)): ‘1. The FSMA 2000 could be amended (again) to make the Regulator independent of Treasury and directly answerable to Parliament. The FCA could, like other public officials appointed under Statute, carry out specific duties.  
  
2. The Regulator should start from the presumption the regulated are at fault unless they can show they are not, in other words strict liability. This may seem unfair, but that is exactly how the Road Traffic Act works for the rest of us and it stops the Courts being clogged with defence cases of no merit but the right to bring them. If the banks have the right to bring defence or counterclaims they will do so to suppress [sic] or disrupt the Regulator.  
  
3. The FCA has powers to Carry out Reviews s13, Gather Information s165, Investigate s170, s284 Chapter VI Investigations and Schedule 15 and it should do that *as a duty* (to actually attend the fire and put it out) if complaints are received. If it finds evidence to support the complaint then it should be quick to issue a restitution order under s382.’

## 20. What positives are there about the FCA that you would like to comment on?

One respondent says that they found the FCA polite and sympathetic, but the majority of respondents answered this question in one or two words, with the view that there are no positives to comment on. One respondent states that the FCA has ‘potential’ - and is quoted fully below for context. Another respondent similarly commented about the ‘power’ that the FCA may hold.

### Sample comments:

- **Julie Anne Davey** ([p. 9 of 11](#)): ‘The FCA has the ‘potential’ and the powers and authority already to fulfil a fantastic service for the benefit of the UK, acting as a deterrent to firms acting against the interests of the UK.’
- **Dave Brotherston** ([p. 8 of 9](#)): ‘It was given power, then did not use it for the public’s good.’
- **Stephen Barker** ([p. 17 of 18](#)): ‘None – how can there be any when we are still waiting for the Regulators report into the collapse of BoS 12 years after the event and 4 years since it was last promised, in 2016.’

## 21. Do you believe there should be spot checks by the FCA on regulated and/or unregulated entities, perhaps similar to the spot-checks by VAT inspectors?

The range of views expressed on this idea are quite complex, although a minority answered with one word, such as: 'yes' or 'definitely' or 'absolutely', others referred instead to what they regard as the culture of the organisation. A significant minority put 'no comment'. However, nobody answered in the negative.

### Sample comments:

- **David William Taylor** ([p. 5 of 6](#)): 'The FCA should be operated like my own regulator the office of the traffic Commissioner.'
- **Lee Henry** ([p. 7 of 7](#)): '1. There should be spot checks.  
2. The threat of confiscation of personal family assets would eliminate the incentive to mis sell financial services and commit fraud.  
3. There should be specific guidelines for the accountants and auditors of financial institutions making them partly liable for covering up dubious practices.'
- **Clive May** ([p. 9 of 10](#)): 'Yes but rather than go after the large firms all they would do is to go after the low hanging fruit'
- **Robert Kibbler** ([p. 6 of 6](#)): 'Not enough. There should be an automated alert system that flags up complaints to entities directly to the FCA which the entities then have to report to the FCA and show / record what they have done or are doing and within what timescale.'
- **Stephen Barker** ([p. 17 of 18](#)): ' Not especially – the powers to act swiftly are there, it's the will to do so that matters.'

'What might make a real difference is if 'whistle blowers' received a proper hearing, confidentiality and be rewarded as in the USA. Not every person in financial services is corrupt, a thief, dishonest or otherwise an inappropriate person to work in financial services. For honest people the culture may be, or becomes, uncomfortable. No one helps them. Internal complaint procedures do not work if complaining about the very activity approved of by the senior management and the individual is being instructed to carry out.

'They are betraying the customer's trust in the bank, as an institution, by selling unsuitable products to the customer, relying on the customer's ignorance and misplaced trust in them as an individual and because of the 'halo' of being FCA regulated.

'The financial incentive in the form of a monetary bonus they receive for doing so does not excuse them and they know that. I have met several individuals who left their employment to simply escape the pervasive, and in their view, morally corrosive culture being imposed by their line managers.'

### 22. Do you have any concerns that this Call for Evidence may be counterproductive from your point of view?

The majority of respondents said 'no' or that their main concern was their evidence being ignored or 'buried', or that nothing would change. Two respondents had concerns and they are quoted below.

**Sample comments:**

- **Robert Kibbler** ([p. 6 of 6](#)): 'The only problem I can see, is that it will be buried away like most evidence against financial bad actors.'
- **Mark Greenwood** ([p. 5 of 5](#)): 'Not at all, but it must not fall on deaf ears. Ultimately, there should be an open redress scheme to the businesses and people that were ripped off that is not run by the banks and does not have impossible acceptance criteria.'
- **Lee Henry** ([p. 7 of 7](#)): 'The banks are basically the main artery of the UK economy. I do not believe a call for evidence will have a significant impact on the way banks are regulated and policed. It may have some impact on smaller financial institutions.'
- **Respondent B2** ([p. 5 of 5](#)): 'Not sure, so do not want my name publicised, in case.'
- **Jane Farmer** ([p. 8 of 8](#)): 'Yes'
- **Clive May** ([p. 9 of 10](#)): 'No any forum that allows complainants experiences to be heard has to have some value'
- **Keith Elliott** ([p. 5 of 5](#)): 'Following many years of disappointment by regulators etc, I live in hope that this call for evidence will bring about the changes needed.'
- **Stephen Barker** ([p. 17 of 18](#)): 'That depends, but for the next generation they may avoid the experience I have had.'

**23. The FCA is undertaking a Transformation Project. Do you have any comments to make about that?**

While few respondents expressed specific knowledge of the transformation project, many of those who wished to make comments did so to express some scepticism towards its effectiveness or, sincerity. Some expressed what they would like to see.

**Sample comments:**

- **Julie Anne Davey** ([p. 10 of 11](#)): '...When transformation takes place via the same lens and therefore perspective that oversaw catastrophic failure in the first instance, and failed to identify said catastrophic failure, why does anyone believe that this same lens can see the failings and effect a positive transformation?'

- **Paul Pascoe** ([p. 9 of 9](#)): ‘I don’t know enough detail but it has all the hallmarks of a deliberate distraction from the important issues and excuse to hide behind for not making immediate fixes where they can be’
- **Maureen Carnegie Neave** ([p. 9 of 9](#)): ‘The FCA is beyond redemption.’
- **Jane Farmer** ([p. 8 of 8](#)): ‘Will it be jointly overseen by some uncaptured individuals who have never worked in banking, legal or related professions?’
- **Clive May** ([p. 9 of 10](#)): ‘I would welcome any positive step to avoid future victims of bank abuse to have to go through what many of us have had to deal with since the financial crash’
- **Mark Greenwood** ([p. 5 of 5](#)): ‘It needs to become transparent; it needs to stop being controlled by the banks and it needs to be able to award compensation to banking victims. ...’

#### 24. Are there any other comments that you would like to make?

Ten respondents wished to make additional comments, nine of which we have quoted fully below. The remaining comment is not quoted because it is personal, but it expresses a wish for accountability at the regulator - both now and in the past.

##### Sample comments:

- **Robert Kibbler** ([p. 6 of 6](#)): ‘I think it is fantastic that there are people who are really trying to do something to make changes for the better. My only issue is that the rules and regulations are already in place but no-one, including the police will do anything to enforce the laws and regulations. Victims have no real hope of ever getting their lives back!’
- **Mark Greenwood** ([p. 5 of 5](#)): ‘The FCA should be there to regulate in a transparent way and then compensate victims. Those victims should be paid directly by the FCA, who can then fine the lender later.’
- **Gordon Neave** ([p. 5 of 5](#)): ‘We would like our home back, please.’
- **Maureen Carnegie Neave** ([p. 9 of 9](#)): ‘We would like our home back, as a priority.’
- **Clive May** ([p. 10 of 10](#)): ‘Whilst I might come across very negative or a conspiracy theorist all my points above can be backed up with evidence and I’d like to thank the reader of my evidence for their time in reading it Thank you’
- **Keith Elliott** ([p. 5 of 5](#)): ‘I wish you all the best and look forward to POSITIVE changes, not years of ‘kicking the can down the road’ and which simply ends in some final ‘tinkering’

- **Stephen G. Lilley** ([p. 7 of 8](#)): ‘I hope that when the FCA is up and running again it will become the watchdog it was supposed to be and protect everyone whoever they may be.’
- **Respondent B1** ([p. 7 of 7](#)): ‘Sincere thanks for all of those who strive for a just financial services sector. My Partner of 39 years has had two heart operations this past 6 months due to stress, has been on medication for stress and anxiety for years due to the failings of the FCA. I know others who have committed suicide, enough is enough.’
- **Respondent B2** ([p. 5 of 5](#)): ‘The FCA seem to have been lacking in several cases, not just the well-known ones such as HBOS Reading and RBS’
- **David William Taylor** ([p. 6 of 6](#)): ‘Until a high profile Banker and Frauditor is personally prosecuted then these thefts will continue.’
- **Stephen Barker** ([p. 18 of 18](#)): ‘The APPG has, like other Members of Parliament on the Treasury Select Committee, paid a heavy price for their interest in and work on this subject. I do recognise that and thank them for their efforts. This is a long way from over, but Parliament must succeed to uphold the integrity of the banking sector that has been severely damaged by these events. It must also succeed to support SME’s in all sectors for they make such a large contribution to the dignity of employment and the opportunities in the world of work.’

## QUESTION SET C: For victims of financial services misconduct from payments institutions or other non-investment scams

### Responses

We received 5 responses from victims of financial services misconduct from payments institutions or other non-investment scams, **all of which have consented to publication**. They are:

- [Paul Talbot-Jenkins](#)
- [Pauline Creasey](#)
- [Rosemary Heys McDonagh](#)

The following wish their identity and testimony to be kept confidential to the public:

- [Respondent C1](#)
- [Respondent C4](#)

The following have provided a video testimony in addition to their written submission:

- None

### Key findings

- An estimated total of over £2.5 million was lost between the five respondents. See Q4 below
- Two of the respondents had confirmed the firm's FCA authorisation prior to using their services, which they felt was important and also implied that their monies would be safe and would mean active regulation of the firm. One of the respondents had been led to believe the company was authorised by the FCA, another had assumed so.
- Two of the respondents said they had witnessed actions that they believed breached a law, regulatory code or relevant policy.
- Four respondents found their correspondence with FCA unsatisfactory. One felt the FCA were reluctant to take their report seriously and had to push for any progress to be made. One respondent found the FCA Contact Centre team helpful and thoughtful for the most part and took the complaint seriously.
- Four of the five respondents were not made aware of the Financial Regulators Complaints Commissioner (FRCC) by the FCA, three of the respondents had found out about them through internet searches. One of the respondents confirmed that the FCA had made them aware.
- None of the respondents were satisfied with the responses to their report about their stolen money from any of the authorities they dealt with (e.g. Action Fraud, the police, the

FRCC, the Financial Ombudsman Service etc).

- Three of the respondents said there had been no positive outcomes in terms of justice or the recovery of their money. One respondent has had a partially positive outcome as their stolen money was eventually returned to them.
- Four of the respondents believe there is a possibility of conflict of interest issues at the FCA. One respondent believes such conflicts are 'rife' in the financial industry, pointing to the fact that the previous head of the FCA is now the Governor of the Bank of England to argue this.
- Two of the respondents said they had nothing positive to say about the FCA. One respondent said the front line team were helpful and responsive, another found it positive that the FCA had intervened in a certain matter, however they did wonder if anything would have been done without their repeated calls of complaint.

### **Summaries on each question**

#### **1. Please tell us about yourself and outline, just briefly to begin with, how you came to interact with the Financial Conduct Authority?**

All respondents answered this question. Please see the sample comments below for each respondent's answer.

#### **Sample comments:**

- **Respondent C1** ([p. 4 of 7](#)): '...my husband and I decided to take early retirement to pursue our dream of moving to Portugal...We went to the A Place in the Sun exhibition in Birmingham in 2016 and met Premier FX there when they were one of the event sponsors. We were impressed with the professional approach and the fact they were FCA Authorised...On 27th July 2018 we received an email saying the firm [Premier FX] was insolvent and all contact ceased. Frankly I have never been more shocked, horrified and devastated. We immediately contacted the FCA which was the first in a long line of horrific experiences with regulatory authorities and police.'
- **Rosemary Heys McDonagh** ([p. 3 of 16](#)): '[Contacted the FCA] to find out what [the FCA's] expectations were of solicitors selling high interest mortgages secured on family homes to vulnerable clients to pay themselves in relation to consumer protections etc....[and] to find out what the FCA's expectations were relating to the claims of one Peer 2 Peer Lending Platform (Ratesetter) funding the above mortgages, and whether having authorisation [sic]for operating an online P2P [Peer 2 Peer] platform (which they have claimed is absolutely identical to an online betting platform) meant that a "Peer 2 Peer" businesses were entirely exempt from all the duties and responsibilities of the MCD [FCA Handbook: Mortgage Credit Directive], MCOB [FCA Handbook: the Mortgages and Home Finance : Conduct of Business sourcebook], CONC [FCA Handbook: the Consumer Credit



sourcebook], and the vast majority of the CCA [the Consumer Credit Act 1974]’

- **Pauline Creasey** ([p. 3 of 24](#)): ‘I co-own a technology business providing services to aerospace firms. I was based in Europe living in Faro Portugal for 10 years and needed a FX payments services firm for personal transactions...I was persuaded by local business network recommendations to consider using Premier FX an Authorised Payment Institution (API) for 4 reasons: the FX exchange was better, the APIs were regulated by the UK’s FCA, the firm was registered with HMRC and I assumed checked for money laundering compliance, and the charges were lower...[It] worked well for 12 years, payments arrived promptly...The FCA authorisation under the first Payment Services regulations (2009) implied to me safety and security as all non bank payments firms had to be registered and authorised with annual monitoring by the UK financial regulator... I contacted the FCA at 9.30am on 27 July 2018 when two transactions did not arrive on time and I could not reach any PFX [Premier FX] director or office by phone or email. One transaction was large and was for purchasing a new home in the USA where I was moving with my business from Portugal... I could not understand what was happening at first nor the reasons behind the generic message issued by the firm saying they had ceased trading due to liquidity problems when the firm had been re-authorised by the UK Regulator on 23 May 2018. The firm had not provided contact details for administrators or liquidators and there was no mention of them reporting their status to the FCA.’
- **Respondent C4** ([p. 3 of 9](#)): ‘My mother lost £30,000 to APP [Authorised Push Payments] Fraud.’
- **Paul Talbot-Jenkins** ([p. 3 of 10](#)): ‘I am an industrial designer by profession... I purchased this property at auction with the intention of running my successful export business therefrom. That was in 1977 from whence the problems began. I had an export order to supply Land Rovers, generators and mobile workshops to Ghana. The branch of NatWest I banked with, ignored my written instructions for cashing in the letters of credit, thus causing over 6 months delay in payment which lost my business most of the profit. The bank was unapologetic. The final straw came in 1984 over an export order to Guyana for 25 x 25kW diesel electric generators worth £128,000. I had one unit I could supply almost immediately for which my client paid a cash deposit, the balance to be paid by direct credit transfer. The bank failed to transfer the balance insisting that a cheque had bounced which I knew to be a lie. In the interim time there were other problems over missing financial transactions.’

## 2. Which organisation(s)/individual(s) caused you financial loss?

All respondents answered this question.

### Sample comments:

- **Respondent C1** ([p. 4 of 7](#)): 'Premier FX'
- **Rosemary Heys McDonagh** ([p. 4 of 16](#)): 'Ratesetter. Novitas. With the assistance of: Payne Hicks Beach, Hunters, Stewarts Law, Bircham Dyson Bell'
- **Pauline Creasey** ([p. 4 of 23](#)): 'Premier FX Limited FCA Registration 530712'
- **Respondent C4** ([p. 3 of 9](#)): 'Nationwide and Fidor Bank'
- **Paul Talbot-Jenkins** ([p. 4 of 10](#)): 'The National Westminster Bank. High Street, Stamford. Kenneth Broughton. Daltons Solicitors of Stamford, Roger Browne.'

### 3. When did this happen?

All respondents answered this question.

### Sample comments:

- **Respondent C1** ([p. 4 of 7](#)): '27th July 2018'
- **Rosemary Heys McDonagh** ([p. 4 of 16](#)): 'Ongoing since 2014'
- **Pauline Creasey** ([p. 4 of 23](#)): 'Theft discovered 27 July 2018 when two FX transactions and payments did not arrive. The firm ceased trading on 27 July'
- **Respondent C4** ([p. 3 of 9](#)): 'June 2018'
- **Paul Talbot-Jenkins** ([p. 4 of 10](#)): 'Between 1977 and present day'

### 4. How much did you lose?

All respondents answered this question. In total the respondents have lost over £2.5 million.

### Sample comments:

- **Respondent C1** ([p. 4 of 7](#)): '£272,000'
- **Rosemary Heys McDonagh** ([p. 4 of 16](#)): 'So far over £650,000.00 (I do not know what they will take in the end these loans and charges are opaque because they are apparently like a gamble on a gambling platform so they don't need to provide statements of account)

'I have lost my home

‘I have lost at minimum 20 years of shared pension contributions (circa £500k)

‘As a result of the loans in order to pay Ratesetter I have been ordered to sell all my jewellery (£30k)

‘I have lost all my savings (\$90k in Apple Shares, and £30k in an endowment) Ratesetter are entitled to any and all of my divorce settlement now and in the future – any child maintenance, spousal maintenance or lump sum payment

‘Ratesetter intend to claim all legal costs in enforcing the loans (amount unknown although in the region of £200k, more if I appeal)

‘Ratesetter intend to take a fee for all costs relating to discharging the loans and legal fees associated with receiving payment – amount unknown. TOTAL VALUE OF LIKELY LOSSES IN THE REGION OF £1MILLION.’

- **Pauline Creasey** ([p. 4 of 23](#)): ‘The money stolen was £500,000. It is worth noting I was not an investor. The official term for someone using an authorised payments firm is payment service user.’
- **Respondent C4** ([p. 3 of 9](#)): ‘£30,000’
- **Paul Talbot-Jenkins** ([p. 4 of 10](#)): ‘In financial terms my losses up to 1999 with interest amounted to £686,000. I doubt there is a value that can be put on the 44 years my wife, my children and I have had to endure the mental torment of harassment we have suffered as a consequence of standing our ground.’

**5. Have you ever witnessed any actions or conduct that, in your reasonable belief, breached any law, regulatory code or applicable or relevant policy? If so, please explain which law, code or policy you believe was breached.**

Three respondents answered this question. Two of the respondents said yes, one said no. Examples given were mortgage fraud, theft of client money, unlawful trading and evasion of the Payment Systems Regulator.

**Sample comments:**

- **Rosemary Heys McDonagh** ([p. 5-9 of 16](#)): ‘..there is a great deal of clear evidence (documentary evidence) of mortgage fraud in that the property and assets against which these loans were secured were deliberately and knowingly exaggerated by the solicitors, Ratesetter and Novitas appear to have been complicit... The Solicitors had what they describe in correspondence between Ratesetter/Novitas and themselves as “lending partnerships” with Novitas/Ratesetter. In some cases the solicitors were, or had family members who were Ratesetter Shareholders... Ratesetter were never authorised for Mortgage Business or Mortgage lending but have been engaged in mortgage business and mortgage lending since 2013 to our

knowledge... Ratesetter and Novitas have now been found by the FOS [Financial Ombudsman Service] to have multiple “unfair business practices” [such as] unaffordable lending, failure to carry out the requirements of CONC [the Consumer Credit sourcebook], failure to ascertain the true value of assets, failure to verify the truth of the financial position or circumstances of the borrowers...’

- **Pauline Creasey** ([p. 4 of 23](#)): ‘Research and inquiries since discovery of the theft has revealed that the firm and its staff were engaging in consistent malpractice, theft of client money, unlawful trading, evasion of the PSRs [Payment Systems Regulator] over many years while licensed by the FCA for 8 years and quite probably for their entire history of operations (12 years). The firm and its directors were not compliant and in breach of contract with most of the terms and conditions of the Payment Service Regulations 2009 and 2018. Notably the firm failed to provide safeguarding and client designated accounts, were under insured to cover the capital volumes that they were moving (£1.6BN) evaded a legal independent audit by presenting false accounts at Companies House. The firm failed all key conditions to be fit and proper to trade as a payments firm. The insurance the firm held covered £20,000 of transactions only. The firm’s directors produced a fake document when requested showing they were covered for £5m. They also breached the FSMA 2000 and 2012 by selling services which including holding client money on deposit without authorisation under the FSMA which is a criminal offence.’

## 6. Who or what encouraged or led you to trust those you dealt with?

Four respondents answered this question. One respondent was encouraged by their family law solicitor to take out a loan. Another trusted the building society they used to transfer money. For the two respondents who lost money to Premier FX several factors played a part in encouraging them and leading them to trust the firm: Premier FX was authorised and regulated by the FCA, it was registered with HMRC, it was one of the sponsors of the ‘A Place in the Sun’ exhibition.

### Sample comments:

- **Respondent C1** ([p. 4 of 7](#)): ‘The fact we attended a reputable exhibition such as A Place in the Sun, that the firm was a sponsor and the fact they were identifiable as FCA Authorised’
- **Rosemary Heys McDonagh** ([p. 10 of 16](#)): ‘The solicitor claimed (in writing) the firms (Ratesetter and Novitas) were reputable, established, and the loans “low interest” - none of which was true’
- **Pauline Creasey** ([p. 6 of 23](#)): ‘I have little trust in the UK authorities and probably most financial regulatory agencies. However prior to the theft and discovery of the Ponzi scheme and illegal holding and unlawful use of client money I thought the following agencies were important in my decision to trust a UK regulated payments firm:-  
1) Premier FX were authorised and regulated by the [FCA]...

- 2) [Premier FX] were registered with HMRC...
  - 3) ...banked with Barclays UK
  - 4) ...were a member of AFPOP Association of Foreign Property Owners Portugal's "Safe List of Approved Firms"...
  - 5) ...were a member of Algarve Business Network and Portugal-UK Chamber of Commerce...held out as an upstanding member of the Chamber
  - 6) ...advertised and exhibited their services at key trade, travel and overseas retirement show in UK, Portugal and Spain...'
- **Respondent C4** ([p. 3 of 9](#)): 'My mother believed she was sending funds to her son, as Nationwide are the biggest building society she had absolute trust in them. Surely the largest building society is going to protect its customers money, when making such large payments.'

**7. If applicable, which bank did you pay money into?**

All respondents answered this question.

**Sample comments:**

- **Respondent C1** ([p. 4 of 7](#)): 'Barclays'
- **Rosemary Heys McDonagh** ([p. 10 of 16](#)): 'Money went straight to Stewart's Law Client Account, Payne Hicks Beach Client Account, Hunters and BDB client accounts.'
- **Pauline Creasey** ([p. 6 of 23](#)): 'Barclays Bank, London UK'
- **Respondent C4** ([p. 3 of 9](#)): 'Transferred from Nationwide to Fidor Bank'
- **Paul Talbot-Jenkins** ([p. 5 of 10](#)): 'The National Westminster'

**8. When and how did you realise you had suffered a financial loss?**

All respondents answered this question.

**Sample comments:**

- **Respondent C1** ([p. 4 of 7](#)): 'When we got the email from Premier FX on 27th July 2018'
- **Rosemary Heys McDonagh** ([p. 10 of 16](#)): 'Several years after my final hearing when I compared the offer Stewarts Law persuaded me not to take with the result of my hearing. In 2017 I wrote to Ratesetter – I had not received any statements of account or updates on charges, interest or payment. They had only ever communicated with Stewarts Law or Payne Hicks Beach (the solicitors who benefitted from the loans and retained interest on them). The interest on the loan has almost overtaken the original sum loaned.'

- **Pauline Creasey** ([p. 6 of 23](#)): ‘My payments did not arrive in the USA and in an EU country and usually they arrived on time. On 27 July 2018 I contacted the main director at the firm by email and phone I received a generic email in reply stating the firm had ceased trading to assess liquidity issues and administrators may contact me in due course. No one was answering the phones in their offices Portugal, UK and Spain and no voice mail. Further emails went unanswered.’
- **Respondent C4** ([p. 3 of 9](#)): ‘Money was transferred on Saturday; realised money was lost on Monday.’

## 9. Who/which organisation(s) did you contact about the situation?

All respondents answered this question. Three of the respondents contacted the FCA. Some of the other organisations contacted by the respondents were the Financial Ombudsman Service, Citizens Advice Bureau and Action Fraud.

### Sample comments:

- **Pauline Creasey** ([p. 7 of 23](#)): ‘As the sums missing were significant I spent several hours on 27 July 2018 from 9.30 am raising an alarm with various UK authorities that something bad and illegal was happening... Initially I received total disinterest from the FCA contact centre. After while the rep said they would write to the firm and the firm had 15 days to reply. I persisted and asked to speak with a supervisor. The supervisor made some inquiries and a second call was held during which I asked... the FCA to contact the firm’s bank Barclays to assess the situation. My concern was increasing because the FCA were telling me they did not know the original owner-director of the firm Peter Rexstrew had died on 16 June and there were 2 new directors running the firm from 18 June. Moreover, the firm had been reauthorised by the FCA on 23 May 2018 and one of the new requirements of the PSR (2017) is for APIs to have a verified business succession plan in place for illness/death of key directors in the firm. I was not given a reference number for my call. When I called back in the afternoon, the FCA conceded there had been further calls regarding Premier FX and missing transactions. They confirmed they had informed management up the line but had no further information and would not confirm if the FCA had contacted Barclays. The only “advice” they gave they gave was to check the FCA website to see if any notices were published on the firm. At this point there were no warnings about the firm and it was still on the FCA Register as a legitimate payments firm! The firm’s status did not change on the Register until 10 August when the FCA put the firm into administration by emergency measure. Yet, further payments were made to the firm on and after 27 July and in fact continued until December 2018 when the firm entered liquidation (7 December 2018). The fact that further payments were made and accepted by the bank until 13 August which were then treated as “stolen transactions” and later admitted for payment adjudication indicates that the Firm had not contacted the FCA at any point prior to the firm ceasing trading on 27 July to say they were insolvent. PKF Geoffrey Martin, insolvency and forensic accountants were sent by the FCA

on 30th August in response to my and other customer ‘panic’ calls to the Contact Centre. I flag this because the FCA now claims that the PFX directors contacted the FCA voluntarily prior to its collapse. If so why was the firm still accepting money for payment services on 27th July and up to the date of administration? The FCA put the firm into administration as an emergency measure via the high court on 10 August 2018 in response to a private application by a businessman Thomas Seelen (Shipbuilding Asia) for a priority payment order. His legal team had discovered there was £1.4m remaining in the accounts and sought to get their funds returned - amounting to £800,000, claiming the money belonged to them.’

#### 10. Was the organisation that you dealt with authorised by the FCA?

All respondents answered this question. Three of the respondents said yes, one respondent assumed so.

##### Sample comments:

- **Respondent C4** ([p. 4 of 9](#)): ‘Fidor Bank who the money was sent to are a German bank that set up to trade in the UK on a EEA Services Passport, However as they had an office in the UK, and were seeking to grow market share and were approaching customers. So they should have been using an “Establishment Passport”, which in means they’d have to follow stricter regulations. This is set out in the 2<sup>nd</sup> Banking Directive of 1997. (I [attach](#) my complaint to the FCA). The FCA have allowed this bank to trade illegally and then allowed them to breach 2007 Money Laundering Regulations, and defraud British citizens of life changing sums of money.’

#### 11. If it was authorised by the FCA, did you consider this to be important? If yes, why?

All respondents answered this question. Two of the respondents answered yes, because they believed that FCA registration and authorisation would mean active regulation.

##### Sample comments:

- **Respondent C1** ([p. 5 of 7](#)): ‘Of course it's important, I am a risk averse person. I always check companies I deal with are members of regulatory authorities.’
- **Rosemary Heys McDonagh** ([p. 11 of 16](#)): ‘The Solicitors and Ratesetter’s documentation set out that Ratesetter were “authorised by the FCA”. They did not indicate that the authorisation was only interim. Since then we’ve learned that their full FCA authorisation was delayed as a result of hidden debt, and other dishonesty by Ratesetter, their claims to FCA authorisation were mis-leading, and gave a false sense of security.’
- **Pauline Creasey** ([p. 8 of 23](#)): ‘I originally thought it held significant importance and indeed it should. The UK is a leading economy in the world and its regulator, the FCA, is held in high esteem by other countries’ financial authorities...Anything to do with money is a risk and has to be properly



protected as there are always criminally minded individuals seeking ways to steal and make easy profits from taking what isn't theirs from law abiding citizens.'

**12. If the organisation was not authorised by the FCA, did you contact the FCA, or any other UK authority, to tell them about the fraud and theft? If so, what was their response?**

4 respondents answered this question, however, for all of the respondents the organisation in question was authorised by the FCA.

**Sample comments:**

- **Rosie Heys McDonagh** ([p. 12 of 16](#)): '[The FCA front line team] checked the contracts, confirmed they were mortgages, and I should have protections as a consequence. However there were some very strange interventions by individuals at the SRA, at one point I was told not to contact them again, and to leave Ratesetter alone, other people in the group were given the same message. I wrote to Mr Rathi, providing this information, and expressing my concerns, we were then told to contact his office directly in future, but its difficult to understand what, if anything is being done about these unfair business practises.'
- **Respondent C4** ([p. 4 of 9](#)): 'Ive [sic] contacted the FCA, PSR, Treasury Select Committee, Nationwide, Fidor, in my hope to find someone with some basic human decency, to highlight the injustice and incompetence that has allowed this fraud to take place, but its 2021 England, no one will put their head above the parapet and risk not getting a promotion to another overpaid non job.'

**13. If you had dialogue with the FCA, did the FCA Contact or Customer Centre take your report and give you any advice? If so:**

- **What was the advice?**
- **What did the Customer service agent say would happen?**
- **Approximately how long was your call?**
- **Did they appear knowledgeable about your problem?**
- **What were the next steps?**

All respondents answered this question. Three of the respondents said they had dialogue with the FCA contact centre and did not find them helpful or knowledgeable, and were unsatisfied with their response. Two of the respondents had written correspondence with the FCA, one who found they were taken seriously.

**Sample comments:**

- **Respondent C1** ([p. 5 of 7](#)): '...the FCA help desk is completely unhelpful and gave no reassurance that our situation would be dealt with sensitively. In fact we found out later many other victims of this company were calling and not once did the FCA help desk link up these calls and realise there was a problem.'

- **Rosemary Heys McDonagh** ([p. 12 of 16](#)): ‘The Customer Care Centre read the contracts (all of them) and advised me in writing, in a coherent and easily understandable way that the contracts were Mortgages because that is how they had been framed from the outset, but even if they were not, they would have become mortgages in 2016 by virtue of the Retro Active effect of the MCD.’
- **Pauline Creasey** ([p.10 of 23](#)): ‘[The Customer Service agent] was reluctant to take my report. I had to insist on speaking to a team leader/supervisor who agreed after a 45 minute call to elevate the matter to senior management. I was not given a reference number, however, when I called again it was apparent my first call had been logged and I was treated as a returning “complaint”. The responses from the Contact centre and Supervisors Hub since my initial report on 27 July 2018 have improved. I asked the Contact Centre for information on other payments firms and they took my inquiry and came back to me with good information. I was recognised each time on giving my name and was given help.’

**14. If applicable, how long was it after making your report to the FCA before you heard something about your situation? Who contacted you?**

4 respondents answered this question. For 3 of the respondents the FCA contacted them within one month. One respondent did not get contacted by the FCA, but had to chase them.

**Sample comments:**

- **Pauline Creasey** ([p. 11 of 23](#)): ‘I and another client (79 years old, £249,000 stolen) managed to start an email dialogue with Andrew Bailey the CEO of the FCA asking about how authorised payment institutions were supposed to work? We asked for a meeting with him and received an invite in November 2018. If we had not done this and made personal contact I do not think an investigation would have been done either by the FCA nor Barclays.’

**15. Were updates provided? If so, how regular were they and how were they communicated?**

4 respondents answered this question. Two of the respondents received updates via email, one only saw updates through statements on the FCA website.

**Sample comments:**

- **Pauline Creasey** ([p. 11 of 23](#)): ‘An FCA statement or press release appeared on the FCA website on 13 August 2018 saying Premier FX had been put into administration by the FCA’s court order, criminal activity was suspected and provided contact details of the administrators. It was not updated until January 2019 and this was a minor update to say the firm was now in liquidation and gave contact details for the liquidators. The next update was 25 February 2021 When the FCA published the Censure Notice and Report on the firm.’

**16. Did the FCA advise you about their FCA Complaints Scheme if**

- You were not satisfied with how they regulated the firm who stole your money? and/or
- You were not satisfied with how the FCA treated you after you reported the crime?

4 respondents answered this question. Two of the respondents said yes, one of which had also found out about it through an internet search. Two of the respondents said no.

**17. Are you aware of the Financial Regulators Complaints Commissioner (FRCC) who provides an independent assessment of the work of the FCA?**

- If yes, how did you learn of the FRCC?
- Were you advised by the FCA that you had to make a complaint to the FCA Complaints Scheme first and await the outcome of that complaint before making a complaint to the FRCC?
- Have you asked the FRCC to investigate? If not, do you intend to and why?

All respondents answered this question. Three of the respondents became aware of the FRCC through their own independent research on how to make a complaint. Two of the respondents were not aware of the FRCC. Two respondents had an ongoing complaint.

**Sample comments:**

- **Pauline Creasey** ([p. 11 of 23](#)): [in response to sub-question 'Have you asked the FRCC to investigate? If not, do you intend to and why?'] 'YES. I first made a complaint to Anthony Townsend [former Complaints Commissioner] who said he could not do anything until the FCA completed their investigations. He said he would check in with he [sic] FCA every 6 months to see how they were doing. Six months sounded alarming given how much money I had missing ie life changing sums. Neither I nor any other PFX [Premier FX] claimants that I am aware of ever heard any more from Mr Townsend. After 18 months I contacted him again and he said he would look into it. He reported back the FCA said they needed more time and he agreed with the FCA and turned down my request for him to start an inquiry in parallel with the FCA investigation.'

**18. Have you asked the FRCC to investigate? If not, do you intend to and why?**

All respondents answered this question. Three of the respondents became aware of the FRCC through their own independent research on how to make a complaint. Two of the respondents were not aware of the FRCC. Two respondents had an ongoing complaint.

**Sample comments:**

- **Pauline Creasey** ([p. 11 of 23](#)): [in response to sub-question 'Have you asked the FRCC to investigate? If not, do you intend to and why?'] 'YES. I first made a complaint to Anthony Townsend [former Complaints Commissioner] who said he could not do anything until the FCA completed their investigations. He said he would check in with he [sic] FCA every 6 months to see how they were doing. Six months sounded alarming given how much money I had

missing ie life changing sums. Neither I nor any other PFX [Premier FX] claimants that I am aware of ever heard any more from Mr Townsend. After 18 months I contacted him again and he said he would look into it. He reported back the FCA said they needed more time and he agreed with the FCA and turned down my request for him to start an inquiry in parallel with the FCA investigation.'

**19. Are you satisfied with the responses to your report about your stolen money from any authority that you dealt with, for example Action Fraud, FCA, the Police, the FRCC, the Financial Ombudsman, the Pensions Ombudsman or any other Government-related entity?**

All respondents answered this question. All respondents said no.

**Sample comments:**

- **Respondent C1** ([p. 6 of 7](#)): 'Not at all! I have zero faith in any of our regulatory bodies. They have given me no evidence to date they will be able to provide any answers, justice or compensation for our loss.'
- **Pauline Creasey** ([p. 13 of 23](#)): 'To date 24 April 2022 I have not received a response from the FCA Complaints team to my complaint made in January 2019 concerning regulatory failings and poor monitoring of the firm, other than a letter sent every 30 days saying inquiries are continuing and apologise for the delay. It later transpired that the Complaints team are unable to answer until the FCA enforcement team complete their investigations. The FCA investigations completed on 28 February 2022 more than three years and half years from the discovery of the theft of my money on 27 July 2018.'
- **Paul Talbot-Jenkins** ([p. 7 of 10](#)): 'No, not at all. They always find some excuse and all their letters are standard format with just a line or two pertaining to ones case. Finally they advise seeing a solicitor.'

**20. Has there been a positive outcome in terms of justice (criminal prosecutions, fines, censure of the firm) or the recovery of your money?**

All the respondents answered this question. One respondent said they had had a partially good outcome as their monies were returned. Another said their campaigning (along with other victims) had caused a Natwest branch to shut.

**Sample comments:**

- **Respondent C1** ([p. 7 of 7](#)): 'The FCA have censured the firm and that's it. Action Fraud were even more useless, we still haven't been able to get anyone to investigate the crime.'
- **Pauline Creasey** ([p. 14 of 23](#)): 'Yes there has been a partial good outcome after three and half years. My money (the principal) has been returned 100% in March 2022. It was quite an epic journey to achieve this good

outcome. The bad news is the perpetrators are free to keep the stolen money and are still working in financial services.'

## **21. What positives are there about the FCA that you would like to comment on?**

All the respondents answered this question. Two of the respondents had nothing positive to say about the FCA. One respondent found the front line team helpful and responsive, another was pleased that the FCA had intervened to quash an application from a group claiming priority status for payment/

### **Sample comments:**

- **Rosemary Heys McDonagh** ([p. 15 of 16](#)): 'The FCA front line team were for the most part helpful and responsive, they appeared knowledgeable, and gave considered advice, however Ratesetter have argued they are not knowledgeable, and do not know what they are talking about, and that Ratesetter and firms like them have a direct line to another team which is far more knowledgeable and is senior to the one the public have access to.'
- **Pauline Creasey** ([p. 17 of 23](#)): 'The FCA intervened in the high court on 10 August 2018 to quash the application by Shipbuilding Asia Group to claim priority status for payment. The FCA argued there were other customers to consider and put Premier FX into emergency administration effective 13 August 2018. This was a good call by the FCA. Would they have done this if I and others had not repeatedly called the FCA contact centre between 27 July and 10 August to complain about our missing money? I hope so. However, the FCA attitude certainly to small and medium firms like Premier FX appears 'light touch' at best and reactive only i.e. after the event/ after the scam has been perpetrated. What use is this? If we had not been calling in to complain about Premier FX the court action by Thomas Seelen [Shipbuilding Asia Ltd director] to be paid first as a priority would have taken £789,000 of the £1.1m of the remaining client funds held in PFX [Premier FX].'

## **22. What do you think about the possibility of conflict of interest issues at the FCA?**

All the respondents answered this question. The respondents believed it is highly likely that there is a possibility of conflict of interest issues at the FCA.

### **Sample comments:**

- **Respondent C1** ([p. 7 of 7](#)): 'It's clearly rife in the Financial industry; the fact the head of the FCA at the time is now Governor of the BOE is distressing evidence of that!'
- **Rosemary Heys McDonagh** ([p. 15 of 16](#)): 'There should not be any conflicts of interest, the FCA should regulate the financial services industry for the benefit of the good reputation of that industry and for the benefit of the public.'

- **Pauline Creasey** ([p. 18 of 23](#)): 'There is a conflict of interest and the regulatory system appears biased by default... The FCA appears to feel they represent the big city firms who pay the largest fees to the FCA and these are the FCA's main customers. "Premier FX's registration fee (of £1500 to £2000) doesn't buy you much regulation" - said a senior FCA executive when I was asking about the failures of regulation and supervision..'
- **Respondent C4** ([p. 7 of 9](#)): 'I would like to think that the FCA's failings is down to a conflict of interest as opposed to just being incompetent.'

**23. Do you believe there should be spot checks by the FCA on regulated and/or unregulated entities, perhaps similar to the spot-checks by VAT inspectors?**

All the respondents answered this question. Four of the respondents said yes, and a few of them assumed spot-checks were already being carried out. One respondent agreed with spot-checks only if they were carried out by people independent of the FCA.

**Sample comments:**

- **Respondent C1** ([p. 7 of 7](#)): 'Absolutely, in fact I thought they were already doing that otherwise what was their purpose?'
- **Pauline Creasey** ([p. 19 of 23](#)): 'Also the FCA should actually conduct annual monitoring on small and medium firms. If they don't have the resources or don't want to regulate smaller firms, then they should please advise Parliament to set up a new and separate regulator.'
- **Respondent C4** ([p. 8 of 9](#)): 'I presumed this was already the case, are you telling me the FCA don't check banks are doing their job properly. i.e regulating!'
- **Paul Talbot-Jenkins** ([p. 8 of 10](#)): 'Only if they were completely unbiased, and by people who are completely devoid of any association with FCA, FOS et al, however this will never happen...'

**24. The FCA is undertaking a Transformation Project. Do you have any comments to make about that?**

All the respondents answered this question. Two respondents did not expect anything to change, another believed some significant small changes are in progress but pointed out that 'transformation' is a large task for the FCA to manage without outside help from victims and enforcement experts.

**Sample comments**

- **Respondent C1** ([p. 7 of 7](#)): '...my experience in the last 3 years lead me to expect little change.'
- **Rosemary Heys McDonagh** ([p. 15 of 16](#)): 'It seems that progress is being made to rein in some of the illegal practises of the Financial Services Sector now. Clarity is desperately needed in particular when people stand to lose their homes and all their assets – as with these loans.'
- **Pauline Creasey** ([p. 20 of 23](#)): 'I hope and trust better change is calibrated and properly measured. Transformation is a big word and a large task for the FCA to manage without outside help from victims and experienced enforcement experts who are motivated to change the system and make the regulator protect consumers and stop market abuse as much as possible.'

## 25. Are there any other comments that you would like to make?

Four of the respondents had additional comments to make.

### Sample comments:

- **Respondent C1** ([p. 7 of 7](#)): 'I would also like to point out any litigation activities the FCA carry out show little evidence of success. Frankly the Banking industry seems to be too powerful for them.'
- **Pauline Creasey** ([p. 21 of 23](#)): '**UK Finance, a trade body**, of which Barclays is a member, is lobbying as we speak for speed up authorisation of payments firms which are currently running at 18 applications a month to the FCA. **This is dangerous** as ineffective light touch authorisation by the FCA followed by poor regulation and supervision by bank and regulator is what allowed fraudster Premier FX to operate unlawfully as an API [Authorised Payments Institution] for 12 years... Regulation of the financial industry is not working adequately nor safely for the public. There is a damaging ravine politely referred to as a dichotomy between 'light touch' and minimal regulation which financial services firms and banks want and aggressively lobby, for and putting the safety of the public first... There needs to be a statutory oversight authority with statutory powers over the FCA and FCA board... [which] should include two members of the public or unions, two financial academics with independence from financial firms and two qualified MP's (with no previous career in the City) with powers to change the CEO and Chair, and FCA EXCO (Executive Committee) members within 6 to 12 months with immediate effect if they do not perform in protecting the public and preventing and enforcing market abuse'
- **Respondent C4** ([p. 8 of 9](#)): '[The FCA's handbook] SUP 9.1 to 9.4 needs amending so the FCA has to give an answer as to whether banks are breaching regulations. And if they have this means the FCA/bank have failed and should be liable to refund the consumer.'



## QUESTION SET D: Mortgage Prisoners

### Responses

We received **5** responses from mortgage prisoners **of which 3 have consented to publication**. They are:

- [Lisa King](#)

The following wish their identity and testimony to be kept confidential to the public:

- [Respondent D3](#)
- [Respondent D4](#)

The following have provided a video testimony in addition to their written submission:

- None

### Key findings

- None of the five respondents had their issue 'resolved' by the FCA, according to them. For some the issue is outstanding for months or years. One, had raised an issue which they state the Financial Services Authority had fined the mortgage provider for previously, but that their situation nevertheless is unresolved by the FCA, and that the regulator cannot keep them informed.
- The impacts of being mortgage prisoners included the threat of repossession, losing their home and/or knock on effects of extreme financial stress. 'I have paid out approx. £70K verses the average mortgage holder', writes **Respondent D4** on [p. 6 of 7](#). Another respondent writes that their mortgage lender is 'fixated on possession' ([Respondent D3, p. 5 of 6](#)).
- In terms of the wider impacts of stress, Lisa King wrote that her late husband had become ill with M.E. [Myalgic encephalomyelitis], was unable to work and made a suicide attempt over arrears, then later died unexpectedly. She submits that the FCA had failed to provide oversight or guidance to the Financial Ombudsman service and that if the Bank, Lloyds, had placed Mr King on a lower rate, he would have avoided arrears of £51,415.03. As a widow she is still facing the threat of repossession of the family home. (see [Lisa King, Index. 1 pp. 3-28](#) )
- One of the five respondents said that FCA staff were 'polite and showed empathy'. The other four said there was nothing positive to say about the FCA.
- All of the respondents said 'no' to the question of whether the FCA has helped them or anyone they know.

- Two were uncertain whether they had complained 'officially' about the FCA and it appears unclear to all respondents what process they can properly adopt to interact with, or to give feedback to the FCA.
- All respondents negatively reviewed the FCA's 'culture', three out of five said that the regulator was failing to protect consumers, and many called for specific changes to be made.
- Some respondents believe the FCA is biased towards the financial sector and that they may have conflict of interest issues as a regulator.

## Summaries on each question

### **1. Please tell us about yourself and outline, just briefly to begin with, how you came to interact with the Financial Conduct Authority?**

All respondents answered this question: Four out of five had contacted the FCA seeking help and one did not contact the FCA directly but engaged with a group representing mortgage prisoners. The reasons were that they had issues with their mortgage lenders, three of them mention a risk of losing their home.

#### **Sample comments:**

- **Lisa King** ([p. 29 of 32](#)): 'From August 2017 to late 2018, Mr Bailey and the FCA's position was to: A. Claim that they could not get involved in 'individual cases. A knowingly false representation given their awareness that 526,000 victims were damaged by the same failings. B. Permit Lloyds Banking Group and their lawyers TLT to continue with false denials, and continue to levy over £150,000 in arrears and legal fees, and continue their pursuit of our family home.'
- **Respondent D3** ([p. 4 of 6](#)): 'On our home we have a current mortgage, and previously one on a holiday home with the same provider. The provider has carried on the same wrongdoing that they were fined for in 2009 by the FSA, so I informed the FCA of this and also went to the financial ombudsman service.'
- **Respondent D4** ([p. 3 of 7](#)): 'I am a family man and a mortgage prisoner and have had various issues with my mortgage provider Heliodor. I have complained to Heliodor internally, but they are never right. I have then taken my complaint to the FCA, who go back to Heliodor to ask their opinion. Once that opinion is digested, the FCA side with the Mortgage company.'

2. **Who is your mortgage currently with? If your mortgage has been sold on, please list all the companies since you originally took out your mortgage that have been involved, as far as you know**

Four respondents answered this question. Named lenders include Heliodor, Northern Rock, Landmark, and Paratus AMC Ltd otherwise known as Foundation Home Loans.

3. **Was your original mortgage lender FCA regulated? If your mortgage has been sold on, please state this for each company.**

Four out of five respondents answered this question, saying that they believe or understand that their mortgage lenders were regulated. None of these answers is unequivocal.

4. **Briefly describe the interactions you have personally had with the FCA.**

Four out of five respondents contacted the FCA personally to complain about their issue, one emailed senior management. The remaining respondent did not contact the FCA personally, but engaged with a group representing mortgage prisoners.

#### Sample comments

- **Respondent D3 ([p. 4 of 6](#)):** 'I clearly informed the FCA and provided evidence) that Paratus were doing exactly the same as the FSA gave them a multi-million pound penalty for in 2009. They said that they would notify their team that is monitoring Paratus, and I should, and did, take it to the FOS.'

5. **Have you ever witnessed any actions or conduct that, in your reasonable belief, breached any law, regulatory code or applicable or relevant policy?**

Four out of five respondents answered this question. Two said yes, one said no, one said they had 'no idea' but suspected that the mortgage lender's actions were in breach.

#### Sample comments:

- **Respondent D4 ([p. 4 of 7](#)):** 'passing my signed & agreed mortgage with Northern Rock (FCA approved) over to a non-signed non-approved lender (initially Nram then UKAR then Topaz finance then Heliodor) must breach some sort of law. This has happened numerous times as you can see and the property holder is powerless and the government watches on (even though they created the mess. I have not signed a document with anyone other than NR'

6. **In broad terms, what have your dealings with the FCA been like?**

All respondents answered, four out of five had had dealings with the FCA on their issue, levels of satisfaction were low among those four.

**Sample comments:**

- **Lisa King** ([p. 30 of 32](#)): 'In broad terms my dealings with the FCA have been fraught with denials and incompetence.'
- **Respondent D4** ([p. 4 of 7](#)): 'Very poor'
- **Respondent D3** ([p. 4 of 6](#)): 'Just about acceptable but it is frustrating not knowing [sic] exactly what they are actually doing, if anything'

**7. How long did it take to resolve your issue?**

None of the respondents reports their issue being resolved, some stipulating how much time has passed since they either complained themselves or involved themselves in a group advocating for mortgage prisoners.

**Sample Comments:**

- **Lisa King** ([p. 30 of 32](#)): 'After four years the issue still remains outstanding.'
- **Respondent D4** ([p. 4 of 7](#)): 'My issue is still ongoing. 11 mths [sic] so far'

**8. How well or badly do you think the FCA have performed in relation to providing helpful solutions for mortgage prisoners?**

None of the respondents believe that the FCA is providing helpful solutions for mortgage prisoners.

**Sample Comments:**

- **Respondent D4** ([p. 4 of 7](#)): 'Very bad. Un-fit for purpose They provide no support whatsoever and seem to be in the pockets of the banks/financial sector ....'

**9. What do you believe the FCA could have done better once they were aware that there was a problem with mortgage prisoners?**

Four out of five respondents answered this question. Two expressed a view that there is bias against complainants, another referred to incompetence and the fourth gave a detailed outline - in confidence - of what they believe should have been done.

**10. What would you say about the FCA's effectiveness and timeliness in taking action to protect consumers?**

Two respondents expressed no faith in the statement that the FCA takes action to protect consumers. A third said that they themselves have not been protected by the FCA. The fourth believes that the FCA 'agrees with the financial institution' in most 'if not all' cases

‘irrespective of the weight of evidence provided’. The fifth said that they are unable to answer this question as the FCA ‘cannot keep me informed’.

**Sample comments:**

- **Lisa King** ([p. 30 of 32](#)): 'The FCA have never and will never protect consumers.'
- **Respondent D4** ([p. 5 of 7](#)): 'Non-existent'.

**11. Have you experienced situations where interacting with the FCA has been helpful to either yourself or others?**

None of the respondents found their interaction with the FCA helpful to themselves or others. All respondents answered: '**No.**'

**12. What are your thoughts on whether the FCA lacks the powers that it needs; or conversely, that it doesn't make good use of the powers it already has?**

Two out of five respondents suggested that the FCA chooses not to use powers it has, two suggested that the FCA is 'powerless' or 'useless' and one said that it is impossible for them to answer as they cannot see what the FCA is doing.

**Sample Comments:**

- **Lisa King** ([p. 30 of 32](#)): 'The FCA needs restructuring to offer consumers more protection. It is currently no more than a lion that likes to sleep all day. The FCA needs to take a more aggressive role in holding companies and people it regulates to account. Unfortunately, it seems not to want to do this.'

**13. Have you experienced any difficulties or shortcomings in your interactions with the FCA?**

Opinions range from 'no', to staff being 'understanding but impotent' to - in Lisa King's case - the FCA and Financial Ombudsman being accused of 'totally dishonest conduct' (see full comment below).

**Sample Comments:**

- **Lisa King** ([p. 30 of 32](#)): 'The FCA has caused unimaginable stress and abject misery. All of it was entirely avoidable and based upon false representations and dishonest concealment by the bank and, totally dishonest conduct by the FCA and the FOS.'

**14. Have you experienced the FCA being reluctant to give clear answers to questions?**

One out of the five respondents did not experience the FCA being reluctant to answer questions. Three out of five respondents say they did experience this, including one respondent claiming that they 'always' experienced reluctance from the FCA. A fourth

Respondent D4, states (on [p. 5 of 7](#)) 'They only give the answers the bank/lender you are complaining about wants them to give'.

### **15. What is your perception of the culture of the FCA, and what do you think about it?**

All respondents negatively reviewed the culture of the FCA. Four give specific suggestions for improving the FCA's culture, outlined below:

#### **Sample Comments:**

- **Lisa King** ([p. 31 of 32](#)): 'The fundamental problem with the FCA is its failure to understand both statutory and common law.'
- **Respondent D3** ([p. 5 of 6](#)): 'They are not adequately regulating mortgage providers.'
- **Respondent D4** ([p. 5 of 7](#)): 'Not fit for purpose. They don't seem to be impartial and don't seem to protect the very individuals they were set up to protect'

### **16. Have you ever complained officially about the FCA?**

Two respondents said they haven't, one said they 'would not know how to do this' as their financial adviser could not tell them how long that process could take, one said they 'probably' have, and one said that they have complained to 'CEOs past and present', via email, but received no acknowledgement.

#### **Sample Comments:**

- **Respondent D4** ([p. 6 of 7](#)): 'I would not know how to do this. I did ask my legal adviser how long a complaint process should take but not even they know ...

### **17. Overall, what have been the consequences to you (and if relevant to your family) as a result of being a mortgage prisoner?**

All respondents described extremely adverse impacts of being mortgage prisoners, affecting themselves and other people in their household. Impacts include tens of £thousands in additional costs, with a knock-on effect on security of housing, mental and physical health. Full examples below.

#### **Sample Comments:**

- **Lisa King** ([p. 31 of 32](#)): 'We endured unimaginable stress and abject misery... This is in memory of my late husband. Who was so badly let down that he died a broken man.'
- **Respondent D3** ([p. 5 of 6](#)): 'Paratus adding exorbitant costs to the mortgage, and the more I fight them the more they add and use their solicitors and

clearly profit on the charges. At the same time they have not provided a redemption statement despite me and solicitor chasing them, yet they take legal action and are fixated on possession.'

- **Respondent D4** ([p. 6 of 7](#)): 'I have paid out approx. £70K versus the average mortgage holder. I have had to try and find that money from somewhere. My family has not had a holiday for nearly 7 years. My children have had to put themselves through university and have not been on school trips, had all the toys other kids have had. I can't afford to get my car fixed (my wife needs it as she is a 'key worker' in a school – we only have one 2004 car). The list goes on and on and does not include the knock-on effect of mental health trying to keep food on the table, pay the bills. Did the stress in some way contribute to me getting prostate cancer? It's all too shocking when you sit down and think about it all.'

### **18. What do you think about the possibility of conflict of interest issues at the FCA?**

One respondent said that they do not know, but believe it is possible. Four out of five respondents expressed a strong belief that there are conflicts of interest at the FCA. One argued that it is not a possibility but a certainty. Two respondents couch this in a belief that employees frequently move between the FCA and the financial services sector (the 'revolving door'). One respondent additionally believes that the government had a conflict of interest over Northern Rock. Another originally regarded the FCA as protecting consumers, but now regards the FCA as protecting corrupt practices in the sector it regulates.

#### **Sample Comments:**

- **Respondent D4** ([p. 6 of 7](#)): 'Very real ... the senior people at the FCA come from the very sector we (the complainant) want them to fight against. We are asking them to fight against their best pals in the banks/finance sector.'

### **19. Do you believe there should be spot checks by the FCA on regulated and/or unregulated entities, perhaps similar to the spot checks by VAT inspectors?**

Three respondents agreed with the idea of spot checks and two disagreed.

#### **Sample Comments:**

- **Lisa King** ([p. 31 of 32](#)): 'The problem with spot checks is the people carrying them out.'
- **Respondent D4** ([p. 6 of 7](#)): 'Yes. But it needs to go much further.... what's the difference in being/not being regulated? It's a total sham and the lenders can do what they like with impunity.'

### **20. What positives are there about the FCA that you would like to comment on?**



One respondent commented on a positive about the FCA that they are: 'polite and show empathy'. The other four answered 'None'.

## **21. If you could change three things about the FCA, what would they be?**

One of the respondents hopes the regulator will be disbanded, a new framework and new employees put in place. The other four want the FCA to change, as they see it.

There are similarities in what they are calling for: three respondents described a need to protect 'the end user', consumers or to 'genuinely look out for' consumers. One calls additionally for impartiality towards the financial sector. A fourth referred to the need to 'actually regulate' and to keep complainants informed. The fifth gave feedback in much more general terms - that they believe the FCA should change 'everything' and start again.

### **Sample Comments:**

- **Lisa King** ([p. 32 of 32](#)): 'The FCA needs a complete overall [sic]. It needs to be more aggressive towards regulated firms and its employees. And most of all it needs to protect consumers, which is after all its objective.'
- **Respondent D3** ([p. 6 of 6](#)): 'Obtain greater powers or use the ones they have. Be able to keep customers/complainants informed of action & progress. [and] To actually regulate the mortgage providers.'
- **Respondent D4** ([p. 6 of 7](#)): 'Impartiality (from the banks – the FCA's pals). A focus on protecting the end user (from the banks – the FCA's pals) so that UK money (we don't mind paying our mortgages) is kept in UK. A recognition that unregulated entities can't trade in the UK.'

## **22. The FCA is undertaking a Transformation Project. Do you have any comments to make about that?**

Two out of five respondents referred back to their previous answer (to question 21). The other three reiterated in strong terms that they believe transformation is needed.

### **Sample Comments:**

- **Lisa King** ([p. 32 of 32](#)): 'The FCA needs to Transform itself into a tougher regulator. And if [it] is unable to change then I suggest it ceases to exist.'

## **23. Are there any other comments that you would like to make?**

Three respondents had additional comments to make - one said that consumers such as themselves need to be heard and listened to. One referred to the FCA's duty under the Financial Services and Markets Act to have a 'clear interpretation of their rules'. One said that the FCA should be 'more proactive' in potentially preventing firms from trading.

### **Sample Comments:**

- **Lisa King** ([p. 32 of 32](#)): 'The FCA is duty bound under its powers provided by the FSMA [Financial Services and Markets Act] to have a clear interpretation of their rules. It is a fundamental expectation of the aforesaid and failure by the FCA denotes both a statutory and common law breach for which the consequences are felt by every consumer.'
- **Respondent D3** ([p. 6 of 6](#)): 'The FCA should be more pro-active about such a mortgage provider, who has a very poor reputation in the market and at the FSA/FCA, and regularly change their name/branding, and the firm should be under a warning or further penalty, if not prevented from trading.'

## QUESTION SET E: Financial Services Whistleblowers

### Responses

We received **14** responses from financial services whistleblowers of which **11** have consented to publication. They are:

- [“Concerned Insider”](#) [pseudonym]
- [Christopher Riley](#)
- [Daniel Sheard](#)
- [George Patellis](#)
- [Maribel Montero](#)
- [Martin Woods](#)
- [Nicholas Wilson](#)
- [Paul Carlier](#)
- [Sean Sheridan](#)
- [Steve Middleton](#)

The following wish their identity and testimony to be kept confidential to the public:

- [Respondent E1](#)

The following have provided a video testimony in addition to their written submission:

- Christopher Riley - [click here](#) to watch
- George Patellis - [click here](#) to watch
- Nicholas Wilson - [click here](#) to watch
- Steve Middleton - [click here](#) to watch

### Key findings

- The respondents are financial sector whistleblowers; many of whom had senior roles at the time of whistleblowing such as CEO, CFO, director, senior vice president. Most of the respondents were in their 40s when they blew the whistle; two were in their 30s and two in their 60s. The whistleblowing happened between 2008 and 2021.
- The respondents reasons for blowing the whistle were to do with issues such as insider trading, fraud, conflicts of interest, mis-selling, money laundering, illegal credit card charges, breaching regulatory codes.
- Most of the respondents did not feel that the FCA acted promptly and effectively to investigate their allegations, and often they would not receive any updates or follow-up about what action the FCA had taken, if any. Many also found that the FCA had not done anything to prevent the misconduct from continuing.
- Some of the respondents expressed regret at having blown the whistle due to the consequences it has had on their lives. It has had a negative effect on their income, career, reputation, family, physical and mental health; two of the respondents reported feeling

suicidal as a consequence

- Over half of the respondents advised against blowing the whistle to the FCA
- A majority of the respondents had nothing positive to say about the FCA; and many did not feel optimistic about the FCA's Transformation Project

## Summaries on each question

### 1. Please tell us about yourself and outline, just briefly to begin with, how you came to interact with the Financial Conduct Authority?

All respondents answered this question. Please see the sample comments below for each respondent's answer.

#### Sample comments:

- **Respondent E1** ([p. 3 of 5](#)): 'I... worked in and around the financial services industry for over twenty years...  
  
'I have been involved in regulatory work now for most of my industry experience to date...  
  
'First disclosure was made in and around April 2008 to the Financial Services Authority (FSA) through a telephone call to their whistleblowing department...  
  
'This concerned insider trading...  
  
'The next interaction was on an ongoing basis as I was a compliance officer, this was 2014 onwards.'
- **Concerned Insider** ([p. 4 of 8](#)): 'Myself and several colleagues were whistleblowers, who contacted the FCA to expose project Amethyst, and RBS senior-management driven cover-up of mis-selling redress owed to investment customers. For context, the full background to this can be found in our original whistleblower report to the FCA and industry journalists, which can be found here: [\[https://www.transparencytaskforce.org/wp-content/uploads/2022/03/Shamethyst-report-and-postscript.docx.pdf\]](https://www.transparencytaskforce.org/wp-content/uploads/2022/03/Shamethyst-report-and-postscript.docx.pdf)'
- **Maribel Montero** ([p. 3 of 6](#)): '...the MLRO (Money Laundering Reporting Officer) of [redacted]...used Contract Fraud to deceive me into working for [redacted]...without a full Employment Contract...  
  
'I blew the whistle on [the MLRO] and the firm for their numerous unfit and improper practices including Common Assault, regularly breaching FX limits

and fabricating performance figures...'

- **Sean Sheridan** ([p. 2 of 5](#)): 'My background is in the investment management sector having worked for a number of global institutions including Invesco, RBS, HSBC and BNY Mellon. I am a Fellow of the Chartered Institute of Securities and Investments'
- **Christopher Riley** ([p. 3 of 10](#)): 'I contacted the FCA in early 2018 in relation to my making protected disclosures regarding a certain mortgage lender's actions, processes and procedures.'
- **Martin Woods** ([p. 4 of 8](#)): 'I was the FSA Approved MLRO [Money Laundering Reporting Officer] (CF11) for... the London branch of a US bank. During the course of my work, I discovered the bank was operating a number of laundering operations for corrupt Nigerian politicians, Russian organised crime groups and Mexican drug traffickers. I blew the whistle to the FSA and US regulators.'
- **Nicholas Wilson** ([p. 3 of 9](#)): 'I worked for a firm of solicitors... and acted for the John Lewis Partnership. I was head of debt recovery. In 2003 John Lewis sold their store card business to HFC Bank, a subsidiary of HSBC. I learned that HFC were adding illegal charges to debts and reported my firm to the Solicitors Regulation Authority when they refused to take my concerns seriously. I was sacked. I reported the fraud (which is what it was) to the FSA initially. Then I began corresponding with the new FCA.'
- **George Patellis** ([p. 3 of 52](#)): '...I'm an American who has worked in the U.K. financial services sector for most of the past 24 years...

'In February 2010 I was appointed as CEO of Tiuta plc. Tiuta was regulated by the then Financial Services Authority (FSA)...

'[they were] a short term or bridging lender. Tiuta offered loans to property developers (primarily) on terms of 12-18 months, high interest rates and low loan to values...

'On January 12, 2011, I was advised by Tiuta's recently appointed CFO of a potential hole/shortfall in the company's cash position of approximately £20 million. The overwhelming majority of this shortfall was money that was owed to Tiuta's primary funder The Connaught Income Fund Series 1 or "The Fund". In addition to being made aware of the £20 million cash shortfall, I was also informed that Tiuta's management accounts were a work of fiction...

'[the accounts] showed a year to date profit of circa £750,000. The true position was the company had a year to date loss of £2.9 million...

'Over the course of the next several days the business began to collapse like a house of cards. It was irrefutable that the company was insolvent and had been trading unlawfully for years...

'As CEO I recommended we call in administrators immediately to best protect creditors and shareholders alike. The board refused to accept my recommendation. I submitted my resignation and advised the Board that it was my duty to notify the FSA of my resignation but also to notify them under Principle 11 that I had serious concerns about the Company's financial health...

'I called the FSA and advised them of my resignation...I expressed my concern that Tiuta was insolvent...

'On February 4 2011, I received an email from the FSA thanking me for following my duties as an approved person and reporting my concerns under Principle 11. They stated that the case would be handed over to the appropriate person within the FSA and they would contact the firm if any further information was required...

'On March 16, 2011 I spent 3-4 hours with the FSA. I explained all of the fraudulent activity, how it was done and hidden. Furthermore, the company accounts were fraudulent for years. As requested, I came to the meeting with a suitcase full of documents that was a virtual road map to how the fraud had taken place including admissions by the Directors of their part in the fraud. To my surprise when I offered the documents to the FSA they refused to take them. They said I should check with my wife and my solicitor. I advised them that had already been done. On March 18, 2011 I received an email from the FSA stating they would now like to receive any evidence I had. On March 24, 2011 I sent the FSA a 7-page letter outlining the issues and included 26 exhibits that again, were a road map to the theft and fraud. Apart from a question on document retention I didn't hear anything further from the FSA until 2016. In December 2015 I filed a complaint against the FCA for their treatment of me. Specifically, they began to publicly state I could have done more and they determined I was not a whistleblower...'

- **Paul Carlier** ([p. 4 of 99](#)): 'I worked for 27 years as a trader for many of the world's largest banks...

'I held senior roles within these banks, including 'Director' when at Lloyds Banking Group between 2012 and 2014. I worked on the trading floors of all of these banks as a trader...

'During those years I had little, if any, interaction with the FCA until I was unfairly dismissed by Lloyds in 2014...

'I had followed the Lloyds whistleblower policy on multiple occasions and raised concerns as per my responsibilities within that policy and doing so via the exact process we were trained to in that policy...

'I escalated these disclosures to the FCA in March 2015. Initial contact and engagement with the FCA was positive. Indeed, the FCA confirmed in writing to me, and within multiple internal emails that I was a whistleblower and had made disclosures that were protected.'

- **Steve Middleton** ([p. 3 of 10](#)): 'I first started in financial services in around 1989 at CIS. I was there for around about five years, there was a time when the FPCs were just coming in for the first time and formal qualifications were being required to be a financial advisor. I left that and went on to Barclays where I worked for six years advising in the corporate High Net Worth markets on investments, pensions, those type of things. Leaving there in 2001, I then went to work for a small IFA and then shortly after I set up my own firm- this was just after FSMA obviously came in back in 2001. So, I worked through a network as an appointed representative so effectively the FSA were in the background at that time then and I had limited direct interactions with them.'
- **Daniel Sheard** ([p. 5 of 15](#)): 'I have been an FCA registered person (DMS01108) since 2001, including CF27 (Investment Management), CF21 (Investment Adviser) and CF30 (Customer). I had been employed by Julius Baer Investments Ltd (JBIL) in London from mid-2006, serving initially as deputy CIO and portfolio manager for a range of client funds, including as joint portfolio manager (with Mr Timothy Haywood) on the flagship JB Absolute Return Bond fund strategies.'

'In January 2007, JBIL completed a management buyout, becoming Augustus Asset Managers Ltd...following the 2008 Global Financial Crisis, the management buy-out was reversed and Augustus became part of the Julius Baer group again.'

'For operational purposes, Augustus became part of another Julius Baer subsidiary, GAM...'

'The funds were subsequently re-branded from Julius Baer to GAM.'

## 2. What role were you in, and in what firm, when you blew the whistle?

All respondents answered this question. Please see the sample comments below for each respondent's answers.

### Sample Comment:

- **Respondent E1** ([p. 4 of 15](#)): 'For the first disclosure I was working in a business support function of a trier [sic] one investment bank in their office in London. This is a major investment banking firm with offices around the world. This was a client facing job, but was not a trader, sales, broker or an investment banker, rather supporting the business in a front office located role and being part of front office headcount. For the second onwards [sic]



disclosures I was the compliance officer for a London based broker.'

- **Concerned Insider** ([p. 4 of 8](#)): 'The Royal Bank of Scotland, past business investment file reviewer.'
- **Maribel Montero** ([p. 2 of 6](#)): 'I was in a CF30 role, finding clients for [redacted]'
- **Sean Sheridan** ([p. 2 of 5](#)): 'Senior Vice President at BNY Mellon Trustee and Depositary'
- **Christopher Riley** ([p. 3 of 21](#)): 'I was a mortgage underwriter working in the offices of Belmont Green. T/A Vida Homeloans. I was a temporary contractor (agency worker) paid by Rockstead Ltd.'
- **Martin Woods** ([p. 4 of 8](#)): 'I was the Money Laundering Reporting Officer (MLRO) for Wachovia Bank (Now absorbed into Wells Fargo Bank)'
- **Nicholas Wilson** ([p. 4 of 9](#)): 'Head of Debt Recovery for Weightmans Solicitors'
- **George Patellis** ([p. 4 of 52](#)): 'I was CEO of Tiuta plc. a firm regulated by the FSA.'
- **Paul Carlier** ([p. 4 of 99](#)): 'I was a Director of FX Trading at Lloyds Banking Group (LBG). I worked on the LBG trading floor at 10 Gresham Street. This is where all financial markets products were priced and traded. Importantly, prior to this in 2011 and 2012, I had made several protected disclosures whilst employed as an Executive Director of FX Trading by UBS [Union Bank of Switzerland], located in Zurich. I suffered a similar engineered and unlawful dismissal by UBS and for having made those disclosures.'
- **Steve Middleton** ([p. 3 of 10](#)): 'I first blew the whistle in around about 2005/2006 when I was working as an IFA, and that was where I raised concerns that I knew other members of the network were repeatedly churning people's investments: Effectively literally setting pensions and investments up one year and going back the next year and reselling the whole product again. It was around the time when stakeholders first came out as well that were completely abusing the system. I raised that direct with the network and with the compliance teams.'

'Another time that I blew the whistle was in relation to interest rate swaps back in 2013... a business contact of mine asked me to look at this interest rate swap [that] had been sold by RBS and although I didn't sell those type of products... I was aware of derivatives and structured schemes and having read through what had been given, I effectively just went back and said you can't have bought this under the rules under the execution only methods and FCA's rules; ... then I thought very helpfully started writing to the FCA Director Martin Wheatley. I raised my concerns about undisclosed credit

lines as a method and COBS [Conduct of Business Sourcebook in the [FCA Handbook](#)] breaches... The FCA were starting the IRHP Review at that time...'

- **Daniel Sheard** ([p. 5 of 15](#)): 'I was an Investment Director and portfolio manager within the London-based fixed income team of GAM International Management Ltd.'

**3. Did you follow your employer's whistleblower policy? Can you provide us with a copy of your employer's whistleblower policy? How did this whistleblower policy tell you to blow the whistle? Did it tell you what you must include so that your disclosure was protected?**

12 respondents answered this question. One of the respondents, Paul Carlier, provided a copy of their former employer's (Lloyds Banking Group) whistleblowing policy, which can be found [here \(p. 64 of 99\)](#). Two of the respondents said their firm/company did not have a whistleblowing policy.

**Sample comments:**

- **Respondent E1** ([p. 4 of 15](#)): 'I did not follow the investment banks whistleblowing policy as I had decided to initially inform a line manager of the situation... The second situation being the compliance officer of a broker, only disclosures made had been verbal to a number of individuals within the office... If I had done any written protected disclosures it would have meant I was shown the door.'
- **Concerned Insider** ([p. 4 of 8](#)): 'I did not whistleblow internally. I was a contractor rather than an employed member of staff, which means you have no employment rights and no access to HR...

'After I left, I was made aware that an internal whistleblowing investigation was taking place. I was put in touch with the people carrying it out by a colleague and encouraged to have my say. I told the investigators exactly what had gone on, including being forced to falsify surveys to generate bonuses for senior management and forced to alter the conclusions of unsuitable cases so they could fiddle the figures and told them exactly where to find the evidence to prove it.'

- **Sean Sheridan** ([p. 2 of 5](#)): 'I was aware of the whistleblowing policy and escalated my concerns to the Head of Compliance about potential fraud being perpetrated by the MD and the Assistant MD of the Division'
- **Christopher Riley** ([p. 4 of 21](#)): 'I raised my concerns verbally with a manager of Vida Homeloans. I did not have sight of any whistleblower policy'
- **Martin Woods** ([p. 4 of 8](#)): 'I made a series of ongoing disclosures, in the form of suspicious activity reports (SARs), I also compiled substantial reports identifying billions of USD, GBP and Euro money laundering. I also filed a SAR, internally and externally, alleging a very senior manager within the

bank was assisting the money launderers in Mexico. I did not use the bank's whistleblower policy. I was advised by a lawyer to blow the whistle to the FSA, which I did.'

- **Nicholas Wilson** ([p. 4 of 9](#)): 'The firm did not have a whistleblower policy (it was not a bank) but I went through all the proper channels according to PIDA [Public Interest Disclosure Act 1998] by reporting the wrongdoing to all the relevant partners. I was ignored.'
- **George Patellis** ([p. 4 of 52](#)): 'My employer did not have a whistleblower policy. Although, it's unlikely a whistleblowing policy would have been beneficial to me because I went straight to the FSA.'
- **Paul Carlier** ([p. 5 of 99](#)): 'I did follow the LBG [Lloyds Banking Group] whistleblower policy to the letter... the whistleblower policy told us that we "should report a concern" to line manager or other senior manager or internal whistleblower line. That is it. That is all it told us. No, the whistle-blower Policy did not tell us that there was a specific criteria that MUST included and be fulfilled within a disclosure for it to be 'Protected' and therefore give the employee the protection promised and that which is offered by PIDA [Public Interest Disclosure Act 1998].'
- **Daniel Sheard** ([p. 5 of 15](#)): 'I do have a copy of the GAM Whistleblowing Policy document. Since my concerns related to my direct manager (Mr Haywood), the policy suggested that I should report my concerns to HR. I chose instead to take my concerns to the CEO, Mr Alex Friedman, since Mr Haywood reported directly to him. The policy does not set out the form, structure or content required to ensure the disclosure is protected.'

#### 4. When did you blow the whistle; and to whom/which organisation? What age were you then?

All respondents answered this question. Please see the sample comments below for each respondent's answers.

##### Sample comments:

- **Respondent E1** ([p. 5 of 15](#)): 'First time was around April 2008 for the investment bank situation. My age was in my mid-thirties. Second time was done by a third-party late 2016, followed by myself on three more occasions as situation developed going into 2018. I also visited the FCA office in late 2017 there about. My age was then in my forties.'
- **Concerned Insider** ([p. 4 of 8](#)): 'To the FCA. I would rather not say.'
- **Maribel Montero** ([p. 3 of 6](#)): 'Feb 2015: I blew the whistle to Whistle@FCA: I was 40...'

- **Sean Sheridan** ([p. 2 of 5](#)): 'It was to the Head of Compliance at BNY Mellon and I was in my early 60s'
- **Christopher Riley** ([p. 4 of 21](#)): 'I blew the whistle on the 10<sup>th</sup> March 2017, to Vida Homes Manager Guy Todd. I was aged 62'
- **Martin Woods** ([p. 4 of 8](#)): 'I blew the whistle to the FSA in August 2008, I was aged 44.'
- **Nicholas Wilson** ([p. 4 of 9](#)): 'In 2006 I blew the whistle to the Law Society (now dealt with by Solicitors Regulation Authority. I was 49.'
- **George Patellis** ([p. 4 of 52](#)): 'I blew the whistle to the FSA. Initially, I made a Principle 11 phone call to the FSA in January 2011 to advise them of serious concerns I had regarding the financial health of the firm where I was CEO and that I believed the firm was insolvent. I then met the FCA in person in March 2011 to detail the fraudulent activity at the firm and to provide evidence to support my claims. I was 46 at the time.'
- **Paul Carlier** ([p. 6 of 99](#)): 'I had previously blown the whistle whilst working at UBS in Zurich between April 2010 and May 2012. I was 42 years old when I first raised these concerns... Lloyds Banking Group (LBG) 2012-2014 (Aged 43).'
- **Daniel Sheard** ([p. 6 of 15](#)): 'At age 49, after over a decade working for GAM I became concerned about the actions of my colleague and immediate line manager, GAM director Timothy Haywood, from early 2017...'

'I first escalated my concerns to the GAM CEO on August 21st 2017, by e-mail. We spoke by phone on August 22nd as he was in the US. He informed the CFO and I met the CFO the following week and explained my concerns. This was the first meeting at which I used the term 'whistleblowing' – I stated that 'I wished to avail myself of all the protections and safe harbours of whistleblowing legislation in all the relevant jurisdictions' – the affected clients were domiciled in a number of countries, including the USA, Australia, UK and various European states. The CFO laughed off my comment, with words to the effect of 'I'm sure we don't need to go that far!'

'It is my understanding that during September 2017 the CEO, CFO and a number of other senior staff (including the heads of Risk and Internal Audit) met with Mr Haywood to discuss the concerns I had raised.

'On October 2nd I met with the CEO and CFO. I was told that Mr Haywood had undertaken to reduce the investments he had made "by year-end" and, more importantly, a new protocol would be put in place under which any new investments through Greensill Capital would only be permitted if they were signed off by 2 people from a list of 4: Mr Haywood, GAM CEO Alex Friedman, senior portfolio manager Jack Flaherty (NY based) and myself.

Within a few weeks it was evident from daily transaction reports that Mr Haywood was already operating outside this protocol!

'During that week [w/c 23 October 2017] I met with a Criminal and Regulatory Defence lawyer, Andrew Katzen of Hickman Rose, together with his colleague, ex-FCA staffer Charles Kuhn. I... was advised to immediately cease any management activity on the relevant funds and to explain my concerns to GAM management.

'Messrs Katzen, Kuh and I met with GAM management on the morning of Tuesday 7th November to explain my concerns. I believe that there is a strong possibility that in addition to the GAM C-suite who attended the meeting (in person or by phone from Zurich), GAM actually allowed Mr Haywood to listen-in to the meeting from a neighbouring conference room! This allowed Mr Haywood and Mr Greensill to develop a false narrative, portraying me as a jealous colleague seeking to engineer a payoff rather than having raised genuine concerns over misconduct and fraud.'

**5. Have you ever witnessed any actions or conduct that, in your reasonable belief, breached any law, regulatory code or applicable or relevant policy? If so, please explain which law, code or policy you believe was breached.**

11 of the respondents answered this question. Three of the respondents reported witnessing breaches of the [FCA's Principles of Business](#) such as number **1** (*Integrity: A firm must conduct its business with integrity*), **3** (*Management & Control: A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems*) and number **8** (*Conflicts of Interest: A firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client*); one witnessed what they believed were breaches of the FCA's TCF (Treating Customers Fairly) requirements; another witnessed various rule breaches of the Solicitors Code of Conduct.

**Sample comments:**

- **Respondent E1** ([p. 5 of 15](#)): 'First Situation: I made disclosure concerning an individual who had been engaged in personal account trading whilst being part of the same group I was also part of in the investment banking firm. The person who engaged in personal account trading had no [sic] sort permission to deal in securities... This was both a breach of the banks internal policy as well as the high degree of criminality if proven correct... Second Situation: For the broker, it was a combination of insider trading, money laundering, bribery & corruption, tax evasion on corporate and personal level plus on many occasions lying to authorities (including FSA/FCA and HMRC), past instances where the broker did not have the required regulatory permission to engage in a certain type investment activities, having a shadow director, which should have been detected by the regulator if they had proper oversight...'

- **Concerned Insider** ([p. 4 of 8](#)): 'I have seen plenty of actions that breach the FCA's principle 8 and the detailed conflict of interest management requirements. This includes having former sales managers as head of policy and head of operations on a review into their own sales... Plenty of breaches of TCF (people being forced to rewrite 2/3rds of their unsuitable cases and alter the conclusions two months after the head of remediation makes the above comments). Sales managers being allowed to force the supposedly 'independent' reviewers to rewrite cases and alter the conclusions using a cynical scam called 'QC'. Hundreds of reviewers being forced to write cases as suitable when we do not consider them suitable and they would never have been judged suitable on any other review (every other bank had to have this done independently, only RBS were allowed to mark their own homework).'
- **Maribel Montero** ([p. 4 of 6](#)): 'Yes... performance figures were were being fabricated (to deceive investors); FX limits were regularly breached and much besides.'
- **Martin Woods** ([p. 4 of 8](#)): 'Yes, laundering the proceeds of crime, contrary to the Proceeds of Crime Act 2002. Mistreatment of a whistleblower contrary to FCA Handbook, SYSC 18.1 – committed by both the FCA and Wachovia Bank. Deception – committed by FSA employees when they fabricated allegations against me, invented a non-existent whistleblower and submitted a false whistleblowing report against me.'
- **Christopher Riley** ([p. 4 of 10](#)): 'Vida Homeloans breached FCA's "Principles for Business" regulations in particular its failure to both treat customers fairly as well as to properly organise and control its affairs.'
- **Nicholas Wilson** ([p. 4 of 9](#)): 'Yes, the illegal charges added by the solicitors, under a contract with the bank, were illegal contingency fees and breached various rules in the Solicitors Code of Conduct.'
- **George Patellis** ([p. 4 of 52](#)): 'I was never in a meeting with or otherwise witnessed the perpetrators planning a crime. I never had advance knowledge that a crime would take place. Nor did I know when a crime had occurred.'
- **Paul Carlier** ([p. 10 of 99](#)): '...[during his time at United Switzerland Bank] witnessed and made disclosures in respect to:
  - a) Breaches of regulatory codes
  - b) Fraud and other dishonesty in respect to the treatment of clients
  - c) Widespread sharing of confidential information to other parties including to large customers and banks
  - d) Widespread collusion with other banks in breach of competition and Antitrust laws

- e) Various control function failures including the failure to investigate or have proper surveillance in place
- f) Unlawful and dishonest efforts to engineer the dismissal of another colleague and with intent to... reduce headcount by one...
- g) Colleagues profiting from their own [Personal Account] trading as a result of trading on the confidential information that they were in possession of

[during his time at Lloyds Banking Group]...

- a) Breaches of regulatory codes
- b) Fraud and other unlawful dishonesty in respect to treatment of clients...
- c) A formal pricing policy... that encouraged sales persons to deceive and defraud customers, and to particularly target 'less-sophisticated' customers
- d) Sharing of confidential information to other parties including to large customers and banks
- e) Collusion with other banks and third parties in breach of competition and antitrust laws
- f) Various control function failures including the failure to investigate or have proper surveillance
- g) Reckless selling of FX derivatives exposing the bank and its shareholders to enormous losses
- h) The FX trading platform switching itself on out of trading hours and publishing unlimited prices in multiple currency pairs to thousands of customers and with no trader present or aware, and therefore nobody managing any resultant risk.
- i) Dishonesty by the LBG [Lloyds Banking Group] Press team and FX senior management when presented with a news article by Bloomberg... [they] deliberately failed to present the FCA trading team with what were false and defamatory comments made about the remainder of the FX Trading team...
- j) Colleagues profiting from their own [Personal Account] trading, or from the... trading of their friends and/or other third parties...
- k) Myself and colleagues on the FCA trading team being denied access to Independent Legal Advice when being forced to sign NDA and DPN (Document Preservation Notice) prior to the commencement of Project Oban, the LBG internal FX investigation...'

- **Daniel Sheard** ([p. 7 of 15](#)): 'It should be noted that a number of events were discovered by me only after my whistleblowing. These included, inter alia
  - a) the concealment of defaults on certain Greensill investments held in GAM funds in 2016



- b) the 'Laufer Ltd' scheme, and arrangement created by Mr Haywood and Mr Greensill through which Mr Haywood channelled over \$700 million of GAM client monies for the benefit of Greensill Capital between October 2016 and March 2018, to the detriment of GAM clients.
- c) the use of the Laufer scheme to conceal the illiquid nature of Greensill investments upon a large redemption (withdrawal) by Vodafone in March 2017.
- d) the use of the Laufer scheme to conceal the illiquid nature of investments in other cases, transferring the investment risk to unknowing clients.'

**6. What was the nature of the misconduct, infringement, malpractice or so on that you alleged?**

All respondents answered this question. The answers include personal account trading, insider trading, money laundering, bribing, corruption, tax evasion, fraudulent activity relating to a fund, acquiring assets from companies as distressed sales.

**Sample comments:**

- **Respondent E1** ([p. 5 of 15](#)): 'I made disclosure concerning an individual who had been engaged in personal account trading whilst being part of the same group I was also part of in the investment banking firm. The person who engaged in personal account trading had not [sic] sort permission to deal in securities and in making the disclosure to the FSA I had a high degree of confidence that this was the case. This was both a breach of the banks internal policy as well as the high degree of criminality if proven correct... 'For the broker, it was a combination of insider trading, money laundering, bribery & corruption, tax evasion on corporate and personal level plus on many occasions lying to authorities (including FSA/FCA and HMRC)... the broker did not have the required regulatory permission to engage in a certain type investment activities, having a shadow director, which should have been detected by the regulator if they had proper oversight. I also strongly suspect accounting fraud took place in terms of accuracy of their audited accounts. Also playing lip service to compliance, making false declarations and false periodic attestations, which are gross misconduct events, which the compliance officer regards most staff members did, especially in terms of their own personal account trading. Overall the firm was corrupt and therefore many criminal activities took place alongside other firms in which it interacted with as well.'
- **Concerned Insider** ([p. 5 of 8](#)): 'Blatant manipulation of the outcome of the review so that they don't have to pay out the redress they owe.'
- **Maribel Montero** ([p. 4 of 7](#)): 'Common Assault; Ongoing Harassment; multiple frauds; Collusion & Systematic Perversion of the Course of Justice.'

- **Sean Sheridan** ([p. 2 of 5](#)): 'I alleged that both individuals were abusing the bank's gifts, entertainment and expenses policies on a regular basis particularly in regards to golf days in expensive courses, private boxes at major racecourses where client details were fictitious and forcing junior members of staff to sign for expensive lunches and dinners in the City and West End.'
- **Christopher Riley** ([p. 4 of 21](#)): 'Vida Homeloans purposefully chose to ignore all defaults and county court judgments that had occurred more than twenty-four months from the date of application. As the aforementioned CCI's [County Court Judgements] encompassed both satisfied and unsatisfied debts this clearly compromised the mandatory affordability calculation. Untrained employees were tasked with contacting the introducers of the business with little or no supervision.'
- **Nicholas Wilson** ([p. 4 of 9](#)): '...the illegal charges added by the solicitors, under a contract with the bank, were illegal contingency fees and breached various rules in the Solicitors Code of Conduct'
- **George Patellis** ([p. 6 of 52](#)): 'The mechanics of the fraud weren't especially sophisticated. Tiuta would request monies from the Fund (the Fund had money from private investors) and would use the monies to advance a loan to a borrower. Eventually, the borrower would redeem the outstanding loan balance with Tiuta. The redemption of a loan launched a process that included the following; Tiuta would return the redemption money to the Fund, Tiuta would prepare a mortgage discharge form (DS1) and send it to Land Registry, Land Registry would release the charge in favour of Tiuta, upon receipt of the redemption money, the Fund would submit a DS1 to Land Registry to release the sub-charge, Land Registry would release the charge in favour of the Fund... Tiuta did not follow this process for years before I blew the whistle and for 17 months after I blew the whistle and while the Regulator was (according to them) actively monitoring Tiuta. Instead, when a borrower redeemed their loan, Tiuta kept the money and used it for their own purposes instead of returning it to the Fund. This was the main method of stealing money but not the only method. Tiuta would regularly request monies from the Fund to lend to a borrower but the borrower, for some reason, would back out of the deal and the loan was cancelled. Tiuta was obligated to return the monies to the Fund but didn't. They kept the money for their own purposes. These were called Not Proceeded With (NPW) Loans. Tiuta would also request monies from the Fund for a fictitious loan with a fictitious borrower. They kept this money for their own purposes.'
- **Daniel Sheard** ([p. 7 of 15](#)): 'The first FCA whistleblowing disclosure (Mar18) was prompted by the discovery that Mr Haywood and Mr Greensill were still attempting to engage in investment business which was improper-potentially committing GAM clients to transactions which were outside of their guidelines, either contractual or regulatory. This information was given to me by a colleague.'

'My FCA disclosure covered numerous regulatory breaches of FCA Principles for Business

- 1, Failure to Act with Integrity
- 2, Failure to Act with due care, skill and diligence
- 3, Failure to Have adequate risk management systems
- 6, Failure to Treat customers fairly
- 7, Failure to Communicate clearly, fairly and without misleading
- 8, Failure to Manage conflicts fairly

'Breaches of UCITS [Undertaking for the Collective Investment in Transferable Securities] regulations for relevant client funds - Art 48 (max 10% of issuer debt)

'Evidence related to Frauds – False accounting, Failure to Disclose Information, Misrepresentation, also improper amendment of computer records (to hide defaulted investments) was presented at the subsequent meetings.

'Subsequent information also covered breaches of fiduciary duty and breaches of the duty of honest disclosure of an agent to his principal.

'The second FCA whistleblowing disclosure (Aug18) covered breaches of Principles 1,6,7,8. It also covered breaches of contract, Fraud by Misrepresentation and/or Failure to Disclose Information.'

## **7. What interaction have you had with the FCA about your situation?**

All respondents answered this question. All respondents have had some form of correspondence with the FSA/FCA, with varying degrees of interaction. A few of the respondents did not receive any further feedback or correspondence after contacting the FCA. Other respondents have had numerous phone calls/email exchanges and meetings, some of which are still ongoing.

### **Sample comments:**

- **Concerned Insider** ([p. 5 of 8](#)): '...We've been in contact with the whistleblowing department and Andre [sic] Bailey directly since about 2017. But Bailey has left now, his successor won't engage with us. And the whistleblowing department have simply emailed to say their enquiries have concluded, but refuse completely to tell us what the final outcome was.'
- **Maribel Montero** ([p. 4 of 7](#)): 'Numerous email exchanges with whistle@FCA, who have "no appetite" at all to investigate these criminals and referred me to the MET...'
- **Martin Woods** ([p. 5 of 8](#)): 'Lots, mainly bad. I was interviewed by them in August/September 2008, after that they blanked me and were dismissive of a further whistleblowing report related to Russian money laundering. My

experience with the FSA/FCA was a negative one. It is an organisation self-obsessed with protecting its own reputation. It is unaccountable.'

**8. If you had contact with the FCA, did the FCA explain or define the extent of their regulatory authority to you in respect to the matters you were raising?**

All respondents answered this question. Eight of the respondents said the FCA had not explained the extent of their regulatory authority, or had received no response at all. One respondent said the FSA asserted confidentiality obligations to member firms override the requirement to provide updates and feedback to whistleblowers. Another respondent confirmed the FCA did explain the extent of their regulatory authority in respect to the matter they were raising.

**Sample comments:**

- **Concerned Insider** ([p. 5 of 8](#)): 'They just keep hiding behind the excuse that they can't tell us about any action that isn't in the public domain. If RBS had been fined and the people responsible brought to book like they should have been then it would be in the public domain!'
- **George Patellis** ([p. 9 of 52](#)): 'The FCA only made excuses for their lack of regulatory authority. Specifically, they failed to classify me as a whistleblower. Instead, they said I was an approved person that shared intelligence. This was their way of covering up one of their many mistakes. I was a whistleblower who provided evidence of fraud.'
- **Paul Carlier** ([p. 12 of 99](#)): 'The FCA has repeatedly over the past six and a half years altered various boundaries and perimeters as to their jurisdiction, scope and authority. Essentially, saying whatever they needed to at any given time to suit an agenda or position.'

**9. What evidence, if any, did you give the FCA; and/or any other entity?**

All respondents answered this question. All respondents submitted evidence to the FCA/FSA, please see the sample comments below for details.

**Sample comments:**

- **Respondent E1** ([p. 7 of 15](#)): 'For the investment bank situation, the broker used by the person, security traded (name of the company which had the potential takeover) and their full name including spelling their name. For the broker a number of disclosures including a very detailed report on information to investigate and prosecute. The report also had a number of attachments embedded.'
- **Concerned Insider** ([p. 5 of 8](#)): 'A detailed 25-page report outlining everything that had happened on the project.'

- **Maribel Montero** ([p. 4 of 6](#)): 'I provided email evidence (contemporaneous records of the incident of common assault, which is also evidence of **[redacted]** Collusion with **[redacted]**), and one of the False Witness Statements submitted to HMCTS to pervert the course of Justice. **[redacted]** repeatedly Perjured himself during Trial.'
- **Sean Sheridan** ([p. 3 of 5](#)): 'I provided details of fraudulent behaviour including dates, participants and locations...'
- **Martin Woods** ([p. 4 of 8](#)): 'Two substantial and detailed whistleblowing reports as well as copies of emails and internal bank reports completed by me.'
- **Christopher Riley** ([p. 5 of 21](#)): 'Email attachments showing breaches of lending criteria'
- **Nicholas Wilson** ([p. 4 of 9](#)): 'Documentary evidence, including ruling by the SRA that the charges were illegal, and ruling by the Office of Fair Trading ordering the bank to cease adding the charges.'
- **George Patellis** ([p. 9 of 52](#)): 'When I met with the Regulator in March 2011 (2 months after my Principle 11 phone call), they refused to accept my evidence. This was perplexing because when they requested that I attend the meeting with them I was asked to bring any evidence in support of my claims. Approximately a week after my meeting, I posted a significant amount of evidence that was a roadmap to the fraud. Included in the evidence was;
  1. A list of outstanding DS1's (loans that were redeemed but Tiuta kept the money) and their balances (£20 million plus) as well as a tally sheet from the borrower's solicitor chasing Tiuta to release the DS1. The tally sheet included, inter alia, the number of times the solicitor threatened to call The Law Society to lodge a complaint.
  2. I provided proof that Tiuta was in breach of its capital adequacy requirements
  3. I provided proof the business was insolvent
  4. I provided proof the business had filed false accounts
  5. I provided proof the business filed fraudulent Mortgage Lending and Administration Returns (MLAR).
  6. I provided 2 separate reports from the external accounting firm I hired to perform a forensic audit. Both reports identified the business was cash flow and balance sheet insolvent.
  7. I provided an admission letter from the perpetrators and that I was not involved and that their crimes were hidden from me.
  8. I provided multiple Board meeting minutes from the time the crisis began. The minutes clearly detailed the issues.
  9. I provided emails from legal advisers and BDO detailing the crisis and identifying the various breaches.'
- **Paul Carlier** ([p. 13 of 99](#)): 'I gave the FCA substantial evidence and information in respect to all of my whistleblower [sic] disclosures made

during my time at LBG [Lloyds Banking Group]. I also gave the FCA substantial evidence to prove that LBG and the LBG Group Security and Fraud department had falsified the outcome of the investigation into my disclosures. IMPORTANT: On 21st July 2015 I escalated the 'smoking gun' evidence to the FCA proving that the LBG GSF investigator had falsified the outcomes of his investigation. This evidence was the transcripts of the recorded interviews that he had conducted with the 'accused', my line manager, the Head of FX and my colleague who sat next to me and witnessed the entirety of the attempt to defraud Tesco on 12st July 2014.'

- **Daniel Sheard** ([p. 8 of 15](#)): 'A significant volume of evidence was provided to the company, the FCA and later the US SEC [US Securities and Exchange Commission] (clients who suffered detriment included many US municipal pension funds including the Chicago Police Annuity Benefit fund).'

#### **10. What, if anything, do you believe the FCA could have done that may have prevented the matter that you blew the whistle on from happening in the first place?**

All respondents answered this question. All respondents believed the FCA could have done something to prevent the matter they blew the whistle on from happening.

##### **Sample comments:**

- **Respondent E1** ([p. 7 of 15](#)): '[For the investment banking situation] The only thing the FSA could have done is make clear to all firms that they will investigate all forms of market abuse rather than just talking about it. Regulated firms make clear that there is no tolerance for such behaviour...For the broker; much more scrutiny given I am 99% certain I had been the second person to inform on them and related entities in a relative short period of a few years... There is a real lack of investigation, enforcement and prosecution...'
- **Concerned Insider** ([p. 5 of 8](#)): 'Appointed an independent third party to carry out the review into RBS' historic investment advice rather than let them mark their own homework. Acted in a far more timely manner on the numerous concerns that were raised about it.'
- **Sean Sheridan** ([p. 3 of 5](#)): 'It is my belief that the FCA should have taken action against the firm for failure to protect the whistleblower. They appear to have not done so.'
- **Christopher Riley** ([p. 5 of 21](#)): 'I made a Tribunal protected disclosure detriment claim in June 2017 at which time I indicated in the ET1 claim form that I wished this matter also be referred to the regulatory body, the FCA. At the subsequent tribunal hearing in May 2018 it became apparent that nothing has been received back from the FCA indicating the concerns were not reported / received at that time.'

- **George Patellis** ([p. 10 of 52](#)): 'There were multiple red flags and very clear warning signs the Regulators were aware of years before I blew the whistle. This simple fact makes their dismissal of my claims even more reprehensible. They knew there were serious issues before I blew the whistle...The stark reality is the collapse of the Series 1 Fund was entirely preventable but due to the Regulators failings from day 1 (how does the Regulator deem a person who admits to falsifying invoices as fit and proper?) become the collapse was inevitable. Day 1 should have also been the last day. Tiuta never should never have received authorisation as a regulated lender. [George has included a Red Flag Timeline with 14 points]... These are just the red flags I *know* the FSA was aware of but chose not to act upon. There may well be others I'm not aware of. I do not believe it is credible to suggest that the FSA is merely incompetent; surely, on the law of averages, an 'incompetent but not dishonest' regulator would do the right thing at least *sometimes*? The pattern of inaction suggests a wilful cover-up.'
- **Paul Carlier** ([p. 13 of 99](#)): 'It is clear to me that in the case of my disclosures and those of most whistleblowers I have spoken to, the wrongdoing reported or alleged by the whistleblower disclosures is almost always:
  - a) Wrongdoing that the FCA should have been aware, but clearly was not. Typically wrongdoing that was of an 'industry wide' nature that any regulator should have therefore been aware of.
  - b) Wrongdoing that the FCA had been aware of, or even involved in, or implicated by and had chosen to ignore it.

THEREFORE, there should have been no need for me to blow the whistle as the wrongdoing should already have been eliminated, and furthermore, my disclosures and that of others, represented disclosures that either embarrassed or exposed the FCA, creating a conflict of interest. A conflict of interest that made it inevitable that they would first protect their interests and reputations and do this by whatever means necessary, including dishonest and criminal, and regardless of the financial cost to the victims of the wrongdoing being reported by whistleblowers, or the financial and mental health of the whistle-blowers.'

- **Daniel Sheard** ([p. 9 of 15](#)): 'GAM was already the subject of a Section.166 'Skilled Persons Review' as a result of FCA concerns over certain practices and procedures in for systems and controls weaknesses the company's London equity business. This should have placed the FCA on heightened alert, with more regular and wide-ranging examinations of the Systems and Controls regime at the firm.'

## 11. To your knowledge, what did the FCA do to investigate the matter you raised?

All respondents answered this question. Several of the respondents said that the FCA did nothing to investigate the matter they had raised. For some they do not know what actions were taken as they never received an update or any follow-up correspondence from the FCA.

### Sample comments:



- **Martin Woods** ([p. 5 of 8](#)): 'I learnt from third parties, they undertook an early morning visit to the bank in London, but called the CEO of the bank the day before to alert him. Having initially told him, he could not communicate this to anyone within the bank, he was permitted to inform general counsel. Thus, the FSA when investigating criminal allegations of money laundering, called the suspect and advised of their intended actions before then undertaking a 'surprise' dawn raid. Notwithstanding a number of requests, the FSA never updated me as to the actions they took in regards to my initial whistleblowing report. They were totally dismissive of my second whistleblowing report related to multi billion dollar, Euro Russian money laundering, describing the report as 'the latest missive from Martin Woods'. I sense I was an inconvenience to the FSA.'
  
- **Nicholas Wilson** ([p. 5 of 9](#)): 'Nothing, initially. I then made a FOIA request to the FCA asking them what they had done with my complaint. They replied that the bank was entitled to add the charges in question because of their terms and conditions. This was 100% untrue. I shortly afterwards discovered that HSBC had written an identical letter to a fellow campaigner who had written to the bank about the illegal charges. It therefore became clear that the FCA had colluded with the bank in formulating responses to my complaint. This became the subject of questioning by the Treasury Select Committee when the FCA CEO Martin Wheatley admitted to Jesse Norman MP that the FCA had simply copied and pasted HSBC's response and that the response was untrue. Regarding collusion, I much later made a DSAR to the FCA which revealed internal emails which show that the FCA and HSBC both monitored my Twitter account and shared information.'
  
- **George Patellis** ([p. 12 of 52](#)): 'It was always my firm belief that the FCA did nothing to investigate the matters I raised. I reached this conclusion based on several factors.
  1. The evidence I provided to the FSA was irrefutable...The simple fact the business continued to trade for an additional 17 months after I blew the whistle made it clear that the FCA did nothing to investigate it.
  2. I met the Regulator in March 2011 and there was no further contact between us for over 4 ½ years when I filed a complaint against them. If they had been investigating things I would have heard from them or the police.
  3. When the FCA started playing the blame game, it was further proof that they took no action and were trying to deflect their failings on others, including me.
  4. I would read positive news in the press about Tiuta (from Tiuta) that I knew was simply impossible. I knew the articles were all lies and further proof the Regulator was taking no action.

In the years following the collapse, I've received information that supported my belief that the Regulator took no meaningful action.

1. The Regulator relied exclusively on BDO and the perpetrators for their information and never validated anything on their own.
2. As discovered in an FCA internal report that was obtained through a FOIA request, the Regulator tipped off the perpetrators (Tiuta), to my

whistleblowing allegations. Not only was this a serious breach of the Regulator's responsibilities to me it also gave Tiuta the necessary time to create a false narrative that refuted my claims. Furthermore, it was most likely what led to the death threats I received.

3. In various correspondence with me, The Complaints Commissioner and others, the Regulator felt, with the benefit of hindsight of course, they could have done more.

4. The Independent Review into the collapse of The Connaught Income Fund Series 1 was largely a whitewash but it concluded that the Regulator never looked at my evidence and they relied on BDO, who they knew were not verifying information received from Tiuta.'

- **Paul Carlier** ([p. 13 of 99](#)): 'It is clear that the FCA were initially receptive and supportive. However, between 20th May 2015 and 1st June 2015, the FCA became aware that they were significantly and desperately exposed... It is now clear that up to and including formal communications to me in February 2021 and December 2021, that the FCA failed to investigate my disclosures properly or at all in 2015, but dishonestly sought in December 2016 and February 2021 that they had.'
  
- **Steve Middleton** ([p. 5 of 10](#)): 'I've never had any evidence that they've investigated anything. The only time I think they really got involved was on one case where somebody committed suicide. There was an issue with the home and potential loss of the home. And when that was raised with them, they were quite helpful on that one case because it was so extreme. But in terms of the other issues raised it's hard to explain how you hit this blank wall... you raise real concerns, and you expect... they will come back to you for more evidence about your concern, but it doesn't happen. You raise the issues that relate to the IRHP Review first and nothing but obstruction. I was stating the separate rules that should have been applied in that review process and on every occasion I was being obstructed on it. And the amount of people who were discussing the same issues and being ignored. I mean, my view, honestly is that if you... speak out against the banks then you have been blackballed by the FCA, but you certainly don't get any feedback about the cases you mention. You get no feedback whatsoever about anything that you've raised.'
  
- **Daniel Sheard** ([p. 9 of 15](#)): 'It is unclear to what extent the FCA investigated the events AT ALL:  
'I provided a list of 'persons with relevant information' covering both former and then-current employees of GAM. I have spoken with over 10 persons on the list and not one single person had been contacted by the FCA, or in most cases even by GAM internal audit.  
  
'It appears from the content of the two Final Reports published in March 2022 (on GAM and on Mr Haywood) that the FCA delegated the 'investigation' to GAM itself, with the FCA merely asking questions and accepting the responses as true.'

## 12. To what extent did the FCA act promptly and effectively to investigate your allegations?

13 of the respondents answered this question. None of the respondents found the FCA had acted promptly and effectively. As with the previous question (Q11), for many of the respondents the FCA would not provide updates or elaborate on their actions. One respondent said that initially the FCA appeared to act promptly but eventually became evasive and obstructive.

### Sample comments:

- **Concerned Insider** ([p. 5 of 8](#)): 'Promptly? Hardly, it took over two years to get them to do anything. Effectively? Since they won't tell us the outcome, impossible to say!'
- **Nicholas Wilson** ([p. 5 of 9](#)): 'They did everything in their power not to investigate my allegations. Following a complaint to the Complaints Commissioner concerning their lack of action and the collusion, he said in his Annual Report of 2015/16 that it was the worst case he had dealt with (<https://nicholaswilson.com/complaints-commissioner-confirms-hsbc-fraud-worse-complaint-against-fca-he-has-dealt-with/>). His 10 page report is here, from which it can be seen that at one point the FCA sought to blame me ([see here](#)). The Complaints Commissioner recommended that the FCA offer me a full apology, which they did. Following the CC's report the FCA confirmed that they would reopen the investigation. The first act they did was to appoint as non-executive directors someone from John Lewis (Baroness Hogg) and someone from HSBC (Ruth Kelly)– the two entities that they were supposed to investigate... Initially the FCA refused to look at my evidence, because it had been leaked, and they claimed they couldn't verify its integrity. I pointed out to them that it was Ministry of Justice data, they just needed to cross reference. I believe they did do this, superficially at a later date.'
- **George Patellis** ([p. 13 of 52](#)): 'The independent review found that the Regulator never looked at my evidence. This was an extraordinary finding considering the Regulator said on multiple occasions that my evidence did not show fraud.'
- **Paul Carlier** ([p. 14 of 99](#)): 'The problem here is that the FCA always seek to claim that they are not able to share any information with the whistleblower or other reporter of wrongdoing by FSMA [Financial Services and Markets Act] as to what investigation they undertook or what action, if any, they took as a result of your information. They also claim that they are not even permitted by FSMA to confirm to you if they even undertook an investigation. This has become a standard, but wrong, interpretation of

FSMA. Typically referring to the potential prejudice of their supervisory role and investigatory processes.'

- **Daniel Sheard** ([p. 9 of 15](#)): 'They did not, and I believe that as a result certain GAM clients suffered greater detriment.'

'I provided the FCA (and GAM) with significant material evidence three weeks after my whistleblowing to the FCA, yet I was only interviewed by the FCA 6 weeks later. During this period Greensill required GAM to give effect to one of the 'secret / unrecorded' transactions undertaken by Haywood and Greensill, which GAM agreed to do despite the significant detriment suffered by the client fund involved. Had the FCA acted sooner this could not have happened.'

'By failing to act on the activities of Lex Greensill and his firm, the FCA contributed to the continued operation of the ponzi scheme and the eventual losses to investors. These include unit-holders in the Credit Suisse Greensill Supply Chain Finance Funds (est. max \$2.3bn) and the losses of uninsured depositors at Greensill's German banking subsidiary, most notably some €300mn owed to local government finance departments.'

### **13. Thereafter, as far as you know, what did the FCA do to prevent the alleged misconduct from continuing?**

13 of the respondents answered this question. The respondents felt that the FCA had done nothing to prevent the misconduct from continuing, or they were unaware if the FCA had done anything.

#### **Sample comments:**

- **Martin Woods** ([p. 5 of 8](#)): 'Nothing, because banks continue to break the rules and launder money.'
- **George Patellis** ([p. 13 of 52](#)): 'Quite the opposite. [The FCA] did nothing to prevent the misconduct from continuing. In fact, there is also overwhelming evidence that the Regulator was complicit in the losses suffered by so many. They were complicit through their inaction, gullibility and toothless threats. Far worse, they directed Tiuta to prioritise the release of DS1's on regulated loans. These were loans that had redeemed but Tiuta had used the money for their own purposes instead of immediately passing the money back to the funder...The Regulator's extraordinary gullibility throughout the relevant period is astonishing. In addition to knowing that Tiuta was operating a Ponzi scheme and doing nothing about it, the Regulator, allowed the fraud to continue and even pick up speed by recklessly and without reason accepting the most unbelievable, unattainable and illogical excuses from Tiuta. The Regulator accepted these excuses from the very people they knew were stealing the Fund's investors' money every month.'

- **Paul Carlier** ([p. 15 of 99](#)): 'Some of my disclosures were in respect to conduct that fell within the FCA's 'FX Remediation Programme' that was introduced as part of their FX investigations launched in October 2013. However, my disclosures had been made internally long before this and long before the stories broke in the media in August 2013... And despite the FCA's remediation programme, much of the wrongdoing still occurs, and certainly the practise [sic] of applying excessive and undisclosed mark ups remains rife, as does the targeting of less sophisticated customers.'
- **Steve Middleton** ([p. 5 of 10](#)): 'I've seen one thing I've raised with them where a whistleblowing system was not correct. I got involved in Looking at RBS Speak Up product manuals on whistleblowing and the rules have been changed but in the background with no feedback to me. On a number of issues I have reported my concerns to the FCA. In fact when I met with them and they confirmed they would investigate issues I raised, they would not feed back to us or give us any further information. So, you just hit a brick wall with them.'
- **Daniel Sheard** ([p. 9 of 15](#)): 'I understand from public media reports that the FCA 'insisted' upon GAM suspending Mr Haywood at the end of July 2018. Mr Haywood was subsequently dismissed by GAM for gross misconduct in February 2019.'

**14. In your opinion, to what extent did the FCA act promptly and effectively to prevent the alleged misconduct from continuing?**

12 of the respondents answered this question. The respondents felt that the FCA did not act promptly and effectively, or acted at all to prevent the misconduct from continuing.

**Sample comments:**

- **Concerned Insider** ([p. 6 of 8](#)): 'It was certainly neither prompt nor efficient. It took over two years to pressure them into a review of our allegations. The person mainly responsible for the farce (RBS' head of remediation Ian Carter) eventually left the business in mysterious circumstances, but this was approximately four years after we first blew the whistle. The damage has been done!'
- **Sean Sheridan** ([p. 3 of 5](#)): 'I believe that the FCA were slow to act, Andrew Bailey's letter to me promising action was simply a promise but not a commitment and the end result was a total loss of confidence in the Regulator.'
- **Christopher Riley** ([p. 5 of 21](#)): 'My view remains that the FCA has a massive corporate bias and simply whitewashed my concerns.'
- **George Patellis** ([p. 18 of 52](#)): 'The FSA/FCA did not, at any time, act effectively and by no measure, promptly... they did the opposite and by their inaction and gullibility, were the catalyst that boosted the fraudulent

activity to higher levels and allowed the perpetrators to implement new techniques to steal money...

'The Regulator had Tiuta voluntarily cease all regulated lending. This would only happen when there's a serious problem. However, the Regulator once again buried this news. Far worse, The Regulator allowed Tiuta to put a positive spin on it by saying it was a business decision made so they could focus on their core business. Had the FSA been honest when they revoked Tiuta's permissions to grant regulated mortgage loans there would have been even more evidence in the market that Tiuta was damaged goods. At no time did the regulator ever act appropriately. Whenever they had an opportunity to act or simply do the right thing, they never did. Not once.'

**15. If you suffered detriment, or loss of job, what was the impact on your personal income in each of the three years after you blew the whistle, compared to your income in the three years prior to your dismissal?**

All respondents answered this question. Several of the respondents have said that since whistleblowing they have suffered financial detriment, been unable to secure job roles that pay as well as their previous job roles, had unsuccessful job applications and that it's damaged their reputation.

**Sample comments:**

- **Respondent E1** ([p. 9 of 15](#)): '...There has been absolutely nothing the FCA has done to see if my welfare is OK or assist me in finding employment. This is even more 'damning' a word I have used a number of times in answering questions given my experience, depth of knowledge and qualifications to even to assist the FCA in investigations and enforcement. Common sense should say they need people like me to lead their organisation, but the truth is they don't do their statutory duty.'
- **Maribel Montero** ([p. 5 of 6](#)): '...I have lost the last 7 years of my life (including the opportunity to have children due to the impact on my mental health) and had very little income.'
- **Sean Sheridan** ([p. 3 of 5](#)): 'After I left BNY Mellon and considering my age I was unable to find a similar position and as a consequence I experienced depression resulting in the end of my marriage and the loss of the family home.'
- **Christopher Riley** ([p. 6 of 21](#)): 'The Tribunal accepted I had suffered detriment. The publishing of the Tribunal proceedings has effectively damaged my name and standing in the financial market place and I have found it very difficult to gain employment post whistleblowing. My income suffered considerably.'
- **Nicholas Wilson** ([p. 6 of 9](#)): 'For 15 years following blowing the whistle I have been unable to secure a permanent secure job, because of my status as

a whistleblower. I was even turned down for a £13k pa [per annum] call centre job at a local insurance company because I “revealed confidential information”. I am also a mortgage prisoner and my situation remains very precarious. Following a DSAR [Data Subject Access Request] to the FCA it is apparent that the possibility of acknowledgement of my campaign in securing redress for fraud victims would be given in the Press Release(s) – however, this never happened.'

- **George Patellis** ([p. 19 of 52](#)): 'The majority of the 3 years after I blew the whistle I was unemployable. As an American, I had been living in the U.K. on a visa that is tied to a specific job. Since I was no longer working at Tiuta, I had to return to America. There were certainly no jobs being offered to me in the U.K and at the time, I hadn't worked in America in over 15 years, I wasn't high on American companies' top prospects list. Whenever there was interest, it would die after a simple "George Patellis" Google search...When I was able to secure a position in late 2014, my salary was less than a third of my yearly salary in the year I blew the whistle. This doesn't include equity and other benefits I had. It's almost 11 years since I blew the whistle and today I still earn less than a third of my pre-whistleblowing salary. My savings and investments are a fraction of what they were. Had the Regulator acted appropriately this wouldn't be the case.'
- **Paul Carlier** ([p. 19 of 99](#)): 'Whilst employed as a Director of FX trading at LBG, I had a base salary of £175,000, and was awarded an annual bonus of £50,000 for the previous year, taking my total annual pay to £225,000. In addition to this I had a substantial benefits package and pension. My schedule of loss for the Employment Tribunal was in excess of £5m. This was relevant in the event that I secured a judgement that I was made 'redundant' and unfairly dismissed for having made protected 'whistleblower' disclosures.'
- **Steve Middleton** ([p. 5 of 10](#)): '...I'm absolutely certain that what happened back in 2014 was down to the fact that I was making problems for the FCA in the IRHP Review and I believe that was what led to the end of my IFA licence at that point. Not that I couldn't possibly go back and resurrect it, but it would still be difficult to do. So, changing my way of working and consulting took a long time and many months when I did that without an income.'
- **Daniel Sheard** ([p. 10 of 15](#)): 'Although it is hard to prove the counterfactual, I assume that had I not blown the whistle my pre-tax earnings would have exceeded £1 million by the time that Greensill became insolvent. Furthermore, I would not have incurred significant expenses for legal advice.'

**16. In your opinion, how well, or badly, has the FCA treated you as a whistleblower? How well has it protected your privacy, ensured that your career was not adversely affected and helped to safeguard your mental health?**



All respondents answered this question. Most of the respondents found that the FCA had failed to protect their privacy and were treated badly by the FCA. One respondent did not think their privacy had been compromised, another had decided to stay anonymous when making their disclosure.

### Sample comments:

- **Sean Sheridan** ([p. 3 of 5](#)): 'As a result of the failure of the FCA to protect me as a whistleblower I ended up in a private hospital in Bromley and was on medication for a considerable period of time thereafter.'
- **Christopher Riley** ([p. 6 of 21](#)): 'The FCA was of no assistance whatsoever and I wish I never raised the concerns in the first place!'
- **Martin Woods** ([p. 6 of 8](#)): '...the FSA/FCA undertook action to harm me - they sought to stop me ever again receiving FCA approval for a role in financial services and to some extent they were successful. All of this had a profound adverse impact upon my mental health. Think about it, I do the right thing and blow the whistle to the FCA about serious crimes taking place and they stab me in the back to make sure I don't do it again. This almost destroyed my belief system.'
- **Nicholas Wilson** ([p. 6 of 9](#)): 'They have significantly impacted my mental health by blaming me, ignoring me, "gaslighting" me, belittling me - anything to protect HSBC. Even to this day the full extent of the wrongdoing has not been revealed.'
- **George Patellis** ([p. 19 of 52](#)): 'The Regulator has treated me appallingly over the years. They tipped off the fraudsters to my whistleblowing and they ruined my career. They publicly and without my permission 'outed' me as a whistleblower, and attempted to blame me for their failure to bring in the police when I'd given them clear evidence of criminality... The FCA's actions have caused irreparable damage to my reputation, my financial situation, my family, and my ability to secure a job at the level I enjoyed before I blew the whistle. I received multiple death threats. The impact of the FCA's actions flowed throughout my entire family. My children were harassed on social media and someone even phoned my daughter on her mobile while she was at school, striking fear in her and my wife. My wife and my children had friends who read the scores of false press about me (the FCA knew the stories were false) and would question them about it. It was highly embarrassing for my wife and children. My children were ridiculed and lost friends. I've had my struggles and sought professional help and after 10 years I still see a counsellor and am on medication. After 30 years of marriage my wife and I separated. After a year apart we began marriage counselling and are now back together after months of counselling.' [George

includes a Q&A published on the FCA website, [attached](#), p.20]

- **Paul Carlier** ([p. 25 of 99](#)): 'The FCA not only failed to protect me as a whistleblower, the FCA and multiple FCA senior executives have actually gone to extraordinary lengths to:
  - 'a) Protect LGB [Lloyds Banking Group] and fail to sanction them either the numerous acts of wrongdoing that I disclosed, or their abuse of me as a whistleblower.
  - 'b) Conceal evidence that proved multiple counts of dishonesty, wrongdoing and criminality by LBG in the first instance.
  - 'c) Conceal and suppress the evidence that provided the outcomes of the LBG investigation of my whistleblower disclosures had been falsified by Andy Horseley....
  - 'd) Smear and discredit me to journalists and Parliamentarians...
  - 'e) I have further evidence to demonstrate how the FCA Press Office would circulates [sic] the smears...
  - 'f) There is further internal FCA evidence that demonstrates how this desired narrative of smear that was conceived by [Andrew] Bailey's office, influenced FCA staff in respect of how they perceived and treated me...
  - 'g) ...[this narrative] had the effect of encouraging other FCA employees to engineer and provide their own narratives in almost sycophantic fashion...
  - ' h)...[this narrative] also had the effect of influencing the actions of FCA employees in respect to how they handled reports that I made to the FCA in subsequent years on behalf of victims of financial wrongdoing by banks... or in respect of wrongdoing that I witnessed or discovered... It appears that if I was involved, the FCA would seek to find ways to discredit my reports and intelligence to the cost of the victims...
  - 'i) In 2019 this false narrative and the agenda behind it, was escalated by the FCA and particularly Bailey's office, when Toby Hall of Bailey's office and whose sole function was to act on behalf of Bailey, sought to engineer a witch hunt against me with intent to secure sanctions against me, and adverse outcomes in respect to me. All of which Hall, Bailey and others knew to be groundless and false...

'As mentioned earlier there are two significant stand alone reports specific to this matter. One which is the recent complaint submitted to the FCA on 17th February 2022, and that features new allegations proven by new evidence. I include the full complaint document as 'Appendix C' at the end of this report.'

- **Steve Middleton** ([p. 5 of 10](#)): '... They had a very bad impact on my finances, my situation and my mental health. It was very stressful what we went through at the time, and not just for me but for the whole family. Try explaining to clients (some of whom you've looked after for 25 years) that you're not allowed to speak to them, let alone advise them or get involved with the finances again- even though you've done nothing wrong is an unusual thing to go through, because you've faced false allegations which I'm sure the FCA were behind and then when you've been forced to resign your licence it's admitted there was no evidence against you. And when I

later reported my concerns about this to the FCA in a meeting, I also raised concerns about a scandal in relation to the network I had been in where I had reported other issues that were not being taken forward. I did not get a reference for either the fraudulent investment issue and they wouldn't respond on the allegations I made about my own career.'

- **Daniel Sheard** ([p. 10 of 15](#)): 'My whistleblowing was highly unusual in that it was overt- my disclosures to the FCA were shared by me with my employer, so privacy was not a relevant issue.'

'The FCA does not have the power to change attitudes: prospective employers claim to value integrity but the employment prospects for whistleblowers are poor.'

'The FCA took no steps whatsoever to safeguard mental health, and in fact the unnecessary delays in dealing with the matter were the cause of serious stress.'

#### **17. If you have suffered financially or otherwise as a result of blowing the whistle, how effective has the FCA been in securing redress for you from the guilty parties?**

12 of the respondents answered this question. None of the respondents found the FCA effective at securing redress from the guilty parties. One respondent said they still have two invoices totalling £110k outstanding, and another said the FCA have never even mentioned redress.

##### **Sample comments:**

- **Sean Sheridan** ([p. 3 of 5](#)): 'The FCA has never mentioned redress from the guilty parties.'
- **George Patellis** ([p. 23 of 52](#)): 'I have received nothing from the FCA in the form of redress (they are the guilty party). It took them 10 years to apologise. I refused the FCA's princely offers of a £500 ex gratia payment and a £1,500 ex gratia payment. I did ask that these amounts be donated to the FCA's training budget in my name. I never received a thank you note so I assume the donations were never made.'
- **Paul Carlier** ([p. 32 of 99](#)): 'The FCA failed to properly investigate and review evidence, and has subsequently sought to make multiple false representations so as to conceal this. The effect of which was to deny me compensation of between £1million and £5million.'
- **Steve Middleton** ([p. 6 of 10](#)): 'Well, the guilty party would be the FCA as far as I'm concerned.'
- **Daniel Sheard** ([p. 11 of 15](#)): 'The current UK regime does not provide for whistleblowers sharing in penalties levied, so there has been zero redress for my financial losses.'

**18. How effective has the FCA been in securing redress for the victims of the alleged misconduct and in prosecuting or banning the perpetrators so they are unable to continue doing it?**

12 of the respondents answered this question. A few of the respondents said that nothing has been done by the FCA in securing redress for the victims. One noted that the two individuals that had been named in their disclosure have been removed from the FCA register. Another said that the FCA had sought to ban him, rather than the bad actors. For those whose cases had seen some form of financial redress secured for the victims, they noted that the amounts paid back are much lower than what was actually due.

**Sample comments:**

- **Respondent E1** ([p. 10 of 15](#)): 'They do nothing in this regards from [sic] my opinion. They have more care about the firms then they will ever about the person who risks so much to give the true picture of activities taking place in firms they are meant to regulate.'
- **Concerned Insider** ([p. 6 of 8](#)): 'Well neither RBS nor [Ian Carter] has been fined or otherwise punished. Nor have any of the others mainly responsible. I can't answer any more than that because they won't tell us the outcome.'
- **Nicholas Wilson** ([p. 7 of 9](#)): 'Very poor – initially they announced that HSBC had “voluntarily” agreed to repay £4m. I informed them at a subsequent meeting that this figure was derisory and that at least £200m was due. 2 years later they announced a further agreement to repay £26m. More recently it has transpired that HSBC has reserved £223m for redress for their “collections and recoveries” practices, although it is uncertain how much of this relates to my original complaint. There have never been any fines or prosecutions relating to the fraud, although I believe a fine may be announced in November ... 2021. In none of the previous press releases announcing redress has my role in disclosing the wrongdoing been acknowledged.'
- **George Patellis** ([p. 23 of 52](#)): 'The FCA has claimed full credit for securing redress for the jilted investors in the Fund who have received most of their initial capital back but not all of it as was claimed; they also have missed out on many years' income on their investments and some have suffered further losses as a result of being unable to access their money or having to pursue redress. While I was and remain happy that the investors received something, the Regulator is not the White Knight they purport to be. I believe the redress was secured not because of the Regulators' actions but rather their Titanic failures. These failures were brought to light by a concerned group of Fund investors and myself. We backed the Regulator into a corner and they realised we were not going away. They did what they do best and they blamed someone else for their failings.'

- **Paul Carlier** ([p. 32 of 99](#)): 'The FCA has gone to extraordinary lengths to prevent redress for victims of the wrongdoing that was the subject of my protected disclosures.'
- **Daniel Sheard** ([p. 11 of 15](#)): 'Whilst the FCA did eventually impose modest financial penalties on the company and... Mr Haywood for conflicts of interest failings, no action was taken over the frauds and no redress was ordered to reimburse customers for the detriment they suffered.'

'The FCA has previously imposed lifetime bans for dishonesty in personal affairs even where no client detriment existed (eg Mr Jonathan Paul Burrows in 2014), yet in the case of Mr Haywood no prohibition was ordered despite multiple and repeated examples of misconduct and failure to cooperate openly with the company, and the significant detriment suffered by GAM clients.'

### **19. What do you believe the FCA could have done better in relation to your whistleblowing case?**

All respondents answered this question. A lot of the respondents found that the FCA were slow to act upon the information given, or didn't take any action at all. They felt the FCA should have taken their whistleblowing disclosures more seriously. One respondent felt the FCA should have acted honestly, professionally and appropriately.

#### **Sample comments:**

- **Respondent E1** ([p. 11 of 15](#)): '...For the investment bank situation it was such a simple task and yet noting [sic] done or action taken against that particular person, the managers involved or the firm itself. But that firm continues to be in trouble and this is a constant situation that gains a lot of press coverage as well.'
- **Sean Sheridan** ([p. 4 of 5](#)): 'They should also have taken action against BNY Mellon for failure to protect whistleblowers.'
- **Nicholas Wilson** ([p. 7 of 9](#)): 'They should have investigated and forcibly removed evidence from HSBC and the solicitors acting, as agents for the bank. Andrew Bailey told me in a meeting that the FCA did not have powers to raid a solicitor's office. This is not true, if the solicitors are agents of the bank, the FCA can apply to a magistrate for a warrant. Earlier his predecessor Martin Wheatley told the Treasury Select Committee that the FCA did not have powers to prosecute fraud. This was further confirmed in a subsequent letter to the TSC [Treasury Select Committee]. FCA prosecute fraud all the time. They relied solely on what they were told by HSBC and more concerning, expected me to provide the evidence, and questioned the veracity of what evidence I did provide.'
- **George Patellis** ([p. 25 of 52](#)): '...the FCA should have different procedures for senior executives/Directors who blow the whistle. All whistleblowers should

be treated appropriately but when a CEO blows the whistle on his own company, alarm bells should ring through the Regulator's building and a meeting should be arranged immediately.'

- **Steve Middleton** ([p. 6 of 10](#)): 'Applied the rules and tear up thousands of RBS and other swaps. Yes, it would have cost billions to the banks. But that's what should have happened... if that review had been run properly and consequential losses have been paid as they should have been, it was mooted 30 billion plus going back to SMEs think what that would affect for the economy. I mean, know how much of an impact it's been on PPI payments have been made. But you think SMEs, having tens of billions returned into that business stream after such a difficult financial time would have been huge for the economy. But they didn't, they sat on their hands and let the banks keep the SME's money after appalling selling and deceit.'

## **20. In general terms, what would you say about the FCA's effectiveness and timeliness in responding to your whistleblower situation?**

All respondents answered this question. Some of the words used to describe the FCA's effectiveness and timeliness were: appalling, pathetic, slow and ineffective, bad, useless.

### **Sample comments:**

- **Martin Woods** ([p. 6 of 8](#)): 'It was one of the most appalling situations I have ever encountered, not for one moment did I believe a regulator could act in the way they did and they have got away with it.'
- **Nicholas Wilson** ([p. 7 of 9](#)): 'Disgraceful and corrupt.'
- **George Patellis** ([p. 25 of 52](#)): '...the FSA's failure to take any meaningful action caused tens of millions of pounds to be stolen right underneath their nose. Then, the FCA made matters worse by blaming others for their failures.'
- **Paul Carlier** ([p. 37 of 99](#)): 'The FCA failed to investigate and failed to act at all in 2015, only discovering internally in October 2016 that there had been this catastrophic failure, and a failure that had the most serious and damaging consequences for me both mentally and financially. It is now seven years since that initial failure and I've endured nothing but dishonesty since to conceal it.'

## **21. What are your thoughts on whether the FCA lacks the powers that it needs; or conversely, that it doesn't make good use of the powers it already has?**

All respondents answered this question. Most of the respondents thought the FCA has the power that it needs, but does not use it effectively or picks and chooses when to use it. One respondent believes it's a bit of both. Another respondent thinks the FCA is biased towards corporate lenders.

**Sample comments:**

- **Respondent E1** ([p. 11 of 15](#)): 'It has the power and does not use them for effective proper oversight and taking action. It also does not work with other agencies such as HMRC, SFO or NCA to effectively go after the people engaged in white-collar crime for example. They also have very poor internal communications inside the FCA.'
- **Sean Sheridan** ([p. 4 of 5](#)): 'I believe that the FCA has the necessary powers but lacks the personnel and leadership to act efficiently in order to ensure that whistleblowers feel secure in making rightful complaints when fraud or breaches of regulations are being perpetrated.'
- **Martin Woods** ([p. 6 of 8](#)): 'It makes the wrong use of its powers. It is a believe of unaccountability which causes and allows them to behave badly, knowing they can get away with it.'
- **George Patellis** ([p. 25 of 52](#)): '...with respect to Tiuta, the FSA had the appropriate powers to act and to act decisively. I believe they didn't for a variety of reasons, primarily because they, inexcusably, tipped Tiuta off to my whistleblowing and this gave Tiuta time to concoct a story (a story of complete fantasy but accepted without verification by the FSA).'
- **Paul Carlier** ([p. 37 of 99](#)): 'The FCA bemoans the lack of powers it has. This is an entirely false narrative with intent to conceal their own failings. The FCA has substantial powers but 'cherry picks' when to use them. In fact, it is quite evident that the FCA appears to apply its powers only when the FCA itself is not exposed., choosing not [to] exercise them when they are.'
- **Steve Middleton** ([p. 6 of 10](#)): 'It has the powers it needs; it just dances around them. You'll hear Andrew Bailey who was forever talking about the regulatory perimeter, and I will try to explain to people that the FCA can act on anything when people are selling investments. And all this nonsense were those things about fixed rate loans and whether they are regulated or not was ludicrous because as I kept saying to the FCA back then you'll pursue land bankers as another investment scam for which you've sent the scammers to prison after pursuing them through the courts under the rules on mass selling off bad investments where people lose money, but you won't punish the banks. So, they had the powers, they were dozens of rules where there could be a criminal action against directors of banks but they focus on one-man bands, smaller people, people who are not regulated. They have the powers; they choose not to use them. To suggest that they couldn't get involved on RBS GRG because it's not a regulated area is ludicrous. All financial services firms work under the principles, and the principles of treating customers fairly, being honest, being transparent. The FCA can take action based on those breaches of those principles. So, tell me why it doesn't have the powers?'

**22. In general terms, how would you describe what it's been like dealing with the FCA?**



13 of the respondents answered this question. Some of the words the respondents used to describe what it's been like dealing with the FCA were: disappointing, frustrating, horrible, shocking, pointless, appalling, soul-destroying, infuriating.

#### Sample comments:

- **Respondent E1** ([p. 11 of 15](#)): 'Nothing rude as a result, but there is no friendship or trust built with any interaction with the FCA or FSA during their time in existence (I say this in a formal sense). I draw no distinction between the FSA and FCA in reality.'
- **Sean Sheridan** ([p. 4 of 5](#)): 'It was woeful, disheartening and made me feel as if I was the one who was guilty.'
- **Christopher Riley** ([p. 7 of 10](#)): 'Pointless - day to day contact is restricted to a person who has no authority and simply refers things to a more senior member of staff.'
- **George Patellis** ([p. 26 of 52](#)): 'Infuriating. The FCA uses a multitude of scripts and are experts at answering questions that are either easy or meaningless. For example, when the complaints commissioner published his report into my complaint, he produced a 13-page document that was highly critical of the FCA's treatment of me. The FCA's response to the report was a few sentences that said nothing. They didn't address any of the specifics from the report. Then the entire issue just went away.'
- **Steve Middleton** ([p. 7 of 10](#)): 'Hugely disappointing... until dealing with them, you had this idea that there were this kind of FBI type organisation in the background there to keep the financial services market clean. And then what you do realise that you'd be made to jump through hoops following 1000s of rules for years while the larger organisations like the banks will just cut a deal with the regulator, mis-sell nonstop and pay a small amount of the money back when they're caught out. You realise it's an entirely two-tier system and that in effect the regulator is there on one hand to tackle the small business people but on the other hand, mainly to protect the city and that means to protect them from redress and competition.'

### 23. What is your perception of the culture of the FCA, and what do you think about it?

13 of the respondents answered this question. Several of the respondents mentioned the revolving door at the FCA, and conflict of interest.

#### Sample comments:

- **Concerned Insider** ([p. 7 of 8](#)): 'It seems like they have a cosy old-boys culture where the senior management are far too close to the firms they purport to regulate (RBS has a relationship manager at the FCA, which is an obvious conflict of interests given that it is supposed to crack down on their misconduct). The FCA does not pay too well as I understand it and half the people there seem to be after top jobs with the banks.'
- **Sean Sheridan** ([p. 4 of 5](#)): '[The FCA] appears to be staffed by individuals who are unaware of the intricacies of the financial services sector and are incapable to effectively policing the industry. Leadership has been woeful over recent years and the industry, in general, has lost respect for the FCA.'
- **Martin Woods** ([p. 7 of 8](#)): 'It is an unaccountable body, obsessed with protecting its own reputation. There is a culture of arrogance, you cannot accuse the FCA/FSA of wrongdoing. There is intimidation within the industry, which inhibits people calling out FCA failings.'
- **George Patellis** ([p. 28 of 52](#)): 'The FCA seems like an organisation in a constant state of flux. Turnover is high at the top and this creates challenges. I'm sure there are plenty of very decent and honourable people at the FCA. My impression is the rank and file simply carry out orders from the top...I believe at its core, the FCA is a dishonest organisation. They take no responsibility for their failures and can say (literally) anything they want with no fear of repercussion [sic]'
- **Paul Carlier** ([p. 39 of 99](#)): 'The culture of the FCA is rotten to the core. It is a culture borne of arrogance and handcuffed by its own historic failures and dishonesty, all of which dictates and agenda and approach of further dishonesty and concealment. The fact that they have been able to 'get away with it' for so long only appears to serve to increase their arrogance. It permeates the belief that they can and will do whatever they want.'
- **Steve Middleton** ([p. 7 of 10](#)): 'Within the culture, I suspect there are layer of cultures in the FCA. We have had whistleblowers have confirmed some very interesting points about the FCA and how they operate and what cover-ups have gone on and I'm sure there's a lot of genuine people in the organisation who think that they're attempting to do the right thing. I think at the executive level, it is untrustworthy, to say the least, I think at the highest level and what they've done in the last few years. People who have been involved in some of the largest scams and financial scams, such as the asset protection scheme and the sales of RHPS and fixtures. Like the people who've been behind that or the cover up of such have then gone on to be the chairman and CEO of the FCA, and the governor of the Bank of England. It's the same people will have let all these things happen who then go into run the boards that decide to do nothing.'

**24. Have you ever complained officially about the FCA; if so to whom? What happened, and how do you feel about what happened? What feedback, if any, have you had about your**

## **complaint? How helpful was the feedback? How long has it taken for your complaint to be processed?**

All respondents answered this question. Two of the respondents said they saw no point in making an official complaint to the FCA. Another respondent has thought about it but not yet made a complaint. Four of the respondents contacted the Complaints Commissioner about the FCA. For two of these the Complaints Commissioner found the FCA at fault and recommended they issue a public apology - only one of the two received this. Some of the respondents had also contacted the Treasury Select Committee, the ICO (Information Commissioner's Office), the Government, their MPs and the police.

### **Sample comments:**

- **Martin Woods** ([p. 7 of 8](#)): 'Yes to the FCA. It was a white wash, which ignored inconvenient facts. I then went to the Ombudsman and he too ignored the facts in order to protect the false narrative and distorted position adopted by the FCA. I complained senior manager had fabricated allegations against me, invented a non-existent whistleblower and submitted a false whistleblowing report, challenging [sic] my integrity. The FCA described the actions as a relatively minor failing. Thus the FCA carried on supporting the FSA and causing further harm to me the whistleblower. There is a lack of integrity in the entire financial services regulatory system.'
- **George Patellis** ([p. 28 of 52](#)): 'I filed my first complaint to the FCA for their treatment of me in November 2015. They responded in May 2016. Their response was insufficient and full of excuses as I expected it would be. I escalated the complaint to the Complaints Commissioner. In November 2016 the Complaints Commissioner published his findings on my complaint. The Complaints Commissioner was highly critical of the FCA and recommended they issue me a public apology. The FCA refused and were summarily panned. However, things moved on and it was forgotten as per their strategy'
- **Paul Carlier** ([p. 39 of 99](#)): 'I did escalate my concerns as to the FCA's December 2016 complaint response to the Complaints Commissioner. The CC [Complaints Commissioner] produced an outcome in 2018 that denied my complaint and upheld the FCA's positions, and claiming that the CC had reviewed all of the evidence and documents even the confidential ones that I was not entitled to see. Obviously, the evidence I now have proves that this FCA complaint response was entirely dishonest which, in turn, raises serious concerns as to the CC response in 2018 that upheld these dishonest FCA findings...The longest I have had to wait for an FCA complaint response has been two years and three months.'
- **Steve Middleton** ([p. 8 of 10](#)): 'Yes, on several occasions, I brought an official complaint against was Andrew Bayley who debated this with where Mark Wright had been named, over a market abuse allegation as a whistle-blower. We believed that based on an email that had been released under a DSAR, Data Subject Access Request. And the FCA were adamant that they hadn't

named him in this email, but confirmed they had named him on a previous occasion. This was when he was whistleblowing a market abuse statement at RBS back from 2008. For five years he tried to expose this, and the bank consistently denied the fact that the statement had been made but clearly it had been hidden. When they then confirmed the FCA had named him- so at the time when they thought he was still working at RBS- they named him and his allegations direct to the bank following his MPs questions. They stated they wanted to find out what was happening and then suggested there was nothing wrong with them doing it. So, we confirmed the rules stated because if somebody comes to you that name themselves personally, you should keep them anonymous unless you've agreed with them otherwise. Then they argued with us for a year literally a year on this, but in the end, the Complaints Commissioner decided against the FCA and said that we were correct...

'...we've made further complaints because we found out that they misled Mark and Sir Norman Lamb his MP and told him that they said the market abuse statement didn't exist. They stated that they had asked RBS and RBS stated it doesn't exist and they looked for it but they can't find it and then Mark did a DSAR to the Complaints Commissioner while we're having this whole whistleblowing argument and in there, he got emails back saying the FCA had found the statement Mark Wright referred to and it would seem to back up what he said. And so, we over a year and a half repeated that they had misled Mark and Sir Norman, and they wouldn't meet with us and wouldn't discuss it and kept saying it had been dealt with. We complained at the time when we'd only just found these emails. And then when we put a formal complaint in to say that they misbehaved they then turned around said that well you're out of time because you should have brought a complaint within 12 months but we had raised this in like 11 emails and contacts where we'd brought it up. So, then they cannot be trusted at all when it comes to their behaviour and complaints processes.'

## **25. Overall, what have been the consequences to you (and if relevant to your family) as a result of what has happened?**

All respondents answered this question. One of the respondents said there have been no consequences as a result of their whistleblowing. Another said that the consequences have been positive because even though they earn less now, they have retained their integrity and credibility. The rest of the respondents reported it having a damaging effect on their finances, career, family life, mental and physical health. Two respondents reported feeling suicidal.

### **Sample comments:**

- **Maribel Montero** ([p. 6 of 7](#)): 'I have lost nearly everything and been suicidal.'
- **Sean Sheridan** ([p. 4 of 5](#)): '...Had I known at the outset the inaction and inability to investigate a legitimate claim of whistleblowing my life would

have been significantly better in so many ways. It was I who made the mistake in thinking that the FCA would provide protection.'

- **Christopher Riley** ([p. 8 of 21](#)): 'I feel completely aggrieved. My health has deteriorated and I am in no doubt my former colleagues and employers are actively shunning me adding to financial hardship.'
- **Martin Woods** ([p. 7 of 8](#)): 'Positive, because I made it that way. I earn less money, but I have retained my integrity and credibility, they are priceless. I am proud of what I did, I would do it aging, [sic] but few firms in financial services will allow me to do so.'
- **George Patellis** ([p. 30 of 52](#)): 'The FCA's actions have caused irreparable damage to my reputation, my financial situation, my family, and my ability to secure a job at the level I enjoyed before I blew the whistle. I received multiple death threats. The impact of the FCA's actions flowed throughout my entire family. My children were harassed on social media and someone even phoned my daughter on her mobile while she was at school, striking fear in her and my wife. My wife and my children had friends who read the scores of false press about me (the FCA knew the stories were false) and would question them about it. It was highly embarrassing for my wife and children. My children were ridiculed and lost friends. In my case, after 10 years, I'm still in counselling and on medication. I have not come close to securing a job at the level I previously worked. In fact, it took me over 3 years to even find a job. We had to sell our house and move in with my in-laws. Obviously, the financial impact and the damage to my reputation can only be described as devastating. The FCA is directly responsible for the troubles that befell me and my family. Financially devastating – no income for 3 years immediately after meeting with the FSA in March 2011, substantial legal costs defending myself against multiple falsehoods made by Tiuta and Connaught, I was forced to sell my house. I encountered serious health problems which led to multiple stays in hospital.'
- **Paul Carlier** ([p. 42 of 99](#)): 'I have two sons with ASD (Autistic Spectrum disorder). LBG [Lloyds Banking Group] and the FCA knew this. Anyone who knows the slightest things about ASD knows that disruption and stress cause responses that are amplified as a result of the condition. They are also the very definition of vulnerable persons, and as you will know the FCA codes have very strict obligations for dealing with vulnerable persons. LBG and the FCA paid no regard to this when acting dishonestly and subjecting me to what they have done.'
- **Steve Middleton** ([p. 8 of 10](#)): 'We went through a very stressful time at the time. That's a very stressful couple of years and very difficult ones and you know for myself, I found that having lost your licence or having to give up the licence in the way that I did having done nothing wrong. Giving advice for so many years and not having any issues with the advice I've given my customers and even in the credit crunch with all the rest of it without people losing money, or having had them in bad investments. So, you only would

have to ask any member of my family about distress that the FCA caused, or mention the FCA in or around any of my family to know what kind of feedback you might get'

- **Daniel Sheard** ([p. 12 of 15](#)): 'Whistleblowing has been a disaster. I have lost my job and my City career is ended.

'What should have been the peak of my career- aged 50 to 55- both financially and in terms of ending my career with a positive outcome, handing over a vibrant business to the next generation, has instead been a high-stress period during which I incurred significant personal legal expenses.

'I have lost the friendship and respect of many colleagues and clients, in part due to a false narrative (promulgated by persons unknown) that painted me as motivated by jealousy (eg:

<https://www.abcmoney.co.uk/2020/03/15/when-is-a-whistleblower-not-the-hero-but-the-villain/>, originally published on the [www.zerohedge.com](http://www.zerohedge.com) website but subsequently removed).

'My personal grief and anguish has been exacerbated by the failure of the FCA to take any action on the serious criminal misconduct, choosing instead after a long period of delay merely to sanction those involved for minor regulatory failings.

'To add insult to injury, the FCA even applied a discount to both financial penalties for "cooperation" but failed to order any redress for clients who suffered as a result of the abuses.'

## **26. What would be your advice to somebody thinking about blowing the whistle to the FCA on a matter to do with misconduct in the financial services sector?**

All respondents answered this question. Seven of the respondents advised against blowing the whistle to the FCA. Two of the respondents said they would only recommend it if you stay anonymous. Another advised to seek legal advice before blowing the whistle, and make sure your employer confirms that disclosures are protected, then escalate to your MP, a Committee or APPG first.

### **Sample comments:**

- **Respondent E1** ([p. 12 of 15](#)): 'Only do it without disclosing your name. Be ready to defend yourself against the attack you will face if found out by the organisation and their solicitors or law enforcement accusing you harassment or stealing company information such as examples of police failings and their own prejudices... Overall the risk is too great to take and protection offered is very poor compared to what you'll end up losing...

'...be very careful as to which solicitors you use, the wrong ones or those that lack experience, knowledge, professionalism, competence or are not tough enough to fed [sic] off attacks on the person making disclosures will end up as a financial and reputational disaster for the informing party...

'Unless you have very deep pockets and don't need to work for a wage, then overall opinion is that being the one who informs will only hurt you in the long run, especially if the press/media including social media cover any part of the situation you end up in even if it's not your doing. The FCA is not going to watch your back or care how you end up paying your bills or if you can't pay them. Don't expect them to help you, it has been said to me that they believe the firm and not the person making disclosures and this has come from the mouth of an employee of the FSA. Take this as a warning you are really up against it if you think the FCA will care or do anything. I have proven they won't.'

- **Nicholas Wilson** ([p. 8 of 9](#)): 'You will be fought all the way by the establishment and will never work in financial services against. They will always win.'
- **George Patellis** ([p. 30 of 52](#)): 'My advice to a would-be whistleblower to the FCA is they need to be supremely confident that their allegations are provable and ideally backed up with evidence. Without that, there is no point...

'If a would-be whistleblower determined they had sufficient evidence to support their allegations then I feel they should do the right thing and discharge their professional and or moral obligations and report their findings. This advice comes with a caveat. The would-be whistleblower should do the absolute minimum when they report their findings. They should expect the FCA to take no action and they should let it go and do nothing else. They should be confident they discharged their duties and leave it at that.'

- **Daniel Sheard** ([p. 13 of 15](#)): 'As a Justice of the Peace (I sit as a magistrate on the Lincolnshire adult criminal bench) it distresses me to say that my advice would probably be not to blow the whistle to the FCA.'

'As regards the regulation of Investment Management companies, the area in which I have personal experience, I would describe the FCA as a FAKE REGULATOR.'

'What I mean is that in my opinion the FCA sees its role as protecting the sector to the benefit of UK employment and taxation, with protecting client interests a very much a secondary priority. '

## **27. If you could change three things about the FCA, what would they be?**

All respondents answered this question. Some of the suggestions from the respondents include: ensuring the organisation is accountable to the general public, ban the revolving door, stop collusion with banks, reform from the top, train staff properly.

### **Sample comments:**



- **Maribel Montero** ([p. 6 of 7](#)): 'It needs to be run by consumers for consumers with unlimited powers to hold offenders accountable.'
- **Christopher Riley** ([p. 8 of 21](#)): '1. FCA should be an actual regulator. 2.The FCA should be independent. 3. The FCA should change its culture of cosyng up to the entities it regulates.'
- **Nicholas Wilson** ([p. 8 of 9](#)): 'They should not be funded by the banks, there should be laws about the revolving doors and they should be less secretive.'
- **George Patellis** ([p. 31 of 52](#)): '1. If a serious issue is brought to the Regulator's attention, they should not use excuses for their inaction such as, the firm had minimal regulated business, the Regulator is not the prosecutor of fraud or we put a notice on o91ur website. Instead, use some common sense and do the right thing.  
2. Don't authorise firms blindly and understand that firms covet an FCA authorisation due to its halo effect.  
3. Stop using semantics or technicalities for your failures. If someone gives you evidence that shows financial misconduct, just do the morally acceptable thing. Stop using ridiculous excuses for serious issues to cover your failures. When a mistake is made, admit it, deal with the consequences and move on.'
- **Paul Carlier** ([p. 42 of 99](#)): 'I do not believe change is possible and is not a solution. The organisation is infected throughout with historic incompetence, conflict and/or dishonesty that will only continue to adversely and dishonestly shape it's future and its future actions. When the infection is so bad, amputation or transplant is the only solution. Only a new body built from the ground up can make a difference and with entirely different fabric and equal representation within it from business and consumer sides. It is not terribly difficult to do, albeit it would be made to appear so.'
- **Daniel Sheard** ([p. 13 of 15](#)): '...I would propose that the FCA require companies to make independent funding, either via D&O insurance or a similar mechanism, available to all whistleblowers.  
  
'At a general level, I believe that the FCA should interview all whistleblowers within a much shorter period (say within 2 weeks), and the overriding objective should be that of protecting investors and preventing crime. The FCA needs to end its policy of protecting tax receipts at the expense of investors.  
  
'There should be a much greater level of personal responsibility and accountability of individuals: merely imposing fines on companies simply passes the costs on the shareholders. The FCA has the powers and the tools, but chooses not to use them.'

## 28. What positives are there about the FCA that you would like to comment on?

11 of the respondents have answered this question. Six of the respondents had nothing positive to say about the FCA. Two of the respondents said they believed there are some good people working there, and one noted that they responded promptly to a FOI request.

**Sample Comments:**

- **Concerned Insider** ([p. 7 of 8](#)): ' [Andrew Bailey] took the time to engage with us and personally respond to our emails.'
- **George Patellis** ([p. 31 of 52](#)): 'I can't think of a single positive about the FCA in my dealings with them. In fact, I can say with a clear conscience that each and every time the FCA had an opportunity to do the right thing they never did.'
- **Daniel Sheard** ([p. 14 of 15](#)): 'The FCA responded to a Freedom of Information Act request for data in a timely manner, although from their latest annual report this seems to have been uncharacteristic: only 63% of FOIA requests had been met within the legally required period.'

**29. What do you think about the possibility of conflict of interest issues at the FCA?**

All respondents answered this question. 10 of the respondents said there is a possibility of conflict of interest issues at the FCA; one respondent said they weren't sure.

**Sample comments:**

- **Christopher Riley** ([p. 8 of 21](#)): 'Conflict of Interest is inevitable which is why the FCA should make its dealings far more transparent than it has to date.'
- **Martin Woods** ([p. 7 of 8](#)): 'There are far too many and they are not appropriately managed. BUT – what are the interest of the FCA? I sense their primary interest is their own reputation. Secondly it is the protection of big firms who pay big fees. The public rank a long way down the priority list and below them are whistleblowers.'
- **Nicholas Wilson** ([p. 8 of 9](#)): 'Conflict of interests arise as long as the revolving door is open.'

**30. Do you believe there should be spot checks by the FCA on regulated and/or unregulated entities, perhaps similar to the spot-checks by VAT inspectors?**

All respondents answered this question. Eight of the respondents said yes, they believe there should be spot checks by the FCA. One of the respondents said they understand this does happen. Two of the respondents thought it was pointless, futile, a waste of time.

**Sample comments:**

- **Concerned Insider** ([p. 7 of 8](#)): 'My understanding is that this can and does happen, the FCA can turn up at a firm's office at any point and demand access to records.'
- **Christopher Riley** ([p. 8 of 21](#)): 'The mere fact that an organisation may be subject to an inspection at any time will have a radical improvement to the outcomes.'
- **George Patellis** ([p. 33 of 52](#)): 'Yes, but there need to be repercussions if during a spot check issues are uncovered. I think spot checks of businesses that undertake regulated and unregulated activities where the amount of regulated activity is less than 30% of the firm's total business should be targeted. And the unregulated activities should be checked vigorously.'

**31. The FCA is undertaking a Transformation Project. Do you have any comments to make about that?**

14 of the respondents answered this question. Two of the respondents believed it was a waste of time, a PR-stunt and a smokescreen. Another respondent said they do not feel optimistic about the FCA's Transformation Project.

**Sample comments:**

- **Respondent E1** ([p. 14 of 15](#)): 'The transformation project will end up being a total waste of tax payers money, enrich outside consultants. It will be a PR exercise to cloud the reality of a failed organisation.'
- **Martin Woods** ([p. 7 of 8](#)): 'This is an opportunity to change. A transformation project proposes the status quo is not working – we are agreed upon that. Thus, what next? What is the purpose of the FCA? What do the public want/expect? What do member firms and in particular, BIG banks want? Who is the priority? The big change needs to be accountability? The FCA needs to be judged , measured, assessed and where necessary criticised. The FCA needs to be responsive and change'
- **George Patellis** ([p. 33 of 52](#)): 'I think we've heard about a new and improved Regulator for years and they are still the same. I will say that I'm not optimistic that we'll see any noticeable changes. Clearly, I hope it's successful and they make meaningful changes. As I mentioned previously, a lot of what's wrong with the Regulator, do not require significant change.'
- **Paul Carlier** ([p. 56 of 99](#)): 'My case against the FCA spans seven years now, and traverses multiple alleged improvements, new rules, new regimes etc. and yet NOTHING has changed. And nor will it change. The conflicts, dishonesty and failures of the past will always be present and dictate the future actions. Only an entirely new body will suffice.'

### 32. Are there any other comments that you would like to make?

10 of the respondents had further comments to make. Paul Carlier has included appendices for the evidence supporting the statements made in his submission, [see pages 56-91](#). George Patellis has included further evidence with regards to his case, [see pages 33-52](#).

#### Sample comments:

- **Respondent E1** ([p. 15 of 15](#)): 'My situation proves that the failings are so deep rooted in the conflicts, greed, incompetence and turning a blind eye. The system is a failure and only by the will of the people who vote for law makers can this be changed. There needs to be a deep dive exercise into activities of compliance consultants, management consultants, and audit firms as well. All are interconnected to ensure they make as much money as they can in the financial services industry. Not to leave out the legal firms as well. Last point it does not matter how many people work in compliance nor do compliance work will make an ounce of difference, most compliance people will not inform on their firms, which especially leaves investors, borrowers, depositors and overall purchasers of financial services and products on their own. Most compliance people and this area has grown enormously over the last 25 years are mostly box ticking individuals looking after their own pockets and careers. The compliance industry has become a money-making machine for most involved. Learning to read a rulebook does not make you a good compliance officer and I will say apart from a few they will only protect their firms not the customers or markets or other market participants who get ripped off or are defrauded etc. No one is going to hire a compliance officer who goes to the authorities. It makes a mockery of compliance.'
- **Christopher Riley** ([p. 19 of 21](#)): 'I feel it is an opportune time to make you aware that in the course of my whistle blowing complaint, both the Employment and Appeal Tribunals gave consideration to the "Principles for Business", which are the 'High Level Standards' in the FCA's hand book. A brief extract of the FCA's handbook regarding the Principles [[see extract here p.19-20](#)]...

'Importantly, the Tribunals view was that these "Principles" could not be construed as legal obligations. I'd draw attention that for any whistle blowing complaint to succeed the concern raised must be a "legal obligation". The upshoot being (as in my case) it would cast into doubt whether any future whistle blower would succeed if he/she's concern entailed a breach of any of the Principles of Business. You might be interested to learn that I specifically raised the issue whether a breach of a Principle of Business could be raised as a whistle blowing complaint with the FCA, who responded that it could. This is clearly at odds with my experience.'

- **Martin Woods** ([p. 8 of 8](#)): 'The FCA is the body it is, by design, not by accident. Some powerful groups like it that way, albeit, they are wrong.'
  
- **George Patellis** ([p. 33 of 52](#)): '...To the uninformed or even the reasonably informed, Raj's Parker's investigation into the Regulator's role in collapse of the Fund, as detailed in his published review, would appear to be a stinging indictment of the Regulator. However, to the informed, it's an exoneration. Mr Parker's review was full of qualified language and whenever he came close to criticising the Regulator, he would offer an excuse for them. Mr. Parker failed to thoroughly investigate key questions in the Terms of Reference and reached conclusions that were not supported by the facts. Furthermore, he inexplicably ignored critical evidence that would have shown the depths of the FSA/FCA's failings. He praised the Regulator for being much improved since the collapse of the Fund and said the issues that led to the Regulator's failings were a thing of the past. It's simply not possible to reach this conclusion based on the facts. Mr Parker shamelessly is now a senior legal advisor to the FCA. The Regulator believes Mr Parker's review and their response to it closes the issue. That's not the case. Through Data Subject Access Requests (DSAR) and requests through the Freedom of Information Act (FOIA) new and previously undisclosed information is coming to light that shows even more failures by the Regulator and it shows they will stop at nothing to cover up. What becomes apparent immediately is this 'new' information was not mentioned in Raj Parker's review nor was it mentioned in the Complaints Commissioner's decision on my complaint in November 2016. This can only mean one of two things, the FCA hid it from the Complaints Commissioner or the Complaints Commissioner had it and excluded it from his report. Either way, it was excluded. It's not only historic issues that are coming to light. There have been several serious and deceitful actions by the Regulator and Mr Parker that have occurred since the start of Mr Parker's review and after its publication.'
  
- **Daniel Sheard** ([p. 14 of 15](#)): 'The practice of delegating the investigation to the firm under investigation needs to end. It is wholly unacceptable and undermines the notion of the FCA as an enforcement agency.  
  
'Investigations should be independent and thorough- to PACE standards and with an adequate degree of professional scepticism.  
  
'Citing 'lack of resources' simply doesn't wash, as the FCA determines the industry levy.  
  
'I have been informed – from an analysis of the meta-data of original FCA documents – that the FCA allowed GAM and Mr Tim Haywood (the subjects of investigations) to edit the Final Notice prior to publication. This is wholly unacceptable and undermines the notion of the FCA as an enforcement agency.'

## QUESTION SET F: Other stakeholders

### Responses

We received **34** responses from other stakeholders of which **31** have consented to publication. They are:

- [Abhishek Sachdev](#)
- [Adam Nettleship](#)
- [Al Rush](#)
- [Andrew Kaye](#)
- [Andy Keats](#)
- [Anthony Stansfeld](#)
- [Daniel Cloake](#)
- [The Federation of Small Businesses](#)
- [David Booth](#)
- [Debt Hacker](#)
- [Eliot Maddison](#)
- [Ian Fraser](#)
- [Ian Tyler](#)
- [John Rawicz-Szczerbo](#)
- [Karen Malin](#)
- [Ken Davy](#)
- [Mark Learmont](#)
- [Matthew Connolly](#)
- [Peter O'Donnell](#)
- [Philip Meadowcroft](#)
- [Professor Nigel Harper](#)
- [Richard Emery](#)
- [Robert Lockie](#)
- [Robert Sinclair \(on behalf of the Association of Mortgage Intermediaries\)](#)
- [Rupert Nathan](#)
- [Tom Hayes](#)
- [Tom Winnifrith](#)

The following wish their identity and testimony to be kept confidential to the public:

- [Respondent F4](#)
- [Respondent F14](#)
- [Respondent F15](#)
- [Respondent F18](#)

The following have provided a video testimony in addition to their written submission:

- Abhishek Sachdev - [click here](#) to watch
- Al Rush - [click here](#) to watch
- Andrew Kaye - [click here](#) to watch
- Andy Keats - [click here](#) to watch

- Anthony Stansfeld - [click here](#) to watch
- Debt Hacker - [click here](#) to watch
- John Rawicz-Szczerbo - [click here](#) to watch
- Ken Davy - [click here](#) to watch
- Mark Learmont - [click here](#) to watch
- Peter O'Donnell - [click here](#) to watch
- Professor Nigel Harper - [click here](#) to watch
- Richard Emery - [click here](#) to watch
- Robert Sinclair - [click here](#) to watch
- Rupert Nathan - [click here](#) to watch
- Tom Winnifrith - [click here](#) to watch

### **Key findings**

- The respondents are a mixture of people who have professional dealings with the FCA (such as regulated individuals or those who own or work for a regulated business); journalists; individuals who have made a complaint to or about the FCA; and those who have a connection to the financial services sector in some capacity.
- More than half of the respondents experienced the FCA being reluctant to give clear answers to questions. Some of the difficulties or shortcomings in dealing with the FCA have been about the lack of communication and slow turnaround times, and a few of the respondents also felt that the contact centre/help desk staff lacked the correct knowledge and experience to answer their questions.
- When asked if they believe there should be spot-checks by the FCA on regulated and/or unregulated entities, many of the respondents agreed that there should be.
- 13 of the respondents have complained officially about the FCA. Five of the respondents are IFA's who have complained about the FCA's handling of the Connaught Income Fund. Other reasons for making a complaint include the FCA's failure to oversee the Financial Ombudsman's Service, timescales of processing business applications, and failure to investigate.
- When asked about three things that they would change about the FCA, many of the respondents mentioned that they would like to see greater transparency and accountability at the FCA, end the revolving door, improve staff training and faster response to reports of wrongdoing.
- Whilst many of the respondents felt the FCA's Transformation Project is well overdue, there was also a lot of scepticism about it in their responses. A few of the respondents even deemed it pointless.

### **Summaries on each question**

1. Please tell us about yourself and outline, just briefly to begin with, how you came to interact with the Financial Conduct Authority?



32 respondents have answered this question. Among the respondents several are regulated individuals, own or work for regulated businesses or have professional dealings with the FCA. Two of the respondents are journalists - one is a financial journalist and the other investigates fraud. Another respondent is a former Police and Crime Commissioner who worked on fraud cases. Four of the respondents mention the Connaught Income Fund Series as their reason for contacting the FCA.

### Sample comments:

- **Adam Nettleship** ([p. 3 of 6](#)): 'I made an official complaint to the FCA about their handling of the Connaught Income Fund. My complaint was rejected out of hand on a number of spurious technical grounds. I then took the matter up with the complaints commissioner.'
- **David Booth** ([p. 1 of 5](#)): 'I am a Chartered Financial Planner and Director of HKA FS Limited an independent advisory firm that is Authorised and Regulated by the FCA. Following the disaster and failure of the Connaught Income Fund – Series 1, the FCA diverted all blame towards IFA firms for any individuals who complained and ultimately took their complaint to the Financial Ombudsman Service. It appeared to me that the FCA and FOS were working in tandem to dodge any wrongdoing within their organisations and using IFA firms as their scapegoat, many of which went out of business or spend thousands of £s paying client compensation – in my case hundreds of thousands. I personally held an investment in the fund. All clients were paid back any loss of investment by way of the Capita redress payment however due to my occupation being an IFA I was excluded from receiving any redress. To this day I do not know who made the decision not to pay redress to IFAs and why IFAs had been excluded. The failure of the fund had nothing to do with me or other IFAs with more blame being at the hands of the FSA / FCA who had prior knowledge of the fund having problems and shortcomings. If the FSA had taken action at that time, none of my clients would have been able to invest in the fund which in turn, would have avoided the following eight years of stress, illness and personal financial loss that occurred.'
- **Respondent F4** ([p. 3 of 6](#)): 'I am a regulated individual running a small business under the supervision of the FCA.'
- **Eliot Maddison** ([p. 4 of 6](#)): 'Promethean Finance Limited is authorised by the FCA for Debt counselling on a commercial basis, debt adjusting and credit broking under reference number 662425, we have been authorised since June 2016'
- **Ian Fraser** ([p. 2 of 4](#)): 'I am a freelance journalist who writes about banks, banking, finance, regulation and white collar crime, and have therefore frequently referred to the activities of both the FSA and FCA in articles, blog posts, in broadcasts, and in my book Shredded: Inside RBS The Bank That

Broke Britain'

- **Ian Tyler** ([p. 3 of 7](#)): 'My background is as a bank treasurer for a number of major UK banks and I then subsequently provided consultancy services on treasury and prudential risk matters to a wide range of financial services firms'
- **Karen Malin** ([p. 2 of 6](#)): 'I am a financial services compliance consultant supporting regulated intermediary firm [sic]; primarily financial advisory firms, mortgage brokers and insurance brokers who are regulated by the FCA directly. I frequently assist with the completion of new authorisation applications, regulatory reporting and compliance with regulatory rules. I often have dialogue with the FCA or interact with their services and systems.'
- **Matthew Connolly** ([p. 4 of 7](#)): 'Deutsche Bank desk head. Libor defendant in FCA's Libor investigation'
- **Philip Meadowcroft** ([p. 3 of 7](#)): 'I am both a private investor and, for more than twenty years, Chairman of the Trustees of (my family-owned) Brandmasters Ltd Executive Pensions Scheme – a Small Self Administered Scheme (SASS).'
- **Robert Lockie** ([p. 3 of 7](#)): 'I am a financial planner who has been practising since 1987 at several regulated businesses, including my current one since 2001. It operates as a branch of a regulated business so I do not normally have need to be in contact with the FCA as such matters are handled by others in the business. However, in 2019 I was contacted by a friend who had been asked to be an expert witness in a case being pursued by the regulator. He was unavailable at the time of the anticipated court dates so when he was asked if he knew of anyone else who might be suitable for such work, he suggested me.'
- **Respondent F14** ([p. 3 of 7](#)): 'I complained to the FCA following a complaint against a bank raised with the Financial Ombudsman Service (FOS) and the Independent Assessor at the FOS. The FOS Ombudsman making the decision in my case did not refer to any of the relevant law, industry guidelines, or best practice as they are required to do, and reached a completely different conclusion in my case than in others of a very similar nature. The decision also contained factual inaccuracies which, in defiance of requirements under the General Data Protection Regulation (GDPR), around the right to rectification, the FOS have refused to correct. My complaint to the FCA highlighted what I believe to be systemic failings in the FCA's oversight of the FOS. These oversight failures are resulting in biased and unfair decisions by the FOS because it is not adhering to the FCA's rules including the Consumer Credit sourcebook ('the CONC rules'), the Dispute Resolution: Complaints sourcebook ('the DISP rules'), and data protection law. After the final response from the FCA I raised my complaint with the Financial Regulators Complaints Commissioner (FRCC). My complaint has now, after a

delay of more than a year and a half, been allocated to an alternative Complaints Commissioner for review, as the new Complaints Commissioner, previously the Independent Assessor at the FOS, immediately found herself conflicted as she started her new role.'

- **Respondent F15** ([p. 4 of 6](#)): 'I worked with the FCA in an advisory capacity over a number of years.'
- **Tom Hayes** ([p. 4 of 6](#)): 'I was regulated by the then FSA from 2001 to 2006 as an approved person working for banks trading interest rate derivatives. My next interaction with them was in 2012 when the now FCA asked to question me about behaviour that took place in Japan post 2006. At that point I was regulated by the JFSA who had decided no regulatory breach had occurred in relation to my conduct. I still do not understand why the FCA felt they had the necessary nexus to my behaviour whilst entirely overseas and overseen by my local regulatory body. I can only assume that they felt as a British Citizen this gave them the right to seek to sanction me for something which my own local regulatory body had not seen fit to do. I am also concerned that I was offered up as a sacrificial lamb by my former employer bank UBS to prosecutors and regulators globally to ameliorate their sanctions and fines. At no stage did my former employer UBS seek to interview in relation to these matters instead merely presenting me as some sort of bargaining chip in their negotiations with said bodies globally. After my conviction for "rigging" the Libor rate (something which is no longer criminal in any other jurisdiction outside of the UK) the FCA sought to issue me with a lifetime ban. I fought this arguing my case was sub judice as it was currently being considered by the CCRC [Criminal Cases Review Commission]. After appealing to the Upper Tribunal the ban was stayed pending the decision from the CCRC.'
- **Respondent F18** ([p. 4 of 6](#)): '[We] have been business partners since 1992. We are both financial advisers of long standing and as such have been regulated since 1987 when regulation first came into force for financial services in the UK.'
- **Professor Nigel Harper** ([p. 4 of 8](#)): 'I was employed by HMRC as their sole Retail Banking Specialist for Large Business Tax from 2009-2016 when I retired.'
- **Tom Winnifrith** ([p. 3 of 5](#)): 'I started with the FSA. Same people. Still useless. I am a journalist investigating fraud. I alert the FCA to frauds where it is meant to be the regulator'
- **Abhishek Sachdev** ([p. 3 of 6](#)): 'I contacted the FSA contact centre in 2011 to alert them about potential mis-selling of derivatives. They ignored this. I then contacted an ex-school friend of mine journalist (Matt Warman of The Telegraph) who referred to Harry Wilson his banking colleague. Harry met me in Dec 2011 and agreed to start a campaign in the Telegraph about the poor treatment of SMEs by banks with respect to derivatives. Then, in March

2012 the FSA contacted me and asked me and a colleague to advise them on this (we were paid a modest fee for this). This led to the creation of the IRHP Review – the FCA acknowledged to me it was the Telegraph coverage (which I had instigated) that led to them investigating the sale of derivatives to SMEs.'

- **Andrew Kaye** ([p. 4 of 6](#)): 'We are Europe's leading escrow service, and accordingly FCA authorised and regulated as a Payment Service Provider, so that we can remit payment. Escrow is the only payment method that fully protects both a payer and a payee simultaneously. Escrow is a must have for online marketplaces, to ensure that their buyers obtain everything they were promised by the seller, whilst simultaneously ensuring that their sellers are paid 100%. Use of escrow eliminates fraud and problems. The Payment Services Regulations 2017 introduced into law from early 2018 the requirement for virtually all online marketplaces to register with the FCA as Payment Services Providers (Money Remitters), as the online marketplaces received payment from the sellers and passed these client-money payments on to the buyers. The new law also mandated the FCA to ensure that online marketplaces were not handling payment whilst FCA-unregistered. Only a very few online marketplaces were exempt from the new law, either because they did not handle payment (such as AutoTrader), or because they were the subject of an exclusion (the Commercial Agent Exclusion or CAE), but the CAE is very narrow and in reality applies to hardly any online marketplace. The FCA's own research showed that hundreds of online marketplaces as a minimum should be captured under the new law and require FCA registration. However, after the law came into force, the FCA registered almost no online marketplaces, and continues to look the other way whilst these firms handled and still continue to handle payment whilst unregistered with the FCA in breach of the law.'
- **Rupert Nathan** ([p. 1 of 5](#)): 'In mid-2016 I was very surprised, having worked in the financial markets for more than 30 years with an unblemished record, to be summoned to a Significant Influence Function (SIF) interview after an application was made by my new employer, Goldenway Global Investments, for approval to perform Controlled Functions the FCA had previously approved on at least two occasions previously. The FCA claimed on several occasions the interview was "routine", and there was no other reason. But I was to learn much later, including from sources within the FCA this was untrue. The real reason was my previous employer, Fortrade, had made some malicious allegations about me to the FCA. This came as no surprise as I had serious concerns over the honesty and integrity of the new Fortrade CEO appointed in April 2015 following the hasty removal of his predecessor. Our working relationship was problematic, which led to my departure in May 2016. The FCA has never brought these accusations to my attention nor offered the opportunity to respond. Even more strangely, the FCA did not even bother to seek my assistance with their investigation, and after Fortrade finally "lawyered up" they backed off. Apparently no action was taken, other than my being used as a convenient scapegoat for them both...

'Last year (2021) I submitted Freedom of Information and GDPR requests to both the FCA and Fortrade, in an effort to discover the truth. With the assistance of my MP, the FCA reluctantly released some heavily redacted documents, whereas Fortrade initially ignored the request and even denied any discussion with the FCA – something FCA documents clearly contradict..'

- **Andy Keats** ([p. 4 of 12](#)): 'In 2015 the SME Alliance collated evidence of eight different ways in which RBS/NatWest manipulated/falsified/misrepresented/invented/forged customer records, telephone call transcripts and correspondence to provide the bank, FOS, the IRHP Review and the courts with a false narrative and false evidence to support the false narrative. We put the evidence into a series of eight CASE STUDIES and arranged a meeting on 23/09/2015 with the FCA's Head of Banking Supervision Karina McTeague. Afraid that the FCA had a habit of ignoring such complaints, at the meeting we covertly videoed what was said.'
- **Ken Davy** ([p. 3 of 8](#)): 'I have spent many years in financial services and been involved at every level of financial services distribution, as well as involvement in product design etc. This included 30 complaint free years as an independent financial adviser. I believe passionately in the value that good financial advice provides for consumers by helping them accumulate savings and protect their families. Throughout my career, which included a period on the Board of the Personal Investment Authority, I have been dedicated to raising the standards of advice. My fundamental belief is that clients should understand: What they are buying, Why they are buying it, What it is costing, and Who they are buying from. I am an Hon Fellow of the CII [Chartered Insurance Institute] and former President of the Life Insurance Association and have served on numerous industry bodies and regulatory groups. Along the way I have received countless accolades, including several "outstanding contribution to financial services" awards. I am presently Chairman of Fintel PLC which provides compliance support, technology and other services to over 3,000 independent financial advice practices across the UK. All of these firms are directly regulated by the FCA. We therefore have extensive interaction with the FCA, assisting firms to become directly authorised and supporting them throughout their business lives, especially in any dealings with the FCA.'
- **Mark Learmont** ([p. 3 of 12](#)): 'I became involved with the Connaught problem at the first meeting of investors and IFAs which was held at the motorcycle museum in Birmingham in 2012. I had recommended a number of clients to enter into this investment on the basis of the information memorandum that had been issued by capita.'
- **Peter O'Donnell** ([p. 3 of 7](#)): 'I was a victim of investment fraud in 2002 when a good friend of mine introduced me to an investment opportunity with a firm of chartered accountants in Leicester known as Dobb White. He then introduced me to a bank manager from a high street bank based in Scotland, who recommended the investment and how to raise funds through an

equity release interest only mortgage with him. He arranged borrowing through a broker in Northampton. My wife and I discussed it and decided to go ahead. Two weeks after transferring the funds, an article in a London paper advised that the two partners in Dobb White had been arrested for operating a Ponzi scheme. It was later reported that they had stolen over £125m. Several years later, they received sentences of 7.5 years. The bank manager was not implicated and was immediately retired by the bank. From this experience I sought help and took legal action against the bank. I was not successful, but it did lead to the introduction of several professionals in the debt management and recovery field. From that I promoted claims for a law firm in Preston but joined what was to become a law firm, as an owner and director, specialising in helping victims of investment fraud.'

- **Richard Emery** ([p. 3 of 6](#)): 'I investigate bank fraud, most of which is APPFraud [Authorised Push Payment Fraud], and assist individual victims to challenge their banks and take their complaints to the Financial Ombudsman Service. I interact with the FCA on matters such as understanding various regulations (e.g. PSR2017 [The Payment Services Regulations 2017]), enquiring about FCA registrations, making complaints about banks and proposing enhancements to the regulatory environment that will reduce APPFraud.'
- **Anthony Stansfeld** ([p. 3 of 6](#)): 'For the last nearly nine years I have been the PCC of Thames Valley, one of the UK's largest police forces. For the last two years I lead for PCCs on fraud. Thames Valley Police (TVP) investigated the massive fraud perpetrated out of the Reading branch of HBOS, a fraud approaching £1Bn, though only £245m was used in the successful prosecution. I had numerous interactions with the FCA over this, especially as it became apparent similar frauds were going on in both Lloyds Bank and RBS.'
- **Robert Sinclair on behalf of AMI (Association of Mortgage Intermediaries)** ([p. 3 of 19](#)): '..AMI is the trade association representing over 80% of UK mortgage intermediaries. AFB sits within AMI and represents second charge (formerly secured loan) brokers. Intermediaries active in this market act on behalf of the consumer in selecting an appropriate lender and product to meet the individual consumer's mortgage requirements. AMI members also provide access to associated protection products. AFB members also provide access to unsecured products. Our members are authorised and regulated by the Financial Conduct Authority (FCA) to carry out mortgage, insurance mediation and consumer credit activities. Firms range from sole traders through to national firms and networks, with thousands of advisers. Since AMI's formation in 2004 we have interacted with the FSA and subsequently the FCA. We engage with the FCA on behalf of our members to represent the voice of the mortgage broker, with input into policy and influence over its direction.'
- **John Rawicz-Szczerbo** ([p. 7 of 52](#)): 'Graduate of Imperial College, London, in Electrical and Electronic Engineering 1985. Professional Financial Services



participant for 38 years. I engage with business owners , entrepreneurs and investors. My particular expertise and interest has been the relationship between taxation and investment...

'Ever since regulation began I have always had some touchpoint with the regulators and regulation : Firstly acting as a consultant for a number of regulated firms and lastly from 16th March 2004 to 5th December 2016 with my own directly regulated FSA / FCA regulated firm, LLP Services Limited. My company was forced to cease to trade on 15th September 2015 and was liquidated on 5th December 2016. The insolvency was entirely due to the following facts: 1. False and fraudulent misrepresentation by two non-resident tax exile clients who invested into the Connaught Income Fund 2. This coupled with a vacation of the Professional Indemnity market on claims made in respect of this fund, as it was recognised by all market participants at that point as an engine of fraud, and 3. The perverse and deliberate Financial Ombudsman Service decision is directed by Caroline Wayman, the then Chief Executive of this failing organisation . In Parliament she boasted she was not bound by FSA rules in this matter and would be finding against IFA firms 'whatever the circumstances' in the event of any complaints. I was instrumental in the establishment of the Connaught Income Regulatory Action Group (CIRAG) which was one of the initial stakeholders of the original Connaught Income Fund APPG, the forerunner to this APPG. It is a documented fact that the FSA / FCA have been involved in covering up their involvement and knowledge of exactly what was going on in respect of the conduct of this fund, in particular as demonstrated by the meaningless drivel issued by the FCA to palm off inquisitive Members of Parliament should they have the temerity to ask the FCA for factual and detailed information in respect of representing their constituents..."On 1st August 2012 I couriered a Principle 11 letter the FCA in respect of the Connaught fund detailing what we had worked out from the evidence in the public domain at that time, and I also started preparing files and information which my firm and its legal representative passed to Robert Wishart and Amanda Lowe of the City of London Police on 9th August 2012. I have enclosed a selection document in the appendix to my questionnaire which demonstrates exactly what was going on and known by whom during this relevant period. The FCA acted as fantasists and liars in this matter. This is crystal clear. Look at the dates carefully and who the correspondence was to and from..."In Summary, they destroyed my regulated business in the full knowledge of the true causes of loses. This impacted on me both economically and reputationally. The stress of this was a contributory fact on the breakdown of my marriage. The enforced closure of my business by the regulator has cost me many £ millions over the last 6 years. The consequential losses have been appalling. And all because the FCA and FOS were covering up the fact they were actively involved in the covering up theft of client money.'

- **Debt Hacker** ([p. 3 of 57](#)): '..Debt Hacker is a not-for-profit consumer campaigner focused on high cost credit providers of unaffordable loans... has campaigned successfully against abuse by high-cost credit providers;



over 20,000 complaints covering over £10m of claims... has assisted thousands of consumers to make claims against lenders, but unlike CMCs it is a not for profit and does not charge to assist with unaffordable loans complaints. Accordingly, the FCA has confirmed Debt Hacker's activities are not required to be licenced... Debt Hacker has drawn upon the expertise of retired solicitor Hock Chan who has over 25 years' experience practising financial services law with senior roles in financial institutions and private practice. Hock Chan has also been controller of a financial licence holder himself and a successful entrepreneur.

'In August 2020, Debt Hacker was alerted to certain FOS decisions about SafetyNet Credit where the actual cost of credit experienced by the customer was several times SafetyNet's advertised representative APR of 68.7%. In one FOS decision, a customer borrowed an average of £600 over 3 years but paid £3883.44 in interest, and unsurprisingly was unable to repay the £675 principal at the end. Debt Hacker estimates this to be equivalent to an APR of 942%.<sup>2</sup> Upon further investigation, which included liaison with both the FOS and the FCA, several red flags appeared and were reported to the FCA with assistance from Lord McNicol for urgent investigation and enforcement action. As Lord McNicol's correspondence had been passed by a FCA director to the FCA's enforcement teams, Debt Hacker expected the FCA to investigate and take appropriate action. However, no regulatory action has been apparent, and SafetyNet has since posted its best ever financial results.'

- **Daniel Cloake** ([p. 3 of 6](#)): 'I run a blog called 'Mouse In The Court' at [mouseincourt.co.uk](http://mouseincourt.co.uk). It's a court reporting blog which aims to cover cases which are niche and nuanced...

'One area which I seem to exclusively cover first hand is litigation surrounding the so-called peer-to-peer lending sector. Some of my blog posts on P2P have been collated here:

[https://mouseinthecourtroom.wordpress.com/p2p-litigation/...](https://mouseinthecourtroom.wordpress.com/p2p-litigation/)

'Peer-to-peer lending is a regulated activity. There has been widespread failures within P2P so the sort of litigation I cover is:

- Contractual disputes between parties within P2P agreements
- Directions sought by the Administrators of insolvent platforms
- Joinder applications where retail investors are potentially added to High Court disputes
- Disputes between Administrators and former directors over allegations of misconduct'

## 2. What is your interest in, or connection with, the FCA?

32 respondents have answered this question. 13 of the respondents have had professional dealings with the FCA in some capacity, either through their own regulated business or working with regulated firms. A few of the respondents have made complaints to the FCA.

### Sample comments:

- **Ian Fraser** ([p. 2 of 4](#)): 'In my role as a financial journalist and commentator, I am interested in how well or otherwise the FCA is performing its functions when it comes to policing financial markets, rooting out fraud and corruption and protecting consumers'
- **Ian Tyler** ([p. 4 of 7](#)): 'I am interested in the FCA as for most financial services firms it is their sole regulator and is thus tasked with both prudential and conduct related issues for a very wide range of financial services firms'
- **Respondent F14** ([p. 3 of 7](#)): 'I have no connection to the FCA other than through my complaint to them. I am interested in the outcome of my complaint to the FCA and the FRCC [Financial Regulators Complaints Commissioner] but also in the wider issue of regulatory failings associated with the FCA, FOS and Independent Assessor.'
- **Andy Keats** ([p. 4 of 12](#)): 'The FCA should be there to protect consumers (businesses) such as Members of the SME Alliance. We turned to the FCA after the Police, FOS and ICO all claimed that the evidence we had obtained should be considered by the Banking Regulator i.e. the FCA. The FCA said the exact opposite i.e. that the evidence we had obtained should be taken to the Police and the ICO and could not be investigated by the FCA which, apparently, is not empowered by Parliament to investigate crime...'
- **Ken Davy** ([p. 3 of 8](#)): 'I would like the firms that we serve and, in turn the many hundreds of thousands of consumers they serve, to benefit from a much more efficient and effective regulator. Unfortunately, too often the regulator is slow to act against reckless or criminal advice or high-risk products, whilst creating overly bureaucratic processes for the sector as a whole. This tarnishes the reputation of the sector, and creates significant liabilities on honest firms through the wholly inappropriate funding method of the Financial Services Compensation Scheme (FSCS).'
- **John Rawicz-Szczerbo** ([p. 8 of 52](#)): 'My interest and connection is to win full recompense for those who were deliberately scapegoated in the Connaught matter, and see those that committed criminal offenses [sic] to be dealt with appropriately under the law.'
- **Daniel Cloake** ([p. 3 of 6](#)): 'Some of the litigation I cover involves platforms which have failed and the court has been asked to consider correspondence between the platform and the FCA. I have also covered litigation involving companies which, in the view of the FCA, should have been regulated. This has resulted in the FCA taking enforcement action.'

### 3. Briefly describe the interactions you have personally had with the FCA

34 respondents have answered this question. The level of interaction with the FCA has been varied. Some of the respondents reported rare direct interaction, some have had regular interaction. The interactions have been complaints, tip offs, consultation feedback, regulatory reporting, and meetings with the FCA policy team or FCA press office.

#### Sample comments:

- **Adam Nettleship** ([p. 3 of 6](#)): 'I made an official complaint to the FCA about their handling of the Connaught Income Fund. My complaint was rejected out of hand on a number of spurious technical grounds. I then took the matter up with the complaint's commissioner. They completed a review and found in my favour in relation to all of my points. The FCA proposed an investigation as a resolution but only an in-house review. I contested this based on the objectivity of such a process and as a result an independent review was instead undertaken. Unfortunately this 'independent' review elected to narrow their enquiry to exclude key concerns and straight after it finished the lead individual was employed by the FCA. I have also on two separate occasions provided details to the FCA of suspected ponzi schemes. I heard nothing subsequently but have seen that one of these schemes has since collapsed, causing likely multi million pound losses to individual investors.'
- **Respondent F4** ([p. 3 of 6](#)): 'My interactions have been rather infrequent with the FCA but in recent years, the quality of my interactions as a small regulated firm have become somewhat frustrating.'
- **Respondent F14** ([p. 3 of 7](#)): 'My interactions with the FCA relate to my complaint to them regarding their failures in their oversight of the FOS. I have received very poor and unfair treatment from the FCA following complaints to the FOS and Independent assessor. The office of the CEO of the FOS wilfully misled me with regard to the actions of an Ombudsman, and when I complained about this, the Independent Assessor failed to investigate, claiming wrongly instead that this entirely new matter I had raised had already been addressed. It appears many of the criticisms levelled at the FOS in the Channel 4 Dispatches programme in 2018, including the bias shown towards financial institutions, so cases can be closed more easily, have worsened. From reviewing various online forums, it appears that showing bias towards financial institutions, not properly following law and then claiming a matter has already been addressed appears to be a very common tactic employed within FOS decisions to avoid properly dealing with complaints and complainants. The complaints scheme currently in place contains so many limitations and exclusions it fails to adhere to the FCA's central consumer protection remit. It appears that the complaints scheme is intentionally constructed to avoid scrutiny of decisions by the FOS and therefore, by design or not, to allow the mistreatment of consumers by the FOS to persist. There is considerable and widespread discontent with the FOS, as revealed by more than 1000

scathing reviews on Trustpilot, and considerable consumer detriment is created by the FCAs failure to ensure the FOS properly follows DISP and CONC guidelines in reaching decisions.'

- **Tom Winnifrith** ([p. 3 of 5](#)): 'Numerous tip offs. Vary rarely it acts [sic]. In most cases even where the case of fraud is clear cut it does nothing'
- **Andrew Kaye** ([p. 4 of 6](#)): 'After corresponding with the FCA, it became apparent that the FCA were not and are not interested in applying the new law, and would not take active steps to ensure that online marketplaces were not handling payment illegally under the Payment Services Regulations 2017. We took out a Judicial Review to try and declare that the FCA was in contempt of its obligations under the Payment Services Regulations 2017. However, the manner in which Judicial Review is set up leads to the onus being placed heavily on the challenging party, and the FCA were able to convince the Judge that simply by having a website form up where the public could report cases of online marketplaces handling payment when not FCA registered, was good enough for the FCA to fulfil their mandate to prevent such practice under the law. And this was ruled even though one of our directors personally used the form against several online marketplaces, and the FCA took no action and continues to take no action against those online marketplaces who are remitting payment in breach of the law.'
- **Rupert Nathan** ([p. 2 of 5](#)): 'I have had many interactions over several years, notably:
 

'2002 - I supplied evidence of serious misconduct by previous employer Hoodless Brennan (later Beaufort Securities) which was apparently not acted upon. When I enquired about this the following year, the FSA was dismissive. (Beaufort Securities was placed into administration 2018, shortly after the US Justice Department brought criminal charges against the company for its alleged involvement in securities fraud and money laundering.)

'2003 - I notified that the FSA Register incorrectly showed a position with Raymond James I never actually took up, which they refused to remove. During the SIF interview process, the FCA incorrectly stated in evidence, with a negative inference on my character, that I had held this investment adviser function "for only 5 days."
- **Ken Davy** ([p. 3 of 8](#)): 'Over the years I have visited the FCA to urge them to address various issues, particularly in relation to the funding of the FSCS. I have responded to relevant Papers and Calls for Evidence etc. and attended meetings and conferences to hear from and meet FCA speakers.'
- **Richard Emery** ([p. 3 of 6](#)): 'I have interacted with the FCA on a range of topics but the top four have been:

A). Seeking clarity from the FCA on the interpretation of specific parts of PSR2017 [Payment Services Regulations 2017]. This focussed on whether an

APPFraud was a case of “misdirected payment” or malicious payee”. In my view the FCA have misunderstood the original European Directive. The conversation is on-going.

B) Their failure to act when told that a business is providing a regulated activity despite having their regulated status revoked n [sic] 2019.

C) Their failure to disclose the actions they have taken in response to complaints about individual firms. They also failed to explain why the status had been revoked.

D) Their apparent unwillingness to seriously consider formal proposals for regulatory developments that would reduce the level of APPFraud.'

- **Daniel Cloake** ([p. 3 of 6](#)): '...I separately contacted the FCA to warn them about an investment opportunity offered by a platform called 'FundingSecure Limited', the advert for which I considered was unfair and misleading. When I rang a few days after to follow up I was told my e-mail had been allocated to 'Secure Funding Limited' The advert was subsequently changed, although whether as a result of my intervention I don't know. Two recent interactions with their press office have resulted in quick responses. I made a request for 13 documents under the Freedom of Information Act in Feb 2022. The request was not replied to so I complained to the ICO who gave a deadline of 10 workings days ending June 24<sup>th</sup> 2022. The FCA replied on that date dismissing my request. I have asked for an internal review.'

#### **4. In broad terms, what have your dealings with the FCA been like?**

33 respondents have answered this question. Some of the words used to describe their dealings with the FCA are: disappointing, difficult, frustrating, confusing, unsatisfactory, appalling, unhelpful. A few of the respondents said their dealings with the FCA have been fine, and that the staff they have dealt with have been courteous, engaged, professional, reasonable, and civil. One respondent said their interactions had been very positive and that they feel the FCA are keen to improve the outcome for consumers.

##### **Sample comments:**

- **Adam Nettleship** ([p. 4 of 6](#)): 'Regarding my complaint I found them to be deliberately evasive. They missed every deadline to respond, never updated me and only when the complaint commissioner became involved did they act at all. Even then they failed to independently investigate my complaint correctly.'
- **Respondent F4** ([p. 4 of 6](#)): 'The FCA used to have a specialised “small firms” section whose primary aim was to more effectively communicate with smaller regulated firms... Over the last 8 years, the service received by small firms like mine has deteriorated. The IT systems in use are cumbersome and “one size fits all” This results in absurdly long forms being required for what should be very simple interactions with a regulator. This wastes everybody's time and must significantly add to regulatory costs. When calling the FCA I

have now been provided with incorrect information by the helpline staff on three occasions regarding the absurdly long forms above. Earlier this year, it took 5 months, multiple phone calls and 3 different forms to be completed to try to make a simple change to my business structure. This because the helpline staff are poorly trained in which is the correct form (probably due to the complexity) and no one takes ownership when things start to go wrong.'

- **Ian Tyler** ([p. 4 of 7](#)): 'My personal dealings with the FCA have been professional and reasonable although I would note a large degree of frustration caused by the time it takes the FCA to respond to any matter – this is a leading indicator to my mind that the FCA is not well resourced for the scope of its mandate'
- **Matthew Connolly** ([p. 4 of 7](#)): '...FCA's response is always: 'The judge dismissed that motion.'. That's misleading. The judge never said they did not perpetrate the mis-conduct, the denial of motion was always on the grounds that she either thought it did not affect the case or that an appeal board would overturn her decision to dismiss the case. They had to re-file declarations, apologize to the court, write letters of apologies to the court. That says it all. Below is link to full Prosecutor Misconduct brief in my case. Most of our FCA complaints start on page 40.  
<https://mconnollyttm.com/wp-content/uploads/2021/03/13918569512018-12-10-Dkt-398-Memo-ISO-Motion-to-Vacate-Convictions-and-Dismiss-Indictment.pdf>'
- **Abhishek Sachdev** ([p. 3 of 6](#)): Frustrating. Whilst being sympathetic to the HUGE challenges they face, it is frustrating that I have offered DOZENS of times to help / advise them for free on avoiding problems with the IRHP Review Scheme. But they refused to listen, and this will soon be vindicated the upcoming John Swift QC report into the FCA's handling of the IRHP Review.'
- **Rupert Nathan** ([p. 3 of 5](#)): 'They have varied from unhelpful to officious and secretive.'
- **Anthony Stansfeld** ([p. 4 of 6](#)): 'My dealings with the FCA were unsatisfactory in that I felt they were intent on covering up major fraud in our larger banks. They utterly failed to protect Sally Masterton who wrote the Turnbull Report. This report laid out in some detail the corrupt practices within Lloyds Bank, and associated companies. Lloyds claimed that the report was unauthorised, it was unsubstantiated, and implied she had mental issues. None of these were true. The report was authorised by the Lloyds Head of Risk and Audit, it was clearly substantiated, and she was a clear headed and competent senior accountant with the bank. She was sacked with minimal compensation. This has been the fate of other whistleblowers who the FCA should have protected. It took three years for I and others to get Lloyds to own up to this and pay her proper compensation. It should have been the FCA that did this. The FCA has also failed to follow up the devastating Lloyds

Attwood report.'

- **Ken Davy** ([p. 4 of 8](#)): 'My dealings with the FCA have always been conducted very courteously and professionally. Unfortunately, one often feels that their minds are not really open to change, and that they are consulting purely because their terms of reference require them to do so.'
- **Debt Hacker** ([p. 5 of 57](#)): 'Debt Hacker's dealing with FCA have been entirely one way. Debt Hacker delivered copious documentation setting out its concerns and evidential basis for those concerns together with detailed Counsel's opinion. Other than the acknowledgment of the receipt of the documents the FCA has been silent. Not one question or clarification has been sought on the documents, evidence, or detailed Counsel's opinion... But now the FCA's "general supervisory approach" is understood then the lack of response comes as no surprise as the FCA considers firms to be the final arbiter, judge and jury on what is the "fair treatment of consumers".'

'...It is important to stress that an auditor's responsibility does not extend to auditing the FCA regulations; merely that the financial statements have been prepared in accordance with the Companies Act. Therefore, the auditors are not required to make any checks that the lending is affordable or that the representative APR is fairly stated. This explains why over 30 pay lenders traded for years on unaffordable business models; and every one received unqualified audit opinions, until the moment they were overwhelmed with customer complaints... It is plainly obvious that the FCA's general supervisory approach has failed the public [sic] and is not fit for purpose.'

- **Al Rush** ([p. 3 of 6](#)): '...We had the meetings, lots was said, and we came out of the meeting thinking something good is going to happen from it, but nothing good happened, we seem to go round and round in circles all the time. There did not seem to be much genuine interest. There was lots of words, lots of rhetoric, lots of hyperbole, lots of sympathy for the plight of the steelworkers. Andrew Bailey fell asleep in one meeting, famously, but nothing ever got done. There was no dynamic progression at the FCA. It just seems to be one big, stodgy bureaucracy that we were dealing with, no matter how senior the individual, we never got anywhere.'

'The conversations were specifically about mis-selling of the British Steel Pension Scheme. More generally, they were about pension mis-selling from other schemes that popped up on the radar, where they were really egregious incidences of pretty appalling behaviour and we bring that to the attention of the regulator as well, where it was obvious that things were seriously array.'

5. **Have you ever witnessed any actions or conduct that, in your reasonable belief, breached any law, regulatory code or applicable or relevant policy? If so, please explain which law, code or policy you believe was breached.**



19 respondents have answered this question. 4 respondents said no. Those who said yes reported breaches such as the FCA lying about Connaught, breach of oversight responsibilities by the FCA, fraud, tax avoidance, failure by the FCA to take action with regards to reports of banking fraud, failure to protect consumers.

## Sample comments:

- **Matthew Connolly** ([p. 4 of 7](#)): In April of 2015, the regulatory decisions committee was exonerating traders for certain Libor conduct

'In April 2015, the top decision-making body of the Financial Conduct Authority, the Regulatory Decisions Committee, accepted arguments from former UBS trader Pete Koutsogiannis that requests made for high or low Libor submissions were not improper if they were within a range of accurate estimates of the cost of borrowing cash. He was exonerated.'

'Andy Verity BBC reporting link:

(<https://www.bbc.com/news/business-49841361>)

'The very next month(May 2015), the FCA settled with Deutsche Bank for 227££, letting them plead guilty to mostly conduct they were exonerating people for just the previous month! In addition, as exposed during "Kastigar" hearing during my case, the FCA, while negotiating its settlement with Deutsche Bank, deleted many passages from the draft settlement (Apr 15, 2015) that included senior managers in the conduct.

'Specifically, the Government intended to hold senior management responsible for the alleged scheme in its settlement with Deutsche Bank as late as April 15, 2015—just eight days before the final settlement was entered. On that day, the Government forwarded a draft of its Deferred Prosecution Agreement ("Draft DPA") to the FCA, which included language about the scope of senior management's knowledge of and role in the alleged conduct.'

'As part of its deal with Deutsche Bank, the Government's allegations in these paragraphs were largely removed, leaving references only to desk level managers, a mid-level manager, and one senior manager'

'Legal brief here:

(<https://mconnollyittm.com/wp-content/uploads/2019/01/Framed.pdf>)

'Then as exposed at my trial: 'It was undisputed at the trial that Deutsche Bank senior managers, including Anshu Jain, Alan Cloete and David Nicholls, encouraged derivatives traders and Libor submitters to share information about trading positions, seating them close together.' Andy Verity BBC reporting link: (<https://www.bbc.com/news/business-49841361>)

'Finally, managers of the FCA lied to the court multiple times in my case. Multiple false declarations and statements.

'Andy Verity BBC reporting link:

(<https://www.bbc.com/news/business-49841360>)

- **Mark Learmont** ([p. 4 of 12](#)): 'In my view the whole of the Connaught fiasco breached every kind of justice in financial services that it was possible to do so from the very beginning the FCA, FOS and the FSCS Went out of their way to scapegoat IFAs and put the blame entirely on them. FOS were as big a culprit of this and Ms Wayman's appearance in front of the APPG was staggering in what she said to an elected MP and the group as a whole. I can give you the verbatim comments from that meeting if required but essentially, it confirmed that she could make up her own mind on anything and not follow FCA guidelines in any decision that she came to.'
- **Rupert Nathan** ([p. 3 of 5](#)): 'I was denied due process and natural justice through the wilful and deliberate suppression of information to the extent of lying. I believe the unproved charges made by Fortrade has led the FCA to secretly blacklist me. An internal FCA email seen clearly states: "...any further SIF applications for Mr Nathan are to be sent to NRI (Non Routine Investigations) for further investigation."The FCA has abused its powers and process:
  1. Having me attend SIF interview under false pretences to justify banning me;
  2. Ignoring RDC's binding decision I was "fit and proper" to act as a Director (within a few weeks) and deliberately discouraged, obstructed and delayed a subsequent application CF1 Director application;
  3. The unnecessary release of a Decision Notice (contrary to FCA Handbook, Enforcement Guide 6.2.17) on the spurious pretext of "public interest";
  4. Cynical abuse of GDPR and FOI disclosure requirements to cover its tracks.

The FCA fell well short of the demands of its own Code of Conduct for firms it regulates, and at a minimum, has NOT acted with integrity or openness.'

- **Anthony Stansfeld** ([p. 4 of 6](#)): 'Yes. It was quite clear to senior management in the FCA that the fraud in HBOS Reading was replicated in both Lloyds and RBS, yet no one was prepared to take action, it was covered up, as were the Turnbull and Attwood Reports. That would appear to be serious Misconduct in Public Office, a criminal offence.'
- **Debt Hacker** ([p. 6 of 57](#)): '...Debt Hacker has published on its website and reported SafetyNet to the FCA who has advertised loans as "cheaper than an overdraft" and at "representative APR of 68.7%". Since Debt Hacker's challenge, SafetyNet has removed the "cheaper than an overdraft" claim from its promotional material. However, it maintains the representative APR of 68.7% is correct, was approved by the FCA when it was first licenced in 2016/2017 and it consequentially [sic], and forever thereafter, complies with all applicable regulations...

'...The FCA Handbook states: “representative APR” an APR at or below which the firm communicating or approving the financial promotion reasonably expects, at the date on which the promotion is communicated or approved<sup>9</sup>, that credit would be provided under at least 51% of the credit agreements which will be entered into as a result of the promotion.”

Representative APR means that on each day that rate is advertised to the public (for example by a hit on its website), 51% or more of customers receive that rate or better...

'...Since 2013, SafetyNet’s filed audited accounts disclose it has earned excess aggregate income of approximately £240 million on its net loan book compared with its expected income had it merely charged customers a representative APR of 68.7%.<sup>10</sup> Debt Hacker has calculated, based on the filed accounts, that the actual APR earned on SafetyNet’s net loan book has exceeded 400% in each of the past 5 years and in the latest year is almost 500% based on the information presented in the financial statements.'

**6. Have you experienced situations where interacting with the FCA has been helpful to either yourself or others? If so, please explain what made the interaction(s) helpful.**

30 respondents have answered this question. Seven of the respondents said yes, 17 said no. Those who said yes, found the FCA representatives helpful, knowledgeable and that they have had some productive and useful conversations.

**Sample comments:**

- **Ian Tyler** ([p. 4 of 7](#)): 'Absolutely yes. The large majority of people employed by the FCA are trying to do the right thing and my own experience is that they frequently do, even if it takes longer than it should to get there.'
- **Karen Malin** ([p. 3 of 6](#)): 'Yes. I have had some productive and useful conversations on occasion with representatives from the FCA on the rare occasions where engagement has been possible. For example, I have spoken with representatives at conferences and workshops and been able to have constructive dialogue that has helped inform my approach to helping financial services firms to be better and/or able to comply with rules that are sometimes difficult to interpret.'
- **Respondent F18** ([p. 5 of 6](#)): 'In general, we believe in regulation, but I cannot think of any instances where they have been directly helpful.'
- **Peter O'Donnell** ([p. 4 of 7](#)): 'No. I found them to be argumentative, protective and unempathetic to issues they deem as not within their remit.'
- **John Rawicz-Szczerbo** ([p. 9 of 52](#)): 'No. Not a single time. I do believe however, had I not had that meeting with Mark Steward in respect of the criminal nature of the Connaught matter then investors would have been much worse off. It appears to me that regulators are looking for their next well paid job and do not want to deal with realities, particularly when they

lack the faculties to either understand or appreciate the issues until they are too late. If you like being trampled on by thugs in hob-nailed boots and bullies, this is the organization for you. Generally the contact staff are clueless, rude or aggressive, and indeed all three.'

**7. What are your thoughts on whether the FCA lacks the powers that it needs; or conversely, that it doesn't make good use of the powers it already has?**

32 respondents have answered this question. Many of the respondents believe that the FCA already has the powers it needs, but does not make good use of them.

**Sample Comments:**

- **David Booth** ([p. 2 of 5](#)): 'They (FCA and FOS) executives appear to be untouchable. They do not give me any confidence over the future regulation of the financial services industry. There are still many SCAMS which they don't appear to jump on in time, and then let the FSCS pick up the bill for loss to consumers.'
- **Respondent F4** ([p. 4 of 6](#)): 'I think they have too much power and are not held accountable for their actions when they fail in their duties. Time and resources are wasted on unnecessary bureaucracy and the "bad guys" in the industry keep doing what they have always done. Lots of stable door shutting is heavily publicised for PR after the event as if the bad behaviour wasn't obvious for all to see well in advance.'
- **Ian Fraser** ([p. 3 of 4](#)): 'It does not make enough use of the powers that it has and has been pusillanimous when dealing with state rescued banks including Lloyds Banking Group and RBS/NatWest. In some cases it has, in my view, deliberately downplayed, whitewashed, minimised, or buried serious criminal activity at such banks. It's failure to use the power that it has re: money laundering has become a cause celebre'
- **Philip Meadowcroft** ([p. 4 of 7](#)): 'Generally, the FCA has sufficient powers for its current but limited remit. Whether it has the executive strength to inquire and challenge and deliver in a timely way is very doubtful. The FCA needs to have regulatory force across all firms and customers, retail or commercial, and all products (including loans) in the entire UK financial services spectrum.'
- **Respondent F15** ([p. 4 of 6](#)): 'The FCA has enough powers, it doesn't use those it has effectively. It authorises too many poor firms (in the interests of competition, as if consumers needed yet more providers), and then spends time trying to supervise and enforce against firms it should not have authorised in the first place. It is slow to take enforcement action, preferring endless thematic reviews and 'guidance'. It has brought very few enforcement cases under the SMCR regime. Ditto it rarely enforces against the principles for business unless a rule has also been broken (This may change under the new Consumer Duty). The FCA does not use its product intervention powers enough. It hides behind Section 348 (of FSMA) to avoid

transparency. It used to blame European law for this, it could now ask the Treasury to bring forward an amendment to allow it to disclose more information.'

- **John Rawicz-Szczerbo** ([p. 9 of 52](#)): 'If you take the view, as I do, that an organization follows the culture of the leaders of an organization, the FCA has too many powers and even less ability to use them as they were intended. No oversight is a bad error and has led to institutional arrogance and contempt of anyone who they find irritating or unhelpful, the APPG being a 'Kangaroo Court ' for example.'
- **Daniel Cloake** ([p. 4 of 6](#)): 'I don't have first hand knowledge but the powers it has available appear to be very complicated to understand (and to convey to a court).

Eg in the High Court case of the FCA v London Property Investments I live tweeted some of the proceedings.

<https://mouseinthecourtroom.wordpress.com/2022/05/05/london-property-investment-trial-begins-as-fca-take-action/>

The barrister representing the FCA, Mr Mark Fell QC, told the judge:

*"Your lordship may have felt after this morning that the law of regulation of mortgages is crying out for reform and modification"*

## 8. Have you experienced any difficulties or shortcomings in your interactions with the FCA?

29 respondents have answered this question. 15 respondents said yes. Some of the reasons given were lack of communication, lack of experienced resources and slow turnaround times. A couple of respondents said that they believe the shortfall lies with senior executives/management at the FCA.

### Sample comments:

- **Adam Nettleship** ([p. 4 of 6](#)): 'Yes, the lack or response to my complaint and failure to fairly judge their own shortcomings.'
- **Respondent F4** ([p. 4 of 6](#)): '...incorrect advice from helpdesk on multiple occasions. It is possible this is caused by the untailored, simply confusing systems and paperwork required from regulated individuals. If we as regulated individuals communicated with our clients in the same way, it would not be seen as 'treating customers fairly''
- **Eliot Maddison** ([p. 5 of 6](#)): 'Yes, they do not regulate, hire people to understand the industries they regulate, seek a consultation on how industries work, harbour a culture of guilty until proven innocent, do not have a robust conversation with firms or individuals.'
- **Ian Tyler** ([p. 5 of 7](#)): 'Not as a principal but as a pro bono advisor to one of the groups severely impacted by fraud, helped by failings of the FCA, I have

shared their deep frustration at just how slowly the wheels of investigation turn. Literally years pass by with no measurable progress.'

- **Karen Malin** ([p. 4 of 6](#)): 'Yes. Inability to fix broken systems and insisting on paper applications. Failing to answer queries. Answering queries inconsistently. Contact centre staff know less about the rules and systems than I do. Constantly requesting feedback but becoming arrogant and offensive if they don't like it. Sending out news updates at 5pm on Friday (they agreed this was poor practise, but do it anyway). Giving ridiculously short timescales for responses and then taking indeterminate lengthy amounts of time to respond themselves. For example 23 December, 7 days to respond to a list of queries. Having crazily unpredictable service standards and timescales for application approvals. It is very hard to plan a business when you have absolutely no idea how long approvals might take. Asking for new information they do not request in their forms and saying that an application is incomplete because of it. Producing forms that are broken / inappropriate / repetitive / unclear. Refusing to confirm which forms they want. Having a system on which certain tasks are impossible.'
- **Respondent F14** ([p. 5 of 7](#)): 'Yes, the FCA spent more than a year appointing an Alternative Complaints Commissioner to review my complaint when the incoming Complaints Commissioner at the FRCC identified various conflicts of interest upon her appointment in November 2020. The FRCC website states "Roger Best has been appointed as an alternative investigator by Her Majesty's Treasury (HMT) to investigate complaints where there is a conflict of interest with the Complaints Commissioner Amerdeep Somal, and Ms Somal has had no dealings with these cases." One of the first actions by Ms Somal was therefore to appoint an alternative because, as she started the role she was already conflicted.'
- **Ken Davy** ([p. 5 of 8](#)): 'The application process to become a directly regulated firm of the FCA is disgracefully slow. It can be several months before a case officer is nominated to look at an application. Then, even for the most straightforward of applications, it can take several more months before approval is granted. This amounts to a significant restraint of trade and potentially disadvantages consumers.'
- **Richard Emery** ([p. 5 of 6](#)): 'Yes. The lack of feedback to complaints.'
- **Andy Keats** ([p. 11 of 12](#)): 'Yes I am personally and professionally barred from speaking to the FCA front-line staff about anything, even generally enquiries. When I give my name or phone number I am told I can only communicate with the FCA Executive and only by email!'

## 9. Have you experienced the FCA being reluctant to give clear answers to questions?

31 respondents have answered this question. 20 of the respondents said yes.

**Sample comments:**

- **Respondent F4** ([p. 5 of 6](#)): 'On several occasions, called the helpdesk for "help" to have a section of the handbook read out to me. I can read. Sometimes it's good to get an opinion or additional clarity. Surely the helpdesk should be "helpful"'
- **Ian Fraser** ([p. 3 of 4](#)): 'Yes, it is one of the most opaque organisations I have dealt with in my career. I have made at least two FOI [Freedom of Information] requests and received highly unsatisfactory answer on each occasion (one may been to the FSA, not the FCA)'
- **Rupert Nathan** ([p. 3 of 5](#)): 'Often. In my experience, the FCA has shown itself to be adept at deflection, obfuscation and even lying. The FCA appears to be concerned primarily with self-preservation.'
- **Respondent F14** ([p. 5 of 7](#)): 'Yes. And, I believe, repeated failure to adhere to data protection law, inconsistent with the FCAs central remit of consumer protection as defined by Section 1c of the Financial Services and Markets Act 2000.'
- **Respondent F18** ([p. 5 of 6](#)): 'Yes. Constantly in relation to the Connaught Income fund and Connaught Action Group.'
- **John Rawicz-Szczerbo** ([p. 9 of 52](#)): 'Indeed I have, and simply lie to MP's, Ministers and anyone else that has the temerity to ask questions they don't want to answer and to protect their own self-interest. This is genuinely a Kafkaesque organization.'
- **Al Rush** ([p. 4 of 6](#)): 'Many times, whether it is in a meeting face to face or on a zoom. It's as if they are thinking 'I am not going say anything in case I'm held to account on it later', so you get a bland and neutral response. It's almost a statement reflecting policy. You don't actually get an answer and I think that's what I base my frustration on.'

**10. What is your perception of the culture of the FCA, and what do you think of it?**

31 respondents have answered this question. Some of the words used to describe their perception of the culture of the FCA are: bureaucratic, broken, passive.

**Sample comments:**

- **Adam Nettleship** ([p. 5 of 6](#)): 'They appear to be an organisation more interested in following procedure than achieving real results. They also demonstrate a culture lacking in honesty or integrity in wilfully covering up their own failures and attempting to blame others.'
- **Eliot Maddison** ([p. 5 of 6](#)): 'It is a chicken coop, for like minded people, who are only interested in self preservation and increased power where they can get it, it seems to be turning into a political organisation of its own, taking up



morale causes where no cause has been found.'

- **Ian Fraser** ([p. 3 of 4](#)): 'My perception is it is far too close to large banks – effectively “captured” – seriously disrespectful of whistleblowers, and oblivious to the suffering of their victims. This was clear from its mishandling of the RBS GRG scandal. It tends to throw the little guys under the bus, as it did during the Libor scandal and in numerous other instances I am aware of, rather than hold senior people or large organisations accountable.'
- **Ian Tyler** ([p. 6 of 7](#)): 'I don't have enough exposure on a regular basis to the FCA to give detailed insight on their culture. My perception is that they are all public servants trying to do their job to the best of their ability. The one aspect I find a bit hypocritical/perplexing is that the FCA have been at the forefront of trying to make senior managers in financial services firm individually accountable for failings and yet when reviews are carried out about the FCA's failings (and there could be many more) there seems zero effort to make senior managers' accountable.'
- **Karen Malin** ([p. 5 of 6](#)): 'It feels to me as if it is the exact opposite of the culture that the FCA are expecting firms to foster in their organisations. Feels like they have a blame culture.'
- **Philip Meadowcroft** ([p. 5 of 7](#)): 'Defensive, reluctant, lacking any sense of urgency, lacking genuine independence because of suspected influence from The Treasury, the Bank of England, and Downing Street. This forms the impression of a regulator lacking bite, credibility, and possibly above all, respect.'
- **Respondent F15** ([p. 5 of 6](#)): 'Bureaucratic; focussed on process rather than outcomes; risk-averse; captured by the industry, particularly the big retail banks.'
- **Professor Nigel Harper** ([p. 5 of 8](#)): 'Corrupt and fraudulent culture led by a Chairman, (appointed by the Treasury) who believes that it is alright to game the Tax Authorities. (Sorry gov, did not mean to do this!!! mentality pervades the whole of the Board. Who is Regulating? No one.'
- **Abhishek Sachdev** ([p. 4 of 6](#)): 'They are doing the best they can but still think in silos.'
- **Anthony Stansfeld** ([p. 4 of 6](#)): 'The FCA has a culture of covering up major banking fraud. It does not help that the last Chairman of the FCA was a senior partner of KPMG, which audited the HBOS accounts and overlooked a £48bn hole in the accounts, and also audited Carillion and the Co-Op. There seems to be a revolving door of employment between the FCA and those it should be investigating.'
- **Robert Sinclair on behalf of AMI** ([p. 14 of 19](#)): 'We perceive the culture at the FCA to be broken and we do not trust the FCA culturally. The FCA's

current work schedule focuses heavily on culture, diversity and inclusion and the fair treatment of customers yet we do not feel the FCA's behaviour and culture reflect the same standard that is expected of regulated firms. For example, there have been instances where the FCA has demonstrated a lack of empathy when member firms have spoken to FCA staff in its Supervision Hub. The FCA as part of its consultation on a new Consumer Duty speaks about the importance of firms putting themselves in their customer's shoes; in order to have credibility and respect from firms and to influence the correct behaviour, the FCA must demonstrate it is the epitome of what 'good' looks like. It will require a lot of work within the FCA to get to this point...'

- **Debt Hacker** ([p. 15 of 57](#)): '...Our perception is that the FCA is passive, as if disinterested, to the protection of consumers; lending legitimacy through authorisations whilst consumers are mercilessly exploited by unrestrained bad actors. The FCA behaves in practice as if its mission omits to protect consumers, and in particular the most vulnerable in society. It does not confront bad actors which engenders a permissive environment enabling bad actors to profit from dubious practices...

'...By its behaviour, the FCA has facilitated the exploitation of millions of consumers, contrary to its core statutory purpose. Debt Hacker wants that to change such that the protection of the consumer is put at the heart of the FCA's mission statement.'

## 11. Have you ever complained officially about the FCA; if so to whom? What happened, and how do you feel about what happened? What feedback, if any, have you had about your complaint? How helpful was the feedback? How long has it taken for your complaint to be processed?

31 respondents have answered this question. 15 respondents said no, 13 respondents said yes. The respondents that said yes had complained directly to the FCA, Andrew Bailey, Mark Steward, the Complaints Commissioner, the FRCC [Financial Regulators Complaints Commissioner], the Treasury Select Committee, their MP, the previous Prime Minister and Cabinet Secretary, the Treasury Minister. Not many of the respondents who said they had complained officially about the FCA elaborated on the outcome of their complaint, but for those who did several said they had yet to receive a full response or they were unsatisfied with the response they got. A few of the respondents who had complained did receive an apology.

### Sample comments:

- **Adam Nettleship** ([p. 5 of 6](#)): 'Yes, see [Question 1 and Question 3]. My complaint is a matter of public record through the complaints commissioners website.'
- **David Booth** ([p. 3 of 5](#)): 'I wrote to the Complaints Commissioner with regards the [sic] FCA actions who found the FCA to be lacking in many areas although no changes have been made or anyone held accountable that I am

aware of.'

- **Respondent F4** ([p. 5 of 6](#)): 'As a regulated individual I would be reluctant to complain about the poor level of service received. I recently fed back my "frustration" about being given incorrect information multiple times as I was trying over a 5 month period to complete a longwinded form and a letter followed shortly afterwards to let me know "no further action would be taken against me for a late notification!"'
- **Philip Meadowcroft** ([p. 5 of 7](#)): 'Issue 1 (HBoS) second investigation): This was (and still is) the consideration of legal action to be taken against particular former directors of HBoS as instructed by the Treasury Select Committee in November 2016. The FCA's promised report has still not been published, approaching five years later.

'Issue 2 (Aviva preference shares): This was the consideration (as instructed by the Treasury Select Committee in March 2018) of whether market abuse had been committed by the directors of Aviva plc in respect of their announcement to liquidate one of Aviva's Preference Shares at par. This caused a serious collapse of the Aviva shares in question and the wider preference share market which has not fully recovered. I complained, primarily and repeatedly, to Andrew Bailey initially, and then with Mark Steward who appeared to step in for Andrew Bailey. Both their responses were patronising and feeble. Nearly five years on the report has not been published despite the FCA claiming it has been completed...

'Given no progress, I decided in April 2020 to involve the current chairman of the Treasury Select Committee through the intervention of my MP, Theresa May. As a direct result, some movement by the FCA became evident and its report – delivering a Public Censure to the board at Aviva plc - was published in November 2020. The Public Censure verdict had no impact on any member of the board at Aviva plc and, following the Public Censure, the Aviva board decided not to take any internal action. The FCA's high sounding action was one of a bare-toothed dormouse.'

- **Respondent F14** ([p. 5 of 7](#)): 'Yes. I have complained about the FCA to the FRCC. The FRCC [Financial Regulators Complaints Commissioner] claim to aim to complete their review of complaints within eight weeks, but I am still waiting for a full response from the Complaints Commissioner more than a year and a half later.'
- **Respondent F18** ([p. 5 of 6](#)): 'I complained to the Complaints Commissioner but was told as an IFA I had no rights to bringing a complaint. I complained about FOS to the Independent Assessor who turns out to be employed by FOS and reports to their board. I received an apology.'
- **Professor Nigel Harper** ([p. 4 of 6](#)): 'Yes, I ask for the FCA to prosecute Charles Randall and Nikhil Rathie only 5 days before Charles Randall announced his intention to step down. His complete failure to control and regulate those

crooks who have been fined (fines equate to crimes) is legend.'

- **Andy Keats** ([p. 10 of 11](#)): 'Yes I have and it resulted in me being barred from speaking to FCA front-line staff. I will locate the actual complaint and result which was that the complaint was dismissed.'
- **Ken Davy** ([p. 5 of 8](#)): 'Not personally, however I am aware of a number of cases over the years which have resulted in serious harm and/or injustice to the firms or individuals concerned.'
- **Mark Learmont** ([p. 5 of 12](#)): 'Yes, to the individual investigator Raj Parker when he was doing his investigation into the Connaught affair. It is interesting to note that far from being independent Mr Parker is now engaged by the FCA in a legal capacity having done his report. This is almost as much of a coincidence as Capita being awarded a major contract by the government so soon after having had to make the restitution payment to Connaught shareholders'
- **John Rawicz-Szczerbo** ([p. 9 of 52](#)): 'No. I have always tried to engage them directly. I have seen many others who have complained or sought information under the Freedom of Information protocols, to be treated with contempt, played, abused or simply ignored and lied to. This is not an organization that has any respect whatsoever to any outsider.'
- **Daniel Cloake** ([p. 5 of 6](#)): 'I've asked for an internal review into my FOI (Freedom of Information) request.'

## 12. What do you think about the possibility of conflict of interest issues at the FCA?

30 respondents have answered this question. 22 of the respondents believe there is a possibility of conflict of interest issues at the FCA. A few of the respondents mention the 'revolving door' problem.

### Sample comments:

- **Richard Emery** ([p. 5 of 6](#)): 'I am concerned about the possibility of a 'revolving door' between the FCA and the firms that they regulate, making it hard for people in the FCA to really challenge those firms.'
- **Ian Fraser** ([p. 3 of 4](#)): 'There are definitely some major conflicts-of-interest, for example between the FCA's goal of ensuring market stability and reducing the scope for financial crime and providing appropriate levels of consumer protection.'

'As I wrote in *Shredded: Inside RBS The Bank That Broke Britain* -

Some of the regulator's goals are contradictory – for example, just imagine if a large financial institution turns out to be riddled with money laundering and fraud. If it was deemed to be of systemic significance, the regulator might be tempted to turn a blind eye, for fear that rooting out the

wrongdoing and punishing its perpetrators might harm ‘market confidence’ and ‘financial stability’. Sadly the kneejerk response of the regulator, over its disastrous 14-year life, was invariably to prioritise these objectives over protecting consumers and fighting financial crime.

'These problems would only be exacerbated if the regulator was also given a remit of ensuring the City of London is “a competitive” financial centre, which I think is what the current Conservative government and chancellor of the exchequer Rishi Sunak [sic] intends to do. This would imply another “regulatory race to the bottom” along the lines of what the UK endured in 2002-08 (with disastrous consequences for taxpayers, bank customers, investors etc).'

- **Ian Tyler** ([p. 6 of 7](#)): 'I have no reason to believe that conflict of interest issues are not handled in a correct manner by the FCA. The individuals I have known who were working or have worked at the FCA were all proper upstanding individuals and would be very aware if a conflict of interest was arising and would be quick to declare it.'
- **Karen Malin** ([p. 5 of 6](#)): 'I think it is possible, It does appear sometimes that firms who pay a lot of fees are ‘let off’ or ‘listened to’ more.'
- **Respondent F14** ([p. 6 of 7](#)): 'There are very clear examples of conflict of interest at the FCA. In my case the most obvious being that the incoming Complaints Commissioner immediately identified conflicts of interest in cases, including mine, meaning, at the very start of her appointment, an alternative complaints commissioner was appointed. I have already mentioned the conflict of interest around the FCA Oversight Committee approval of the role of CEO of the FOS and of the Chief of Staff (interim) following a combined 30 years at the FCA, when the Oversight Committee should ensure independence.'
- **Respondent F15** ([p. 5 of 6](#)): 'There are systematic conflicts, eg between the FCA's competition and consumer protection mandates. There is a potential conflict from the ‘revolving door’. There is a regular flow of staff to and from the industry. Staff hoping for a job in the industry will have an incentive not to upset their future paymasters. This risks regulatory capture and (probably unconscious) bias.'
- **Tom Hayes** ([p. 5 of 6](#)): 'The revolving door from the FCA to the banks/law firms represents a clear conflict, these are then the parties who make the deals to which I refer (see disclosure from the Conolly case in the US in respect of such a deal with Deutsche Bank).'
- **Abhishek Sachdev** ([p. 4 of 6](#)): 'Martin Wheatley (CEO at the time in 2011) admitted there was a conflict at the FCA in a Telegraph article between protecting SMEs and not damaging the financial health of the banks.'
- **Rupert Nathan** ([p. 4 of 5](#)): 'I believe it is not a possibility, but a definite probability. The FCA is too close to the City, notably via the revolving door.'

Despite its enormous powers, NO senior banker has been brought to account. Instead, either less senior are made scapegoats – as I was - or firms given large fines, which are ultimately borne by shareholders. The FCA trumpets these as their “successes”. Given the City’s critical importance to the economy, the elephant in the room is a clear and present danger of a convergence of political capture and regulatory capture. An obvious example being David Cameron’s longstanding relationship with Greensill, and the FCA’s continued deafening silence on the matter.'

- **John Rawicz-Szczerbo** ([p. 9 of 52](#)): 'There are too many to think about or lay out here. However, one of the most egregious conflicts I will mention is the manner in which senior FCA, FOS executives are able to get very high profile and well rewarded positions in large financial institutions. This is the perverse reality of Regulatory Capture by large financial institutions and the avarice and greed of the regulators to be well paid in the real world.'
- **Al Rush** ([p. 5 of 6](#)): 'Massive conflict, because you've got people flip flopping around, like I mentioned previously, from the banking sector to the regulator, back to the Big Five, back to The Pensions Regulator possibly, then back to fund management. It's a very incestuous, very circular relationship. There are not many people who are coming into it, that's the problem.'

### **13. Do you believe there should be spot checks by the FCA on regulated and/or unregulated entities, perhaps similar to the spot-checks by VAT inspectors?**

31 respondents have answered this question. 16 of the respondents said yes, four of the respondents said no. Some of the respondents were unsure whether spot checks would be effective.

#### **Sample comments:**

- **Ian Tyler** ([p. 6 of 7](#)): 'I think physically visiting a firm at short or without notice is a legitimate approach to regulation and I would imagine the FCA have powers to do that already for regulated firms. I cannot see how this could be extended to unregulated firms without an extension of their powers.'
- **Richar Emery** ([p. 5 of 6](#)): 'Most definitely. They should also develop a process of annual audits that goes beyond simply asking: “has anything changed that we should know about?”'
- **Ken Davy** ([p. 5 of 8](#)): 'One would expect that the possibility of a spot check would be a deterrent to irresponsible or criminal advisers or firms. I doubt that it is a silver bullet however, and it would be unwise to expect it to have more than a limited impact on wrong doers.'
- **Robert Lockie** ([p. 6 of 7](#)): 'I would have no problem with that approach but I don't know how effective it would be. I see an analogy with the idea of the police randomly stopping people in the street. Occasionally they might stop someone on their way to commit a serious crime but it would be more by

luck than judgment [sic] and a targeted intelligence-led approach has been shown to be more effective... when such information is received, it just needs to be acted on or honest businesses and individuals will wonder whether it is worth their while to report it. It is in the interests of almost all regulated businesses to remove the incompetent and the dishonest from the sector. If they are not removed, the rest of us end up paying to fund their victims' compensation, which seems inequitable. It may be that spot checks would be useful but they need to be targeted at those firms at which there are reasons for concern (such as reports from outside). This seems more likely to result in uncovering'

- **Andrew Kaye** ([p. 6 of 6](#)): 'The FCA refuses to engage or consider most unregulated entities. The FCA's whole focus is on regulated entities. And so unregulated entities are the weak link in the FCA toolkit, which causes repeated failure for the FCA.'
- **Mark Learmont** ([p. 5 of 12](#)): 'No, not necessary, they simply need to act all intelligence given to them either in the form of whistle blowing or of members doing their statutory duty in reporting misdemeanours and crimes'
- **Robert Sinclair on behalf of AMI (Association of Mortgage Intermediaries)** ([p. 16 of 19](#)): 'We do not believe that spot checks are the solution. The FCA needs a thorough supervisory approach that includes 'feet on the ground' supervision, coupled with swift and decisive enforcement action. The FCA's plan to create a regulatory 'nursery' is welcomed but it must not lose sight of the importance of ongoing supervision throughout the lifespan of a firm. We are concerned that too much focus is placed on stronger oversight of newly authorised firms at the expense of existing firms, where the consumer harms identified in past thematic reviews have originated from.'

#### **14. What positives are there about the FCA that you would like to comment on?**

29 respondents have answered this question. 12 of the respondents had nothing positive to say about the FCA. Those who had something positive to say commented on the staff of the FCA, acknowledging that the job is hard and there are some good people working there.

##### **Sample comments:**

- **Adam Nettleship** ([p. 5 of 6](#)): 'They have a difficult job that is extremely broad in scope and for the most part I am sure many of their staff do a good job.'
- **Respondent F4** ([p. 6 of 6](#)): 'They do appear to be starting to look at targeting higher risk areas of advice. This needs to develop further.'
- **Ian Fraser** ([p. 4 of 4](#)): 'It does occasionally get things right, for example with the criminal prosecution of NatWest over its laundering of £365m for the Bradford based jewellers and gold dealers Fowler Oldfield.'



- **Professor Nigel Harper** ([p. 6 of 8](#)): 'None. They enable corruption and fraud in the city. Untouchable.'
- **Mark Learmont** ([p. 5 of 12](#)): 'I can think of none. Far too many people refuse to engage with them on the basis that they may well end up out of business due to ridiculously silly rules. It cannot be healthy to have that sort of relationship with the very people that you are seeking to regulate'
- **Al Rush** ([p. 5 of 6](#)): 'The FCA does lots of research, lots of thinking into how we should be interacting with our money, and I think that's a fantastic part and that they do that really well. On the basis that my involvement with the FCA is limited. I can't think of many positives.'

## 15. If you could change three things about the FCA, what would they be?

30 respondents have answered this question. Several of the respondents' suggestions mention stopping the revolving door problem, better staff training, greater transparency, greater accountability, and quicker response times to reports of wrongdoings.

### Sample comments:

- **Adam Nettleship** ([p. 5 of 6](#)): 'Transparency, a focus on making a real positive difference over following policy and a better understanding of real world financial services rather than theory.'
- **Ian Tyler** ([p. 7 of 7](#)): '1) Upgrade their status to be equal to that of the PRA [Prudential Regulation Authority]... 2) Allocate a higher proportion of regulatory resources to the FCA ie at the expense of the Bank and PRA [Prudential Regulation Authority]... 3) Implement greater accountability within their organisation, to lead by example'
- **Tom Hayes** ([p. 5 of 6](#)): 'Disband it then reduce headcount and staff with fewer better paid more knowledgeable people. Ban those leaving the FCA from interacting with the FCA/prosecutors for 60 months post departure in respect of investigations etc. Focus on things where people actually lose their money not headline grabbing cases on unregulated products with no identifiable victims or loss. Make the principles for business more prescriptive, it's too nebulous.'
- **Abhishek Sachdev** ([p. 5 of 6](#)): '1. Listen to industry experts (like myself) who are actually working with SMEs daily not just the banks or academics... 2. Keep the fines levied on banks to further boost resources / staff at the FCA... 3. Increase powers of the FOS'
- **Professor Nigel Harper** ([p. 5 of 6](#)): 'Close them down. Install a Controller for Banking and Professional Complaints Regulator for all Agents and Employ qualified and time served professional bankers and Fraud Police to act as ruthless regulators.'

- **Richard Emery** ([p. 5 of 6](#)): '1. The most important change would be to find a way of providing meaningful feedback to complaints... 2. Develop a culture where they can interact with people who are not employed by the firms that they regulate but who can make an important contribution to the development of fair and effective financial services. It should be possible to establish a process of 'Non-disclosure agreements' for the sort of people who are answering this set of questions and who could make a significant contribution to the work of the FCA.'
- **Debt Hacker** ([p. 16 of 57](#)): 'a) Simplify and enforce. Regulations should become simple, be easily comprehensible using plain language within the over-arching Principles. The benefit of any doubt should always be decided in favour of the consumer with needing to adhere to the rules and as importantly the spirit of those rules. The SafetyNet case illustrates the advantage gained by those who secure the services of eminent lawyers adept at finding and arguing questionable and lucrative loopholes whilst ignoring the overall objective of treating customers fairly and placing that at the heart of their business model... b) Regulations should be actively enforced and seen to have been enforced by the FCA. It should make independent periodic checks to ensure that customers are being treated fairly in all respects. That is what is crucially missing from its "general regulatory approach". Simply this means putting enforcement at the heart of the FCA mission statement. Without proper enforcement resulting in the systematic removal of bad actors, regulation is voluntary for affordable lenders and simply a pretence for those unaffordable lenders as illustrated in the University of Edinburgh report [the report is in [Appendix 1](#) of Debt Hacker's submission]. All the while, the victims are millions of consumers... c) The requirement that auditors, or the FCA, make periodic checks to the confirm that advertised representative APRs are in indeed representative; that 51% or more of customers receive that rate or better. This is major regulatory failure which unscrupulous lenders will be taking advantage to the detriment of the public at large.'

#### **16. The FCA is undertaking a Transformation Project. Do you have any comments to make about that?**

28 respondents have answered this question. Four of those respondents did not have any comments to make about the FCA's Transformation Project. A few of the respondents said it was long overdue. Several of the respondents felt that it was pointless.

##### **Sample comments:**

- **Ian Fraser** ([p. 4 of 4](#)): 'The fact Nikhil Rathia [sic] appointed Megan Butler to lead this so-called transformation project - despite her culpability for regulatory failures related to London Commercial and Finance, as outlined in the Dame Elizabeth Gloster report and apparently also for the regulatory failures linked to Connaught - reflected badly on Rathia. If he had really believed in transformation he would have brought in someone untainted by past scandals to oversee it. Now Butler has left the regulator one wonders

whether the transformation project will ever be completed.'

- **Karen Malin** ([p. 5 of 6](#)): 'All well and good, but it needs to address the issues, it needs to be very transformational and the outcome needs to be clearer and more effective regulation plus timely interventions.'
- **Philip Meadowcroft** ([p. 7 of 7](#)): 'I can have no faith in a Transformation Project where executive control is in the hands of FCA executives who have been tainted by past inquiries'
- **Respondent F15** ([p. 5 of 6](#)): 'Good news if it really does result in a more proactive regulator. The proposal to take the RDC out of some decision-making is a big leap forward. The CEO appears to be handling the staffing issues badly, however, with a risk that good people will leave.'
- **Professor Nigel Harper** ([p. 5 of 6](#)): 'Scrap the FCA and start again. The cancer is deep rooted and must be eradicated. They have too many victims that they have failed to protect. The fines culture enables fraud and corruption to permeate every orifice of government, banking, and Financial Services...'
- **Rupert Nathan** ([p. 5 of 5](#)): 'The FCA is demonstrably incapable of meaningful change. The rebranding from FSA to FCA following the abject failure of its fabled "light touch" (or more aptly, soft touch) regulation leading up to the GFC changed nothing, and instead has since presided over a series of errors, including failure to investigate a complaint by a whistle-blower against the HBOS Group; failure to publish its independent report into the treatment of Royal Bank of Scotland business customers; and failure to respond to whistleblower warnings about London Capital & Finance which collapsed leaving 11,600 customers with losses of up to £236m. It also failed to prevent the Woodford scandal in which hundreds of thousands of investors lost millions.'
- **Ken Davy** ([p. 6 of 8](#)): 'The Transformation Project, whilst centred around LCF, highlights systemic regulatory failures. Not counting the cost of the LCF review, or the cost for redress to be borne by the taxpayer, it is the damage to consumer confidence by the regulatory inadequacies and inaction in meeting its Statutory Objectives, which needs to be addressed. The irony is the FCA regulates individual accountability within firms under SM&CR, but they themselves appear to be unable to identify any individuals accountable for this regulatory catastrophe. Deferral of discretionary pay awards demonstrates inadequate empathy to investors who have lost their life savings. This is a sad indictment of the culture of those responsible for establishing market standards. It is too early to judge whether the right outcomes will be achieved by the Transformation Project, I sincerely hope it will, but I also hope it will be extended to include the Woodford saga.'
- **Anthony Stansfeld** ([p. 6 of 6](#)): 'About time too. However it cannot be allowed to make up its own rules. Any reorganisation needs to be truly independent. There are far too many Regulators with overlapping

responsibilities. This allows the parcel of responsibility to be passed between them without any of them taking action. How is it possible for both the Atwood and Turnbull Reports to be totally ignored and covered up? Even the Dame Linda Dobbs Inquiry has now dragged on for nearly five years without being completed and published. In the meantime there are thousands of victims of major bank fraud, and also thousands of SME companies that have been destroyed, who are yet to have their cases looked into or compensation paid. The BBRs compensation scheme has been an out and out scandal run by the banks most involved for their benefit. At last some of the victims of the HBOS fraud have received compensation, but only after Lloyds made every effort to avoid paying compensation.'

- **Al Rush** ([p. 6 of 6](#)): 'As I mentioned earlier, it's like putting drywall paper into a damp wall. A lot of transformation stuff is window dressing. It's just changing around what people can see. The real issues surrounding the FCA are the structure, the corporate structure, how its vertically integrated, the ethos and the attitude. So whatever transformation policy is going to be, however it is rolled out and delivered, I don't think it's going to be effective, and I think it's window dressing and behind the scenes things will just carry on as normal anyway. I just cannot see how it's going to make any difference. The problems that the FCA face are huge, they are almost insurmountable and window dressing will not change that.'

#### **17. Are there any other comments that you would like to make?**

25 respondents have answered this question.

##### **Sample comments:**

- **Adam Nettleship** ([p. 5 of 6](#)): 'I am subject to regulation by the FCA and must comply with their handbook. This document is extreme in length and is written more like a complex legal document than a usable handbook for conducting business. Their language is so far removed from the day to day practices of a financial services firm that my firm and all others I know personally employ external agencies just to decipher the meaning. This lack of transparency is a perfect example of their over focus on rules / procedure over practicality.'
- **Eliot Maddison** ([p. 6 of 6](#)): 'Corruption happens in liberal and right-wing societies respectively, the only distinction is for what reason, ultimately, good or bad, its still corruption. Even though the FCA may like the headlines these new interventions will bring for them, without a real discussion of the facts, these interventions are bias, corrupt and conflicting in nature.'
- **Ian Fraser** ([p. 4 of 4](#)): 'Unless financial regulators find some backbone, and start being incentivised to root-out fraud, and disincentivized from cosying to large banks and other financial institutions, the UK cannot pretend to be a just, financially safe, or fair country.'

- **Karen Malin** ([p. 6 of 6](#)): 'My view is that the FCA has far too wide a remit – too many diverse firm types. Maybe breaking down into smaller units and actually understanding the different types of business that fall under the remit would help with rules appropriate to the categories. The only advantage of Brexit is that we can make rules that fit the UK market instead of ones that fit continental financial services models which are quite different. I also think that the FCA needs to walk the walk and lead by example in terms of conduct, culture and treatment of its stakeholders. Additionally, better systems are essential. The FCA forms for applications are very long, repetitive and in many cases broken – the field properties in many of the PDF documents are incorrect making it impossible to fill them in properly unless you have a PDF editor. Compliance consultants play a valuable role in acting like PCSOs for the FCA and yet I feel as though we are treated with contempt.'
- **Respondent F15** ([p. 5 of 6](#)): '1. A competitiveness objective for the FCA should be strongly resisted. It is not the job of a financial regulator to promote financial services and would lead to a significant weakening of consumer protection.  
  
2. The Treasury has too much influence over the FCA. This goes beyond the formal power to issue directions under the 2012 Financial Services Act, which are at least transparent. The Treasury also interferes with the FCA's work informally, influenced by its frequent meetings with the financial services industry. Treasury Ministers very rarely meet financial consumer representatives, and the department does not have an interest in improving financial consumer outcomes.  
  
3. The new Consumer Duty is in theory a positive step. But it shouldn't become a 'tick box' exercise like, for example, the SMCR. The industry will only take it seriously if the FCA shows it is willing to enforce quickly and decisively against breaches of the duty. It should be backed up with a private right of action, despite the opposition of the industry. It is also worth noting the potential conflicts between prudential and conduct regulation. These need to be resolved systematically and transparently.'
- **Peter O'Donnell** ([p. 7 of 7](#)): 'There is the strong possibility that the banking and finance sector has too much power and influence over government and politicians for change to be meaningful.'
- **Debt Hacker** ([p. 17 of 57](#)): '...Supervision of the high-cost credit market is broken and needs an urgent root and branch re-boot... the high-cost credit industry has been left to self-regulate by the FCA, an open-goal for the litany of bad actors who exploit the financially vulnerable on an industrial scale. The FCA has demonstrably failed to protect consumers despite it being the FCA's core statutory duty.'

'...The number of consumers who have been exploited by un-affordable loans from FCA authorised lenders runs into the millions. Many of these lenders have collapsed into insolvency under the weight of compensation

claims made by consumers; all of whom had valid claims for reimbursement of interest and charges paid for unaffordable loans. Most of the consumers... never saw the compensation to which they were legally entitled having been sold unaffordable loans.

'...Despite this, there is has been a distinct lack of personal accountability for the individuals responsible for inflicting the financial harm suffered by consumers; Debt Hacker is unable to identify any directors of insolvent high-cost lenders who have been disqualified by the FCA under the Company Directors Disqualification Act 1986<sup>20</sup>. There are statutory information and enforcement powers and a MOU between the FCA and the Insolvency Service<sup>21</sup> (and in particular paragraph 49 which permits

*'52. Where, from information obtained following the exercise of its statutory powers of investigation, the FCA considers that the conduct of a person acting as a director (or a shadow director, or someone instructing an unfit director) of a limited company falls below the standard required, or it appears to the FCA that the management, operation or business of a limited company is such that it should be wound up in the public interest, it may refer information to the IS to consider whether to seek the disqualification of that person as a director or the winding-up of that company in the public interest.'*

'The FCA has not sought the disqualification of any directors of the numerous failed payday lenders which collapsed for lending in breach of FCA regulations. None. Can the APPG really believe that every one of those directors profiting from industrial scale unaffordable lending practices behaved impeccably such that not a single one is unfit as director? Clearly the FCA thinks so because it has not only taken no disqualification steps, but has approved those individuals as directors of other authorised firms. Consequentially [sic], the FCA simply does not regard removing bad actors as a function falling within its *"general regulatory approach"*. Again, this cannot be a result intended by Parliament when it conferred those powers upon the FCA.

'...None of these high-cost lenders collapsed due to enforcement or mandatory compensation action instigated by the FCA. Instead, it was the claims management companies and consumer action entities (such as Debt Hacker) which informed customers of their rights and mobilised the public to bring claims which triggered the collapses.

'... I would ask the APPG, Parliament and the Public to imagine themselves in the shoes of the millions of consumers who have been victims of the high cost lending industry. These people are often desperate, low paid, struggle to survive paying day to day bills with limited access to normal credit (ie in the credit desert), have paid exorbitant interest and fees to lenders which they cannot afford, live in constant fear of non-payment markers being placed on their credit histories, and are not financially sophisticated. The high-cost lending industry traps this demographic group in a vicious circle of

ever more unaffordable loans from companies authorised but unbridled by the FCA '

[Debt Hacker have submitted an addendum to their submission which can be found [here](#)]

**The Federation of Small Businesses (FSB) has provided a statement rather than answering each individual question.**

**Sample comment:**

- **The Federation of Small Businesses** ([p. 1-4](#)): 'FSB is a non-profit making, grassroots and non-party political business organisation that represents 160,000 members in every community across the UK. Set up in 1974, we are the authoritative voice on policy issues affecting the UK's 6 million small businesses, micro businesses and the self-employed.

'This submission raises points that relate to both the FCA and the Financial Ombudsman Service (FOS)...

'Small businesses are particularly vulnerable now coming out of the pandemic and subsequent lockdowns and the economic crisis they created and will remain vulnerable as recovery continues and businesses begin to utilise a variety of financial products...

'...the potential for banks to make significant returns on loans alone is very limited. As has happened in the past, there is worry that this may spark a wave of add-ons to loan products that small businesses may not fully understand and ultimately cost them considerable...

'We are proposing five elements we would like the FCA to consider...

'1. The FCA should seek to create a portal to which all financial product contracts must be uploaded within a stated number of working days... This central data base of financial contracts would protect the buyer from potential malfeasance and would speed the resolution of any disputes brought to the FOS or BBRS (Business Banking Resolution Services)...

'2. The seller of the financial product should retain liability irrespective of whether the product is sold on. For example, if a bank issues a loan, then assigns it to the overseas entity, the bank itself retains the liability should any issues arise with the selling of the loan itself...

'3. There should be greater transparency of financial products at the point of sale. The buyer should be informed fully about the true costs involved in the financial product including the cost of termination; whether the product itself can be assigned or traded on; and what options and rights the buyer has with respect to the financial product...'

'4. There needs to be a greater transparency around the trade and sale of financial products. The individual or business that has the financial product



should be informed of any potential assignment, the date of the sale and what the cost of exiting the agreement would be if they so wished...

'5. An expansion of expertise within the FOS. The FOS is in need of individuals who are well versed in the complexities of financial products who will be able to understand the intricate nature of small business complaints...'

## QUESTION SET G: Current and former FCA employees

### Responses

We received **13** responses from current and former Financial Conduct Authority employees of which **9** have consented to publication. They are:

- ["Lesley"](#) [Pseudonym]
- ["Mary"](#) [Pseudonym]
- ["Samantha"](#) [Pseudonym]

The following wish their identity and testimony to be kept confidential to the public:

- [Respondent G4](#)
- [Respondent G6](#)
- [Respondent G7](#)
- [Respondent G9](#)
- [Respondent G10](#)
- [Respondent G12](#)

The following have provided a video testimony in addition to their written submission:

- "Lesley" - [click here](#) to watch
- "Samantha" - [click here](#) to watch

### Key findings

- The respondents are current and former FCA-employees who work or worked in areas such as the Contact Centre for Retail Authorisations, Major Retails Groups Division, Strategy, Authorisations and Life Insurance Supervision.
- When asked if they ever experienced the FCA being reluctant to give clear answers to questions, whether from themselves, the public or other stakeholders, many of the respondents said yes. One respondent said they 'will never answer a question from a firm for fear of it being taken as regulatory guidance', and another said that most of the time staff have to tell consumers they cannot disclose information.
- Some of the respondents gave examples of situations when they could have helped a member of the public with an enquiry but were constrained from doing so as a direct result of an FCA policy or the FCA's interpretation of an applicable law, such as not being able to dissuade someone from investing in an obvious scam for legal reason, not being able to give 'yes' or 'no' answers to authorisation-related queries and senior managers not listening when staff raised serious concerns about illegal activity.
- The respondents did not feel the culture at the FCA promoted openness and transparency. When asked if they felt the culture encourages and supports staff in raising challenging questions many of the respondents said anyone who did this would be penalised by not receiving a bonus, being overlooked for promotion, written off as 'troublemakers'. One

respondent called it a 'don't rock the boat' culture.

- Many of the respondents felt that the FCA's Transformation Project seems to be more about reducing costs than protecting the consumer. An example given is that none of the issues that were identified in the independent reports are being addressed. Those who are current employees also noted that although staff at all levels are being encouraged to have their say, they are not being listened to.

### Summaries on each question

#### **1. Are you a (i) current or (ii) former, employee, contractor or agency-supplied worker at the Financial Conduct Authority?**

All respondents answered this question. Eight of the respondents are former employees, four are current. None of the respondents mentioned if they were contractors or agency-supplied workers at the FCA.

#### **Sample comments:**

- **"Samantha"** ([p. 5 of 9](#)): 'I was a full-time employee of the FCA. Writing this submission has brought back much bitterness over what I still feel was a wasted opportunity.'
- **Respondent G4** ([p. 4 of 12](#)): 'I am a former employee'
- **"Mary"** ([p. 2 of 7](#)): '(ii) Former full time employee: took voluntary redundancy in June 2021.'
- **Respondent G6** ([p. 3 of 6](#)): '(ii) former employee pf [sic] the Financial Services Authority (2005 to 2007)'
- **Respondent G7** ([2 of 35](#)): 'FORMER EMPLOYEE'
- **Respondent G9** ([p. 4 of 7](#)): 'Former employee'
- **Respondent G10** ([p. 4 of 10](#)): 'Current'
- **"Lesley"** ([p. 4 of 8](#)): 'Current employee'
- **Respondent G12** ([p. 3 of 8](#)): 'Yes'

#### **2. In what area of the FCA do/did you work?**

11 of the respondents answered this question. The respondents worked in different areas such as the Contact Centre for Retail Authorisations, Major Retailers Groups Division, Strategy, Authorisations and Life Insurance Supervision, to name a few.

**Sample comments:**

- **“Samantha”** ([p. 5 of 9](#)): ‘I was a Subject Matter Expert (SME) originally recruited to fill a gap in the FCA’s skillset caused by the division of the FSA into PRA and FCA.’
- **“Mary”** ([p. 2 of 7](#)): ‘Initially Supervision and then Risk and Compliance Oversight’
- **Respondent G6** ([p. 3 of 6](#)): ‘Major Retail Groups Division’
- **Respondent G7** ([2 of 35](#)): ‘Customer Contact Centre, Supervision - Retail Authorisations (‘SRA’)

‘Asset Management Department, Supervision - Investment Wholesale Specialists (‘SIWS’) ’

- **Respondent G9** ([p. 4 of 7](#)): ‘Supervision [sic]’
- **Respondent G10** ([p. 4 of 10](#)): ‘Supervision’
- **Respondent G12** ([p. 3 of 8](#)): ‘Within supervision division’

**3. Briefly describe the functions you perform or have performed at the FCA.**

All respondents answered this question. A few of the respondents work or worked within various supervisory roles, overseeing authorised firms and individuals. Some were/are Technical Specialists, working with various supervisory departments’ risk identification and assessment. One of the respondents is a member of the FCA’s senior Leadership Team. Another worked in the FCA’s Customer Contact centre dealing with queries from firms across all sectors of financial services and other external stakeholders.

**Sample comments:**

- **“Samantha”** ([p. 5 of 9](#)): ‘I was recruited as the only SME with my experience in the building and that was the basis on which I was sold the role by a Recruitment Agent. I was interviewed by two Managers in the department, and I have to admit it never occurred to me that they were themselves relatively junior members of staff. When my salary request was met in full without any quibble, I really thought they wanted me and had clear expectations of what I would bring to the organisation. They knew that I had been in senior roles in my previous jobs but that counted for nothing. That I was not interviewed by, or invited to meet, anybody more senior was a key point that I missed. When I joined it emerged that they had only the fuzziest ideas of what I should do and I quickly found that the Manager to whom I was assigned (who I had only very briefly met before my starting date) was himself out of his depth in his role and had no idea what my speciality was about. I concluded that my appointment had been sanctioned by the Head of Department who saw me as nothing more than a trophy in his rivalry with other Departments. In the 2½ years I nominally worked for him, he hardly

ever spoke to me and was cold and aloof whenever I tried to speak to him. From day one I was never allowed to perform anything meaningful in the role and ended up offering as much specialist advice as I could, while being used as a general administrator.'

- **"Mary"** ([p. 2 of 7](#)): 'A Technical Specialist in a risk advisory role (i.e., aiding various supervisory departments' risk identification and assessment.)'
- **Respondent G6** ([p. 3 of 6](#)): 'I was part of the FSA Supervision team for Bank of Ireland and Northern Rock, and then Friends Provident and Aviva'
- **Respondent G7** ([2 of 35](#)): '1. Reg-A Junior Associate, Customer Contact Centre: Handling inbound telephony, email and live webchat contact from firms across all sectors of financial services and other external stakeholders (regulated, as well as non-regulated i.e., those seeking authorisation, appointed representatives, compliance firms, and legal firms etc.) I would provide guidance across a wide breadth of issues...'  
  
'2. Reg-B Associate Supervisor, Asset Management Department: Supervising Fixed-Portfolio and Flexible-Portfolio firms, primarily custody banks and bank-owned asset managers...'
- **Respondent G9** ([p. 4 of 7](#)): 'Provision of specialist professional services to the Supervision teams'
- **Respondent G10** ([p. 4 of 10](#)): 'Since joining the FCA some six or seven years ago, I have worked continuously in Supervision. I have supervised a number of different financial institutions both large and small.'
- **Respondent G12** ([p. 3 of 8](#)): 'I provided technical advice to the supervisors of a number of financial firms'

#### 4. In broad terms, what has your experience of working at the FCA been like?

All respondents answered this question. The respondents have shared both negative and positive aspects of working at the FCA. Positive experiences included finding the work interesting, valuable, and intellectually stimulating. Many of the respondents also commended the people who work there. Some of the negative experiences included issues with senior management, finding the work frustrating and unfulfilling, witnessing staff mistreatment, and a toxic work culture.

##### Sample comments:

- **"Samantha"** ([p. 5 of 9](#)): 'Frustrating. Unfulfilling. The most miserable three and a half years of a career lasting nearly four decades. When I left, I retired.'
- **Respondent G4** ([p. 4 of 12](#)): 'Ultimately my experiences of working at the FCA has been one of two halves. I have been very proud to work for this

organisation and to work with teams of fantastic people in the service of people we serve. However, the FCA leadership and organisation culture within which we had to work to achieve this has been appalling, especially the culture of inaction perpetuated by the middle management of this organisation. During my time in the FCA I have often agreed with the desires and motivations of the Senior leadership team but by the time these policies and targets had filtered down to my level in the organisation, often good and well thought out policies and initiatives had been so twisted and watered down they either became harmful or in the majority of cases perpetuated the organisational paralysis which can be summed up in the phrase 'I have done nothing therefore I have done nothing wrong'.

'Based on my personal experiences the successes of the organisation have been achieved often by 'junior' individuals willing to push back against this culture of persistent in-action or by those who have some how found a way to make a direct connection between the top and bottom of the organisation avoiding the organisation's tier of middle management who often placed unnecessary barriers in their way, yet always took the majority of the credit when they succeeded...'

- **"Mary"** ([p. 2 of 7](#)): 'The organisation promised much but seldom delivered both in term of its pledges to firms and those to its staff.

'Having originally joined the FSA, I elected to join the FCA at transition in 2013<sup>17</sup> when the FSA was abolished, thinking I would be a joining a genuinely exciting and pioneering regulator.

'From the very beginning however it was a disappointment: thrashing around trying to find an appropriate supervisory framework, mired in the same bureaucratic, unimaginative mindsets that existed at the FSA and ridiculously hierarchical.

'Numerous attempts to 'reset' the organisation have failed to embed properly and as a result have not changed outcomes for consumers or staff. At no stage that I can think of, since its inception, has the FCA been in what might be described as an operational steady state.'

- **Respondent G6** ([p. 3 of 6](#)): 'I was hired to bring an industry perspective to the FSA but quickly realised that the 'career regulators' that I was working with were not interested in my views or experience'
- **Respondent G7** ([3 of 35](#)): '...I had been with the FCA for 6 years from 2015-2021 as a former front-line contact centre associate before joining the Asset Management Department as a Supervisor. I entered the organisation from a non-finance background, and was optimistic to learn, network, increase my social capital, as well as my social and economic mobility, whilst focussing on building a fulfilling financial services regulation career in service to the public.

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<sup>17</sup> ["Mary" footnote] Staff were offered the opportunity to state a preference as to whether they wished to join the FCA or the Bank of England.

'Unfortunately, 70% of my tenure at the FCA was spent on standing up for my rights, defending myself and fighting discrimination on the grounds of my protected characteristics; both through internal and external processes to the immense detriment of my psychological and emotional wellbeing.

'On the positive side, the work I was involved in was intellectually stimulating and some of the wonderful people I interacted and worked alongside with were genuine, sincere and intelligent. However, there are also some nasty, malicious and malignant individuals within the FCA – they know who they are, and others do too.'

- **Respondent G9** ([p. 4 of 7](#)): 'As an employer, the FCA did not have an appropriate remuneration structure in place which resulted in below inflation pay rises for the vast majority of staff. Those members of staff who challenged management's way of working were almost inevitably given zero pay increases and bonuses. FCA management regularly refused to discuss the rationale for these results with individuals concerned.

'Whilst FCA starting salaries may be competitive upon joining, there is little prospect for career progression salary increases once you are on board.

'When considering filling vacancies internally, FCA management were much more concerned with improving their diversity statistics than choosing the most appropriate candidate. This resulted in the FCA not regulating as effectively as it could do. Talented and experienced individuals became disillusioned and as a result left FCA.

'The FCA also had a culture of meetings for meetings sake. Almost inevitably several people in meetings did not contribute at all which makes me question why they were in attendance.

'Managers and HODs [Head of Department] were often in back to back meetings for a couple of days at a time. This unavailability led to delays as they could not be consulted on key decisions.'

- **Respondent G10** ([p. 4 of 10](#)): 'I would not describe my experience of working at the FCA as positive. Having been in the financial services industry for some time, I joined the FCA thinking that I could contribute to improving standards and promoting better regulation. I thought my experience and insights would help improve the dialogue between regulators and the industry.

'The culture I found was nothing short of toxic. I was not a "career regulator" (i.e. someone who had joined the FCA without any financial services experience and had made their way up through the ranks) and any contributions I made, for example, regarding practical operational issues associated with the introduction of new legislation, were greeted with open hostility.



‘The bullying I experienced was second to none – and this coming from someone who had worked in male dominated industries for many years.

‘The lack of meritocracy is institutionalised. Those who know very little protect those who know less. The promotions system is deeply flawed.

‘I am aware of many instances where very qualified individuals are not given positions for the most spurious reasons. The case study method used to assess individuals is open to wide abuse and manipulation. For example, case study topics will be chosen on the basis of the knowledge of the preferred candidate, regardless of whether or not the topic is relevant to the position.

‘The appraisal system is based on the principle that it is not what you do, it is how you do it. This translates into never contradicting one’s colleagues even when what they are saying is incorrect. Going against this principle can mean that someone who might otherwise be considered a good performer is penalised.

‘For practical purposes there is no oversight from HR in respect of either the promotions or appraisal process.’

- **“Lesley” (p. 3 of 7):** ‘Overall, a negative and depressing time in working at the FCA. The FCA has developed a toxic culture and spends huge resources, time and effort on self-protection, of itself, at the expense of supporting consumers. The FCA appears to operate in a malicious and vindictive way and is not willing to accept any kind of constructive criticism from staff. The FCA is a wasting money and staff effort on self-protection which is quite sickening when set against the context of its failures in recent years to regulate firms properly. Based on the evidence I have seen, the FCA is simply not doing its job and has become a failing, bloated, defensive organisation – with most of its efforts and resources going on self-promotion and trying to counter the many criticisms of it.’
- **Respondent G12 (p. 3 of 8):** ‘Started OK but went downhill rapidly at the end when I felt ashamed to be working there.’

**5. During your period of employment did you witness any actions or conduct that, in your reasonable belief, breached any law, regulatory code or applicable or relevant policy? If so, please explain which law, code or policy you believe was breached.**

11 of the respondents answered this question. Two of the respondents said no. The respondents said they witnessed breaches of the Equality Act 2010 (for example the pay gap between white and BAME employees), Public Interest Disclosure Act 1998 (90% of Freedom of Information Act Requests and Data Subject Access Requests targets have failed to be met by the FCA according to one respondent), and other non-specific breaches such as lack of compliance. One respondent mentioned the handling of Connaught and Tiuta.

### Sample comments:

- **Respondent G4 ([p. 4 of 12](#)):** 'This is a difficult subject for me but I feel an important one because I also agree with the evidence provided by [a] colleague that throughout the majority of the organisation within the same job role/job family, and on the same level, there are clear pay and bonus gap between a non-BAME employee compared to that of an ethnic BAME employee and in general the FCA is paying and rewarding its non-BAME employees more than its ethnic BAME employees and it is trying to hid its systemic and institutionally racist culture by manufacturing a 'good news story statistics' while ultimately not addressing the true organisation wide issues reflected in the lived experience of the majority of its employees.

'...A particular example I wish to highlight is when an employee I worked with who was the best computer coder in our team achieved a promotion but was blocked by her current manager (who was in a completely different department) from taking up the position because she was told 'you are not assertive enough' which was a monstrous abuse of their power and failed to show an understanding of her culture which is founded upon a strong respect for its elders which was why she did not talk as loudly during team discussions but who I personally found influenced meetings more effectively with her soft words than the loud shouts of those 'more dominant' members of our team. If this inability to understand the value of individuals and the benefit of a diverse cultural background was repeated across the organisation the frustration and outright anger of BAME staff is well justified...

'This repeated promoting of 'personal favourites' leads to a 'Bleaching' process where the organisation becomes 'Whiter' the higher up you go, it is not a pleasant phrase and I use it only to highlight the serious harm of this practice and the loss of talented individuals who are belittled and unfairly discriminated against, forced to stay in junior roles longer or forced out of the FCA when really, they should be running it."This also results in a high level of nepotism within the organisation and as a way to test this I would also recommend that data on the number of members from the same family currently working in the organisation is established to identify if this is unusually high". '

- **Respondent G7 ([5 of 35](#)):** '...Prior to December 2019, **the FCA's Information Disclosure Team ("IDT")** – responsible for processing statutory Freedom of Information Act requests and Data Subject Access Requests ("DSAR") – **had been operating unlawfully for around 2 years**. The organisation has significantly failed to meet its 90% target of fulfilling FOIA requests within the statutory deadline every year since 2018 (after a new Head of Department joined) and had been **misrepresenting performance – this is fraudulent misrepresentation** in my opinion. Actual performance figures were between 60-80%. The team continues to carry large backlogs of around 100 cases that are already in breach of its statutory twenty-working days deadline. Considering this, it may be interesting to compare and note

for debate that **the FCA applies an automatic £250 late return fee** for anyone (whether a multinational bank or a sole trader IFA) **who fails to submit their regulatory returns before its respective deadline**; or perhaps draw a contrast to how the FCA has provided firms a 20 working day deadline for them to submit their latest Financial Resilience Survey response.

'In November 2021, the FCA moved IDT out of its Cyber & Information Resilience Department and placed into its Operations Division under the remit of a new HoD. Note: It is my understanding that the former HoD responsible for the FCA's significant failings in relation to processing FOIA and DSAR and not meeting targets still works for the organisation.

'In my opinion and reasonable belief, there has been multiple breaches of the following:

- A. Equality Act 2010
  - B. Public Interest Disclosure Act 1998
  - C. Employment Rights Act 1996
  - D. Freedom of Information Act 2000
  - E. Data Protection Act 2018
  - F. General Data Protection Regulation ("GDPR") (EU) 2016/679
  - G. UK GDPR
  - H. ACAS Code
  - I. Other internal FCA Employee Handbook policies'
- **"Lesley"** ([p. 3 of 7](#)): 'Yes, on a number of occasions it has been the case that the FCA will not act to support consumers and will spend time and resources on protecting itself and making excuses for its continuous failures. It is worrying that senior managers appear to be motivated by self-interest only – and not about doing the right thing to protect consumers.'

## **6. What example/s can you share about when the FCA has done a good job to protect consumer interests?**

10 respondents answered this question. Most respondents were able to share examples of when they felt the FCA had done a good job to protect consumer interests, such as preventing the practice of 'phoenixing', the FCA's PPI compensation claim awareness campaign, the FCA's handling of the Covid 19 pandemic with Business Interruption Insurance and preventing the loss of life savings to vulnerable pensioners. One of the respondents felt they could not say the FCA had done a good job at all.

### **Sample comments:**

- **Respondent G4** ([p. 6 of 12](#)): 'Notable highlights for me personally have been preventing the loss of the life savings of many vulnerable pensioners who are often widowed and targeted due to their loneliness, though simply having a conversation and being able to convince them not to invest in clearly fraudulent products. Through this simple process as a team we

worked out we were saving over a million pounds a week being lost due to fraud and preventing thousands from being left destitute.

'This has been my ultimate motivation for work for the FCA the prevention of financial harm to the most vulnerable in our society and as I have worked higher up the organisation we were able to do more including removing the authorisation from individuals who had been convicted of fire arms offences and paedophilia, recognising that FCA authorisation should be something that is trusted and there is no place in our community of individuals and authorised firms for predators who seek only profit.

'We also prevent the practice of “phoenixing” this is where the directors of a limited liability company have a large complaint against them (i.e. such as for poor pensions advice) will then shut down their current business transfer their assets and then open up and new one meaning they are not required to pay any FOS awards and leaving the mis-advised pensions with only the bare-minimum investment compensation from the FSCS. This is perfectly legal but that is often the role of the regulator to take a morale stand to prevent something clearly wrong from happening.

'Other projects I would like to highlight are:

- Asset Management Market Study
  - High-cost short term i.e., ‘pay day loans’ cap
  - PPI compensation awareness campaign
  - Covid-19 business interruption insurance test case
  - Proposals to support mortgage prisoners
  - Proposal for the new Consumer Duty rules
  - Proposal to tighten regulations of Appointed Representatives (“ARs”)
  - Proposal to review wholesale markets data providers
  - LIBOR transition'
- **“Mary” (p. 2 of 7):** 'I believe that during the first ten to twelve months of the Covid pandemic the FCA responded swiftly and responsibly to the situation and indeed showcased a fleetness of foot that had been notable by its absence previously. Good work was done in regard, specifically to Business Interruption Insurance and, more generally, in providing clear guidance to firms as to the expected and appropriate treatment of consumers during exceptional times.
- 'Sadly, this was very much the exception in terms of overall performance during my time at the FCA and indeed by the end of my tenure the organisation was slipping back into its old inefficient and slow ways.'
- **Respondent G6 (p. 3 of 6):** 'Aviva has a flaw in its change of address process and procedure for policy holders allowing fraudulent changes of address and policy surrender. This was spotted by the FSA and Aviva adopted the best practice of writing to both addresses when notified of a change of address by a consumer. '

- **Respondent G10** ([p. 5 of 10](#)): 'Trying to sort out some of the recent market issues has been a herculean task. The job has not been perfect, but on balance I think the FCA has done a reasonable job. It is far from finished as there are still really significant issues to be addressed.'
- **"Lesley"** ([p. 3 of 7](#)): 'I honestly can't say the FCA has done a good job at all. The FCA has had a string of failures and public reports criticising its performance, including following two independent investigations as well as the report of the Treasury Select Committee. The FCA tries desperately to promote itself and ignores the fact that large numbers of people have lost huge savings as a result of their failures.'
- **Respondent G12** ([p. 3 of 8](#)): 'There were some changes made to certain calculation routines at a couple of companies that were necessary to treat customers fairly, but this was more down to me than to the FCA. Probably because this was quite technical in both cases, with minimal intervention from the supervisor & their manager.'

## 7. What example/s can you share about when the FCA has done a poor job to protect consumer interests?

11 respondents answered this question. Some of the examples the respondents could share about when the FCA has done a poor job to protect consumer interests were the well-documented ones such as LC&F, Woodford, Connaught and Blackmore Bonds. A few of the respondents also gave examples such as FCA's involvement in insurance intervention which one respondent deemed 'useless', and choosing not to investigate complaints about insurers unless the loss is over £1 million.

### Sample comments:

- **"Samantha"** ([p. 6 of 9](#)): 'Almost every intervention at industry level in my area of specialism has been marked by such ignorance as to render the FCA's involvement useless. For a year and a half, management at the FCA fixated on an issue that at every industry consultation and every internal discussion involving technical expert advice from junior levels in the FCA, they were told the proposal was unworkable and not helpful to consumers. Yet for a wasted 18 months it became a classic example of management group think. Industry objections, however well-reasoned were simply dismissed as "well if they object like that, we must be on the right lines". I forget how we got it dropped, but it was really hard work.'
- **Respondent G4** ([p. 6 of 12](#)): 'The following are quite notable and high-profile examples of regulated firms and funds going into administration or liquidation resulting in investor losses amounting to a cumulative total of c.£1.630bn:
  - Connaught Income Fund
  - London Capital & Finance
  - LF Woodford Income Equity Fund
  - Lendy

- FundingSecure
  - Collateral
  - Blackmore Bonds
  - OneCoin'
- **“Mary” (p. 3 of 7):** 'There are numerous cases of regulatory failure such as LCF, Woodford, etc. that are well documented, so it is perhaps better to focus on the some of the inherent causes of this. For example:  
  
'Day to day supervision is extremely poor in general, with staff demonstrating a shocking lack of even basic financial literacy and general commercial (or indeed at times common) sense. As a result, there is an almost comical suspicion of firms that make even a modest profit and an apparent base assumption that all supervised firms are 'bad faith' actors.  
  
'Yet despite this mind set, senior staff appear particularly risk adverse and unwilling to take tough decisions about firms even in the face of damning evidence. In the case of dual regulated firms, the impression the FCA gives is that it 'hides behind the skirts' of the Bank of England, letting the Bank take difficult decisions and then falling in step.'
  - **Respondent G6 (p. 4 of 6):** 'Nothing specific, record keeping was poor and it was said semi tongue in cheek that if the FSA did a supervisory visit on itself, it would put itself into enforcement'
  - **Respondent G10 (p. 5 of 10):** 'Parts of Supervision do not come in contact with “consumers” directly, but I would say that not protecting less sophisticated market participants such as social housing entities, educational bodies and local authorities in deciding where the economic burdens should fall has not been one of their finest moments.'
  - **“Lesley” (p. 4 of 7):** 'The independent investigation reports have made clear that the FCA failed to act in a proper way despite the all evidence. The two independent investigation reports were very critical of the FCA's failure to act – but also their conduct in trying to protect senior managers from the criticism due to their failures, the official line is that “we will learn and change”. Well, as an employee I can say there is no evidence of any learning whatsoever. Every internal communications briefing is about self-promotion, and the poor management and leaderships [sic] behaviours have become more and more entrenched over time.'
  - **Respondent G12 (p. 3 of 8):** 'There was a financial group (“The Group”) that owned Firms A, B, C, .... The Group wanted to consolidate these separate companies into one. This entailed transferring all the customers and their products from Firms B, C, ... into Firm A. After the transfer, Firms B, C,... would be empty shells and could be closed down. The FCA were one of a number of bodies that were required to give an opinion on the fairness of the proposed transfer.

'One of the companies that was to be emptied and closed down (Firm B, say) had a contract in place with a financial company (Firm X) outside The Group.

The fixed terms within this contract meant that it was a big asset to Firm X and a big liability to Firm B and to The Group. The natural default treatment would be for the contract with Firm X to be transferred, along with the customer products it was linked to, from Firm B into Firm A.

'The Group, though, were proposing to not transfer the Firm X contract into Firm A: it would just be left in Firm B. The terms of the contract meant that it would expire at that point because the customer contracts to which it was linked were no longer present in Firm B. Looking at this from the point of view of Firm X, it's pretty clear that this is an underhand play, made with the intention of making a profit at the expense of Firm X, posing all sorts of questions about the level of integrity of The Group's senior management.

'Being someone that believes they know right from wrong, I saw this as a conduct issue and told the supervisor, their boss and their manager that the FCA should object to the proposed terms of the transfer, telling The Group that the contract with Firm X needed to be transferred into Firm A.

'The supervisor's manager (their boss's boss) refused to take any action, giving two excuses:

- The FCA doesn't get involved in disputes between firms, and
- Even if this is misconduct, it doesn't link through to customer protection or to the integrity of the financial markets. Those are the only two things the FCA has a mission to protect.

'I argued back about how this demonstrated a lack of integrity on the part of The Group's directors but the supervisor's manager wasn't interested. Integrity would be dealt with at some point in future when those managers came in for interviews (which I have trouble believing).

'I was excluded from meetings with The Group from that point onwards with some feeble excuse about not wanting too many FCA people at the meeting (the supervisor's boss and manager were wanting to attend).

'I think eventually, they may have persuaded the PRA [Prudential Regulation Authority] to object on the grounds that cancelling the treaty would have dealt a blow to Firm X's balance sheet – I'm not sure as I was being kept in the dark.

'Soon after that, I was moved off of working on individual firms.

'This might sound like a trivial example of finding any excuse to ignore an integrity-related issue by looking at the exact wording of the FCA's mission statement. But a few years later, Jes Staley, Barclays CEO, instructed his IT department to dig around and identify a Barclays whistle blower. The FCA got wind of this, gave Staley and Barclays a big fine but allowed Staley to stay in his job after showing a lack of integrity. I understand their excuse was that if they made Barclays sack Staley, it could have impacted on the Barclays share price and therefore on financial markets.'



## 8. What are your thoughts on whether the FCA lacks the powers that it needs; or conversely, that it doesn't make good use of the powers it already has?

11 respondents answered this question. Most of the respondents said that they think the FCA doesn't make good use of the powers it already has. Some of the respondents feel they do not use their powers effectively, and should use their powers to take action more quickly.

### Sample comments:

- **"Samantha"** ([p. 6 of 9](#)): 'It's hard to say what good use the FCA could make of its powers in the insurance sector as it lacks the internal expertise to understand the issues. All too often it concentrates on 'low hanging fruit' eg motor pricing while ignoring the more complex products...'
- **"Mary"** ([p. 3 of 7](#)): 'If anything, the FCA has far too many powers and too big a remit, but it does not give enough thought as to when and how best to apply them. Indeed, the organisation often seems unwilling to use the powers it has until it is too late. Too often the response to regulatory problems is to ask for the FCA's perimeter to be increased rather than to think more creatively about how the problem might be solved. As I mention above, a risk adverse attitude hardly helps.'
- **Respondent G7** ([2 of 35](#)): '...Overall, I believe the FCA needs to use its powers more effectively and in order to act as a real deterrent to firms – i.e., firms that are found to be breaching rules should be named and shamed more. The FCA also needs to be more assertive in rejecting firms at the Authorisation's gateway stage – two of the firms listed in Q6 (Lendy and FundingSecure) went into administration causing hundreds of millions of pounds in investor losses, within 10-31 months of being authorised by the FCA. I do understand however that recently there has been a slight increase in the number of authorisation applications being rejected – providing there's legitimate reasons and credible concerns – this approach in being more assertive at the gateway stage should be seen as a welcoming step in protecting consumers.'
- **"Lesley"** ([p. 4 of 7](#)): 'Even if it were given more powers, the evidence (including the independent investigation reports) the fact that the FCA's culture is toxic means that they will continue to focus on self-protection rather than why it exists including protecting and supporting consumers. This could have been a legitimate consideration now but it won't work as the FCA is now toxic. Giving it more powers would even possible make things worse as it would not know how to use such powers'
- **Respondent G12** ([p. 6 of 8](#)): 'It has the power but doesn't use it. Andrew Bailey didn't want to upset the big companies and there were two or three layers of people below him only interested in keeping bosses happy and in

hiding issues rather than raising them.'

## 9. Have you experienced any difficulties or shortcomings in your interactions with the FCA?

Seven respondents answered this question. Many of the respondents provided answers from an FCA employees' point of view, where they had found HR and Senior Management biased and lacking knowledge. One respondent mentioned bullying that they had reported to HR, but nothing was done. Another respondent said they had raised many serious matters with their senior managers but felt they had not been listened to.

### Sample comments:

- **Respondent G9** ([p. 5 of 7](#)): 'From an employee point of view managers were reluctant to provide anything other than broad feedback in 121s. Then at the annual review some staff were told (for the first time) that they had performed poorly at the start of the review period (which could be up to 12 months earlier) and hence were receiving zero pay rises.'
- **Respondent G10** ([p. 5 of 10](#)): 'Considerable.

'I mentioned bullying above. I reported this to the HR department. A member of the HR department then witnessed the bullying by the manager and still nothing was done. The HR department is ineffectual and has no credibility.

'I have reported via the whistleblowing process the inability of managers and heads of department to recognise conflicts of interest and address them properly. To my knowledge, nothing has been done.'

- **"Lesley"** ([p. 4 of 7](#)): 'Yes, I have tried to raise serious matters with senior managers – and they have been entirely unresponsive. I could not believe that senior managers simply refuse to listen to serious concerns even where evidence is provided about a senior managers' misconduct. The FCA is an unprofessional and incompetent organisation - the culture is simply that you are expected not to deviate from the message, that ExCo and the FCA as a whole are apparently doing "excellently".'

## 10. Have you experienced the FCA being reluctant to give clear answers to questions, whether from you, the public or other stakeholders?

Nine respondents answered this. Most of the respondents said yes and gave examples of questions asked by FCA staff, the public and regulated firms. One respondent shared that they found the FCA reluctant to give answers about the Transformation Project, another said that the FCA is reluctant to give clear answers to firms 'for fear of it being taken as regulatory guidance'.

### Sample comments:

- **“Samantha”** ([p. 7 of 9](#)): 'The FCA never answered the public's queries. They were always referred to the relevant Ombudsman.'
- **Respondent G6** ([p. 3 of 6](#)): 'The FSA (and FCA) will never answer a question from a firm for fear of it being taken as regulatory guidance.'
- **Respondent G10** ([p. 5 of 10](#)): 'Many of those employed at the FCA are simply not sufficiently skilled or knowledgeable in the relevant areas. This results in communications which lack clarity, direction and can be viewed as indecisive.'

'The FCA operates on a DES model (delivering effective supervision). It is ineffective. The major reason is the structure is too complex. This facilitates a person who is not particularly skilled to pass the issue to another who is equally not particularly skilled and so it goes on. No-one will then take responsibility for the action.'

- **“Lesley”** ([p. 4 of 7](#)): 'Yes, the FCA has been giving weasel words to questions raised by staff regarding to the current transformation. The FCA rejected the Unite union's contact to discuss whether it would recognise it as a trade union. This has become a big issue for many staff regarding senior managers' disingenuous comments about why they do not make assumptions about staff wanting to be represented by unions – people are now entirely fed up with weasel words, when even the Bank of England recognises trade unions.'

## 11. Have you been in a situation where you could have helped a member of the public with an enquiry but were constrained from doing so as a direct result of an FCA policy or the FCA's interpretation of an applicable law?

Seven respondents answered the question. Three of the respondents said no. One of the respondents said they were not allowed to give clear 'yes' or 'no' answers in relation to authorisation queries, another recalled that they were not legally allowed to advise a member of the public against investing in an obvious scam.

### Sample comments:

- **Respondent G4** ([p. 8 of 12](#)): '...a specific example is when I was working in the FCA contact centre we were told we could not legally tell a member of the public not to invest in an obvious scam for legal reasons. The only reason we were so successful in preventing fraud was because brave individual chose to collectively push back against this policy and do the right thing.'
- **Respondent G7** ([10 of 35](#)): 'It was at times frustrating not only for myself but also for other Firm Helpline colleagues within the Customer Contact Centre, that when providing guidance on authorisation-related queries it would have to be just that – guidance and trying to indirectly provide or indicate a 'yes' or 'no' answer rather than just providing a straightforward 'yes' or 'no' answer...'

- **“Lesley”** ([p. 4 of 7](#)): 'I know that following the independent investigation reports, it was clear that staff raised concerns about certain firms acting illegally but senior managers would not follow up the questions that were raised. This is the real tragedy of London and Capital Finance et al - that front line staff were raising concerns but senior managers were ordering them to stop raising the matters.'

**12. What is your perception of the culture of the FCA, and what do you think of it? Does it promote openness, or is there a lack of transparency?**

All respondents answered this question. Some of the words used to describe the culture at the FCA were 'dysfunctional', 'lack of trust', 'worst staff culture ever experienced', 'toxic', 'inconsistent', 'extremely poor'. Many of the respondents did not feel it promotes openness, and that there is a lack of transparency.

**Sample comments:**

- **“Samantha”** ([p. 7 of 9](#)): 'The worst staff culture I have ever experienced in nearly forty years. Top-down hierarchical management, Do-as-you're-told, don't argue. An astonishing arrogance that FCA “insiders” know more than any newcomers. An example – on my team there was a Technical Specialist who had been employed for over ten years since university by the FSA/FCA. His sole “real-world” experience was a six-month industry placement during the third year he was on the graduate training scheme. Yet at team meetings, it was always his voice and opinions that held sway despite there being other team members (not just me) with decades of industry experience and knowledge. But the issues go further than that. I have already referred to the nonsense that all communications, however informal, had to go “through the levels” and one simply didn't attempt to by-pass them. I discovered quite early on that requests for help from another department would be routinely ignored if the person being asked wasn't directly instructed to help by their own Manager. Unless your Manager was prepared to use up some personal capital on your behalf, you simply would not get the cooperation you needed.'

The upshot is that no, the culture at the FCA was anything but open and transparent. Most people just kept their heads down and tried to do whatever they needed to get paid.'

- **Respondent G4** ([p. 8 of 12](#)): 'The culture of the FCA is one of brave frontline associates pushing against the organisational system to do the right thing continually hindered by an overly cautious middle management who perpetuate a culture of paralysis (I have done nothing therefore I have done nothing wrong). We are only open when we are forced to be and we are unable to hide the failures of our in-action.'
- **“Mary”** ([p. 2 of 7](#)): 'The culture became increasingly toxic while I was employed at the FCA. Transparency was much talked about but seldom practiced in things that mattered. As I say in the above point, dishonesty and

deceit were commonplace so that any communication from the Executive Board in regard to staffing or working conditions came to be regarded as, if not necessarily untrue, then not the whole story.

'The management style itself was schizophrenic. On the one hand there was much talk about openness and engagement and (what many including myself came to see as) a "performative" concern about staff well-being. Yet, on the other hand there was an increasingly aggressively and "macho" culture which displayed itself in frequent bouts of bad temper, raised voices, open criticism of colleagues in front of their co-workers and other inappropriate behaviour.

'The Director of Risk and Compliance was a particularly egregious and notorious example of this behaviour, but she is not alone. In common with many other senior members of staff, she surrounded herself with a "court" of individuals we would characterise as "nodding donkeys". Such individuals could always be counted upon to agree with her. It was notable how more forceful individuals, who were not afraid to speak out or disagree, left the Division (and sometimes left the FCA) either in frustration or because they were "pushed out"...

'Complaints about aggressive or unreasonable behaviour by senior staff across the organisation were normally brushed aside before they could become formal or official (the standard excuse being "you've got to realise how much pressure x is under"). If that didn't work the formula would change to a scarcely veiled threat ("Are you sure you want the bother of escalating this? What's it really going to achieve?").

'On top of this (or perhaps contributing to it) the relationship between individual Directors and other senior staff seemed to be unusually poisonous, even allowing for the normal corporate jockeying for power one might expect in a large organisation. There was little attempt to hide this with Directors and sub-Directors routinely denigrating their peers in front of subordinates. Staff surveys frequently referenced "back-biting" and "empire building".<sup>18</sup>

- **Respondent G7** ([p. 10 of 35](#)): 'My perception of some of the more negative aspects of culture at the FCA can be generally characterised with these four main traits;
  - (1) Avoiding accountability;
  - (2) Avoiding transparency;
  - (3) Avoiding risk and;
  - (4) Corporate Narcissism...'

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<sup>18</sup>["Mary" footnote] I find it quite damning to compare the years I worked at an American financial institution with the years I spent at the FCA. Despite a demanding working environment of long hours and at times intense pressure, the culture at the US firm was healthier, more open and staff were far more valued and respected than at the FCA.

- **Respondent G9** ([p. 5 of 7](#)): 'Whilst management say that they encourage challenge, in practice those individuals who did provide challenge were labelled as members of the 'awkward squad' penalised either by being awarded nil or below average pay/bonus awards or being overlooked for promotion in favour of weaker candidates whose 'faces fit'.

'Management put more store on hitting diversity targets amongst the staff than by placing the most appropriate people in these roles. Protecting consumers would, therefore be adversely affected.

'I think the FCA culture is extremely poor. Management are quietly hostile to challenge and are in general extremely opaque in making decisions.'

- **Respondent G10** ([p. 6 of 10](#)): 'There are pockets of the FCA which I understand promote openness and transparency. This has not been my experience. The culture operates on "information" is power. Therefore, information is hoarded. Management conduct "one to ones" which allow the "manager" to hoard the information and manipulate it in a manner that he/she considers appropriate. This might work if the manager had a level of skill or expertise or had been fully engaged in the process. In most cases this is not the case and it simply leads to circular email correspondence.'
- **"Lesley"** ([p. 4-5 of 7](#)): 'The culture of the FCA is incredibly poor – it is absolutely awful and I would have to say it is toxic. Judging by the questions raised in response to the current consultation, a majority of the workforce seems to be demoralised and frustrated by the weasel words and statements that a union is not needed when we have the SCC (Staff Consultative Committee) - even when the 4 SCC members say that are ordinary staff with no time off facility, or support, and a union would be better able to negotiate with senior management. But the FCA continues to refuse to recognise the union Unite and continues to make odd assertions. In my view, based on the evidence I've seen, the FCA became a navel-gazing organisation almost operating in a parallel universe. The culture became "keep the gravy train running, and don't get caught for mistakes (i.e., even if that means doing nothing much of the time)" - and so in recent years the organisation developed an entirely toxic culture. Most depressingly, I realised that reference to consumers, including those losing everything, was minimal - the FCA was about trumpeting the smallest outcome that wasn't a complete failure in its own weekly internal briefings.
- **Respondent G12** ([p. 7 of 8](#)): 'It's a don't rock the boat culture. Too many layers of management more interested in covering conduct issues up rather than raising them. And then those managers reward others that cover up issues and drive away those of us that want to eliminate misconduct.'

### **13. Does the culture of the FCA encourage and support staff in raising serious and challenging questions, or does it deter them from doing so?**

All respondents answered this question. Many of the respondents felt that the culture at

FCA discouraged staff from raising serious and challenging questions, and those who did were punished. Some respondents felt that although the culture at the FCA doesn't discourage staff from raising serious and challenging questions, the leadership did not listen.

## Sample comments:

- **"Samantha"** ([p. 8 of 9](#)): 'No chance. Management decide everything. Staff do as they're told.'
- **Respondent G4** ([p. 8 of 12](#)): 'The top management of the FCA does encourage this and if you can reach them directly then effective change can be made, however middle management at the FCA does not encourage questioning and will often force these individuals out of the organisation.'
- **"Mary"** ([p. 5 of 7](#)): 'When the management said they 'welcomed challenge' (which they did with tedious frequency) what they meant is they welcomed supportive comments. Those who raised genuinely challenging questions were either ignored or written off as troublemakers. They could also expect to see their performance grade negatively impacted and could be subjected to veiled threats.'

'I was frequently told I needed to be 'more supportive' and 'less difficult' in meetings because I was not afraid to ask for clarification when instructions were unclear or contradictory<sup>19</sup>. Other colleagues have told me they had the same problem.'

'An example of the gap between words and action (as well as the lack of transparency) that stands out is a risk response I prepared in regard to a proposed action by supervisors. The firm against which the action was proposed was known to have persistent and long-standing failures in regard to money laundering prevention.'

'The paper listed a number of options and I wrote that from a risk perspective the most assertive and decisive option appeared to be the most appropriate. The Executive sponsor of the paper reviewed the draft and appended a handwritten note to my response saying "what's the point of doing this if it ends up putting the company out of business!", implying I was naïve and that the FCA could not possibly take such a course of action under any circumstances. The authors of the paper also subsequently told me they had been told to tone down the recommendations by the sponsor. When I raised this with my own Director, I was told that 'I was not in a position to know all the facts' and that "high level discussions" were ongoing.'

'In short, what this amounted, to is that a) neither I nor the supervisors writing the paper were provided with enough information to assess the situation accurately and b) that a 'political' not risk based decision was being made.'

<sup>19</sup> ["Mary" footnote] This led me to doubt myself to the extent that I asked a number of colleagues whether I was indeed being difficult. They said I was asking perfectly reasonable and legitimate questions in a respectable manner.



'As was often the case those involved in drafting the paper and those called upon to comment on it were "marched up the hill" only to be "marched down again". That, on top of this, we were then admonished and regarded as naïve for proposing a firm course of action seems, even now, astonishing.'

- **Respondent G6** ([p. 5 of 6](#)): 'In my experience, we had debate locally (i.e. within our teams). I don't know how that has changed in the intervening years'
- **Respondent G7** ([2 of 35](#)): '...As early as mid-2016 I had met with the former HoD for the contact centre at the time wanting to share some of my observations, the most concerning of which was that the team leaders / line managers of front-line Firm Helpline and Consumer Helpline contact handlers, had gaps in their regulatory technical knowledge for example specified investments, and other elements of the FCA's Handbook whether it be COBS (Conduct of Business), SUP (Supervision) or PERG (Perimeter Guidance). The former HoD was not interested in my observations, dismissing the fact that team leaders and line managers needed to have technical knowledge, believing rather that it's more important that 'control mechanisms' be in place for the (micro)management of the department's junior associates. Note: The aforementioned HoD is now no longer a part of the organisation.'

'I also had a meeting with the former Director of Supervision - Retail Authorisation ("SRA") and again reiterated my concerns about the contact centre department, namely the culture of control and the gaps and weaknesses that was apparent within the team leader population (it was also evident amongst other contact centre colleagues and even admitted amongst the team leader population themselves) – my concerns once again were dismissed...

[...]

'On another occasion, I had a meeting with a senior manager within the customer contact centre. I shared my observation with her that almost all team leaders (barring one or two 'tokens') within the department were of white, non-BAME ethnic background, despite the fact that the vast majority of the junior associates i.e., the front-line contact handlers were of BAME origin. Thinking that this is a progressive organisation, that I would be safe, supported, and/or at the very least there would be some agreement or sympathy, I floated a suggestion that perhaps the contact centre can and should promote more people of BAME origin (especially from the junior associate population since due to their technical competency) into team leader roles; however, I was met with such an aggressive and defensive rebuttal and was accused of suggesting that the department practice (in her words) 'positive discrimination'. I was dismissed in such a way that I honestly thought I had committed a major transgression in making such a suggestion... From that one interaction however, I was deterred from ever raising that particular issue with a manager within the contact centre department ever again...'

- **Respondent G9** ([p. 5 of 7](#)): 'FCA culture deters staff from challenging and there is a soft bullying culture to prevent challenges being raised. I saw this take the form of individuals being required to work standard 9 to 5 hours rather than flexibly and being awarded zero pay rises despite contributing similarly to those who did not challenge.'

'I have seen examples of people who challenged the FCA's line or policy on a particular issue being singled out and made to sit elsewhere, away from their team. This made them less effective or able to contribute to other matters relevant to their team as a whole.'

- **Respondent G10** ([p. 6 of 10](#)): 'I have tried to raise serious and challenging questions in relation to conflicts of interest, the treatment of particular firms in terms of fairness in how they have discharged their regulatory obligations etc. For my efforts, I have been criticised, bullied and sidelined. I have found that in order to operate it is best not to question.'
- **"Lesley"** ([p. 5 of 7](#)): 'No the culture of the FCA actively discourages staff from raising serious and challenging questions. Many staff are fed up by senior managers constantly repeating that the arrangements for consultation via the Staff Consultative Committee are sufficient even though SCC are four staff that are effectively regular staff and have no routine time off to support staff.'

#### 14. Have you ever

- **Raised concerns or complained officially about the FCA?**
- **Been a current or past whistleblower, or known of others doing so?**
- **What happened, and how do you feel about what happened?**
- **What feedback, if any, have you had about your concerns, complaint or whistleblow?**
- **How helpful was the response?**
- **How long has it taken for your concerns, complaint or whistleblow to be processed, and how well or badly do you think the matters were responded to?**

7 respondents answered this question. None of the respondents had made an official complaint but some had raised concerns. Two of the respondents had blown the whistle internally or known of others doing so.

#### Sample comments:

- **Respondent G6** ([p. 5 of 6](#)): 'In 2015, I blew the whistle on a firm in relation to its complaints handling procedures. Having worked at the FCA, I know that unless the firm was fined, I would not know if any action was taken. I don't know what happened.'
- **Respondent G7** ([p. 16 of 35](#)): '...I know of a recent internal whistleblower who after blowing the whistle was in my opinion subjected to detriment. An FCA Director had sent a team to the whistleblower's home address stating

on a call to the whistleblower that the team would be at their address in twenty minutes to confiscate their work laptop and carry out search activities on all of the whistleblower's personal IT devices. When the whistleblower stated to the Director during the call that they were not currently at the address, the comment was ignored. After the call ended, one of the agents who was en route to the whistleblower's home address called the whistleblower and stated that he was outside of the whistleblower's property with the intention to gain entrance, confiscate the whistleblower's work laptop and commandeer their personal devices to carry out searches... This impromptu visitation was attempted in November 2021 at a time when Covid-19 cases in the UK were increasing – I highly doubt whether any careful thought (if any thought at all) was actually given to the health and safety of both the whistleblower and the agents that were sent to their home address.

'...In this instance the member of the FCA's SLT who sanctioned this course of action was not following their own Employee Handbook policies and procedures when it came to searching an employees' personal devices which includes obtaining express written consent of the employee...

'The internal whistleblower in the aforementioned instance had raised serious concerns about a specific function of the FCA, concerns of which could be deemed quite incriminating for the Head of Department of that function, and who was also the direct report of the aforementioned FCA Director. In this instance, there was collaboration between senior middle-management (a HoD and a Director) and HR, in order to place the internal whistleblower on a trumped-up performance improvement plan with the clear and malicious intention of setting them up to fail, and then attempting to levy other misconduct allegations against them in order to process and sanction the internal whistleblower through the FCA's disciplinary procedure...

'On another occasion, sometime between March 2021 and August 2021, members of the FCA's HR embarked on what could only be perceived as a hunt for a suspected internal whistleblower in order to obtain information about the nature of concerns raised of allegations of misconduct against several FCA personnel. In an incredibly doltish move...and because of the lack of technical knowledge of the mechanics in relation to internal and external whistleblowing, HR approached the external Whistleblowing Team in order to seek confirmation – unfortunately, it seems as if though this confirmation was given to HR by the Whistleblowing Team – I suspect in this instance it would've either been by a junior manager or a member of senior middle-management whether a HoD or a Director.

'HR then approached the FCA's Internal Audit function sometime in or around November 2021, in order to obtain the same information and confirmation as previously mentioned – however, the FCA's Internal Audit refused to provide any confirmation or information on the matter thus protecting the internal whistleblower's identity...'

- **Respondent G10** ([p. 6 of 10](#)): '[In answer to sub-question **Raised concerns or complained officially about the FCA?**]...This is my first time raising concerns outside of the organisation...

'[In answer to sub-question **Have you ever been a current or past whistleblower, or known of others doing so?**]...Yes, as articulated above

'[In answer to sub-question **What happened, and how do you feel about what happened?**]... With respect to whistleblowing this was around the lack of ability to recognise conflicts of interest and the bullying that accompanied it. I was interviewed and details taken down.

'[In answer to sub-question **What feedback, if any, have you had about your concerns, complaint or whistleblow?**] I have had no feedback about what action was taken in respect of the particular matter I identified. In terms of the department more generally there continue to be major issues around this so my only conclusion can be that very little has been done – measuring on an “outcomes basis”.

'[In answer to sub-question **How helpful was the response?**]...The person was sympathetic but it did not translate to taking any action. The person who I believed had the conflict was allowed to continue with the conduct and to my knowledge continues to do so.'

## 15. What do you think about the possibility of conflict of interest issues at the FCA?

All respondents answered this question. Many of the respondents thought this was likely, and mentioned what they perceived as conflict of interest issues such as the 'revolving door' and some internal conflicts of interest.

### Sample comments:

- **Respondent G4** ([p. 9 of 12](#)): 'There are clear conflicts of interest; the so called 'revolving door' as employees of the regulator tend to come from the firms they regulate and know they are likely to return to them in future. From a cultural perspective this make it particularly difficult as there is often a culture that the regulator is providing 'a service' to our regulated firms because they are ultimately the ones who pay the FCA's fees. This is an incorrect interpretation as we are ultimately accountable to the people of the United Kingdom but that duty of public service is unfortunately lost due to future career aspirations and this financial arrangement.'
- **"Mary"** ([p. 5 of 7](#)): 'Two issues come to mind.  
'First, a 'revolving door' operates for Senior Staff, with an unhealthy tendency for them to resign only to reappear a few months later at a firm they were responsible for supervising. The idea that a Senior Staff member might one day find employment at a firm they currently regulate cannot be a healthy state of affairs and leads one to wonder if this contributes to their reluctance to act assertively.'

'Second, the position of Sheldon Mills sitting on the FCA's ExCo and on the board of Stonewall is an egregious example of a conflict of interest, as recently highlighted in press coverage. The FCA's weak response to the press coverage only served to underline this fact. Mr. Mills own self-interest may well also explain the issue I raised above, as to the inordinate amount of time staff spend on D&I workshops etc. to the detriment of the consumer protection duty.'

- **Respondent G6 ([p. 5 of 6](#)):** 'The issue with the FCA is the 'revolving door' where senior staff leave the FCA and take up senior positions within regulated firms. This knowledge may influence decisions and regulatory action against firms.'
- **Respondent G7 ([18 of 35](#)):** '...I believe there is an extremely high possibility of conflict of interest issues at the FCA so much so that I would consider it an inevitability rather than a possibility in my opinion. A previously mentioned FCA Director started at the Financial Services Authority ("FSA") in 2010 as a manager in the Client Assets Unit and held that role for four years. They then immediately secured a role in a major American investment bank as an Executive Director within their compliance function for just under four years – which is of course a considerable amount of time to build an internal network within this bank and that too at a senior level – before re-entering the FCA as HoD of the Client Assets and Resolution Department ("CARD")... how would this individual demonstrate that there would not exist any unconscious / affinity bias on their part in favour of this prestigious, high-renumerating investment bank when it comes to making supervisory judgments and decisions? Furthermore, how can the FCA ensure that this individual would not assist the firm via informal back channels in the form of guidance, advice and/or 'tip-offs'?

'Another example, a combination of not only of a conflict of interest, but also of whistleblower detriment: a former FCA manager who was with the organisation for just over three years, secured a role within the UK entity of a large, international banking institution. An external whistleblower within that institution – who was a direct report of the aforementioned former FCA manager – had raised a public interest disclosure. The former FCA manager threatened the whistleblower that he would be able to find out from his FCA contacts should the whistleblower approach the FCA with their concerns. The same external whistleblower had also informed me that a (different) former FCA Supervisor from the FSA-era, had directly revealed to the same firm in question the identity of another external whistleblower. Note: Neither of the two aforementioned FCA personnel work for the organisation anymore.'

- **Respondent G10 ([p. 6 of 10](#)):** 'As noted above there are numerous conflicts which are not handled well. These conflicts spill over into the management of people. The anonymised feedback that managers obtain during the appraisal process is fraught with conflicts of interest. I am aware of instances where a manager, clearly conflicted will use unsubstantiated allegations

from a personal relationship to the detriment of another. When the conflict is pointed out, the concerns are simply waved away.

'I know of individuals whose external relationships would, in industry, disqualify them from undertaking the role. At the FCA the "conflict" is disclosed i.e. senior management are aware of it, but there appears to be no appreciation of the risks. Additionally, my discussions with managers and heads of departments leads me to the conclusion that they simply have no idea of what a conflict is – that it is as much about perception as reality. That the conflict of a person working at the FCA is as much a problem for the FCA as it is for that person.'

**16. Do you believe the FCA should be made more accountable to the public, Parliament or anyone else? If so, why, and what measures do you think are needed?**

Nine respondents answered this question. Five respondents said yes. One respondent said that the FCA is already accountable to Parliament by way of the Treasury Select Committee. Another respondent felt that the Treasury Select Committee should be more involved and suggested they meet with the FCA quarterly rather than bi-annually. Two respondents suggested subjecting the FCA to an independent audit.

**Sample comments:**

- **"Samantha"** ([p. 8 of 9](#)): 'I think the FCA is beyond that. It needs root-and-branch reform or even outright abolition.'
- **Respondent G4** ([p. 9 of 12](#)): 'Yes the FCA needs to be made more accountable to Parliament and ultimately the people of the United Kingdom.  
  
'The question is how did this separation happen? In my view this separation between the FCA and the people it ultimately serves has many causes. The first is that the FCA and its predecessor the FSA is a very Londoncentric organisation and its employees either come from or are going to be employed at the firms it regulates meaning it lives in a very limited bubble of reality and at times really does not understand the people it serves.  
  
'Another aspect to this separation particularly from Parliament is based on the history of the organisation as for most of its existence its purpose has been to implement EU directives and legislation and ensure this was properly enforced by UK firms. Before BREXIT the FCA and its predecessor mainly interacted with EU institutions and only on a very limited basis with UK Parliament with its role from the FCA's perspective being to just "Rubber stamp" the commission's legislation. We would occasionally respond to a letter from an MP and answer questions at select committee but really our biggest stakeholder was the EU and this cultural closeness to the EU has not gone away and the majority of the organisation was and still is very anti-BREXIT. For this reason we have a large number of Europeans working for the FCA and the irony is most of the work around BREXIT at the FCA was done by European nationals who did a fantastic job despite doing something

that must have been very painful for them and at a time their employment status in the country was deeply uncertain.

'The problem comes when you ask the question is an international workforce what is now needed from a national regulator after BREXIT because given its history the FCA is still culturally closer to the EU Commission than it is to the UK Parliament. A particular example where I have seen this to be a problem is in relation to High Street Branches and their closure. One of the FCA colleague responsible for a major high street Bank who moved from the EU to take up the role and had only ever lived in London remarked three years ago "I don't think we need high street branches, who uses cash any more I don't and haven't done for years". As someone who personally comes from outside of London I knew the importance of high street Banks and the frustration of their closure with the long distances and increased number of hours needed to travel to a new location when they are closed in your local town. The power to make decisions and lack of understand about the people affected by them is a key issue the FCA needs to over come which is why I welcome the plan to create FCA hubs outside of London but would encourage the organisation not to pay these employees less as it currently plans to.

UK Parliament should also look to adapt EU law that was on-shored as part of the BREXIT legislation to make it more bespoke to the UK and in particular recognise that EU law has a federal law tradition and financial legislation needs to be adapted to reflect the United Kingdom's Common law Traditions. Examples I would give are MIFID 2 and Solvency 2 which took years to create and are potentially overly prescriptive. However currently in my view there is too much emphasis put on not wanting to "upset Brussels" this is a key consideration for future trade but this should not supersede the needs of the United Kingdom and also its ability to forge relationships with new partners such as the USA, Canada, Australia, Japan etc. The over European focus of the FCA's culture could present it from taking advantage or adapting to these new trade opportunities.'

- **Respondent G6** ([p. 5 of 6](#)): 'The FCA is accountable to the Treasury and the Treasury Select Committee and therefore Parliament itself. The TSC could challenge the CEO and Chair of the FCA more robustly and publish the outcome of meetings'
- **Respondent G7** ([20 of 35](#)): 'Yes, I believe the FCA should be made more accountable to the public, to Parliament, to the Treasury Select Committee, and other external stakeholders such as the Office of the Complaints Commissioner ("OCC") and the Information Commissioner's Office ("ICO") wherever the relevant failings lie e.g., whether it's a Data Protection Act ("DPA") breach or not being able to fulfil statutory FOIA and Data Subject Access Requests within the statutory time limit.'

'Currently, the FCA meets with the Treasury Select Committee ("TSC") twice a year, on a six-monthly basis. In my opinion, should the FCA continue being scrutinised by the TSC then the FCA should be meeting with the Treasury Select Committee on a quarterly basis at the very minimum. However, and



I'm sorry to sound cynical, but even then – what's going to happen? The Office of the Complaints Commissioner can't do anything to the FCA; recommendations that they make are shrugged off and not complied with; neither can the ICO; nor the Treasury Select Committee, nor any group of MPs and Peers, HM Treasury ("HMT") or even Parliament.

'To date, who – whether an organisation, an individual or a group of individuals or organisations from within any British institution or the public, has ever – successfully held the FCA to proper and rigorous account; and could this be the reason why the organisation is so extremely confident in the manner which it conducts its business because they know that no one is able or willing to hold them to account?

'Furthermore, in relation to reporting lines and formal accountability, I believe the FCA should report to Parliament directly and not HM Treasury specifically the Economic Secretary – that way the FCA can maintain regulatory independence and safeguard themselves from any form of political influence, lobbying and interference from one of the most powerful and significant government functions in society. Currently we all know that the FCA CEO position is always appointed by the Chancellor of the Exchequer. As part of any external scrutiny of the regulator's transformation, it seriously needs to be discussed whether or not the FCA would exercise its function better if it were independent from the Treasury and its politics and/or to mitigate any risk of potential 'lobbying by proxy' of the FCA by firms via HMT.'

- **Respondent G10** ([p. 7 of 10](#)): 'I think the problem for the FCA is that the job has simply become too onerous for the quality of staff they have. For example, in the most recent Treasury Select Committee interview of Nikhil Rath, he managed to evade any really probing questions. He speaks about the digital age, the new IT that is being introduced but doesn't volunteer that this new IT is failing badly because none of the data was cleansed, and there were no analysts with business experience inputting into the design and construction. Furthermore, there is no theoretical understanding of the business purpose of what they are doing. Financial institutions have "systems of record", governance around the processes. The FCA is a free-for-all. The IT infrastructure continues to be outdated and not fit for purpose. For example, I had one person in the FCA IT Department comment to me that they don't use the new infrastructure – its clumsy, doesn't work and falls over - they developed their own MI systems.'
- **Respondent G12** ([p. 7 of 8](#)): 'Yes. Accountable to someone independent of it all. Someone that would have nothing to lose if the FCA stamped down hard on financial companies or their most senior management. Not an MP. Not someone that's been chair or CEO of a huge company. I'd give the job to someone in the street who knew what they were doing. How about Martin Lewis?'

## 17. What positives are there about the FCA that you would like to comment on?

10 respondents answered this question. Most of the respondents commented that there are some very good, hardworking, knowledgeable people working there. One respondent said that there were no positives, another said that there were only positives for senior management as they earned the most money.

**Sample comments:**

- **“Mary” (p. 6 of 7):** 'Generally, the staff are - or have been – working at the organisation for the ‘right reasons’ and believe in what they are doing. Within the rank and file there are (or were) some exceptionally talented individuals and some impressive subject matter experts.'
- **Respondent G7 (20 of 35):** '...I do believe that there are some incredibly, genuine, empathetic, and sincere people within the FCA, whether it's the customer contact centre, in Supervision or other business areas. That, there is a big section of the FCA population which at all times want to do the right thing; who are empathetic, determined, engaged, skilled, professional, honourable, intelligent, selfless, and considerate in wanting to serve the public and consumers – and who have great intuition, a sense of creativity and innovation in how to regulate firms. When brought together these people can, and do, collaborate well as a team with a collegial spirit.'
- **Respondent G9 (p. 6 of 7):** 'From an employee perspective I got to see how a wide variety of firms operated and got exposure to senior management within those firms. In general there was a desire to do the right thing and protect consumers, but this desire was frustrated by bureaucratic processes.'
- **Respondent G10 (p. 7 of 10):** 'There are some people, particularly in Markets Policy who are very knowledgeable and hard working.'
- **“Lesley” (p. 6 of 7):** 'There are positives for FCA senior managers only. For example, a question was recently put to ExCo (the Executive Committee) that whereas a Director General earns 130k at the Treasury, Directors and Executive Directors at the FCA earn much more which appears entirely unjustifiable.'

**18. If you could change three things about the FCA, what would they be?**

11 respondents answered this question. Some of the suggestions include changing the management structure, more transparency to the general public, employing people with industry experience, implementing a more streamlined decision making process, an overhaul of the consumer facing areas such as the Contact Centre and Whistleblowing Team.

**Sample comments:**

- **“Samantha” (p. 8 of 9):** 'Management culture (x3)'
- **“Mary” (p. 6 of 7):** 'I would just change one thing.'

'I would break the FCA up.

'The FCA is too large and its remit too big. It is not fixable, and it has become a “reputational graveyard” for staff. A return to smaller nimbler more specialist regulators should be the way forward.”

- **Respondent G6** ([p. 6 of 6](#)): 'More transparency when members of the public report wrongdoing, even if [it] is simply an acknowledgement and that the firm has been contacted.

'Rules that prevent senior staff from taking up senior roles in a regulated firm for at least, say, 5 years after leaving the regulator

'More robust public scrutiny from the Treasury Select Committee'

- **Respondent G9** ([p. 6 of 7](#)): 'More streamlined decision making process . Only include people who have relevant experience and expertise involved in decision making.

'More streamlined management structure

'Either take the annual staff opinion survey seriously and address where possible concerns raised by staff. Or discontinue the survey altogether if no changed outcomes are going to result. Don't waste time pretending to take it seriously'

- **Respondent G10** ([p. 7 of 10](#)): '1. I would not employ any person who has not some industry experience. I understand that in the US some regulators have a minimum requirement of 10 years industry experience. To this end I would abandon the graduate programme – the money and energy that is invested is considerable, with little long term benefit to the FCA. The industry pays much better and the good graduates leave. What is then left are those who cannot be employed anywhere else and refer to themselves as ‘career regulators’ clogging up the promotional system. The concept of a ‘career regulator’ is equivalent to sending out someone with no engineering expertise to inspect the safety of a bridge. You just wouldn't do it.

'2. I would recognise that specialists are required and I would remove those managers and heads of department who do not have the requisite skill levels and knowledge. To this end I would disagree strongly with the Transformation Approach being adopted by Nikhil Rathi to reduce the number of job categories as this has the effect of further dumbing down the organisation.

'3. I would focus on the areas that are consumer facing, namely the Contact Centre and the Whistle Team. I would overhaul these departments and give them an ethos of ‘knowledge centres’ not ‘call centres’. Looking at the Gloster Report – it is the Contact Centre's inability to recognise and triage the cases that is a large part of the problem. This also happens in the Whistle Team. These teams need to be well resourced with experienced people with knowledge and understanding of financial issues. They need to be led by people committed to improving the quality

of engagement with consumers and the public. For example, at the moment the Whistle Team gets the public input and allocates it to supervisors. I am one of those supervisors. Firstly, the statement taken doesn't really make sense because the person taking the call doesn't understand the subject matter. Secondly, I am not trained to deal with these issues, even if I can make out what they are about i.e. the "witness statement" is so poorly drafted as to be nonsensical. Investigating whistleblowing cases is just another "task" dumped on already over-stretched supervision resources. Is it unsurprising that the public feel that they are not being listened to nor understood. Both of these areas need stable investigatory teams. The Whistle process introduced in 2018 was simply a knee-jerk reaction by Andrew Bailey to the criticisms he had received – poorly thought through and poorly executed.'

- **"Lesley"** ([p. 6 of 7](#)): '1. The culture – it is toxic and reform does not seem possible with many existing Heads of Department and Directors continuing in post.  
  
'2. The senior management – many senior managers are part of the toxic culture which includes behaving out of self-interest and not taking the action they should take if it involves any risk or possibly challenging questions for them.  
  
'3. After 1 and 2 above, there needs to be much more robust scrutiny of the FCA. The FCA has been focused on self-interest and self-protection only and it needs to be urgently scrutinised at every level of its strategic and operational activity.'
- **Respondent G12** ([p. 7 of 8](#)): 'Put someone in charge who really doesn't care about upsetting the firms being regulated. Need a name? I can think of a former regulator at Deloitte.  
  
'Be absolutely relentless in clearing out the layers of management that were happy to ignore any issues. Don't be tempted to keep them on the grounds that they've shown they can do what they're told and can therefore change. I want people there that stamp down on misconduct because that's the right thing to do, not because it's what their boss has told them to do this week. Maybe just issue a dictat that everyone has to come in on Wednesday wearing a green hat, then make a note of everyone that does (there will be lots of managers that do) and ease them out over a year or two.  
  
'Change FCA mission to saying that they stamp down on misconduct of any sort. Nothing about only when consumers or markets are affected. And no annual announcements about how "this is what we're concentrating on this year".'

**19. The FCA is undertaking a Transformation Project. Do you have any comments to make about that?**

**For example:**

- **Are staff at all levels invited or allowed to participate and contribute?**

- Do you expect this project to alter or influence the culture and policies of the FCA?
- Do you expect consumer protection to be improved?
- How could transformation/improvement of the Regulator be better handled?

All respondents answered this question. Some of the respondents felt the Transformation Project is all about saving money rather than protecting consumers. Overall the respondents did not believe the transformation project would protect consumers, one respondent calling it a “pointless exercise”.

## Sample comments:

- **Respondent G4** ([p. 11 of 12](#)): 'It is clear that this transformation project has failed and has brought about the first FCA strike in both the FSA's and FCA's history. When speaking to my former colleagues I understand morale is at the lowest it has ever been with over 730 critical job functions in an organisation of 3500 currently vacant. Efforts to resolve this are also failing with external contactor brought in at high cost to help with the authorisation back log but despite the vast expense the contactors are not being given sufficient training to carry out the this critical job function which means more 'Bad actor' will become authorised and if this situation is allowed to continue we will see more failures to effectively protect the people of the United Kingdom.'
- **“Mary”** ([p. 6 of 7](#)): '... I believe breaking up the FCA would be the best course of action. That said, and realising my preferred option is highly unlikely, if the FCA is to continue as a single unitary body then a transformation programme is a sine qua non and only to be expected after the LCF debacle.  
  
'However, it does seem to be the case (at least as I now view it from outside the organisation) that the end goal of the current transformation programme has not been articulated other than in the most general terms. Thus, it appears, rightly or wrongly, that the emphasis of the programme is on saving costs rather than on better consumer protection.'
- **Respondent G10** ([p. 8 of 10](#)): 'The Transformation has not been handled well. As you can see from my comments above, it is not that the FCA was perfect. However, Mr Rathie has shown a complete lack of appreciation of the issues. He also seems to have no empathy with individuals and is regarded at the FCA as having a tin ear.  
  
'He speaks about a technology solution as a means of supervising but does not demonstrate any understanding of the nuances across the institution. You need experienced people to understand what data is telling you. You have to determine what data you want and why. What do you want to achieve, what are the priorities? Also, data is only half the problem. The two technology projects implemented in Supervision – Sharepoint (data storage) and Intact (case management) – have been implemented without proper

business analysts. The money expended is significant but it won't assist Supervision, it is aimed primarily at being able to satisfy Freedom of Information applications and provide documents for the independent reviews so that senior management are "protected". Protection from criticism at Treasury Select Committee Meetings is seen as a major business driver – it is not about good supervision.

'The salary rise of £5,000 for staff working in the Supervision Hub (also known as the Contact Centre) is used as justification for lowering the salaries of the experienced people. The Gloster Report was damning about the Hub, but increasing salaries is not the solution. They are treating it as a call centre, moving calls as quickly as possible. As I have suggested above, it would make more sense to make it a "knowledge hub". Triage the calls and then refer them back to people who understand the issues. The Gloster Report identified one issue where the caller was asking about credit worthiness and the young call centre person thought that the caller was talking about phishing. There is a disconnect here – the language used by youth is not the language of older investors. In my view, the model is completely flawed. Mr Rathie doesn't seem to get that point.

'[In answer to sub-question: **Are staff at all levels invited or allowed to participate and contribute?**] Yes, and a significant number of people have participated and contributed. The ExCo say they are listening, but there has been absolutely no movement on any of the issues. There is a pantomime that is being played out, a great deal of window dressing, but nothing substantive.

'[In answer to sub-question: **Do you expect this project to alter or influence the culture and policies of the FCA?**] I doubt it. More importantly, I don't think Mr Rathie will be able to do it because he has no credibility. As I have noted above the culture is the real problem and the Transformation Project does nothing to address this.

'[In answer to sub-question: **Do you expect consumer protection to be improved?**] No, the issues that have been identified in the independent reports are not being addressed as part of this Transformation Project. All that the Transformation Project is achieving is reducing costs. That might have been the original intent i.e. the money for the IT has to come from somewhere. But in terms of consumer protection what is really needed is more professionalism, employing people with knowledge of how markets work, employing good communicators.

'[In answer to sub-question: **How could transformation/improvement of the Regulator be better handled?**] I think at this point I would shelve it and start again. In its current format it is a cost cutting exercise being branded as "Transformation". For example, the salary bands were published before the mapping exercise had been undertaken. How is it possible to determine what to pay without first understanding the job to be done, the skills and experience needed? Additionally, the idea that someone who deals with

vulnerable customers needs the same skills as someone who deals with benchmarks, fund management, is a nonsense, but that is how it is being presented. It is like going to a GP for some heart surgery. The rationale being given is that people can move around. Why? When the industry you are regulating is highly specialised why wouldn't you want the person regulating it to have the same specialised knowledge?'

- **"Lesley"** ([p. 6 of 7](#)): 'There was a staff briefing session on Tuesday 5 October 2021 (headed by Nikhil Rath) and staff comments included that it is simply not a meaningful consultation and a number of people asked why the FCA goes through the pretence of consulting when the evidence indicates there is no real interest in listening in a meaningful way to staff comments. The consultation is regarded by many staff as a sham, and in parallel, confidence in Nikhil Rath has plummeted.'
- **Respondent G12** ([p. 8 of 8](#)): 'I expect this is just lip service. Unless there's been a huge staff meeting in which the new CEO has given a Brian Clough medals in the bin speech, any changes will be minimal.'

## 20. Are there any other comments that you would like to make?

11 respondents answered this.

### Sample comments:

- **"Samantha"** ([p. 9 of 9](#)): 'My view from having been on the inside is that the original decision to split the FSA into Financial and Conduct Regulators was flawed. The FCA tends to concentrate on the issues in one Sector at a time and lacks the time and knowledge to make meaningful contributions to the other sector, Also, there are clear overlaps between financial and conduct regulation that lead to conflict between the PRA/BoE and the FCA, which the Bank tends to win. My view is that Financial Services Regulation should be split between Banking and Insurance and both Regulators (The Banking Regulator and the Insurance Regulator) should come under the control of the Bank. And that awful management culture needs serious addressing. I honestly cannot see how that can be achieved without a wholesale clear-out of the career managers who have been in public service for decades.'
- **Respondent G4** ([p. 11 of 12](#)): 'The new role of the FCA is now being pushed as a 'Data Hub'. This seems strange as it is very alien to its culture and its [sic] has a poor cultural history when it comes to technology. For evidence to support this I would advise asking the organisation about the details and cost of the Fujitsu service contract. In addition, when the organisation recently replaced its IT service it ordered Lenovo tablets which were designed for light domestic use and were not meant for the office environment to be run sometimes for up to 14 hours a day during peak busy times at the FCA. As these were fan cooled it mean [sic] that after less than 3 months all these tablets started to fail as their cooling fans began to grind into the computer circuits around them causing them all to be replaced. I



would suggest further details are asked for the cost of this decision and the FCA's whole technology transformation process.

'I use this to highlight a wider point asking even with effective changes is the FCA the right organisation to be responsible for regulating UK financial service and protecting the UK public from the known harm they can cause? From a technology perspective Meta (Facebook), Google, Amazon and Apple etc already have the relevant Data mining technology to carry out the job of monitoring regulated firms and identifying poor behaviour with sophisticated AI than the FCA can ever hope to build. Why spend hundreds of millions trying to replicated this. The organisation itself is run by a jaded middle management the majority of whom lack the skill, judgment and technical ability to carry out their role. The FCA has the legal power it needs but lacks the institutional will and culture needed to use it. I would in fact agree with my colleagues view that the FCA was always the FSA the cultural transformation started by Martin Wheatly was ended prematurely before it could bring about effective change. In particular given his history with Mini-bonds I consider it is unlikely that London Capital & Finance (LC&F) would have occurred had he still been the CEO at the time.

Ultimately the desire the keep the FCA going may only increase the total bill the UK Government has to spend to cover the organisation's debts when it eventually has to take back responsibility for the regulation of UK finance. This is even before considering the number of additional scandals which may result from the FCA's current weakened state. The key recommendation I would make is to identify and save as many of its fantastic employees as possible those who currently work on the front line and protect members of the public from loosing their life savings every day. It is a hard choice to continually turn down offers to triple your salary and that is what they do everyday they serve the public. Depended on what decision is made in regards to the FCA's future it is these fine people with a deep knowledge for their craft that should be protected, looked after and rewarded because they are the reason we should be able to sleep soundly at night knowing our life saving are safe.'

- **"Mary"** ([p. 7 of 7](#)): 'During my time at the FCA I noted a worrying resentment on the part of those longer serving staff members towards fresh talent from the private sector (or 'industry', the rather revealing phrase that is used internally). As a result, it is not always clear that the organisation gets the best out of these recruits and indeed many of them depart in relatively short order.

Related to the above point, the organisation seems to find it difficult to match an individual's skill set to appropriate jobs. This is despite periodic attempts to create an internal register of skills and experience.

Huge amounts of money (and time) have been squandered by the organisation on a series of courses run by a company called Mind Gym. These courses focused on 'soft behaviours' and offered no practical help in facing the day-top-day challenges of the job. On the other hand, there was seemingly little attempt and certainly seemed little investment made to supplement supervisors' poor knowledge of financial analysis.

Despite the bold talk that goes on in the organisation about “welcoming diversity of thought”, this is simply not true. The mindset of the FCA is, at best, ‘soft left’, highly interventionist and anti-free market.

Finally, there will be those who wonder why, given my comments above, I stayed so long at the FCA. However, the answer is simple: both various personal circumstances and the, as I now realise, naïve belief things would get better. There was also the element of the ‘slowly boiled frog’: it was only as I departed that I could look back and realise quite how inured I had become to a truly toxic and dysfunctional environment.

While I fully expect the FCA to deny and discredit much of this material, I have responded to these questions in good faith.'

- **Respondent G7 ([29 of 35](#)):** 'Asides from the corporate narcissism, the biggest problem with the FCA is this – it's not the FCA, it still seems to be the FSA (Financial Services Authority). The culture, the ethos, the behaviour, the mentality, and values are all still FSA-oriented and is being led by FSA-era individuals with their FSA-era internal and external industry network. Why is it that a lot of the recent failings of the FCA are strikingly reminiscent of previous FSA failures whether that be causing whistleblower detriment or failing to act on a scandal before it's too late?...

'The FCA has the potential to be a truly brilliant organisation but the aforementioned is yet to be shed, and in order for the FCA to truly achieve its operational potential in the pursuit of its statutory objectives and its mission of delivering value for the public, whilst being a truly effective financial services regulator, it needs to seriously 'self-actualise' on a corporate level and deeply reflect on what to do with its HR and senior middle-management layer especially those actors who's unfortunate Dark Triadic personality traits, as well as the direction of their moral compass, are not a good cultural fit for the organisation...

'An organisation which is relying on principle-based regulation and on high-level principles laid out within its own regulatory handbook (see FCA Handbook PRIN 2.1) has no moral right to espouse and enforce these principles upon the industry if it is unable or unwilling to abide by the spirit of these principles themselves internally with its own employees, and when dealing with the public and the industry...

'A fair, significant, and practical proportion of regulatory fines paid out by regulated firms after successful prosecution cases should be invested into the FCA. Currently fine money from successful FCA action goes to the Treasury and into what's called the 'Consolidated Fund' (to be then dished out to other sectors and causes e.g., military charities and the NHS) – not a lot of people know this, probably not even the majority of FCA employees, and definitely not your average consumer.

'At the FCA it's either a skill issue or a will issue....The FCA is an employer of c.4,200 employees, each with years of education, experience, talent,

knowledge, and comprising of rich and varied skillsets – hence, even though technical competency, training, and overall professionalism can and should be improved within many business areas, I don't believe this is a skill issue or the fact that the FCA are unable...

'I believe that the unfortunate fact of the matter is that it's a will issue and that some parts of the FCA, i.e., FSA-era 'deep-state' actors within the SMT and SLT level are unwilling. This is the mindset that needs to change...

'There are some huge challenges for the FCA to overcome, but I do believe ultimately it will. I am sympathetic to the fact that it is an under resourced organisation of only c.4,200 employees and an annual funding requirement of only c.£600m, yet it's tasked with the enormous responsibility of regulating a multi-billion pound industry which employs over one million people...

'...I do believe the FCA has the potential to be a brilliant organisation, and that of a world-class regulator serving a crucial function in society with the regulation of financial services in a free market economy – a sector which contributes a material percentage to the UK's total economic output. However, could it be that ultimately, despite the overall culture of corporate narcissism, systemic discrimination, avoiding accountability, transparency, and reputational risk, major issues relating to specific functions such as HR, senior middle-management, information disclosure service etc, in addition to other organisational and resourcing issues – that the reason why there is a widely-held perception of the ineffectiveness of the UK financial services regulator is because the FCA is stuck in between a 'rock and a hard place' – that being of the 'politics of economics' and the 'economics of politics'?...'

- **Respondent G9** ([p. 7 of 7](#)): 'Supervision meetings with firms may be less effective than they could be. There's a tendency for FCA teams to let firms' representatives talk about whatever they want to, instead of holding them to the agendas prepared in advance. As a result, the questions prepared by the FCA don't get answered - yet the meetings are deemed to be 'successful'.'
- **Respondent G10** ([p. 9 of 10](#)): 'In some parts of the organisation there is real professionalism and this is recognised internationally. My concern is that the Transformation Project is going to seriously undermine that. The rumours are that the vacancy rate is running at over 25% of the workforce. My department has halved in the last 6 – 10 months.'

'What I find deeply unproductive about the FCA is the lack of willingness to take something and make it work. A new person comes in, and comes up with a new idea and the organisation goes into a spin. One observation I have made of the truly successful financial institutions is continuity. Individuals in the same job help, but continuity operationally would be so much better. For example, post LIBOR FX there was a remediation programme – they disbanded the group that had been doing this work after 18 months to two years. Why? Why not grow that group into a real force for

conduct issues in wholesale markets. Following the Mini Bond issues they created another “task force”. Senior management took great pride, they told us in developing a group from scratch that dealt with the issues. I would have been embarrassed to say that, as a leader in Supervision, I didn’t already have a group that could deal with this. At the beginning of the pandemic there was real concern about the prudential welfare of small firms and another task force was created. Again it has been disbanded – so all of the experience, the learning, improvements that could have been made are dissipated and lost and when the next issue comes along, they will have to start again. My view is that this is no way to run a regulatory operation.'

- **“Lesley”** ([p. 6 of 7](#)): 'Only that it is hard to describe just how toxic the FCA has become. On that basis, there is no real likelihood that the current transformation project can improve the situation. It can be understood that the Treasury does not want another major upheaval at this time, but the reality is that it is getting worse and will continue to do so. The new CEO made a number of strategic mistakes including keeping on a moving to different roles, members of the ExCo team. In one case, the ExCo manager regarded by many staff as responsible for much of the failures (LCF in particular) was given the job of transforming the organisation.'

## The Recommendations Chapter

### Introduction

The APPG's primary objective in producing this report is to provide ideas and stimulate debate about how the FCA's shortcomings might be addressed and its performance improved.

To this end, the APPG tasked its Secretariat with assembling a Recommendations Panel composed of independent experts with a wide range of relevant perspectives.

Only prospective Panellists who agreed to become members of the APPG secretariat and to handle the evidence gathered as instructed were appointed. This meant that a high standard of data governance could be maintained and that respondents' expectations of confidentiality met.

#### COMMENT OF SUPPORT FROM BAMBOS CHARALAMBOUS MP

[MP for Southgate and Wood Green](#)



*"In keeping with the Chairman's comments in his Foreword, I would like to emphasise the thoroughness and impressiveness of this report, and to thank all involved particularly those that gave evidence.*

*The really important thing is what we as Parliamentarians now do off the back of the forensic analysis that has been undertaken.*

*One thing is certain – it is vital that such an important sector for the UK economy as our financial industry is regulated by an organisation that we can all have trust and confidence in; and its clear we're a long way away from that at the moment.*

*I for one will be keen to participate in any debate or other Parliamentary activity that this report leads to, looking for opportunities to help ensure that my constituents in Enfield Southgate, and all constituents everywhere, get the consumer protection they deserve and that Parliament has worked to achieve – it's terribly disappointing that the FCA's poor performance means that what should already be happening isn't."*

## The Panellists

The following Recommendations Panel members were recruited:

### Roger Mullin



Roger is a former member of Parliament for Kirkcaldy and Cowdenbeath. During his period as an MP, Roger was a treasury spokesperson and led a range of Parliamentary campaigns for greater transparency and ethics in the financial system. He succeeded in moving the UK government to hold an inquiry and make some all too modest changes to Scottish Limited Partnerships which continue to be a vehicle for international criminality and money laundering. His Parliamentary campaigning on SLPs is discussed in Oliver Bullough's book 'Butler To The World'. He continues the fight.

Roger has written on the need to tackle the culture of financial institutions including banks, addressing in particular failings in ethics. He has written on such matters for the likes of International Banker, The Herald and The National.

Roger is also an Honorary Professor at the University of Stirling, where he has lectured on ethical finance as part of the university's MSc in Strategic Sustainable Business. He has also taught Applied Decision Theory and related ethical questions on a range of post graduate programmes. He is a former chair of the university's joint departmental research ethics committee in which capacity he undertook ethical reviews of research proposals.

### Louise Baxter-Scott MBE



Louise graduated with a law degree in 2001. In 2002 she started work for Trading Standards. By 2009 Louise was a Senior Manager and took over as Chair of the Chartered Trading Standards Institutes (CTSI) Consumer Empowerment Alliance. Louise is the CTSI's Lead Officer for advice and education and is currently the Immediate Past Chair of CTSI and Non-Executive Director on the CTSI Board. She currently sits as a panel member on the Phone-Paid Services Authority Consumer Panel and the Government Joint Fraud Taskforce.

In 2011 Louise got frustrated by the system in relation to support of scam victims and started what is now the National Trading Standards Scams Team. Since this time Louise has led the National Trading Standards Scams Team. In 2015 Louise was given a Heroes Award in recognition of the significant contribution she has made to consumer protection. In 2017 Louise was awarded a fellowship and an MBE for Protecting Vulnerable Consumers from Financial Abuse.

Louise has a particular focus on protecting consumers and changing the perception of consumer vulnerability.



## Dr. Nicholas Morris



Dr Nicholas Morris is an Adjunct Professor at La Trobe Law School, Melbourne; and a Visiting Professor at the China Executive Leadership Academy, Pudong, China and the Hindu University of Indonesia. Previous academic posts include Adjunct Professor at UNSW Law and Justice, Sydney; Visiting Fellow at Balliol College and The Martin School, Oxford; Fellow at University of Melbourne; and Visiting Professor at City University Business School, London.

Nicholas has over 40 years of experience advising companies, governments and international agencies, in the UK, Australia, Europe, China, SE Asia and the Middle East, on financial regulation, health and social support systems, and the financing of essential infrastructure. In recent years he has focused on regulatory and other reforms needed for sustainable development, in both developed and developing countries.

Nicholas also led a team at Oxford to examine how the trustworthiness of the financial system could be improved, after the Global Financial Crisis, which led to the book 'Capital Failure: Rebuilding Trust in Financial Services' (Oxford University Press, 2014, 2016). More recently he has published 'Management and Regulation of Pension Schemes: Australia: A Cautionary Tale' (Routledge, 2018).

## Dr. Kara Tan Bhala



Dr. Kara Tan Bhala is an award winning author and the President and Founder of Seven Pillars Institute for Global Finance and Ethics, USA, the world's only independent think tank for research, education, and promotion of financial ethics. From 2015-2021 Dr. Tan Bhala was an Honorary Research Fellow at Queen Mary University of London. For 18 years she ran her own international financial markets consulting firm. Dr. Tan Bhala has a rare combination of professional training and extensive experience in both global finance and moral philosophy. She has nearly thirty years of experience in

global finance, much of which was gained through working on Wall Street. She has been a sell-side equity analyst, a sell-side equity sales person, a buy-side equity analyst, and a portfolio manager. She was a lecturer at the University of Kansas School of Business, USA, where she taught Global Finance and Ethics. Dr. Tan Bhala has five degrees across three disciplines: a Bachelor's (City University of London, UK) and Masters (Oxford University, UK) in Business, a Masters in Liberal Studies (New York University, USA), and a Masters and PhD in Philosophy (University of Kansas, USA). She is a member of the Council on Foreign Relations, USA, and the Royal Society of Asian Affairs, UK.



## David Pitt-Watson



David Pitt-Watson is a leading thinker, campaigner and practitioner in the field of responsible investment.

He was co-founder and former CEO of Hermes Focus Funds and Equity Ownership Service. These became the largest responsible investment group of any institutional fund manager in the world. The business he founded now has \$1 trillion under advice.

During his career he has been deeply involved in policy and has led numerous initiatives to improve the performance of the financial system. For example he chaired the UN Environment Programme's Finance Initiative in the run up to the Paris Climate Conference.

He has led the RSA's Tomorrow's Investor programme. This has included advocating for a more effective system for providing pensions which deliver a lifetime income—established in the 2020 Pensions Bill. He also led the advocacy for transparency of charging structures for pensions.

He was Visiting Pembroke Professor, and now a Fellow at Cambridge University. His books have been translated into five languages. He was an independent non-executive at KPMG, Treasurer of Oxfam and chaired the NESTA endowment fund.

## Professor David Llewellyn



David Llewellyn is Emeritus Professor of Money and Banking at Loughborough University. He has previously worked as an economist in Unilever (Rotterdam), HM Treasury (London) and the International Monetary Fund (Washington). Much of his research and publications has focussed on financial regulation and consumer protection and he was appointed a Public Interest Director of the Personal Investment Authority (the previous UK regulator of retail investment companies), and for five years was the Chair of the European Banking Authority's Banking Stakeholder Group. He has served as a consultant to several financial regulatory authorities including the South African Reserve Bank. He has been a strong supporter of mutuality in the financial system. He has written several books and many articles on finance, the financial system and its regulation. His most recent book investigates financial exclusion.

## Associate Professor Andy Schmulow



Associate Professor Andy Schmulow is an Australian legal academic specialising in financial system regulation, specifically Twin Peaks. His focus is on driving good conduct towards consumers and combatting regulatory capture. His advice has been sought by, among others, the Australian Banking Royal Commission, the Australian Law Reform

Commission, the South African National Treasury, the Korean Insurance Association, the New Zealand Law Reform Commission, regulators, central banks and parliamentarians.

His advice has been reflected in recommendations made by those bodies and in legislation such as the *Financial Regulator Assessment Authority Bill* in Australia and the *Conduct of Financial Institutions Bill* in South Africa. He was tasked by CGAP, a division of the World Bank, to lead in the creation of the world's first consumer-outcomes indicator framework, to measure consumer financial well-being, first in South Africa, and ultimately for deployment in countries comprising some 1.5 billion consumers. He consults with the financial industry on embracing and embedding fair treatment of consumers, and his research has been published in some of the world's leading peer-reviewed journals. He has held honorary positions at various universities around the world and is a member of a research cluster at the European Banking Institute. He is admitted to practice in South Africa and Australia.

### Dr. Louise Ashley



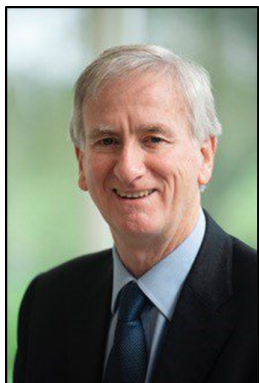
Dr Louise Ashley is a senior lecturer at Queen Mary University of London and a Fellow of its Institute for Humanities and Social Sciences. She specialises in researching diversity and inclusion in large multinational organisations and 'elite' occupations with a particular focus on social mobility and class. Dr Ashley has published articles in leading academic journals and her research has been widely covered in media, both in the UK and internationally. Her recently published book, *Highly Discriminating: Why the City isn't Fair and Diversity Doesn't Work*, explores why City firms generate class and gender inequalities, how they benefit, and what they can do in response.

### Jack Gilbert



Jack Gilbert is a journalist at international financial publishers Citywire where he is currently editor of its publication for financial advisers in the UK, Citywire New Model Adviser. During his career he has won various industry awards, including Headlinemoney's B2B journalist of the year in 2017 and 2020. Jack's reporting has included investigations into various financial scandals, most notably he featured prominently in BBC Panorama's 2022 hour-long documentary, *The Billion-Pound Savings Scandal*. He has also written for various other publications including *Private Eye*.

## John Howard



John Howard joined the BBC as one of the leading voices on Radio 4. He presented documentaries, phone-ins and discussion programmes, winning several awards. He became best known as the consumer's champion on the daily magazine programme 'You and Yours', which he presented for 14 years.

In 1997 he was invited to join the Mortgage Code Compliance Board as an independent director. He subsequently became a member of the Financial Services Consumer Panel, which he chaired for 3 years until 2008.

Between 2006 and 2008 he was a member of the Market Participants Group of CESR, the European committee of securities regulators, and he also joined the Treasury's Retail Financial Services Group. On stepping down from the Consumer Panel, he joined the Board of the Financial Ombudsman Service and also became a Non-Executive Director of the energy Regulator, Ofgem.

In 2010 he was appointed as an Independent Commissioner by the Treasury for the Equitable Life Payments Commission. He served on the With Profits Committee and the Independent Governance Committee of Scottish Widows. He was a Trustee of the Thalidomide Trust. He was Vice Chair and Senior Independent Director of the Family Building Society and a Non-Executive Director of the Banking Competition Remedies Company. He is Chief Executive of the company he founded, Consumer Insights, which provides advice on principles based regulation and fairness in the financial, energy and water sectors.

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## Rachel Neale



Rachel is the lead campaigner for [UK Mortgage Prisoners](#). She first became involved with mortgage prisoners when she was asked to be filmed for the Panorama documentary 'Trapped by my mortgage'. From then she began to lead the campaign through the Facebook group. Her mortgage is held with Landmark.

She has worked hard to bring change to those that are trapped after the 2008 financial crash and now work with different organisations to bring mortgage prisoners support for mental health and debt. She works on case studies against those unregulated firms and banks that treat their members unfairly.

She is the chair on the committee at Marcus Parker for the group litigation. They have helped set up the APPG for Mortgage Prisoners in Parliament and work closely to bring legislation change.

Rachel also sits as a stakeholder for UK Mortgage Prisoners on the solutions group as a spokesperson. She has spoken in Parliament at the mortgage prisoners debate held on 6th June 2020.

## The process followed to produce this Recommendations chapter

The following process was used:

- Panel members were given access to the evidence;
- A questionnaire was circulated to and independently completed by each Panel member in which they were asked to identify remedies to the specific concerns expressed by respondents and to propose potential solutions to both the specific concerns raised and the underlying ‘bigger picture’ problems that they could see;
- Individual interviews were conducted over Zoom to discuss Panellists’ views and to ensure they were fully understood;
- Four group workshops were held over Zoom to debate proposals and flesh out ideas, especially in relation to ways of tackling the root causes of the FCA’s apparent shortcomings;
- A first draft of this chapter was shared with Panel members, their feedback sought and, where appropriate, changes incorporated into the finished text to ensure the final draft accurately reflected Panellists’ views.

## Two types of changes proposed

It became apparent that the ideas put forward by the Panel could be divided into two types of changes:

- Changes that can be implemented unilaterally by the FCA, without any need for external intervention by Government or Parliament. These tend to be about cultural and operational issues. If the will to make the changes is there, there is nothing stopping the FCA from making these changes. They represent opportunities for ‘quick wins’. However, for various reasons (such as regulatory capture, toxic culture and conflicts of interest) the will to make these changes may not be there.
- Changes that require interventions by Government: These changes can be introduced by Parliamentarians through amending existing legislation or the Regulated Activities Order. They tend to be about governance, transparency, accountability, the regulatory perimeter and the FCA’s overall remit. These changes can proceed at the same time as the changes being made by the FCA. There is no need for the FCA changes to be completed first.

## The structure of the remaining part of this chapter

The structure of the remaining part of this Recommendations chapter of the report is a series of tables, with each table:

- A description of the particular concern
- A note about the severity of the concern and its consequences
- Potential remedies for each concern, split between:
  - Changes that the FCA can introduce unilaterally
  - Changes that will require intervention by the Government

There is then a summary table showing all the areas of concern and all the proposed remedies.

**COMMENT OF SUPPORT FROM FORMER MP MARTYN DAY**



*Financial institutions should operate with the highest levels of integrity, fairness, and transparency. Regrettably, that is not always the costumer’s experience.*

*When a member of the public’s experience falls short of what should reasonably be expected, they expect the FCA – as the regulator – to step in and remedy the situation. However, for far too long we’ve seen too many FCA failures. The FCA is not fit for purpose; far too many consumers are being left scunnered by their experience with the regulator.*

*I would like to congratulate the appg for their work on bringing forward this report, and thank everyone who took the time to respond to the call for evidence.*

*The UK government must now act on the suggestions*

## The Areas of Concern and Potential Remedies

As explained, in this part of the report we set out the areas of concern that the Panellists' analysis of the evidence has identified.

It must be stressed that only areas of concern that the evidence and testimony provided by the respondents show to exist have been included; this entire exercise is evidence-based.

**The APPG wishes to emphasise that whilst the overall impression of the FCA that the evidence generates is troubling, suggesting that the FCA is not fit for purpose, this does not reflect on the calibre, quality and mindset of most of the FCA's employees; it is clear that the issue is not with them, but with the way they are being recruited, deployed, trained and managed - most of the issues are rooted in the way the organisation is being led, conflicts of interest and the culture that the successive Leadership Teams have created.**

Finally, for clarity, not every Panel member agrees with every one of the ideas raised in this chapter, and nor is the APPG necessarily advocating them; rather, it is publishing them in the interests of prompting wider debate.

These are the main areas of concern identified:

- The FCA's culture
- The FCA's immunity from civil liability
- The Revolving Door problem
- Conflicts of interest
- Regulatory capture
- Memoranda of Understanding with other Organisations
- The FCA's general lack of integrity
- The FCA is poor at supportive stakeholder management and communications
- The FCA fails to act on the evidence available
- The FCA makes poor use of its powers and fails to carry out its operational duties
- The FCA shuns responsibility, and lacks scrutiny and accountability
- The FCA treats whistleblowers badly
- The way the FCA deals with the regulatory perimeter
- The FCA's Authorisations Register lacks rigour and data integrity
- The way the FCA deals with international jurisdiction issues
- The way the FCA deals with Appointed Representative status
- The FCA wastes money
- The risk that the FCA's Leadership Team will get in the way of the change that is needed

We are mindful that whilst each area of concern is listed above as a separate topic, there is often overlap between them; with some being causes or consequences of others.

And a special point needs to be made about problems connected to conflicts of interest, the FCA's Leadership Team or the FCA's culture, in that they are a significant contributory factor in most if not all of the issues identified.



## Concern: The FCA’s Culture

### About the concern

It is a deliberate decision to first look at the concern of the FCA’s culture. This is particularly important as many of the recommendations for change relate to some suggestions for specific reform based on the critiques that have been made about the FCA and its procedures.

However, it can be difficult to make recommendations other than 'this should not happen again and procedures should be set in place to ensure that it doesn’t'. The overarching problem is that the culture of the FCA needs to be reformed. This applies at three levels:

- 1) How the FCA deals with individual cases - e.g. failures to take action or follow through when alerted to problems with particular firms or the market in general.
- 2) How the FCA deals with external stakeholders - e.g. failures in responses to those providing information, and how it deals with complaints and those who have been badly affected by the financial firms they have dealt with
- 3) How the FCA deals with staff - e.g. failures in responding to issues they raise

This generic culture accounts for many specific failures in the FCA’s work. In reading the underlying testimony, it is difficult to avoid the conclusion that the FCA’s culture is profoundly defective.

There is an unsettling degree of consensus across the different stakeholder groups, whose experiences of the regulator necessarily differ but who all appear to be describing the same underlying behaviours from different perspectives.

For instance:

- Employees past and present talk of ‘the FCA line’ on issues being handed down at an early stage by senior management, and FCA employees who challenge it being sidelined, bullied, discriminated against or managed out. They also raise concerns about whether employment and promotion decisions are made on merit;
- Whistleblowers, consumers and SME owners who’ve reported wrongdoing claim the regulator has stalled them with excuses for inaction. Some have felt poorly treated by the regulator, at a very vulnerable point in their lives;
- There are repeated concerns about the regulator being too close to the industry (banks especially) and the Treasury, and about ‘revolving-door’ appointments, with some respondents concluding that this might drive the FCA’s apparent reluctance to take action to protect consumers;
- Some FCA staffers refer to a ‘bias against action’, created by the above, by the chain of approval needed to initiate action, by the self-policing of employees or by some combination of these factors;



- The regulatory perimeter seems to be poorly understood and inconsistently applied by some FCA employees, including some in senior management roles;
- Respondents who've tried to extract information from the FCA, or complain about it, have mostly found the exercise frustrating; some have concluded that the organisation is largely unaccountable and even that it dishonestly covers up for its past errors and inactions

One respondent, **Julie Anne Davey** ([p. 8 of 11](#)), said: 'The actions of the FCA in protecting the financial institutions at the detriment of victims is as a result of a culture that exists within the FCA. A toxic culture of concealment and non-disclosure at every turn. And perhaps more so the culture of non-engagement with professionals, experts or victims.'

**Barrie Smith** ([p. 6 of 7](#)) believes there is 'a lack of true empathy with victims' due to the complacent culture at the FCA.

Another respondent, **Dr Htay Kywe** ([p. 4 of 9](#)), said the following: 'The FCA has No interests in our financial abuse and Fraud issue they are negligent and discriminative to old vulnerable SME customers of Ethnic Minority British with double standards'

Whistleblower **Concerned Insider** ([p. 7 of 8](#)) said: 'It seems like they have a cosy old-boys culture where the senior management are far too close to the firms they purport to regulate (RBS has a relationship manager at the FCA, which is an obvious conflict of interests given that it is supposed to crack down on their misconduct). The FCA does not pay too well as I understand it and half the people there seem to be after top jobs with the banks.'

There is a particular concern that the FCA is seen to punish its staff for speaking up. Staff are not always treated well. Especially those with health or mental health conditions. Speaking up is considered taboo. Challenge is discouraged. If you do as you are told, even when that clearly is not in consumers' best interests, you are rewarded. You are punished for pointing out weakness in the system or process. Classed a trouble maker and penalised financially or in some cases, people had little choice but to resign. The culture is one of fear and suppression.

Those members of staff who challenged management's way of working were almost inevitably given zero pay increases and bonuses. FCA management regularly refused to discuss the rationale for these results with individuals concerned.

The FCA appears to operate in a malicious and vindictive way and is not willing to accept any kind of constructive criticism from staff.

There is a lack of confidence in complaining to or about the FCA.

**Adam Nettleship** ([p. 4 of 6](#)): 'Regarding my complaint I found them to be deliberately evasive. They missed every deadline to respond, never updated me and only when the complaint commissioner became involved did they act at all. Even then they failed to independently investigate my complaint correctly.'

Because of the FCA's culture, people are sceptical about the FCA's Transformation Programme. They do not trust it to deal with the real issues, because they believe those in senior positions at the FCA are complicit in its poor behaviour and performance.

Here are some examples:

**Anoop Vasishta** ([p. 6 of 6](#)): 'Self Regulation & Transformation is recipe for disaster for a tainted organisation – so I have zero confidence in its sincere intentions & deliverables' -

**Respondent A72** ([p. 6 of 6](#)): 'I do not believe it can be successful as those who held senior positions before this fiasco are still in place, and have in fact been promoted. The saying "new broom sweeps clean", but old broom just pushes old dirt around the floor.'

In any organisation, culture is to a large measure driven by those at the top, and in particular by the Chief Executive Officer. It is clear from the testimony received by the APPG that many (perhaps most) of the criticisms of the FCA's culture pre-date Nikhil Rathi's tenure as CEO, which began in October 2020; but it would also seem that these shortcomings have not been resolved since his appointment. This is a cause for concern, especially since Dame Elizabeth Gloster, author of the external review of the regulator's handling of London Capital & Finance plc, [concluded](#) that, 'the biggest lesson that should be taken away is that there has to be a cultural change at the Financial Conduct Authority.'

It also leads to difficult questions for political stakeholders: is the incumbent of some three years' standing the optimum CEO to bring about any necessary cultural change; and if not, what kind of candidate would be best suited to the challenge?

Many of the submissions are in one way or another (and in some cases in many ways) critical of the FCA's practices and its culture. Culture is complex, but we now provide a context in which we can consider the FCA's culture by reference to ten principles that would be expected of the FCA to follow.

These ten principles could be regarded as guidelines of good culture against which its behaviour and actions can be assessed. They are described in detail below, and where helpful reference is made to submissions that are in the public domain, [here](#):

## **1. FOCUS ON CONSUMER PROTECTION**

***The Financial Conduct Authority is to give unambiguous focus on consumer protection***

There is always a danger that regulatory agencies have multiple objectives imposed upon them (sometimes referred to as the 'Christmas Tree Effect' with more objectives added over time) which creates the potential for conflicts of objectives, so that the central role of consumer protection may be compromised when trade-offs have to be made. Multiple objectives may also make accountability more difficult.

The government has recently imposed an additional subsidiary objective on the FCA of fostering growth of the economy and the international competitiveness of London as a financial centre. Adapting the Tinbergen Principle (there need to be as many instruments as there are policy

targets) a case can be made to exclude virtually all subsidiary objectives so that the exclusive objective of the FCA is consumer protection albeit broadly defined.

On the basis that agencies tend to be more effective when they have limited objectives, the current subsidiary objectives of the FCA could be made the exclusive responsibility of other agencies such as the Competition and Markets Authority, the Prudential Regulation Authority, etc. Applying this modified Tinbergen Principle would have the advantage of removing conflicts of objectives and the need for compromises on the core objective, and would make transparency and accountability more effective.

## **2. FULL USE OF POWERS**

***The Financial Conduct Authority should make full use of its powers to meet its mandated objectives***

This applies in particular to its powers of intervention and sanction which at times it seems to be reluctant to use to the full extent possible.

## **3. COMPETENCE AND INTEGRITY**

***The highest standards of competence and integrity should be maintained in all aspects of the FCA's work***

As with all public agencies, the highest standards of competence and integrity are required most especially when consumer detriment and protection are at stake. With respect to competence, there is a degree of conflict. On the one hand, FCA officials can gain necessary expertise by having experience of working directly in the financial services sector. On the other hand, there is a potential danger of conflicts of interest arising when FCA officials may be involved in assessing regulated firms at which they previously worked. Equally, conflicts of interest can arise through 'the revolving door'.

## **4. SAME STANDARDS FOR THE FCA AS ARE REQUIRED OF REGULATED FIRMS**

***The same standards that are applied to regulated firms need to be applied within the FCA itself***

FCA credibility in focussing on governance arrangements and culture issues at regulated firms is compromised if it is evident that the same standards are not adopted within the FCA itself. Good culture and governance arrangements are required across the financial services industry including regulatory agencies. The general point has been put by **Respondent G7** ([p. 32 of 37](#)) as follows:

'An organisation which is relying on *principle-based regulation* and on high-level principles laid out within its own regulatory handbook....has no moral right to espouse and enforce these principles upon the industry if it is unable or unwilling to abide by the spirit of these principles themselves internally with its own employees, and when dealing with the public and the industry'.

## **5. ACCOUNTABILITY**

***There need to be unambiguous channels of accountability for the FCA***

All public agencies need to be accountable for their behaviour most especially when the agency is directly involved in setting standards, regulation, and supervision of private firms and individuals. The key issues are the nature of this accountability, how accountability is to be made, and to whom the FCA is to be accountable. Clearly, there should be some accountability to Parliament (notably the Treasury Committee). A particular issue is the role of HM Treasury and the extent to which the FCA should be accountable to it. The danger is that accountability to the Treasury may introduce, or be thought to introduce, unwarranted political interference in the role of the FCA. A particular example has recently arisen whereby the Treasury is now requiring the FCA to adopt fostering economic growth as a subsidiary objective even though that could conflict with consumer protection.

## **6. TRANSPARENCY**

***High standards of transparency need to be applied in all aspects of the FCA's work***

Transparency is clearly linked to accountability and effective accountability can itself foster higher standards of transparency. Obvious examples of the need for transparency arise, for instance, regarding the reasons for particular regulations created by the FCA, the reasons why decisions are taken (or not taken) with respect to sanctioning individuals and financial firms, etc.

## **7. STAKEHOLDER INTERFACE**

***The FCA should be responsive and cooperative in its interactions with all stakeholders***

The FCA necessarily has a wide range of stakeholders both within the financial services sector and outside the industry. Good working relations between the FCA and relevant stakeholders are a prerequisite of good governance. Issues include: is the FCA sufficiently transparent with relevant stakeholders, is it amenable to receiving (and, if necessary, acting upon) advice and warnings from its stakeholders, does it have effective communication with stakeholders?, is it sufficiently transparent in its reasoning when intervention action is taken, etc. More generally, is the FCA regarded in some general sense as being 'approachable'?

## **8. THE REVOLVING DOOR**

***Clear rules and guidelines should be enforced governing movements of personnel between the FCA and regulated firms***

Several of the submissions give emphasis to what the authors regard as the potential or actual conflicts of interest that can arise with movement of personnel between the agency and regulated firms. As noted earlier, this is a difficult area as an earlier principle established expertise and competence as a central requirement for the FCA (see **Robert Sinclair's** submission ([p. 14 of 17](#))) and yet one way of enhancing competence is for FCA officials to have experience of working in the regulated sector either before joining the FCA or on short-term secondment from the FCA.

The potential danger is that officials who move to the FCA from the financial sector might in some sense be endued with the culture of the sector which might be in conflict with what should be the FCA's culture. A potential moral hazard in the other direction is that officials might

be influenced in their approach to, for instance, intervention and their contact with regulated firms because of expectations of subsequently working in the financial sector. The turnover of FCA staff is particularly high and many leave for work in the private sector sometimes with firms that they have been dealing with as a supervisor.

Whilst there can be advantage to both the FCA and the financial sector in having professional exchanges, the potential dangers and hazards require clear rules and guidelines governing the 'revolving door' such as periods of 'gardening leave' before taking up positions in the private sector, and whether the staff in question have had direct professional contact with the regulated firm whilst working at the FCA.

## **9. WHISTLEBLOWERS**

***There need to be clear rules to protect Whistleblowers which are monitored and enforced at all times***

Whistleblowers can perform an important role in enhancing the effectiveness of regulation and supervision not the least because they often have access to information that would be difficult (if not impossible) for the FCA to obtain other than through the whistleblowing process. The FCA and other regulatory agencies recognise this.

However, for obvious reasons whistleblowers need to be protected from adverse reactions from their employers. This requires (i) clear rules within regulated firms but also, (ii) rules and behaviour in the FCA to guarantee anonymity and support to such assurances need to be credible and strictly enforced within the FCA if the benefits of whistleblowing are to be secured. This is needed in the interests of whistleblowers but also the FCA itself as without such credible and enforced assurances the supply of information will be reduced. There are known to be many examples of whistleblowers who have suffered professionally and mentally through lack of protection either by their employers or the FCA.

## **10. INTERNAL GOVERNANCE**

***Internal governance arrangements are needed within the FCA to ensure effective application and enforcement of internal structures, rules, procedures, and decision-making***

This is a central requirement of all private and public sector organisations. It requires, for instance, clear lines of internal communication, clear lines of responsibility, effective internal accountability of staff for their actions, 'good employer' principles, procedures for protecting internal whistleblowers, effective rule-enforcement procedures, etc.

## **A REVIEW OF THE SUBMISSIONS**

Having set an analytical framework, this section reviews the submissions made arising from the Call for Evidence about the FCA. Some of the submissions are based on single case studies. The review is done in terms of the ten principles outlined above as it is judged that it is useful to organise the review in the context of the principles of good culture. This is done without offering any views or assessment of the evidence submitted. Some of the submissions also make reference to independent reports of FCA failures.

### **1. FOCUS ON CONSUMER PROTECTION**

Several of the submissions suggest that the FCA's remit may be too broad with the result that the consumer protection role becomes weaker. **Paul Birch** ([p. 13 of 17](#)), for instance, says that consideration should be given to restructuring the FCA so that its sole role would be to champion and protect the consumer. **Abhishek Sachdev** ([p. 5 of 6](#)) believes there is too much emphasis on 'not damaging the financial health of banks'. **Paul Birch** ([p.11 of 17](#)) judges that there is a tendency for the FCA to protect big banks at the expense of their customers. A similar view is expressed in the submission of **Stephen Barker** ([p. 11 of 18](#)) who judges that the FCA has been too lenient on banks. **Andy Keats** ([p. 10 of 11](#)) also judges that there has been too much protection of banks and **Nicholas Wilson** ([p. 6 of 9](#)) argues that the FCA has been protective of HSBC. More specifically, **Anthony Stansfeld** ([p. 3 of 6](#)) argues there has been a culture of covering up major banking fraud. **Robert Sinclair** ([p. 15 of 17](#)) indicates that the FCA's range of activity is too broad and should become more focussed on supervision and enforcement rather than regulation and competition. More generally, **Andy Keats** ([p. 10 of 11](#)) argues that the FCA cannot have a remit to protect consumers and also to protect markets.

## **2. FULL USE OF POWERS**

Several of the submissions suggest that the FCA has wide powers but at times seems reluctant to use them in particular cases. **Richard Emery** ([p. 4 of 6](#)) argues that there have been cases when the FCA has failed to take action when informed of regulatory failures by financial firms and has not always used the powers that it has. **Steve Middleton** ([p. 6 of 10](#)) also writes that the FCA has not used the full range of powers available to it. **Nicholas Wilson** ([p. 5 of 9](#)) finds that there have been times when necessary intervention has been avoided. Failure to act is also mentioned by **Paul Carlier** ([p. 13 of 99](#)). Lack of appropriate action is also cited in the submission of **Tom Winnifrith** ([p. 4 of 5](#)) who states that the FCA has not always used the powers available to it. In a particular case, **George Patellis** ([p. 6 of 52](#)) says that the FCA knowingly allowed an insolvent regulated firm to continue trading after the company's Chief Executive Officer told the regulator that the company was insolvent and was stealing money. Furthermore, the compliance officer was not disciplined. **Sue Flood** ([p. 7 of 10](#)) also cites a case where failure to act meant that guilty parties were allowed to continue operating. Although the FCA can only intervene in the case of regulatory failures by regulated firms, there have been cases where unregulated firms have been conducting similar business to regulated firms. **Andrew Kaye** ([p. 4 of 6](#)) opines that the FCA seems not to be interested in this problem.

## **3. COMPETENCE AND INTEGRITY**

Some of the submissions cite instances where the FCA has not demonstrated the necessary levels of competence and integrity. **Robert Sinclair** of the Association of Mortgage Intermediaries ([p. 5 of 17](#)) notes a lack of the necessary in-depth understanding of markets. A former FCA official (code name "**Mary**") writes: '....staff demonstrating a shocking lack of even basic financial literacy and general commercial (or indeed at times common) sense' ([p. 3 of 7](#)). Instances of a lack of the highest standards of integrity are noted by **Paul Carlier** ([p. 12 of 99](#)) who suggests that officials can be dishonest and, in a case study, have given false representation and distorted evidence.

## **4. SAME STANDARDS AS REQUIRED OF REGULATED FIRMS**



**Robert Sinclair** ([p. 3 of 17](#)) suggests that the FCA does not always apply the same standards on itself as those imposed on regulated firms particularly with respect to accountability of senior staff.

## 5. TRANSPARENCY

The lack of appropriate transparency is mentioned by **Robert Sinclair** ([p. 16 of 17](#)) in his submission and argues that 'some of the FCA's shortcomings could be addressed by becoming a more transparent regulator.' He gives examples of where transparency could be improved such as the way it communicates why it is collecting specific data from firms and what use is to be made of the data, and being more 'upfront' with its Transformation Programme. Failure to disclose action taken in respect to complaints about individual firms is mentioned by **Richard Emery** ([p. 4 of 6](#)).

## 6. STAKEHOLDER INTERFACE

Several of the submissions mention (in some detail) examples of where the FCA has been weak (and sometimes unhelpful) in dealing with various stakeholders. Particular examples include:

1. A failure to act when informed of firms not fulfilling their regulatory requirements, and failure to disclose action taken in response to complaints about financial firms (**Richard Emery** ([p. 4 of 6](#)))
2. Being unresponsive to ideas for regulatory reform (**Richard Emery** ([p. 4 of 6](#)), **Al Rush** ([p. 5 of 6](#)))
3. Failure to disclose the outcome of complaints (**Richard Emery** ([p. 4 of 6](#)))
4. Refusing the offer of advice (**Abhishek Sachdev** ([p. 3 of 6](#)))
5. Often not giving clear answers or information (**Abhishek Sachdev** ([p. 4 of 6](#)))
6. Lack of action following matters raised by stakeholders (**Nicholas Wilson** ([p. 4 of 9](#)), **Paul Carlier** ([p. 6 of 99](#)), **Paul Birch** ([p. 15 of 16](#)), and **Anthony Stansfeld** ([p. 4 of 6](#)))
7. Lack of clarity in responses (**Andrew Kaye** ([p. 5 of 6](#)))
8. **Andy Keats** ([p. 5 of 11](#)) mentions that the FCA was not prepared to look at eight case studies of how RBS manipulated its customers' files and records
9. Difficulty for people who suffer as a result of the FCA's shortcomings to get financial redress (**Mark Bishop** ([p. 31 of 50](#)))

Some of the submissions (notably **Robert Sinclair** ([p. 14 of 17](#)) and **Mark Bishop** ([p. 16 of 50](#))) also make criticisms of the FCA's complaints procedures and their timing.

## 7. THE REVOLVING DOOR

Problems associated with the revolving door, and the potential conflicts of interest that may arise, are raised by many respondents including **Richard Emery** ([p. 5 of 6](#)), **Sue Flood** ([p. 8 of 10](#)), **Al Rush** ([p. 4 of 6](#)), **Nicholas Wilson** ([p. 8 of 9](#)), and **Andy Keats** ([p. 10 of 11](#)). **George Patellis** ([p. 14 of 52](#)) gives an important case study of such conflicts of interest. **Anthony Stansfeld** ([p. 4 of 6](#)) questions the wisdom of having a chairman of the FCA drawn from the financial services industry. **Paul Carlier** ([p. 54 of 99](#)) suggests that the FCA was 'riddled with conflicts'.

## 8. WHISTLEBLOWERS



Some of the submissions are critical of how the FCA deals with whistleblowers. **Paul Carlier** ([p. 46 of 99](#)) in particular asserts that the FCA did not protect him as a whistleblower. He also cites a 'Silence in the City 2' report which, he argues, confirms that since 2016 over 70 percent of employees of banks and financial firms that have blown the whistle have been subject to detriment. He further indicates that 'over the same period the FCA has taken no action against any firm, or sought to protect those employees, despite this being prohibited by FCA code SYSC 18, that the FCA is bound to uphold and enforce.'

## 9. INTERNAL GOVERNANCE

Three submissions in particular (**Abhishek Sachdev** ([p. 4 of 6](#)), **Robert Sinclair** ([p. 3 of 17](#)) and **"Lesley"** ([p. 3 of 7](#))) mention the silo feature of the FCA's structure with **Robert Sinclair** ([p.15 of 17](#)) arguing that there needs to be more internal communication and intelligence-sharing between departments. Criticisms raised include lack of accountability and transparency, poor internal communication, a general criticism of the FCA's HR department and, as put in one submission, a degree of 'corporate narcissism'.

One of the former FCA staff members (code name **"Lesley"** ([p. 5 of 7](#))) is critical of the overall culture of the organisation writing that: 'The FCA has developed a toxic culture and spends huge resources, time and effort in self-protection, of itself, at the expense of supporting customers'. A further comment is that the FCA does not act on serious matters (including firms acting illegally) that are raised by staff members and others. Furthermore, that 'the culture of the FCA actively discourages staff from raising serious and challenging questions'.

**Robert Sinclair** ([p. 8 of 17](#)) also notes that over the years the FCA (at least partly under political/Treasury direction) has used different models of regulation, e.g. principles-based, outcomes-based, light touch. This in turn has created a degree of uncertainty both within the agency and for regulated firms. A former FCA staff member (code name **"Mary"** ([p. 2 of 7](#))) has opined: 'at no stage that I can think of, since its inception, has the FCA become what might be described as an operationally steady state.'

An appropriate culture within the FCA is a sine qua non for regulatory efficacy and this is dependent on having the right people. As United States Senator Elizabeth Warren has stated on numerous occasions, 'people are policy'. Professor Patricia McCoy (Liberty Mutual Professor of Insurance at Boston College, and a former senior advisor to the Obama Administration, and a driving force in the creation of the United States Consumer Financial Protection Bureau (CFPB) (in concert with Senator Warren), and Foundation Assistant Director for Mortgage and Home Equity Markets at the CFPB), has stressed that hiring the right people is crucial to creating the right culture in a regulator whose purpose is to protect consumers, and where need be, to take to task a powerful, well-resourced and highly influential industry, like the financial industry. Hiring the right people, and creating the right culture is, of course, a most imprecise science. So, the question is, how can such an outcome be best supported and institutionalised?

One of the most effective means to such an end is the tone from the top. And the best and most effective means to ensure that the leadership projects the correct tone, and reinforces the correct culture, is to subject them to critical, on-going, arms-length, specialist oversight, by a body which is, in turn, focused on consumer protection and upholding the public good. This, in turn, brings us back to the idea of the Financial Regulators' Supervisory Council (FRSC)

An FSRC, appropriately focused on consumer protection and ensuring that the FCA compels good conduct in financial services, with the power, in concert with HM Treasury, to dismiss the Chair and CEO of the FCA, could well be the best and most effective way to ensure that the leadership of the FCA creates an effective and appropriate culture within the FCA, which in turn will affect who is hired, and once hired, who stays and who goes.

An important element of this issue is whether the people working at the FCA are sufficiently competent and motivated to act in the interests of consumers and citizens.

The FCA is a large and complex organisation that employs several thousand people - it is likely that there is a broad mix of people as far as competence and motivation is concerned.

The recent publicity about low morale and strikes at the FCA would seem to suggest it has serious challenges attracting and retaining the right kind of people; and of course an unhappy workforce is unlikely to be an effective workforce.

The individuals that gave testimony to the Call for Evidence that worked or are working at the FCA seemed to be intelligent and motivated; but they also expressed a strong sense of frustration.

And having engaged with such individuals it seems clear that the FCA's leadership tends to create a line on a particular issue quite early on and are unhappy and uncomfortable if staff do not toe the line around that position - in other words if an employee starts to challenge it, there would be adverse consequences. And if an employee wanted to build a successful career within the FCA the impression is that the best way to do so would be to stick to the agreed line on issues and not speak out of turn.

The FCA employees that were spoken to described that if they challenged the FCA view on matters they could find themselves being bullied including for example being made to sit away from colleagues and be treated unkindly. Furthermore discretionary pay awards and bonuses would be denied to you and you would be at risk of being overlooked for promotion. You could even be managed out of the organisation and thereafter referred to only by your initials.

Based on the evidence received therefore it does seem that whilst the FCA makes a lot of noise about its interest in various kinds of diversity it would appear that it does not appreciate or even want diversity of opinion, particularly if that opinion challenges the FCA's stated line on something.

Evidence was submitted from individuals who had left the FCA and some did so because they felt their faces didn't fit and they had been made uncomfortable staying there because they were unwilling to tow the line and be compliant around what they were being asked to do and the way they were being asked to do it.

Perhaps this has contributed to what some believe to be a risk-averse culture within the FCA, where the safest thing for employees to do is to simply follow the party line. This risk-averse mindset meant that some external stakeholders learnt over time to have informal conversations with FCA staff wherever possible on the basis that formal dialogue would just result in getting the 'house view' on things and not what the individual actually thought.

In terms of improving the FCA culture, it would therefore seem that a high priority would be creating an environment where people could think as individuals and contribute to an authentic consensus, safely, as opposed to just becoming obedient to the view of leadership.

This would require a fresh approach to leadership and quite possibly a fresh Leadership Team.

One of the areas where a risk averse culture might be particularly significant is in relation to the working of the Regulatory Decisions Committee which is tasked with deciding what enforcement action should be taken.

This operates in a rather asymmetric way in that it only decides on whether to not take action when more junior staff have decided that they should; but it does not consider taking action when more junior staff have previously concluded that it shouldn't.

There are lots of these asymmetries whereby the FCA gets a great deal of negative feedback from the industry if it is being too assertive; but it is very rare for it to have negative feedback for being too lenient. All this contributes to the FCA's approach not being sufficiently bold or courageous in driving good market conduct; and not enforcing strongly against bad actors especially if those bad actors are large established financial institutions with substantial lobbying power and influence.

Perhaps one way forward in terms of fixing what's wrong is for the FCA to develop and embrace a strong mission statement that is unequivocally about boldly protecting consumer interests; and in keeping with the FCA's objectives set by the Government.

Another interesting point on the FCA's culture is the way it responded to the excoriating report by Dame Elizabeth Gloster in her review on the FCA's handling of the LC&F scandal. The scandal led to the FCA launching a transformation program but it chose individuals to lead it that were actually complicit in the problems that the reports had exposed; Megan Butler is a good example as she had been involved with several of the regulatory failure cases. The FCA were rightly criticised by the Treasury Committee for not choosing external leadership for its transformation program which would clearly have created a much better chance for deep and meaningful transformation. So even here, it seems the FCA played 'safe'.

This Matter also leads to the idea that the FCA may promote based upon what is most convenient for it and not based upon which individuals are most competent for the role. For example, it is known that a Freedom of Information Request has revealed that the job for Head of Transformation was never advertised externally, only 2 internal candidates were considered for it. Given that the job went to an individual that had been at the centre of much of the failure that the transformation was meant to fix, one wonders how that was perceived by the rest of the staff.

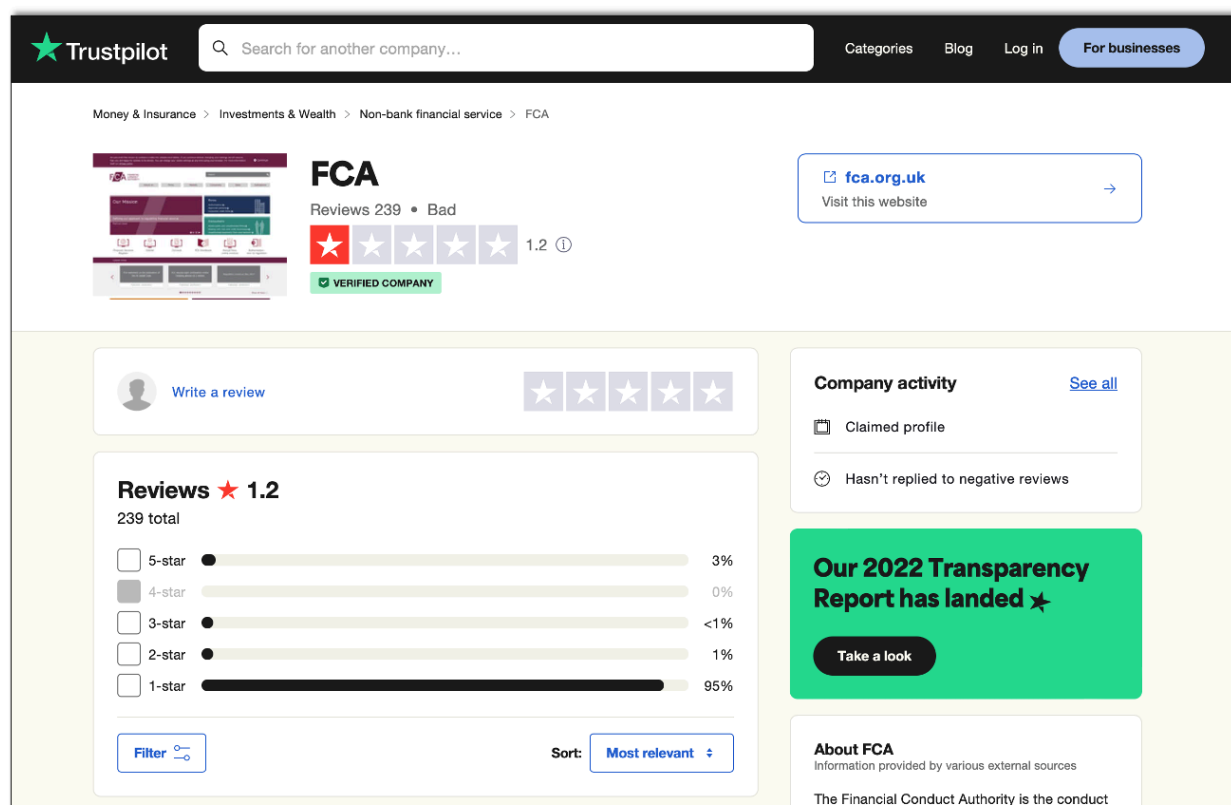
## How bad is the problem and what are its consequences?

Cultural deficiencies are a serious problem because without an appropriate organisational culture it is unlikely that the FCA will ever be effective.

The testimony from current and former FCA employees suggests that the FCA's attitude to its employees could cause it to continue to have a high turnover of staff, which in turn might lead to vacancies that are increasingly difficult to fill, which in turn would mean poor service standards and an ongoing vicious cycle of poor performance.

And beyond the evidence provided by the respondents for this report, there is extensive empirical evidence that should also not be ignored, available through the FCA's Trustpilot ratings. Whilst of course there are limitations to the extent to which Trustpilot ratings should be relied upon, it is noteworthy that the FCA's overall rating at the time of writing is 'Bad', with a particularly low score of only 1.2 out of 5, from 259 respondents.

The screenshot below was taken on 5th November 2023; we encourage readers to take a brief moment to check the FCA's present rating, which should be available [here](#) - it may be the same, better or worse than what is shown below.



For the FCA to become a successful regulator it must be staffed by capable and motivated employees, who have a clear understanding of the organisation's objectives and their role in achieving them.

Furthermore, employees must be treated respectfully, and be given the freedom to constructively criticise and share alternative perspectives to the 'house view from the top', without any reason to be fearful of consequences for speaking out (so long as it is done in an appropriately constructive and professional manner).

If these changes are made there is a chance the FCA will become fit for purpose (subject to what other recommendations are implemented); but without fixing its deep-rooted culture problems anything else would be futile - culture is key.

## PROPOSED REMEDIES

### Remedies that can be implemented unilaterally by the FCA

#### **The development of an incentive framework that encourages bold action in favour of consumer interests**

This will hopefully have the desired effect of helping to shift the FCA away from its risk-averse stance and could potentially include rewards for helping to find and prosecute scammers.

The rules that the FCA imposes on its staff when they are responding to incoming enquiries, particularly from members of the public expressing concerns should be reviewed carefully, with a pro-consumer lens.

Metrics of customer satisfaction should be introduced, and linked to remuneration or bonuses of staff and managers. Staff should be praised for good performance against these metrics.

Metrics could include speed of resolution of problems, response times, number of complaints.

Improved levels of pay at the FCA as a result of better performance could lead to better job satisfaction, and perhaps lower turnover of staff.

#### **The development and embracing of a consumer-centric Mission Statement**

This will hopefully help to confirm in the mind of all staff what the FCA's main purpose is, as far as society at large is concerned.

The Mission Statement should articulate an unequivocal focus on consumer protection and we would be happy to provide alternative drafts for consideration.

#### **Develop recruitment processes that recognise 'People are policy'**

This will help to bring about a cultural shift over time, and should take into account the idea of hiring people with relevant lived experience, for example people that have been scam victims.

One possible model to be observed and learned from is the ['experts by experience' group at Surviving Economic Abuse](#).

### Remedies that require interventions by the Government

#### **The establishment of a Financial Regulators' Supervisory Council**

As previously explained, the additional scrutiny and transparency that the creation of such a body would bring, would have far-reaching positive consequences on how the FCA would operate, and that includes its culture.

The FRSC would be a strong antidote to the cultural consequences of an organisation having deep-seated problems to do with regulatory capture, revolving door and conflicts of interest.

## **The FCA's new Leadership Team to authentically welcome challenge and differences of opinion**

This is most likely to be successful as part of a process of replacing the existing Leadership Team; the point being made here, as elaborated on elsewhere, is that the existing Leadership Team are part of the problem and are likely to stand in the way of reforms they do not believe in - if they did believe in them they would be carrying them out already.

## **A review into the culture and operational effectiveness of the FCA**

Organisational cultures reflect various issues, including leadership, decision making at all levels, incentives and so on. There is a vast literature on organisational culture, but there is little need to read much of it to come to the conclusion that the prevailing culture in the FCA is encouraging an inward looking protective approach, that is precisely the reverse of what is needed for a customer focused organisation. It is not tinkering that is required, but a wholesale change in culture and in particular in relation to leadership, decision making and communication.

It therefore requires an external review with appropriate terms of reference including providing recommendations to transform the FCA into a customer facing and ethics based regulator.

Such a review would help to establish with some certainty precisely what the FCA's culture issues are. Such an exercise could be expansive, and cover a wholesale review of how the FCA operates. It would be best carried out by a retired judge working in conjunction with a specialist consultancy.

Part of the process would be for the FCA to establish a programme of training for employees with respect to cultural reform within the FCA to ensure a reformed culture is 'owned' by all employees. And that training should also extend to how employees are to engage with outsiders including victims of financial bad practice.

Furthermore, the review should look closely at the reasons for the high turn-over of staff, taking into account all aspects of the FCA's HR policy and procedures including a detailed analysis of staff morale and how internal views, suggestions and criticisms are handled.

It would also be important for the review to be open and public in disclosing the cultural and structural issues which it found at the regulator. Uncovering the FCA's failings could put positive pressure on MPs and the regulator for real transformation to occur.

Ultimately, all FCA staff should have a deep concern that the industry keeps to the rules in letter and in spirit, with a strong desire to 'come down on it like a ton of bricks' on those individuals and organisations that are in breach.

## Concern: The FCA’s Immunity from Civil Liability

### Description of the problem

The APPG received testimony from many people who have suffered due to one kind of regulatory failure or another; such as those individuals who have experienced life-changing financial losses through investment scams, and whistleblowers whose lives and careers have been ruined because of the way they were dealt with by the FCA.

Ordinarily, people who have been harmed have a route to justice through civil liability. However, that doesn’t apply in the case of people who have suffered because of the FCA, because it has immunity from civil liability.

This immunity exists within the Financial Service Act Services Act 2012. There are only two carve outs - Bad Faith and Breach of Human Rights. Otherwise, the FCA is completely immune from civil liability and it is therefore not exposed to jeopardy for poor performance.

That immunity contributes to the general issue of a lack of accountability of the FCA and it has far-reaching consequences on the way it operates. It is a significant root cause of the FCA’s poor performance, particularly in relation to consumer protection. It helps explain why the FCA has morphed over the years into something that is rather out of touch with its need to protect consumers because it can be ineffective and cause harm but not really change as a result. As a consequence, the FCA is very slow to learn from its real-world experiences; it evolves very, very slowly.

Because of the FCA’s immunity from civil liability, it does not experience the adverse consequences that it ordinarily would when it fails, even when it fails catastrophically - it effectively has a protective cloak that insulates it from progressive reform.

There is therefore little incentive for the FCA to be at the top of its game - it doesn’t really matter whether it does its job well or not.

For consumers who suffer because of the FCA, the situation can be disastrous as they find it very difficult to get redress; the lack of natural justice is a toxic issue.

The idea of immunity against civil liability for financial regulators around the world has its roots in decisions made at Basel’s Bank for International Settlements. The logic behind the idea is that in order to have effective supervision of the financial industry it is absolutely essential that financial industry supervisors be immune.

The concern was essentially that if they were not immune from civil liability they would be forever in the courts, being challenged by the regulated entities they regulated, whenever those regulated entities didn’t like a decision the regulator made. Given the extensive monetary and legal resources available to many large and powerful regulated entities, it is easy to understand the logic behind the idea - there really is a very real need for the regulators to be defended from those they regulate because without the FCA being protected from civil liability from regulated



entities it would be sued all the time by industry players that would push back against it, thereby creating an adversarial dynamic between the regulator and the regulated that would inevitably weaken the effectiveness of the regulatory framework.

But it is a mistake to allow the immunity from civil liability to also be applied against ordinary consumers; there is no justification for this. Indeed, it is a breach of natural justice and fundamental human rights for ordinary members of the public to be denied a fair and reasonable route to redress if they have been harmed by regulatory failure.

But this logic simply does not apply to ordinary consumers, especially given the asymmetry of power and information. That's important because the FCA can and does act in ways that harm ordinary people and there is no route to redress for them; that is fundamentally unjust.

Solving this problem would start to shift the dial in the minds of the regulators about how seriously they take consumers and their concerns. Successful wins in Court by consumers against the FCA would result in the FCA raising its levies, which in turn would create a healthy dynamic where regulated entities would add to consumer pressure in demanding the FCA become more effective in its consumer protection activities.

The principle of natural justice needs to work in relation to the FCA; but it most certainly does not, yet.

Whilst keeping the FCA's immunity from civil liability against regulated entities intact, its immunity from civil liability against consumers should be removed and the complaint scheme be revised, so consumers can recover their losses from the FCA; this would help remove the FCA's 'cloak of impregnability'.

We understand that introducing this change could be very difficult, because most though not all public bodies enjoy similar immunity; it is therefore a systemic change that sets a precedent that Whitehall as a whole may rebel against. By allowing the removal of the FCA's immunity from civil liability, it opens up the possibility that similar changes would be introduced in other parts of the establishment, creating accountability and jeopardy where there isn't any at all or where there isn't enough.

There are two particularly important issues that must be considered when exploring how to remove the FCA's immunity from civil liability:

- An amendment would need to be introduced to the Financial Services Act 2012 (as that is where the immunity is granted) or there would need to be a new piece of legislation passed
- Consideration must be given to what, if anything, should be done about those whose claims are more than six years old and therefore be likely to be deemed ineligible if any right to redress were introduced. As things stand, their claims would be deemed immediately out of time, given the restrictions of the Limitation Act 1980. One possible workaround might be for any legislation introducing the right to redress to include provisions novating claims to the date on which that right becomes effective

- The Parliamentary and Health Service Ombudsman may provide insights into how greater accountability of the FCA and removal of its immunity from civil liability could be achieved
- There are some individuals who feel so badly let down by the regulatory framework they've exhausted everything about it in the UK and they are trying to take their own cases to the European Court of Human Rights
- Could there be improvements to the FCA's complaint scheme that in effect would remove the FCA's immunity from civil liability?

Until such a change is introduced, one of the levers for change is pressure for reform of the FCA through the media. It was essentially sustained media criticism in Australia that resulted in the Royal Commission being announced.

Perhaps a media strategy could be developed that enables a conversation to start about these important topics? That could in turn provide the basis for a medium to long term game-plan through which paradigm-changing reforms could be introduced, and provide a basis for returning to the general thrust of this report periodically, for example revisiting it in a couple of years from now.

## How bad is the problem and what are its consequences?

This is a very serious problem with far-reaching adverse consequences. Just fixing this one problem would be truly transformational in the short, medium and long term.

## PROPOSED REMEDIES

### Remedies that can be implemented unilaterally by the FCA

Not applicable

### Remedies that require interventions by Government

#### Remove the FCA's immunity from civil liability from consumers

...without removing the FCA's immunity from civil liability from regulated entities.

Here's a list of issues that ought to be considered if the FCA's immunity from civil liability from consumers was removed:

- There is a practical obstacle, in that its introduction in relation to the FCA could initiate a domino effect in other statutory bodies that would be concerned about also losing what protections from civil liability they may have. However, the counter argument to that concern is the precedent that has been set by the Parliamentary and Health Service Ombudsman which deals with complaints and claims against a very large number of statutory bodies.

The FCA is excluded from the Parliamentary and Health Service Ombudsman because the FCA is not funded by the state, it is presently funded by an industry levy. But there was an

interesting development during the formation of the FSA that points to an opportunity - just as they were trying to bring together the many separate jigsaw puzzle regulators, patchwork regulators to combine into the FSA, there was a period of direct State funding. We understand that during that time that state of affairs was used as means by which Equitable Life victims could be given compensation through the Parliamentary and Health Service Ombudsman.

- The concern of the domino effect explained above leads to the related question about whether the FCA should be funded by the industry as now, or by the State. Perhaps the way forward is for the FCA to be funded by the State, but that the State charges a levy on the industry. This would help alleviate concerns that the State cannot afford to cover the cost of running the FCA.
- There would need to be serious consideration given to the idea that the removal of the FCA's immunity from civil liability should not just apply to retail consumers, but it should also apply to non-regulated business up to a certain size, as they also experience the same asymmetries of power and resource as consumers - they experience exactly the same kind of challenges getting redress. Defining the criteria of the size of the organisation to be eligible will require specific debate.

#### COMMENT OF SUPPORT FROM LORD FOX



*"Regulators have an important and challenging job to do, the Financial Conduct Authority is certainly no exception.*

*As uncomfortable as it may be for the FCA's leadership team to study the evidence-based critique that has been produced, I do hope it can take the analysis and recommendations as they are intended – as helpful pointers for where reforms are needed.*

*If the FCA does that, and Parliament is able to help it implement the much-needed changes, this will have been a very worthwhile exercise."*

## Concern: The Revolving Door Problem

### Description of the problem

The FCA’s independence and credibility comes into question when it appears that there is a revolving door of employees between the financial regulator and the industry it regulates, in either direction.

**Jane Farmer** ([p. 7 of 8](#)), said the following when asked what the FCA could have done that might have protected her from harm : 'I believe they are an extension of the banks and have no will to protect consumers. I believe personnel move too freely between banks/regulator and have no individual accountability. I believe there is no ethos of integrity or purpose to protect customers or individuals. I believe this body is run by a legal department and former bankers. I believe that it should not be run as a quasi business.'

Part of solving this problem is about the FCA setting out very specifically and very clearly who they work on behalf of and what their job is. There should be no impartiality - they work on behalf of society and they are there to regulate to ensure the financial industry behaves correctly. There must be no confusion over where the FCA’s responsibilities lie. This, in and of itself will help mitigate the risk of the revolving door problem because it will help to ensure all FCA employees have a mindset attuned to consumer protection.

And it follows that the remit of the FCA needs to unambiguously be about delivering to purpose – not just to check if markets are 'competitive'.

The revolving door problem is a very difficult problem to solve as it would be hard to prevent people from finding new jobs after they leave the regulator. One option would be strict rules on employees of a certain level joining companies with whom they had dealings /oversight of at the FCA, but again this could prove difficult to implement. Fortunately, we can learn from other jurisdictions that have taken appropriate and necessary action.

Recognising the very extensive body of evidence indicating the existence of this problem, and indicating that it is particularly severe in financial services, and recognising the manner in which this phenomenon undermines the efficacy of regulators, damages public confidence, and disrupts regulators from serving the public good, regard should be had to mechanisms deployed elsewhere to combat the ‘revolving door’.

These include the Public Service Act in South Korea and the current proposal for an EU Ethics Oversight Authority. In the case of the former, public servants who serve in a supervisory capacity are precluded from transitioning to a regulated entity within three years of leaving their employment with a regulator/supervisor. In the South Korean example, the prohibition is extensive: an employee of a regulator cannot transition to a regulated entity, irrespective of whether the regulated entity in question was under the supervision of the government agency for which the supervisor worked, or not.

So, for example, a supervisor in a financial industry regulator would be precluded from working for a private hospital, telecommunications company, private education provider etc for three-years post financial regulator employment. At the very least, employees of the FCA should be precluded from working for a financial product or service provider for a period of time, post FCA employment. Three years is recommended as ideal, but two years should be the minimum.

The FCA should have clear, credible, monitored and enforced rules in this area: e.g. with respect to 'gardening leave'

All FCA employees should have an enforced obligation to report any actual or potential conflicts of interest they may have with respect to any regulated firm.

The FCA should have a dedicated unit responsible for monitoring revolving door and conflict of interest issues, that produces regular reports to the Treasury Committee or some other entity with oversight responsibilities.

There are 'lighter' variations on this theme; for example:

- There can be a requirement that if a person moves from Industry to Regulator, there would be a ban on working on any case involving the previous employer(s) for 3 years and any conflicts of interest must be declared
- If moving from Regulator to FS firm: 'Sign declaration that they will not ask questions of, discuss or receive information on their new employer from FCA staff and a ban on joining FS firm for a period of 6 months.'

Other considerations to be taken into account:

- Some FCA personnel go on attachment to firms; should that be allowable due to the inevitable conflicts of interest that can arise

There should be severe penalties for FCA staff breaching these requirements

The problem is particularly significant where people move from one part of the finance sector into the FCA in a senior, decision-making role - these individuals are far more significant than those lower down the hierarchy. There should be a three-year ban on the FCA recruiting anyone into a senior role (yet to be defined) from institutions within the financial sector that they regulate.

FCA staff should not be permitted to work in, accept consulting assignments from, or take Board positions with, financial sector companies for five years after leaving the FCA.

There should also be rules preventing them seeking posts or other advantages for their children, wives/husbands and friends.

Beneficial social interaction (tickets to the opera, sports events, etc) should be actively discouraged and prohibited.

The problem may not be the revolving door itself—after all you do need people who understand what the industry does and how it works, but you definitely do need some people with authority who are on the side of the consumer.

And the same applies to the relevant stakeholder groups - for example even the FCA's Consumer Panel isn't sufficiently pro-consumer.

## How bad is the problem and what are its consequences?

This is seen to be a very serious problem because it undermines the fundamental integrity of the FCA.

The revolving door problem leads people to be suspicious of the true agendas of those involved; are they loyal to delivering on their FCA job spec as best as possible, or do they have one eye on the possibility of a highly paid job in the City; or even an ongoing loyalty to a previous employer?

## PROPOSED REMEDIES

### Remedies that can be implemented unilaterally by the FCA

#### Pay staff well.

Part of the problem is that regulator staff are not paid sufficiently well, which means they can easily be attracted to work for regulated firms that will pay substantially more, thereby perpetuating the revolving door problem. This means that some individuals may be entering the regulator as a new employee with a predisposition to manage their career so that they become an attractive employee to then be hired by a regulated firm. This is therefore likely to influence the way the FCA employee behaves whilst there, for example perhaps being lenient when they should not be.

It therefore follows that the FCA must pay attractively well.

#### Maintain a register of outside interests.

Regarding FCA staff's outside interests, there must be declarations similar to requirements for Ministers, as this would help to flag potential conflicts of interest. To support this, employment contracts should prohibit remuneration from sources which may create a conflict.

### Remedies that require interventions by the Government

#### Put in place restrictions on whether/when regulators join regulated firms, and vice versa

The Government should consider bans on FCA staff joining a regulated firm with which they have had direct contact as a regulator, and banning industry recruits to the FCA from working in an area which means they supervise their old firm.

Or if not outright bans, perhaps a softer approach could be a period between leaving the FCA and joining a regulated firm; and similarly a period of time between joining the FCA in a role that is relevant to a previous position of employment.



## Concern: Conflicts of Interest

### Description of the problem

There is a significant possibility of serious conflict of interest issues at the FCA and these issues are closely connected to the revolving door problem and the regulatory capture problem.

**Paul Pascoe** ([p. 7 of 9](#)): '... Its two roles (promote the City and protect consumers) are inherently conflicted because exposing financial incompetence or criminality necessarily undermines confidence in the city.'

**Pauline Creasey** ([p. 18 of 23](#)): 'There is a conflict of interest and the regulatory system appears biased by default... The FCA appears to feel they represent the big city firms who pay the largest fees to the FCA and these are the FCA's main customers.'

This comment from **Stephen Barker** ([p. 7 of 18](#)) is another example of the conflicts of interest at the FCA: 'The banks knew FCA scrutiny was easily avoided.'

...as well as this comment from **Julie Anne Davey** ([p. 8 of 11](#)), about the consequences of the conflicts of interest at the FCA: 'The FCA's actions have enabled the Financial Institutions to take whatever actions they wish, without any concerns as to sanctions being issued against them. Herein lies the vicious circle. The FCA time and again have been exposed for either having failed to notice what was going on within the financial industry when they should have, or having known what was going on and failed to act. The consequence is that in almost all cases where wrongdoing is identified or discovered by victims or whistleblowers, the FCA is potentially exposed for the above reasons. This creates a conflict and the FCA has repeatedly shown that it will do whatever it takes, lawful or unlawful, to protect itself, its senior managers and the banks, at the expense of victims and justice.'

It is possible to consider the FCA's overall work in relation to its objectives (what it is seeking to achieve) and its functions (what it does to achieve its objectives).

The regulator now has four operational/secondary objectives:

- Consumer protection
- Promoting competition
- Market integrity
- Competitiveness and growth.

We would suggest that it engages in five principal functions:

- Policymaking
- Authorisations
- Supervision (conduct)
- Supervision (prudential)
- Enforcement.

Putting these objectives and functions together gives us a 20-cell matrix:

	<b>Policymaking (A)</b>	<b>Authorisation (B)</b>	<b>Supervision (conduct) (C)</b>	<b>Supervision (prudential) (D)</b>	<b>Enforcement (E)</b>
<b>Consumer protection (1)</b>	A1	B1	C1	D1	E1
<b>Promoting competition (2)</b>	A2	B2	C2	D2	E2
<b>Market integrity (3)</b>	A3	B3	C3	D3	E3
<b>Competitiveness &amp; growth (4)</b>	A4	B4	C4	D4	E4

It is possible to pick pairs of cells, columns or rows from the above and question whether there are potential or inevitable conflicts between them.

To cite just a few examples, all of them based on specific cases of alleged regulatory failure:

- The reason prudential regulation was hived off to the PRA following the global financial crisis was the realisation that there's a tension between, say, D1 (ensuring that consumers are protected from risk of firms becoming insolvent) and C1 (protecting consumers from misconduct - which requires regulators to stop firms indulging in wrongdoing, even if doing so threatens their financial stability); so why are the FCA responsible for both of these conflicting functions for around 97% of the firms in the sector i.e. all those not deemed to be systemically important?
- Likewise, it could be argued that the FCA is at risk of policymaking (column A) in an inappropriately mild manner because they are also responsible for authorising, supervising and enforcing against the policies they make (columns B-E); so why would they create a challenging environment for themselves through ambitious policymaking, regardless of how great the need for ambition? If an organisation is responsible for both setting rules and upholding them, would it not tend to make its own life easy by setting lax or ambiguous rules? There may also be arguments for bringing policy making under the direct control of elected representatives, on the basis that doing so is more democratic and, because politicians are answerable to the electorate so there are higher barriers to regulatory capture
- Enforcing to protect consumers (cell E1) may sit uncomfortably in the same organisation as cells such as C2 and C4: it may be difficult for a regulator's enforcement team to punish activity that colleagues in conduct supervision were aware of, and did not object to, possibly in error but perhaps because they wanted to increase competition or help the economy to grow.

- Another example would be where a regulator that authorises and supervises firms (B1 and C1) might be reluctant to enforce against them (E1) if doing so highlights that those firms should never have been authorised in the first place or should have been picked up by supervision years previously
- And finally, going after a firm for misconduct and trying to secure consumer redress (E1) very often results in the discovery of the fact that the firm has insufficient resources to compensate those consumers, thereby suggesting that it might not have been capable of meeting the appropriate resources tests in the FCA's threshold conditions (B1)

The matrix above and the examples given clearly show how serious the conflicts are within the FCA, and no doubt go a long way towards explaining its sub-optimal performance on many fronts but particularly in relation to its consumer protection remit.

The Panel expressed a spectrum of views about whether or not any potential conflicts of interest thrown up by the FCA's range of activities and objectives can be satisfactorily managed; but there was unanimity about the importance of trying to do so for as long as the current regulatory architecture is in place, and a consensus that it may not always be happening at present.

One Panel member concluded thus:

‘The architecture of the UK's system of financial regulation is probably suboptimal. But bad architecture can be mitigated by good plumbing, meaning the right people, operating in the right culture and with the right governance, transparency and accountability and arrangements. For this reason I think it could be more productive to focus on improving these variables than on trying to reinvent the system, at this stage.’

The Panel often gravitated towards the conclusion that the conduct regulator (be that the FCA or one that might replace it) should have just one objective - to protect consumers, leaving all the other functions to separate entities.

The Panel's four workshop sessions occurred shortly after the [Financial Services and Markets Act 2023](#) received Royal Assent. Unsurprisingly, there was discussion about the regulator's remit, and in particular about the new competitiveness and growth objectives. Most were concerned, recalling that the market promotion remit of the FCA's predecessor, the FSA, did not end well. Others argued that the objective need not lead to a lowering of standards.

On the face of it, a globally competitive financial services industry would be characterised by high standards of customer outcomes and of market integrity, backed up by swift, assertive regulation and sensible redress provisions, and be capable of inculcating trust among overseas consumers, businesses, regulators and governments alike. For the UK economy as a whole to flourish, households and firms should feel confident borrowing from and transacting with the financial sector.

The risk to a competitiveness and growth objective therefore lays not in what it says, but in what it implies: the veiled threat that firms may use it as leverage to argue for regulatory laxity,

whether as part of an overall [domicile review](#), when considering where to locate a business unit or when threatening a court challenge judicial review of an unfavourable regulatory decision. Politicians can help enormously here, for instance by clarifying the objective in public statements, policy documents and any subsequent amendments to the 2023 Act.

Referring back to the 20-cell matrix above, the key question is whether one or more of these roles be allocated elsewhere because of the inherent and inescapable conflicts of interest between them, i.e., whereby the FCA doing one thing well is likely to lead to it doing another thing less well.

Additionally, if any of the roles were allocated elsewhere, to which existing or specially created entity or entities should they be passed? In regulating the market the assumption is that the FCA will see its primary role as protecting consumers but in reality we have seen time and time again from the testimonies that the FCA treats consumer protection as a tertiary objective, as if it is actually more producer-centric than consumer-centric, being far more receptive to industry lobby groups than consumer advocates.

And that must be partly because of how the FCA is funded, through a levy that is placed on the industry, so something that needs to be changed is how the regulator is funded. There is a strong argument suggesting that all the time all of the FCA's income is dependent upon levies from the industry, it is giving the industry an undue level of influence over the way the FCA operates.

Conflicts of interest should be managed strictly, and prevented as far as possible. And it's important that even relatively minor issues are consistently and robustly dealt with. For example any form of hospitality from the industry including any kind of sinecure, gifts, expensive lunches and the like are banned. This may, at first blush, seem extreme, but in light of the well-observed tendency, world-wide, for regulators to become captured by industry, and the equally well-observed tendency for financial regulators to fall prey to capture faster and more comprehensively than any other industry regulator, combined with the considerable resources at the disposal of the financial industry, bright lines that must not be crossed are necessary.

Those bright lines should aim to insulate the regulator from undue influence as comprehensively as possible.

The FCA's job is to regulate and that should by default mean it is protecting the consumer.

There is a lack of up-front consumer protection by the FCA. The work of the Financial Ombudsman Service is necessary because it is required to act when the FCA has failed to proactively protect the consumer.

It is important that consumers have confidence that there are strong consumer protections in place. For this to be possible the FCA must be seen to be taking a strong line on protecting the consumer from malpractice by the sector. The FCA must instruct the sector on how to behave and must check that they are behaving correctly.

Whereas, for example, the FCA claims that in the case of the Mortgage Prisoners problem, the FCA appears to be taking the position that they can only recommend or request the banks do the right thing for vulnerable customers, but cannot compel them to do so.

There is a conflict in the dual roles the FCA has in protecting consumers and maintaining a stable and competitive market place. The FCA should have no role in the promotion of the City, yet through the Financial Services & Markets Act 2023 it has now been given a secondary objective for competitiveness and growth.

There is also a conflict between the FCA and the PRA which is required to ensure the stability of the financial system. It has been stated in the past that the PRA's decision trumps that of the FSA/FCA; it is seen as a more senior regulator.

Often the FCA will forbear from enforcement because of an equally often unfounded fear, that the FCA may cause systemic instability - a financial crisis - if it takes enforcement action against a firm. The bigger the firm, the greater this unfounded fear becomes.

## How bad is the problem and what are its consequences?

The FCA seems conflicted, captured and confused about its loyalties, and therefore its priorities; which helps to explain the long list of catastrophic regulatory failure cases that have caused immeasurable harm to consumers such as LC&F, Connaught, Woodford and so on.

Such conflicts of interest result in a collapse in confidence in the FCA's ability to operate with integrity and to protect consumers.

## PROPOSED REMEDIES

### Remedies that can be implemented unilaterally by the FCA

#### Even the 'little things' should be banned

It is very important that even what might seem to be relatively innocent conflicts of interest should be managed strictly, so for example any form of hospitality from the industry including any kind of sinecure, gifts, expensive lunches and the like should be banned.

This will help to send a very strong signal within the FCA that staff must not put themselves in a position where they may be influenced by the 'generosity' of the firms they regulate. Apart from anything else this will cut down on the amount of 'soft influencing' that lobbyists use to very good effect.

### Remedies that require interventions by the Government

#### Strip out the fundamental conflicts of interest within the FCA's objectives

It is accepted and understood that stripping out fundamental conflicts of interest within the FCA's objectives would require new legislation, and that a Financial Services Bill/Act has only recently occurred.

But it's just a matter of time before another Financial Services Bill is on the statute books, and the proposals set out here could form a significant part of it.

The FCA should prioritise consumer protection first and foremost and as such it should be hyper-sensitive to issues such as conflicts of interest, regulatory capture and so on. It should be seen to be representing the consumer, and it should be supportive of market participants that are clearly committed to looking after consumer interests; but it should never be tasked with becoming a 'Cheerleader for the City'.

Conversely, it should regulate ruthlessly and robustly those firms that break the rules.

The idea of tasking the FCA with a dominant consumer protection issue opens up the essential question 'what is the purpose of the FCA?'.

This question shines a bright light on the very obvious tension that exists currently within the FCA's remit, given that it is tasked with the job of protecting consumers from harm whilst also being responsible for helping ensure the sector flourishes and ensuring market stability.

Whilst the new Consumer Duty may help rebalance this tension towards consumer interest there is already [media coverage](#) suggesting the FCA will not be sufficiently firm with organisations that do not comply.

And of course this whole conflict of interest problem is being worsened because of the FCA's new responsibilities in relation to promoting competitiveness and growth.

Given the friction between the consumer protection objective and everything else, serious consideration must be given to whether consumer protection ought to be the one and only task of the FCA, with the other functions being carried out by one or more other entities.

Such an approach would unshackle the FCA/the regulator, liberating it to take care of consumer protection in an uncompromised and unconflicted way; the expectation being that it would then perform the task supremely well.

## **Be vigilant that we do not really have a Twin Peaks regulatory framework**

The FSA was an omniregulator responsible for both conduct and prudential regulation across all sectors of the financial services industry. The FCA is perceived as a 'Twin Peaks' Regulator, responsible for only conduct regulation, with the Prudential Regulation Authority taking responsibility for prudential regulation. This characterisation is true for only around 1500 of the 50,000 firms that the FCA regulates - the systemically-important deposit-takers and insurers whose prudential regulation has, since 2013, been provided by the PRA. The remainder, the FCA regulates for prudential matters as well. This change was introduced to manage the conduct regulation v prudential regulation conflict of interest.

The conduct regulation v prudential regulation conflict of interest issue does actually still exist for the vast majority of firms; we therefore do not truly have a 'Twin Peaks' model in the UK, for most authorised firms.

Given that reality, we ought to consider what should be done about it. For example, should the PRA's remit be extended, so it is responsible for prudential regulation for more, or perhaps all, authorised firms. Such an approach would be in keeping with a true Twin Peaks model of financial system regulation, employing two specialist peak regulators: one charged with the

maintenance of financial system stability, and the other with market conduct and consumer protection.

That approach is used in Australia and South Africa, both true Twin Peak jurisdictions; whereas as explained above, whilst the UK is often described as having a Twin Peaks model, because the PRA handles prudential regulation for only the systemically important firms, and the FCA handles it for all others, the UK is not a true Twin Peaks jurisdiction.

The Panel felt that the status quo should prevail for the present; but it also concluded that the issue should be floated in this report, as it is possible that if steps recommended in the document for improving the FCA are not implemented or do not work, there may in due course need to be further debate about whether there is a need to change the fundamental architecture of financial regulation, which might include extending the Twin Peaks model. Such an exercise would probably be preceded by a Royal Commission, which we touch on at the very end of this chapter.

The other recommendations in this chapter are therefore mostly measures intended to reduce or mitigate the structural conflicts of interest present in an omniregulator.

## Introduce Personal Guarantees

The use of personal guarantees could help align economic interests of individuals in senior positions in the industry by making them exposed to the financial risks of misconduct or recklessness, whereby for example a condition of authorisation is that a personal guarantee would need to be put in place, such that if the firm was to fail in circumstances pointing to misconduct or recklessness, the individual would be the first to pay. Of course, in most cases the cost of the failure massively exceeds the net worth of that individual so that individual will be bankrupted fairly early on.

It wouldn't make a material difference to the outcome for consumers but what it will do is create people who become very risk aware in the financial services industry and therefore very prudent and protective of consumer interests. Such a reform could deal with a very high proportion of the risks of misconduct and systemic risk in the sector. And of course it aligns with the concept of the Senior Managers Certification Regime, which is now being watered down. And there's a precedent for this kind of approach, in that banks often require personal guarantees from the directors of SMEs when lending to them.

## Introduce a Duty of Care

The many conflicts of interest in the system work against the consumer - there is a severe asymmetry of information and power against the consumer, meaning that the consumer is in a weak position to get redress when harm is caused. A Duty of Care would help solve this problem.

When the Financial Services Act 2021 was going through the Lords there was a concerted effort by some of the Parliamentarians to put in a clause that would require the FCA to consult on, and bring forward, rules about a Duty of Care. The belief was that a Duty of Care would be a



meaningful reform, that would enable consumers to have a pathway to redress, if they were harmed by a financial services firm. But the FCA didn't consult on a Duty of Care, it consulted on a Consumer Duty. Whilst a Consumer Duty is a step in the right direction it is far less beneficial than a Duty of Care, especially if not accompanied by a Private Right of Action. This is, however, what transpired.

One of the key differences in law between a Consumer Duty and a Duty of Care is that if you have a duty of care it is actionable as a Tort so if there is a breach of the Duty of Care and the party loses money as a result, the consumer can sue the causing party for their losses i.e. losses caused by a breach are actionable as a Tort.

The FCA was challenged on its failure to consult on and introduce a Duty of Care by various organisations [including the Bar Council](#), but despite those challenges the FCA has not introduced one.

Therefore there are only two circumstances under which the consumer will get redress if there is a breach of the Consumer Duty.

The first is that the Financial Ombudsman finds for them when they've complained and the second is that the FCA issues the restitution order under Sections 382 to 4 of FSMA.

There are good reasons to doubt whether the Financial Ombudsman is going to be supportive of consumers getting redress through them using the Consumer Duty as a basis for their claim ([they have signalled a likely reluctance to do so](#)). So unless the FCA suddenly becomes enthusiastic about the concept of restitution orders, consumers are unlikely to get much in the way of compensation through the Consumer Duty.

## Change the way the FCA is funded

The funding of the FCA by the industry is a fundamental conflict of interest that inevitably skews the behaviour of the FCA. It could be possible to consider this as not a conflict of interest problem but as a culture problem i.e. that it is not a conflict of interest problem per se. The rationale behind that view is that it is a problem of corporate culture, specifically a culture that is weak, feckless and suborned. Consequently, the solution can be found in culture: one that is robust, bold, brash even, confident and impervious to illegitimate complaints. Specifically, where fees are required to be paid to the FCA by force of law, there is no need to defer to industry when they raise the issue of paying fees. Because the correct answer in such situations is to remind industry: 'You do not pay fees as a gift to the FCA. You pay them as a licence condition, and so there is no point in attempting to use the payment of fees as leverage'.

However, there is such a substantial difference between the actual culture of the FCA today and the culture that would be needed for its funding by the industry to not have the effect of being a conflict of interest that we deem it to be a conflict of interest in practice.

The way the FCA is funded must therefore change, so consideration should be given to funding the FCA directly from the public purse, rather than by the industry. The money from the Government to fund the FCA can be sourced by a levy on the industry, but because it would first

go to the Government before going to the FCA, the likelihood of industry funding influencing the FCA would be substantially reduced, i.e. the Government insulates the regulator from industry influence.

This would also mean the regulator would become inherently more accountable to Government and Parliament, which is a good thing. The challenge may be in ensuring this happens without in fact giving the Treasury more control, and in having the Treasury accept the idea of a hypothecated tax funding the FCA.

## **Rebalance the ratio of Consumer Representation: Industry Representation**

There are justified concerns about the low level of consumer representation in processes that lead to the FCA making decisions. There are 4 statutory panels that engage with the FCA that are made up of people appointed by the regulators. They each represent stakeholder groups, as follows:

- One represents consumer interests
- 3 represent different groups within the industry

It is a concern that people who get appointed to the FCA's Financial Services Consumer Panel tend not to have an established track record of consumer advocacy; and very often they are individuals who have worked in the industry for many years and still work for it in one way or another.

As a consequence of the Financial Services & Markets Act 2023, things have got even worse in that there are going to be two additional panels - one an industry panel; and one is a cost/benefit panel which must have at least two people from the industry on it. The cost benefit panel will evaluate whether pro-consumer reforms are acceptable in terms of cost to the industry.

So it is easy to see how there is quite a significant imbalance in what is in theory a series of stakeholder panels that should represent consumer interests amongst others.

## **Overhaul the way the FCA's Senior Leadership Team is appointed**

Elsewhere we have commented on the idea of replacing the entire Leadership Team. Whether that happens or not, new appointments will be required under 'business as usual' circumstances. There are important questions to be asked and answered in relation to the way the FCA's Leadership Team is appointed:

- Are the current arrangements for appointing the FCA's Chair, CEO and its Non-Executive Directors appropriate?
- How should their performance be assessed?
- How should they be removed if their performance is unsatisfactory?

In the past, there were two Non-Exec Directors that would represent consumer interests. They were appointed by the National Consumer Council (NCC). The NCC was abolished some time ago and appointments are now made by the Treasury. There are now no provisions for NEDs to

represent consumer interests. Although NEDs *may* have pro-consumer credentials and motivations, there is no compulsion for that to be the case.

In reality, the appointments of the Chair and CEO are made by the Treasury. The Treasury Committee has the power to review the appointment of the Chair and CEO; in theory it may have the power to stop an appointment, but it does not appear ever to have done so.

And the two Non-Executive Directors are appointed by the Department for Business. They used to be appointed by the National Consumer Council and are supposed to be consumer or pro-consumer advocates, but when the NCC was abolished, the responsibility for the appointments fell to the Department for Business; and it is suspected that the Treasury likely has a high degree of influence over the Department for Business appointments.

But such an approach fails to provide sufficient opportunity for consumer interests to be considered in the decision-making process.

One of the main functions of the Financial Regulators Supervisory Council (FRSC) that is being proposed is that it would provide the opportunity for genuine consumer representation in the appointment of the Chair, CEO and the Non-Executive Directors.

The idea of the FRSC is an evolution of the oversight body that has been created in Australia following the Royal Commission that looked into widespread misconduct, conflicts of interests and regulatory capture in that country. And the Australian approach was itself inspired by thought leadership proposed by three prominent American economists Barth, Caprio and Levine in their 2001 Paper on [The Regulation and Supervision of Banks Around the World](#), which was written in response to the Global Financial Crisis.

In essence, they advocated for a body to oversee the regulator; and that is essentially what has been put in place in Australia.

However, there are lessons to be learned from the Australian experience, whereby the individual put in charge of the oversight body was the former CEO of Australia's largest merchant bank; and he was put in that position by a former Treasurer who is known to have had strong corporatist leanings, Josh Frydenberg.

As a consequence it could be argued that the selection process used in Australia is sub-optimal as far as consumer representation is concerned. These learnings have been taken into account in the blue-printing of the FRSC, whereby significant consideration has been given to the vital issue of how the FCA's senior Leadership Team is appointed.

Such a process is not easy, because it is difficult to define integrity, ethics and so on. But it is possible to achieve the right kind of outcome with sufficient 'must not' tests. One can imagine the thin wires that make up the thick cables that hold up a bridge; each thin strand is quite insignificant but the sum total of all of them is very strong indeed.

Such 'must not' tests could include that those appointed:

- Have not previously worked for a regulator or a regulated entity

- Have no immediate family member that has worked for a regulator or regulated entity

Consideration should be given to the idea that the Government can override these criteria and assessment tests but the idea is that the tests would create a 'default to good' starting position that is highly likely to deliver a pro-consumer selection.

And such an approach would be highly transparent; the selection of key individuals would be closely scrutinised by all types of stakeholders including the media, who would be well-placed to write about what might seem to be a scandalous 'industry insider' appointment.

And on the positive side, importance must be placed on factors such as whether the candidates can demonstrate consistent track records of advocating for consumer interests, championing the cause for consumers.

## **The FCA to use its power to impose bans**

The FCA has powers through its Temporary Product Intervention Rules to intervene in the market banning the sale of a product or service for a temporary period. However, it seems these powers are rarely used; we are unaware of their utilisation since the powers were introduced in 2012.

Doing so, for say 3 or 6 months would give the regulator time to investigate a market issue it has concerns about, prior to taking a definitive position on the matter. This could have helped in a lot of the recent scandals.

## **Establish a new NGO to act as a counterweight to industry lobbying**

If the FCA is funded by the regulated companies by way of a levy, could that levy not also fund an NGO that is solely there to represent the interests of consumers?

That entity could challenge regulated firms that are suspected of malpractice.

It would operate in a manner similar to the [Consumer Financial Protection Bureau](#) in the USA, and [Better Finance](#) in Europe, both of which are dedicated to protecting consumers and are state funded.

Alternatively, the FSCP could itself be put on a statutory footing and given sufficient powers to ensure that the FCA operates more effectively in the interests of citizens and consumers.

## **A Royal Commission; for Radical Architectural Reform**

There's an argument that most (perhaps all) of the measures outlined so far in this chapter are workarounds intended to mitigate fundamental contradictions and conflicts of interest inherent in the breadth of activities and objectives that characterise the FCA.

One option the Government might wish to consider is to seek evolutionary reform to begin with as set out in the moderate reform ideas above in the hope that they work and the FCA becomes fit for purpose through them.

But if they do not, the fall-back position would be to [follow the lead of Australia](#) and hold a Royal Commission on the future of UK financial regulation, with a view to radically reforming the fundamental architecture of the regulatory framework as necessary.

[Australia's Royal Commission](#) in 2017-19 uncovered some shocking truths about industry misconduct and regulatory failure and capture, even if the actions that flowed from it were less radical than many participants had hoped and indeed expected. It may be that UK financial regulation will not change to the degree that is required unless it too is subject to this degree of scrutiny and re-engineering.

A Royal Commission would lead to major architectural redesign, whereby the overall structure of the UK financial services regulatory framework is re-engineered. These types of changes involve the creation or abolition of statutory bodies, the large-scale transfer of responsibilities between such entities or other measures requiring primary legislation.

**The Panel concluded that it behoves the regulator, and Parliament, to try the evolutionary approach first, in the hope that more radical reform may not be needed.**

### COMMENT OF SUPPORT FROM BEN LAKE MP

[MP for Ceredigion Preseli](#)



*"Far too many of my constituents have fallen prey to pension and investment scams. But this isn't just an issue for Ceredigion; it's a problem throughout Wales and indeed the whole of the UK.*

*The level of financial crime that ordinary people are exposed to these days is totally unacceptable and we know the consequences of it can lead to long term financial and emotional carnage for the innocent individuals unfortunate enough to become victims.*

*Whilst I don't just hold the FCA responsible for this failure to protect, it is a matter of fact that the FCA has a duty through Parliament to provide an appropriate degree of consumer protection.*

*The regulator just isn't doing that and this APPG report explains precisely why. Root and branch reform is needed and the FCA must be held to account for the changes that are needed. Change must now be driven through Parliament – if the FCA was willing and able to sort itself out, it would have done so by now."*

## Concern: Regulatory Capture

### About the concern

Regulatory Capture is a well-established concept. It is a form of ‘soft corruption’ that occurs when, for example, a regulator serves the commercial interests of the industry it regulates. It does so as a consequence of the industry having successfully lobbied the regulator, to the point that the regulator fails to carry out its legitimate duties effectively.

We can go all the way back to 1776, to Adam Smith’s Wealth of Nations for a sound warning about the potential adverse consequences of commercial interests influencing politicians and regulators:

*'The proposal of any new law or regulation of commerce which comes from this order [people who live by profits, i.e. merchants and manufacturers], ought always to be listened to with great precaution, and ought never to be adopted till after having been long and carefully examined, not only with the most scrupulous, but with the most suspicious attention. It comes from an order of men, whose interest is never exactly the same with that of the publick, who have generally an interest to deceive and even to oppress the publick, and who accordingly have, upon many occasions, both deceived and oppressed it'*

There has been much suspicion of regulatory capture impacting the FCA. A good example relates to the idea of a Duty of Care being introduced to boost consumer protection. Despite this being an idea that has been discussed in Parliament on numerous occasions, and the FCA being tasked through the Financial Services and Markets Act 2021 to consult on a Duty of Care, it hasn’t done so.

Some examples:

- The evidence suggests the financial sector is very reluctant to accept a Duty of Care and has lobbied the FCA very effectively and successfully to water down reforms in that direction, resulting in the far-less-potent Consumer Duty that we now have
- Proposals for reform relating to achieving greater transparency on costs and charges in the Retail Foreign Exchange sector were scuppered at the final meeting of a series of meetings. Until that final meeting there had been support for the reforms by the FCA, but the influence of the sector’s trade body prevented the FCA moving forward with reforms that would have led to improved outcomes for consumers
- The FCA failed to comply with John Swift KC’s decision in his review of the mis-selling of Interest Rate Hedging Products, that the FCA should enable redress for SME victims that suffered as a result of misconduct
- The way the FCA is meant to help ensure the banks carry out steps to prevent repossessions. But there have been instances where someone has been given just 28 days to sell their home even though there are no arrears and they are at the end of their

term. The FCA have been allowing aggressive repossessions that have resulted in families being made homeless simply by using the expression that 'they cannot get involved with individual cases' even when up to ten such cases have been taken to them.

There are numerous other examples of the FCA failing to avoid being captured by the powerful lobbying forces that seek to prevent it doing what it should do.

Regulatory capture is a problem the severity of which cannot be underestimated, much less ignored. Its effect is to render the regulatory and supervisory exercise a nullity, or worse. It is a problem the existence of which, and the scholarship it has generated, dates back to the work of Charles Francis Adams Jnr who, writing in the 1860s, observed the capture of the railroad commissions in the United States. It is a phenomenon which is insidious, and takes many forms - some more subtle than others.

For example, capture can be evidenced in forms such as ideational and ideological capture. So, for example, a supervisor of banks who takes the view that the strong, well-capitalised and highly profitable banks are the best assurance against financial crises. If that is the case, the supervisor may be inclined to favour consolidation in the industry, to the exclusion of the competitive advantages. This would also impact, by implication, the advantages for consumer choice, and consumer protection - of less consolidation. Such an approach, while not corrupt, nonetheless may result in a diminution of the public good and as has been seen in Australia, where the Australian Productivity Commission, in its 2018 report stated that Australia's banking industry had become a 'cosy, four-bank oligopoly' in which consumers were denied choice, and because of which productivity gains in the Australian economy had not resulted in any real wage increases for a period of 15 years.

## How bad is the problem and what are its consequences?

The relationship between the FCA and the major institutions such as the banks leads to the FCA 'pulling its punches' and failing to enforce effectively. Clearly, if a regulator is captured it cannot be effective.

## PROPOSED REMEDIES

### Remedies that can be implemented unilaterally by the FCA

Not applicable

### Remedies that require interventions by the Government

#### The establishment of the Financial Regulators' Supervisory Council

The solution to the problem of regulatory capture is one of corporate culture. To achieve the correct culture within regulatory agencies what is required is leadership at arms-length from the industry, in combination with oversight of the regulators which is also at arms-length from the industry.



To this end a proposal has been developed based, in part, on developments in Australia where, observing the capture of Australia's Twin Peak regulators, ASIC (FCA equivalent) and APRA (PRA equivalent), the Australian Banking Royal Commission recommended the creation of a Board of Oversight over both regulators. That board of oversight was subsequently created by the [Financial Regulator Assessment Authority Act \(2021\)](#). The purpose of the newly created Financial Regulator Assessment Authority (FRAA) is to assess the performance of Australia's regulators, in particular, so as to combat regulatory capture.

The proposal for the UK is an evolution of the Australian reforms, and they call for the establishment of a Financial Regulators' Supervisory Council (FRSC), whereby the key attributes include:

1. the power, in concert with HM Treasury, to dismiss the Chair and CEO of the FCA;
2. the power to dismiss senior officials from various other statutory bodies whose purpose is to protect consumers;
3. the power to ensure that reviews are effectively implemented and not ignored (e.g. the Swift Review);
4. the power to review and investigate instances of purported supervisory failure by the FCA;
5. the power to enliven, where necessary, direct consumer protection through the pursuit of 'super-complaints';
6. the ability to contribute to regulatory efficacy, by way of research and insights to the regulatory craft;

Crucially, the proposal addresses the risk of 'stacking the jury'. It does so by providing insightful and meaningful recommendations which would support the creation of an effective FRSC (and mitigate against the risk of creating yet another layer of bureaucracy), whilst at the same time ensuring that an FRSC enjoys legitimacy and trust in the minds of the public.

It achieves this by:

1. constructing a transparent and credible process for the appointment of members of the board of the FRSC;
2. who will be individuals of the highest integrity, and will comport with the Nolan Principles regarding conduct in public life.

As such, this proposal for an FRSC presents an apposite and practical solution, designed to short-circuit the ever-present risk of regulatory capture, and the attendant diminution of the regulator's efficacy, and the FCA's ability to uphold its duty: to serve the public good.

## **FURTHER DETAIL ON INTRODUCING THE FINANCIAL REGULATOR'S SUPERVISORY COUNCIL:**

### **A. Background**

1. The Independent Reviews into the Financial Conduct Authority's ('the FCA's') handling of The Connaught Income Fund Series 1 ('Connaught') and London Capital and Finance ('LCF') made a number of recommendations for operational change, which the FCA has accepted;
2. The extensive underperformance described in the Reviews has at its heart serious and longstanding problems with the regulator's culture and governance that raise grave

questions about its ability to perform its overarching strategic objective, namely ensuring that the relevant markets operate well, and its three operational ones, namely protecting consumers, achieving integrity in the markets and promoting competition;

3. There are many other cases in which consumers have lost significant sums of money through financial services fraud, misconduct and recklessness where they commonly feature levels of regulatory failure at least as acute as that identified in the Connaught and LCF reports. These include, but are not limited to, Woodford, Lendy, Collateral, Funding Secure, Blackmore Bond, Store First/Park First, PremierFX and German Property Group/Dolphin Trust. There are also outstanding cases affecting small businesses in which regulatory failure and/or collusion is alleged, such as the Interest Rate Hedging Product redress scheme and the HBoS Reading fraud, in which reports are expected to be published in 2021 and 2022 respectively

4. There is an urgent need to accelerate the process of achieving transparency about the causation of those losses, to remedy them, and to implement thoroughgoing reforms;

5. For these reasons, we believe that the response to the two Reports and other failures to protect consumers must go far beyond trusting the FCA's existing leadership to implement the specific and limited recommendations for operational improvement permissible under the Terms of Reference governing the reports' production. Rather, it is vital that uncomfortable truths must be confronted about the FCA's fitness for purpose and profound questions be answered about whether it should be abolished or reformed - and in the latter case, how this could be achieved in a manner materially different to the FSA/FCA rebrand exercise that took place in 2013.

6. It seems to us that proposals for addressing the FCA's failings cluster around three options:

a. Abolition, followed by replacement with a gold-standard regulator or regulators, under different leadership and with greater accountability;

b. The introduction of a Royal or Parliamentary Commission, or some other Parliamentary or quasi-judicial review to review past failings and explore future options, perhaps based on learnings from the Australian Royal Commission;

c. Proposals for vastly improved governance arrangements, particularly those focused on making the existing regulator far more accountable to users of financial services, perhaps along the lines of the Financial Regulator Assessment Authority being implemented in Australia

7. On balance we believe pursuing the third, least radical option immediately, it being the one that can be implemented fastest;

8. We believe that transparency results in accountability, which in turn leads to change. Such reform is itself subject to transparent scrutiny, creating a virtuous circle of continuous improvement. The key to fixing the FCA therefore begins and ends with transparency and accountability. Implementing governance reform quickly, while more profound changes are debated, is an asymmetric bet: if it works, the need for more radical changes will be forestalled; if it does not, the case for them will have been proven;

9. To this end we propose a modest package of improvements to the FCA's governance structure, implementable in a short timeframe and at no cost to taxpayers, following the introduction of minor, enabling secondary legislation;

10. These changes are achievable by transferring some of the responsibilities currently divided between the FCA, the Treasury and the Department for Business, Energy and Industrial Strategy to a new statutory body, the Financial Regulators' Supervisory Council ('FRSC'), which would be comprised of stakeholders who genuinely represent the interests of users of UK financial services;

11. The aim of these changes is to improve transparency and make the FCA directly accountable to those who have at heart the best interests of those whom the regulator is intended to protect and serve. We believe that such measures, if implemented quickly and decisively, may forestall the need for more radical action, such as abolition and replacement.

#### B. Proposal

1. We advocate the introduction of a new statutory entity, provisionally named the Financial Regulator's Supervision Council ('FRSC'), whose role would be to play a central role in representing the interests of non-industry interests in the governance structure of the Financial Conduct Authority and to provide ongoing monitoring and evaluation for politicians of the FCA's effectiveness and independence from a consumer perspective;

2. The FRSC would have the following powers and responsibilities:

a. To appoint, to review annually the performance of and, where appropriate, to dismiss (whilst respecting normal employment practices and contractual rights) the following:

i. Jointly with the Treasury (and subject to the approval of appointments by the Treasury Committee), the Chair and Chief Executive of the FCA (currently sole responsibility of the Treasury);

ii. The two Non-Executive Directors of the FCA currently appointed by the Department for Business, Energy and Industrial Strategy (these two positions were previously filled by candidates selected by the National Consumer Council, a practice that ended with the NCC's abolition; they were therefore always intended to be appointed to represent consumer interests)

iii. Members and Chair of the Financial Services Consumer Panel (The FCA has been criticised for appointing members to the statutory Consumer Panel who have links to the financial services industry or who are not recognised campaigners for consumer interests, which may represent a breach of the Financial Services Act 2012 (Part 1A, Chapter 1, 1Q(5)).

iv. The Financial Regulators' Complaints Commissioner;

v. The directors of the Financial Ombudsman Service and its Independent Assessor;

vi. The directors of the Financial Services Compensation Scheme;

vii. Such employees as the FRSC requires to perform its statutory role

b. Where appropriate, to commission, review and oversee implementation by the FCA of recommendations of:

i. Periodic Reviews (Under Section 1S of Chapter 1 of Part 1A of Part 2.6 of the Act) of ‘the economy, efficiency and effectiveness with which the FCA has used its resources in discharging its functions);

ii. Periodic Reviews of the FCA’s treatment of whistleblowers and its response to the evidence they provide;

iii. Independent Reviews (replacing the obligation on the FCA under Section 73 of Part 5 of the Act) of the FCA’s conduct in circumstances in which there are reasonable grounds for believing that there has been material regulatory failure

c. To establish operating guidelines for the operation of the Complaints Scheme (As described in Section 84 of the Act) insofar as it relates to complaints about the FCA, and to monitor the effectiveness of the Scheme and of the FCA’s responses to it;

d. To act as a designated consumer body by order of the Treasury in submitting, where appropriate, super-complaints to the FCA (Under Section 234C of the Financial Services and Markets Act 2000 (‘FSMA’)) should it identify examples of market behaviour which it reasonably believes are operating against the interests of consumers;

e. To publish papers, consultation responses and other documents intended to contribute to debate about financial services regulation in the UK;

f. Once a year, or additionally on request, to report to the Government on its view about the performance of the FCA and suitability of the regulatory environment, together with any recommendations for change

g. Provide information and advice as required to the Treasury and Work and Pensions Committees, other Select Committees and All-Party Parliamentary Groups as appropriate

#### C. FRSC membership, staffing and funding

1. The FRSC’s Members would be recruited by open, transparent competition to be representative of financial services consumers and independent from government, regulators and the industry. Genuine consumer advocacy groups operating in the sector, should be closely involved with the construction and operation of the selection process, to ensure that those appointed enjoy stakeholder support;

2. The FRSC would employ such people as it sees fit to enable it to perform its statutory functions;

3. Members and employees would be subject to the Nolan principles and to terms and conditions of engagement that bar them from entering into arrangements (including employment or consultancy contracts) during and for an extended period following their service with the FRSC that could reasonably be considered to represent potential or actual conflicts of interest or inducements;

4. The FRSC would be funded by a levy of 0.5 percent of the Annual Gross Income of the FCA and would have the right to recover from the FCA the reasonable costs of commissioning Independent and Periodic Reviews of the latter's conduct and performance, mirroring the arrangements in place between the FCA and the industry for funding the production of Section 166 reports.

#### D. Benefits of this approach

1. The FCA would remain an independent statutory body, but responsibility for ensuring that it performs satisfactorily and that consumer interests are foremost, currently fragmented, will be concentrated in a single entity, creating the transparency and accountability that is currently lacking;

2. Creating the FRSC would place at the heart of the governance of the FCA those with a genuine and demonstrable interest in ensuring that the regulator performs its statutory duties to a high standard, and in the best interests of users of financial services in the UK;

3. The FCA's two key executives - Chair and Chief Executive - would be, in part, appointed and at risk of dismissal by a body that represents consumer, rather than producer, interests, while two of the organisation's Non-Executive Directors and the Financial Regulators' Complaints Commissioner and directors of the Financial Ombudsman, whose work relates largely to the actions and inactions of the FCA would be wholly so. There is an ever-present risk that any governance arrangements for the FCA may become captured by industry interests, a criticism that has been levelled at the Financial Services Consumer Panel

The FRSC proposal avoids this risk by ensuring that the majority of the Initial Members are genuine representatives of consumer and whistleblower interests, and by guaranteeing that all replacement Members are appointed by Members, rather than by the FCA, the Treasury or the industry;

4. The cost of operating the FRSC will be only 0.5 percent of the annual income of the FCA - a small investment intended to ensure that far more value is obtained than currently from the 99.5 percent retained by the regulator;

5. These changes may not require primary legislation; it is possible that they may be achievable through a series of relatively minor amendments to the Financial Services Act 2012 and to FSMA;

6. This means that the proposed changes can be implemented swiftly, enabling long-overdue and much-needed positive change to take place in the near term while longer-term and more profound changes are considered.

## Concern: The Memoranda of Understanding with other Organisations

### About the concern

The evidence gathered from the respondents led the Panel to become concerned that the Memoranda of Understanding between the FCA and other entities, particularly the law enforcement agencies such as the Serious Fraud Office, were leading to potential investigations into alleged malpractice by authorised persons being buried.

This naturally leads to the question:

*'What can be done to ensure that memorandums of understanding between the FCA and other law enforcement agencies aren't used as a tool for killing investigations into authorised persons?'*

The background is that FCA has set up Memoranda of Understanding with the Serious Fraud Office (SFO), the National Crime Agency (NCA) and key police services - particularly the ones in London such as the Metropolitan Police and the City of London Police because of a lot of financial services being provided through London, but also in other areas where there have been large criminal cases to do with financial services such as, Thames Valley, because of the HBOS Reading scandal.

[Here's a good example of a Memorandum of Understanding](#), it's between the FCA and the SFO.

On the face of it, the Memoranda of Understanding are about cooperation, sharing information and so on, which is a good thing, but according to some of the respondents (particularly some of the whistleblowers and scam victims), it's far less innocent than that.

The typical commentary is that if somebody contacts the police about alleged criminal conduct, the police will advise they have a Memoranda of Understanding with the FCA, and must refer the matter to the FCA before doing anything else. The FCA will then give the impression to the police that they are investigating, when in fact they are not.

So the case dies.

As the evidence shows, that pattern of events has been reported several times by respondents; refer for example the testimony of **Mark Bishop** - a case made even more interesting because of the role of a secondee from the police that worked for the FCA; who went on to close the case without telling the respondent; and that individual was later employed by the Serious Fraud Office ([p. 26 of 50](#)).

Is there the potential for collusion between authorities? - perhaps motivated by the desire to not reveal a lack of effectiveness when supposedly investigating cases?

And is part of the problem not the police's reluctance to investigate financial crime and fraud because the police are significantly under-resourced and know they will not have the resource spent on a successful case refunded, exactly as happened in the HBOS Reading fraud case, where the Home Office refused to cover the cost of the investigation even though the bank involved was fined many millions of pounds?

There is another dimension to the Memoranda of Understanding problem - for example the arrangements in place between the FCA and its Financial Services Consumer Panel (FSCP); does that Memorandum of Understanding prohibit the FSCP from freely speaking out in criticism of the FCA, as is thought to be the case?

## How bad is the problem and what are its consequences?

This is a very serious problem because it seems to be a significant contributory factor in preventing cases of alleged criminality being properly investigated.

## PROPOSED REMEDIES

### Remedies that can be implemented unilaterally by the FCA

Not applicable.

### Remedies that require interventions by the Government

#### Reporting on Memoranda of Understanding

To legislate for detailed reporting on all the Memoranda of Understanding that the FCA has, and the prescription of metrics to show what is actually happening on an ongoing basis.

#### Give the Consumer Panel a statutory remit, and oversee appointment of the Chair

Legislate to give the Consumer Panel a statutory objective. This would encompass the idea that it should assess the effectiveness of the FCA in meeting its consumer protection objective and the extent to which the FCA's pursuit of its other objectives had an impact on consumers. It should present an annual report to the Government setting out its assessment. Consumers should be defined as individuals and small businesses (the latter aligned with the definition used by the Financial Ombudsman Service). The Government should also have a scrutiny role in appointing the Chair, as happens with some other public appointments.



## Concern: The FCA’s general lack of integrity

### About the concern

There are widespread concerns about the lack of integrity in some parts of the financial services sector, but the concern here is that the FCA itself sometimes behaves with a lack of integrity.

There are two broad contrasting positions on ethics: Deontological and Consequentialist. The FCA takes a rule and duty based approach which is deontological in nature. It sees itself as behaving ethically when it follows the established rules. Yet, many of the testimonies suggest it does not properly follow its own rules with a variety of issues such as failure to effectively respond to evidence, failure to ensure proper adherence to regulations and so on. Thus it fails on its own approach to ethics.

However, just complying with the rules and regulations is inadequate, because they do not take into account the outcomes experienced by consumers, i.e. it is possible for the FCA to comply with all the rules but still leave consumers experiencing serious detriment. It seems the FCA gives little weight to, indeed often ignores, the consequences of its actions, claiming it is acting ethically if it can tick the appropriate rule box.

However, it is perfectly rational for customers to view ethics from a consequentialist standpoint - if they are harmed by the FCA that is unethical for them.

The issue of the lack of integrity of the FCA is a difficult problem to solve, because it clearly has its roots in a ‘problematic’ culture that seems to sometimes lose its moral compass and wander from the truth. And of course, this reflects badly on the FCA’s leadership, priorities and a lack of resistance to regulatory capture.

The FCA does things that undermine its credibility, making it difficult for stakeholders to believe the statements it makes.

An example is when it stated that of the about 600 calls to its contact centre expressing concerns about the LC&F; supposedly not one of them were passed up the line to senior management.

This is thought to be untrue by many people.

Also, there have been several instances mentioned in this report of the FCA sharing confidential information with the banks:

**Andy Keats** ([p. 9 of 12](#)): 'Shared the confidential information with RBS/NatWest within days of being provided it by the SMEA as whistle-blower organisation.'

**Clive May** ([p. 5 of 10](#)): 'They tipped off the bank over false letters on file and the then police investigation along with exposing the identity of a whistle blower helping me in my case'

Furthermore, the FCA sometimes acts in such a way that gives rise to suspicion that it may be protecting wrongdoers, especially where there are arguments that systemic stability may be at risk.

An example is its decision to not mandate that banks should compensate the victims of IRHP mis-selling by the banks. The position the FCA took on this matter led to the All-Party Parliamentary Group on Fair Business Banking commencing Judicial Review proceedings against the FCA.

In addition, The FCA states that their role is to regulate firms and therefore they must remain impartial. However, throughout this report we have seen evidence that the FCA is in fact not impartial when investigating complaints.

There is a power imbalance between the consumers who are making the complaint and the large companies who have the money and manpower to build relationships with the FCA.

**Clive May** ([p. 6 of 10](#)) gives the following example of this: 'Files obtained from the FCA under a DSAR showed that my firm went into GRG in 2010 and that I'd suffered a detrimental effect at the hands of the bank. When RBS undertook the GRG compensation scheme I was told that I was never in GRG despite the files showing differently. The FCA agreed with the bank despite their own file notes saying otherwise. Obtained under a FOI the requirement notice for the 166 by the FCA defined GRG as being certain departments within the bank one being SRM. The FCA never took it any further'

## How bad is the problem and what are its consequences?

It is hard to describe just how serious a concern this is, because it undermines the fundamental integrity of the FCA.

The FCA has lost credibility. A wide range of stakeholders believe it to be dishonest.

## PROPOSED REMEDIES

### Remedies that can be implemented unilaterally by the FCA

#### Better validation of reporting

Reports, for example reports of calls to the complaints centre need to be validated such that the data can be relied upon to be truthful and accurate.

#### Introduce a no tolerance policy for a lack of integrity

There needs to be a no tolerance policy for FCA staff that behave with a lack of integrity, regardless of how senior they are, all the way up to and including the CEO and the Chair.

#### To embrace both a Deontological and a Consequentialist approach to ethics

This will make the FCA more mindful of the consequences of its decisions and behaviour, as opposed to it just considering whether it has or hasn't 'ticked the box'.

Remedies that require interventions by Government
<p><b>The establishment of the Financial Regulators’ Supervisory Council</b></p> <p>For the reasons explained previously, the introduction of the FRSC will significantly increase the scrutiny of the FCA and through that will inhibit the FCA’s lack of integrity.</p>
<p><b>The removal of the FCA’s immunity from civil liability from consumers</b></p> <p>For the reasons explained previously, removing the FCA’s immunity from civil liability from consumers will cause it to reassess when it will act wrongly, on the basis that there would then be adverse consequences for it</p>
<p><b>Introduce tough new rules to prevent the FCA wrongly sharing information</b></p> <p>Clear and enforceable rules are needed with respect to the FCA sharing confidential information with regulated firms to the detriment of consumers.</p>
<p><b>Better protect, and perhaps even incentivise whistleblowers</b></p> <p>Current/former FCA staff are very well placed to report behaviour by the FCA that is in breach of any reasonable standards of ethics and integrity. If they were confident they would be properly protected if they speak out against their employer/former employer then more instances of the FCA behaving without integrity would come to light.</p>

Concern: The FCA is poor at supportive stakeholder engagement and communications

About the concern

The FCA should be, and should be seen to be, highly motivated to represent the interests of the consumer. It should be supportive of an industry which does that, and of the players within it. It should have a reputation as being tough on those who sail anywhere close to the wind.

However, the evidence available through sources such as the testimonies provided through the Call for Evidence and its appalling ratings on Trustpilot (as explained earlier) suggest it fails to portray a positive pro-consumer profile.

There are several facets to the FCA being poor at stakeholder management, much of which is rooted in the poor way it communicates with people interacting with it.

People have described their experience of interacting with the FCA as 'frustrating', 'disappointing', 'slow', 'hopeless', 'upsetting', 'exasperating', 'painful', 'uncollaborative' and so on.

People feel they have not been treated fairly, respectfully or competently by the FCA. People feel they have been ignored. When a scam victim contacts the FCA about their situation they are sometimes told that the FCA is unable to tell them more. An example is how the FCA is dealing with the Blackmore Bond scandal. The FCA alienates people that want to constructively engage with it, even those trying to give evidence, as can be seen in several of the testimonies including [Ian Davis R.I.P.](#)

Often members of the public who report wrongdoing will receive no updates or feedback, it leaves them in the dark.

Many feel the FCA lacks transparency, as they will often not share details about ongoing complaints quoting [Section 348 of FSMA](#) which restricts them in sharing confidential information it has received in carrying out its regulatory functions. They feel that Section 348 of FSMA is used as an excuse. Whether that is a reality or a perception it is clear that the FCA does not communicate and engage effectively enough to build trust; the FCA is therefore not trusted - people are highly suspicious of it.

A good example of the FCA behaving in such a way that causes people to distrust it was given by **Mark Bishop**, when it failed to disclose important information about issues they are aware of to relevant parties. This relates to when FSA were aware of all the issues with the Connaught Income Fund and had taken an active part in seeking a new operator of the fund, however, at no stage did they disclose any of the problems they knew existed to the new operator, creating a context that would go on to cause widespread consumer detriment ([p. 7 of 50](#)).

Another way in which the FCA manages its relationships with stakeholders badly is the way that it fails to give clear answers to questions. More than half of respondents expressed concerns about the FCA not giving clear answers.

One former FCA employee said the following: 'Most of the time consumers are told we cannot disclose information due to S348 FSMA [[Section 348 of the Financial Services and Markets Act 2000](#)]. Internally there are so many inconsistencies that you can never be sure whether you can believe what you are told. Often there is avoidance of putting things in writing.'

All of these issues become particularly problematic when the person trying to engage with the FCA is a scam victim. Investors have lost vast sums of money to scammers and rightly feel they should be receiving financial redress from the guilty parties - be that from the banks, investment companies or the FCA itself if it's the FCA's failure to regulate properly that's at the heart of the problem.

Whoever the redress should come from, the FCA has an important role to play, and sometimes they seem unwilling to help, or are even obstructive. The FCA behaves as if the victim is a problem and doesn't want to try to engage, support or help get redress.

This is particularly frustrating for victims who are discovering intelligence about the criminals concerned and are trying to give that intelligence to the FCA, only to be ignored. A very good, but very sad example of this is the case of [Ian Davis R.I.P.](#), who took his own life in February 2023 after years of frustration dealing with the authorities including the FCA, having lost over £60,000 through the LC&F fraud.

Also, The FCA seems to display a terrible lack of sensitivity to the human impact of detriment caused by their own failures; they are generally unhelpful when engaging with victims.

When people lose money as a consequence of regulatory failure, the consequences are huge, both financially and emotionally, to them and their families. They experience stress, anxiety, depression, and feelings of guilt and shame.

Financially, many have had to make significant sacrifices in terms of their standards of living such as having to go on benefits, come out of retirement, downsize their homes. They are worried about their futures, and their children's futures.

**Respondent A24** ([p. 13 of 15](#)) said she felt like she had her life stolen from her with the constant worry of having her money stolen.

Another respondent, "**Turnbull**" ([p. 6 of 7](#)), said he went from being financially comfortable to being on benefits and ended up being sectioned under the mental health act due to the strain and depression he experienced as a consequence of losing his money.

**Respondent A30** ([p. 7 of 8](#)) said she suffered anxiety, depression and stress associated with what happened to her. She had to downsize her house to be able to live off the house sale proceeds.

One respondent highlighted the enduring impact of their children's suffering due to their own mental health struggles under the care of a consultant psychologist. The respondent's sons, who

once worked in finance, were compelled to leave their jobs as they witnessed parallels between their family's challenges and the unfair practices prevalent in the industry.

[Ian Davis R.I.P.](#) took his own life.

Another example of the frustrations caused by the way the FCA communicates is in the writing of the FCA Handbook itself. It is seen to be too complex and not user friendly by some of those who are regulated by the FCA, as expressed in this comment from **Adam Nettleship** ([p. 5 of 6](#)):

'I am subject to regulation by the FCA and must comply with their handbook. This document is extreme in length and is written more like a complex legal document than a usable handbook for conducting business. Their language is so far removed from the day to day practices of a financial services firm that my firm and all others I know personally employ external agencies just to decipher the meaning. This lack of transparency is a perfect example of their over focus on rules / procedure over practicality.'

Communicating with the FCA's contact centre staff is seen as a particular area of concern for some respondents.

Although many of the respondents have reported that the contact centre staff have been friendly and helpful, several have noted that some of the people they have dealt with appear to lack the relevant knowledge to be able to handle the queries. Some put it down to inadequate training or lack of resources. One respondent, **Karen Malin** ([p. 4 of 6](#)), said: '...Contact centre staff know less about the rules and systems than I do.'

A former FCA employee, "**Mary**" ([p. 3 of 7](#)), said the following about the FCA: 'Day to day supervision is extremely poor in general, with staff demonstrating a shocking lack of even basic financial literacy and general commercial (or indeed at times common) sense. As a result, there is an almost comical suspicion of firms that make even a modest profit and an apparent base assumption that all supervised firms are 'bad faith' actors. Yet despite this mind set, senior staff appear particularly risk adverse and unwilling to take tough decisions about firms even in the face of damning evidence. In the case of dual regulated firms, the impression the FCA gives is that it 'hides behind the skirts' of the Bank of England, letting the Bank take difficult decisions and then falling in step.'

Some other examples include:

**Respondent F4** ([p. 4 of 6](#)): '...incorrect advice from helpdesk on multiple occasions. It is possible this is caused by the untailored, simply confusing systems and paperwork required from regulated individuals. If we as regulated individuals communicated with our clients in the same way, it would not be seen as 'treating customers fairly''

**Respondent F4** ([p. 5 of 6](#)): 'On several occasions, called the helpdesk for 'help' to have a section of the handbook read out to me. I can read. Sometimes it's good to get an opinion or additional clarity. Surely the helpdesk should be 'helpful'

**How bad is the problem and what are its consequences?**

The FCA does not operate in isolation; it needs to function within an ecosystem of various stakeholders. It is obviously therefore vital that it is able to engage and communicate with those stakeholders effectively. The testimonies show that it does not do that. This is therefore a particularly serious problem.

It is hard to describe just how serious a concern this is, because it undermines the fundamental integrity of the FCA.

All of this leads to people feeling that not only is the FCA unwilling to help them, it actually gets in the way of progress. This leads to a very strong sense of alienation.

Victims of scams and fraud find themselves in a state of limbo; unable to get information about what is happening about their case and not knowing what the FCA is or isn't doing behind the scenes.

This creates a heightened sense of stress and anxiety, and potentially eats into valuable time to act on an individual basis to try to get redress.

The financial loss to investors has led to immense suffering and anguish.

There has been a collapse in confidence in the FCA's ability to protect consumers.

The failure to relationship manage the victims of scams effectively contributes to an adversarial dynamic.

In some cases, the frustration can lead to truly tragic outcomes; Ian Davis R.I.P. being the obvious example.

People have lost trust and confidence in the FCA's willingness and/or ability to act competently, compassionately or with care and integrity.

Some people do not believe the FCA is honest or acts in good faith.

An adversarial relationship sometimes develops between external stakeholders and the FCA; and once that sour relationship develops it continues it gets worse; sometimes to the point of toxicity - they come to see the FCA as the enemy.

They often develop feelings of anger towards the FCA and disappointment with other bodies that are supposed to ensure it performs effectively, such as the Treasury and the Treasury Select Committee

The FCA expends resources defending itself from the attempts of individuals determined to get justice; there is a significant opportunity cost to that.

All of these issues combine to create what is certainly an unhelpful landscape that is very difficult to navigate. There can be no more powerful insight into how bad the problem is than taking time to understand the truly tragic outcome for scam victim Ian Davis R.I.P, one of the respondents to the APPG's Call for Evidence:





## Early Day Motions

UK Parliament > Early Day Motions > Ian Davis of Dunshalt, Fife

### Ian Davis of Dunshalt, Fife

**EDM 963: tabled on 14 March 2023**

Tabled in the 2022-23 session.

This motion has been signed by 33 Members. It has not yet had any amendments submitted.

#### Motion text

That this House records its great sadness at the sudden death of Ian Holland Davis from Dunshalt, Fife at the age of just 61 years; notes that Ian lost his entire life savings in the London Capital and Finance scandal and that he became increasingly frustrated at the difficulties he then encountered in attempting to ensure that those responsible for the fraud were fully brought to justice and that Government departments and regulatory agencies should be quicker and more open in acknowledging their own failings; places on record a deep concern that these experiences appear to have been significant factors in Ian's tragic decision to end his own life; commends the dedicated work he carried out as a volunteer for the Transparency Task Force to try and make sure other investors were better protected than he was; further commends his courage in speaking publicly about how he became a victim of fraud; calls upon the Government to ensure that all agencies involved in the fight against fraud are properly resourced and held to account for their performance in protecting innocent people from fraud; and send its heartfelt condolences to Ian's family and friends as they come to terms with their loss.

To fully understand Ian's case, and its significant relevance to this analysis of the FCA, please see [here](#), [here](#) and [here](#).

## PROPOSED REMEDIES

### Remedies that can be implemented unilaterally by the FCA

#### Develop a specialist consumer-facing department for scam victims

The FCA's 'consumer-facing offer' is poor. When scam victims come forward to the FCA to report concerns about individuals or organisations or to present whistleblowing intelligence, the FCA should listen in a more empathetic manner to these victims – as well as of course acting on this intelligence.

However, these victims also clearly need support - both financially and very often from a mental health perspective - many will be experiencing what amounts to post-traumatic stress disorder. There should be an external organisation the FCA liaises with where the FCA customer contact team refers these individuals to provide them with the mental support they need.

There needs to be bespoke crime/scam victim support - there should be a specialist organisation to deal with victims of fraud, staffed by specially trained individuals such that they can relate to scam victims and deal with them empathetically. It could be named The Scam Victim Support Centre or something along those lines to make it crystal clear to members of the public that

make contact with it, that it is there to help. And there is no need for such an organisation to help just the victims of financial scams; it should be available to help with all types of scams.

Clear rules and guidelines should be set on how the specialist team operates and their training and ongoing development must be such that they have a reasonable understanding of issues such as:

- Vulnerability; and understanding why vulnerability is situational and dynamic
- Post Traumatic Stress Disorders
- Mental health issues
- Financial abuse
- Relationship management
- Stakeholder engagement
- Communication skills
- Complaint handling
- Safeguarding
- Social isolation
- Rebuilding confidence
- Secondary scammers
- Triggering
- Tiering
- The significance of 'suckers lists'
- Impact of scams on the immediate and wider family
- Understanding 'shame and self-blame'
- Living with a sense of regret and guilt
- Cognitive behaviour therapy
- How to guide a scam victim on their rights and the alternative course of action they can take to seek justice and redress
- Signposting and referral pathways; for example with:
  - The City of London Police
  - The Economic Crime Victim Support Unit

Getting FCA staff to provide financial and non-financial guidance will of course require appropriate training, and it would help FCA staff to develop empathy and understanding for the people that contact it, which in turn would create stronger motivation to protect them in future.

The FCA should be consistently asking itself 'What can we do to better support members of the public that have concerns?' - if it did it would routinely lead to improvements in policy making.

People who have been scammed need to be able to report their case to the FCA and provide the regulator with intelligence, but they also need someone to help them through an incredibly difficult period in their lives. However much it reforms, the regulator will not be able to help them with the emotional stress of scams. There should be a clear signposting process to an organisation which can help with fraud and scam victims.

Organisations which people could be referred to include the government's guidance service Moneyhelper, Citizens Advice and Victim Support.

Often these scam victims need major help with their finances, as well as mental health support. One possible option could also be for the government to establish a dedicated support team for scam victims at for example Citizens Advice and for the FCA to directly refer people to this support team. This could be funded through the FCA's levy on the financial services firms it regulates. There could also be meaningful support, help and guidance through connected organisations working cohesively, such as Victim Support and National Trading Standards' Scams Team.

And in turn, perhaps such a cluster of aligned organisations working together to help victims could be organised to liaise with known, professional regulated advisers with a proven track record of competently and carefully dealing with vulnerable fraud and scam victims. These advisers could then help victims recover financially from the devastating blow of being scammed.

It would be important for the advice and guidance given to scam victims to cover the needs already mentioned i.e. the mental health area and the financial advice area, in a wholistic, joined up way, nicely packaged so it could even be an extension of the Money and Pensions Service and/or PensionsWise.

As indicated in the last few pages, there are numerous ways to help victims through the many relevant organisations that already exist being made available as a cluster of connected support services; augmented perhaps with specialist bespoke new units as deemed sufficiently compelling and necessary.

The potential sources of revenue to help fund such a suite of services could be:

- A levy on the industry
- A percentage of the monies generated through fines and restitution orders; there is a sense of natural justice in the idea that those that have perpetrated the crime or operated through malpractice of some kind should pay to help their victims to rebuild their lives - both emotionally and financially

### **Optimising the way the FCA interacts with the National Trading Standards' Scams Team**

Furthermore, the specialist unit described earlier must be very mindful that the fraud and scams landscape is complex for consumers to navigate when attempting to interact with any government departments dealing with scams and fraud - it's difficult for them to understand who to contact and actually how to get the support that might be available and how to attempt to get redress for losses they may have suffered.

The FCA should explore how to best engage with the National Trading Standards' Scams Team multi agency partnerships, which is integral to the new Home Office Fraud Strategy. Through this engagement there ought to be an increase in understanding of consumer vulnerability and a consistent support mechanism for all consumers who are victims of fraud, that is not just a postcode lottery.

### **Vital information is not being passed on**

Cases such as Blackmore Bond and Connaught show that:

- The FCA has been very poor at capturing vital intelligence given to it, and then passing on that intelligence to relevant authorities such as the police
- The FCA then tends to create a false narrative in a futile attempt to deflect criticism away from it, which of course has the opposite effect. For example:
  - In the case of Blackmore Bond, where Paul Carlier provided hard evidence of criminality, the FCA lied to the Government when it stated to politicians that it had passed on the information it had received as soon as it became aware of evidence of criminality; but a subsequent statement from the police to Mr Carlier shows that not to have been the case
  - In relation to the information given to it by whistleblower George Patellis, the FCA blamed him for not taking to the police the information he had given them, i.e. very wrongly blaming the whistleblower for the FCA's own failure to act on the evidence given. That meant Mr Patellis had been wrongly publicly named as a whistleblower, which contributed significantly to a tragic downward spiral in his life

It is therefore obviously vital that the FCA puts in place robust measures to ensure it correctly shares information with other agencies especially when members of the public are providing evidence of criminal activity; and that the FCA is honest with what it has/hasn't done with the information provided

It goes without saying that instances of incompetence and dishonesty by the FCA as mentioned above have a horrendous impact on relations it has with all kinds of stakeholders.

And as explained elsewhere it is vital that the Memoranda of Understanding between the FCA and other agencies, particularly the law enforcement agencies work both in theory and practice.

## Updating the public as best as possible

The public should not be left with the impression that the FCA is doing nothing about their concerns and/or that it just doesn't care.

A very good example of the FCA's poor engagement with consumers is how it has handled the Woodford scandal.

Therefore, arrangements are needed to ensure that complainants are informed about the progress of the investigation of their complaints. Whilst it is accepted that the FCA cannot reveal everything it knows about how it is following up on a case that a member of the public has reported to it; and whilst it is recognised that there's a tension between the privacy laws and the need to keep the victim aware of what's going on; the FCA should be seen to be doing all it possibly can to assure members of the public that it is taking appropriate action, so they know that their concerns are being effectively dealt with.

## Engaging through relevant groups

It is important that the victim is not left to feel isolated or out of touch with what is going on; and for the FCA to be visibly engaging with key stakeholder groups.

There are creative ways the FCA could engage better with scam victims, particularly through ready-made forums. For example, the FCA:

- Could engage with groups of scam victims through their campaign group's online forum such as their Facebook groups
- Could engage with the victims' Creditors Committees, often through the relevant Insolvency Practitioner

Sometimes, the FCA argues Section 348 of the Financial Services & Markets Act (FSMA) prevents them from disclosing information they've received without the permission of the party that disclosed it or the party it is about. Whilst that is true, it should not be a reason for the FCA to completely abandon any attempt for it to keep groups of victims informed, even if only to assure them that the FCA is still working on the case i.e. that they have not been abandoned.

The FCA should meet with organisations, charities and those helping people directly who have been affected by the scam. This will help them to learn what the lived experience of those affected has been and could potentially provide the FCA with additional intelligence.

## Exploring how to make full use of the technology that is available

The FCA should explore how to make good use of the technology that is available that lends itself to keeping groups of people informed.

For example, the FCA could create an information portal for each known scam, using it to keep victims informed of updates and bulletins that the FCA can put in the public domain. Each verified scam victim would have a unique, password-protected victim profile that would enable access to the portal.

Such a use of technology would represent a very efficient use of FCA resources and align with its claimed aspiration to be 'a data-led regulator'.

## Facing up to the criticisms made of it by the public at large

It is possible that FCA managers do not realise quite how badly the FCA is regarded by those that interact with it. The FCA should make it a matter of routine to review the comments being made about it, for example the truly appalling profile it has on Trustpilot.

Whilst some may not care what people think about the FCA, it is hoped that others might; and as such they may be able to help raise the performance of the FCA in relation to its engagement and communications.

## Defining good practice; and independently monitoring performance against it

Resources need to be allocated to defining good practice with regard to engagement and communications with stakeholders, including complainants and victims.

And once good practice has been established the FCA's performance against relevant benchmarks ought to be independently monitored on an ongoing basis.

Such monitoring could be carried out by the FRSC and/or a suitably qualified 3rd party acting on its behalf.

## Creating user-friendly comms

The FCA needs to consider how to improve its consumer-facing communications to make it clearer to ordinary people, using everyday language, especially as the average reading age of UK consumers is only 9.

The FCA's communications should be based on ordinary everyday language, without assuming any prior knowledge.

Similarly, the FCA should consider what scope there is for its rule book to be made more straightforward and user-friendly for the industry.

## Escalating from the contact centre correctly

The FCA needs to train staff in the contact centre such that they can confidently decide when to escalate matters to staff with specialist expertise.

## Executive casework creates unhelpful separation

It is too difficult to communicate directly with the senior leadership of the FCA, which results in frustration because emails to them get directed to Executive Casework.

That's problematic because:

- The responses received tend to be unhelpful
- The FCA's Leadership Team remains unaware of what it is that somebody is trying to make them personally aware of; and is therefore inappropriately unempathetic about whatever the matter is - it's an unhelpful separation

## The FCA's website has considerable scope for improvement

The FCA's website needs to be made far more useful to consumers, for example it should be a valuable 'font of all knowledge' in relation to what people should do if they feel they have been treated badly by a firm or they believe they may be a victim of a scam.

## Remedies that require interventions by the Government

### Establishment of the Financial Regulators Supervisory Council

As explained earlier, the FRSC would have a positively transformational impact on the way the FCA works in many ways. It is being included here as a solution to the problem of the FCA's poor engagement and communication with stakeholders because of the way it would surely lead to significant improvements to the FCA's culture, whereby it would treat consumer concerns with sympathy and respect as the FCA would becoming more caring, more willing to engage, through it becoming more authentically concerned with consumer protection and less about industry protection.

## Concern: The FCA Fails to act on the evidence available

### About the concern

The FCA has often failed to identify red flags that indicate scams even though sufficient evidence was there to be seen.

Furthermore, the FCA also fails to take action when it is aware there are red flags.

This failure to take notice and act is even more of a problem when a whistleblower provides them with evidence.

In his submission, whistleblower **George Patellis** ([p. 10 of 52](#)) lists a timeline of red flags which the FCA was aware of years before he blew the whistle.

The members of the **R2i Valle de Uco Investor Group** ([p. 5 of 13](#)) felt that the red flags would have been much easier for the FCA to spot than them, given the intelligence they had received.

Another respondent, **Julie Anne Davey** ([p. 5 of 11](#)) said the following: 'The FCA have dismissed all of the whistleblowers and my evidence against the Bank, taking the opinion of the Bank over this evidence, despite being provided with evidence to demonstrate that the Banks position is unequivocally false. The FCA has closed my complaint and refuses to engage on key areas that ultimately demonstrate that the Bank were in the wrong, and without addressing any of the issues specific to FCA regulated products or services.'

The FCA has routinely failed to act on warnings given to it by external stakeholders; or it has been very slow to act on such warnings.

It has routinely ignored hard evidence given to it, even when the individual giving evidence has been highly credible.

The FCA often demonstrates an unwillingness to take action; it sometimes only acts when it is being made to do so by external stakeholders.

### How bad is the problem and what are its consequences?

This is a very serious problem that has resulted in extreme detriment for tens of thousands of people, many of whom have lost life-changing amounts of money because the FCA failed to act when it could and should have done.

There has been a collapse in confidence in the FCA's ability to investigate, take enforcement action and to regulate the market effectively.

### PROPOSED REMEDIES

#### Remedies that can be implemented unilaterally by the FCA



## Red flags leading to automatic action

There should be a system of red flags being automatically escalated to a level which requires some action to be taken by the FCA in relation to evidence given to it.

Perhaps, in a transition period, this should also be monitored by an independent external monitor.

## Dedicated evidence response team

The FCA needs to establish a dedicated unit to monitor the process of following up on evidence of how warnings of bad practice are presented to it

## Remedies that require interventions by Government

### Establishing the Financial Regulators Supervisory Council

Once again, the FRSC is being proposed, this time as a means to help ensure the FCA makes proper use of the evidence made available to it.

The regulator of a large, sophisticated financial industry, unfortunately, will never have sufficient resources to enforce full compliance – even in cases where there is a demonstrable and verifiable breach of the law, and one which causes great detriment to a large number of consumers.

Indeed, even a highly efficient regulator with a strong record of robust enforcement will be placed in the invidious position of having to select only relatively few cases to pursue, while leaving aside a majority of cases which are, nonetheless, entirely deserving of enforcement action, and where there is a strong case to be made to pursue justice for victims.

This, unfortunately, is the nature of the beast. However, that does not excuse the FCA which, the evidence strongly suggests, is not pursuing even a minority of matters deserving of enforcement action. That, in turn, reflects a poor enforcement culture and a level of capture and subornation that bedevils the FCA currently.

Moreover, the fact that a regulator like the FCA will have to make hard choices (in respect of matters ‘deserving’ of enforcement action, but for which there are not sufficient resources) must not detract from the deterrent advantages to be gained from matters in which it does take action. Put differently, by taking strong enforcement action where it can, the overall level of deterrence will be enhanced, resulting in fewer instances of misconduct arising and therefore the increased likelihood that the FCA will have sufficient resources to do what needs to be done.

Key questions which then arise are:

1. Whether the FCA is choosing the right matters to pursue, relative to their limited resources; and
2. Whether it is an accurate assessment of the resources available, when the FCA claims it cannot pursue other breaches, which are nonetheless highly deserving of enforcement action.

The best way to resolve these questions, so as to reassure the public, and in order to afford the FCA fairness in the manner in which its enforcement choices are evaluated, is through the creation of a critical, on-going, arms-length, specialist oversight body which is, in turn, appropriately biased towards consumer protection and upholding the public good. This, once again, brings us back to the FRSC.

It would provide formal, timely, case-specific external evaluation of the FCA's performance in relation to how the FCA has handled a particular scam, in order to address this issue of the FCA failing to stop scandals despite it being given evidence by the public that would enable it to do so. A formal process would be put in place whereby on scams above a certain size, e.g. total losses in excess of £10M the FCA will be forced to publicly explain how it acted over a particular scandal, what warnings it received and why it did not intervene sooner (if it did intervene).

The work of the FSCP could be augmented and supported by Governmental input, for example a Treasury Minister could:

1. Formally be required by the Government to demand an explanation for how the FCA responded to a scandal
2. Announce the start of the formal evaluation process, which would be as public and transparent as possible
3. Writing to the FCA CEO asking them to outline how the FCA responded to the particular scandal, providing details on any warnings the FCA received on which dates and what action the FCA took and when
4. Request follow up information or meetings with the FCA
5. End the process by publishing a report, in conjunction with the FSCP, establishing the facts about how the FCA conducted itself and openly sharing the criticisms they had over the regulator's handling of the affair.

If the FCA was found to have made serious errors then a compensation scheme could be announced or some sort of remedial action taken.

An alternative to the Minister supporting the work of the FSCP, that input could potentially come from one or more of:

- The Treasury Select Committee
- The Financial Regulators' Complaints Commissioner

...but it is recognised that both organisations have less power to impose redress schemes or follow up action.

### **New powers for the FCA to initiate bans**

The FCA should be given new powers to enable them to immediately intervene to ban the sale of a product or the provision of a service for up to say 6 months whilst it investigates concerns that have been expressed about it.

To take this step the FCA must be able to show that it has received information which would lead a reasonable person to be concerned about the product or service; and it should specify whether the firm has failed to cooperate with the FCA.

If the FCA did not take this step a whistleblower or complainant that suffered harm as a result should be enabled to take their case to an independent body for redress.

## Concern: The FCA makes poor use of its powers and fails to carry out its operational duties

### About the concern

It is not clear to many what powers the FCA has, and whether it uses its existing powers effectively.

Consumers understand the risk/reward dynamic and they accept normal investment risks i.e. that their investments may go up or down in value.

However, and quite understandably, the term 'Regulated by the FCA' makes people think the FCA regulates entities that describe themselves in that way.

The term is effectively a 'kite mark' that carries with it the imprimatur of the FCA and the inference that the organisations/people that are 'regulated by the FCA' meet certain standards.

But the FCA routinely fails to carry out sufficiently thorough due diligence checks on the entities they regulate, the products/services they sell and the individuals behind the entities; both at the point of authorisation and on an ongoing basis thereafter.

A good example of this is **Respondent A66's** case where the FCA had failed in its duty to adequately regulate the IFA that had caused her loss. She received a letter from then-CEO of the FCA Andrew Bailey recognising that there had been 'individual errors in the supervision' of the IFA which was 'clearly regrettable' ([p. 3 of 8](#)).

Another example of this is **Respondent A77's** case. He put his entire life savings into a company that was eventually revealed to be a type of pyramid scheme. The company had 'proudly flaunted' their FCA credentials for several years, and Michael had believed this was a sign that the company was set up properly ([p. 3 of 6](#)).

The FCA has also failed to carry out the relevant checks in order to upgrade a company's interim permission to full authorisation.

For example in the Collateral case, where it was discovered that they had been trading illegally without FCA authorisation. The FCA had accepted an invalid application without doing relevant checks.

There are many such examples where individuals have checked the FCA's Financial Services Register before investing to ensure they were dealing with a firm that is FCA-authorised and regulated. Often the information provided is factually inaccurate; but even when it is not, it conveys to the investor greater weight than it ought because in reality the FCA do not actively regulate many of the firms it authorises.

There can therefore be a significant mismatch between the perception of the standard of integrity of the organisation/individuals that are selling investments and the reality.

In general terms, the FCA is failing to meet expectations that it is actually regulating the market; it certainly does not seem to be in control of it.

Many respondents felt that the FCA have sufficient powers, but that they do not use them effectively to help consumers, for example by preventing scams and aiding them in securing redress and often wrongly claim that matters are outside of their jurisdiction.

The FCA has a statutory duty (FSMA 2000 s5 The Protection of Consumers) to retail clients (*Consumers because they are not professional clients under MiFID and defined s138(7)(a)(i)FSMA 2000*) but have failed to carry it out.

One respondent said: 'There are invariably sufficient powers and authority, just a 'convenient' application of them.' - **Julie Anne Davey** ([p. 8 of 11](#))

**Stephen Barker** ([p. 7 of 18](#)): '...They could and should have used the available powers under the FSMA 2000 particularly s384 Power of Authority to require restitution and s382 Restitution orders. Powers the FCA know they have and do use; and have had the statutory authority to use them confirmed by the Supreme Court (*Ref: Asset Land plc v FCA [2016] confirmed the Regulator has powers to issue interim and final restitution orders*).'

**Lisa King** ([p. 32 of 32](#)): 'The FCA is duty bound under its powers provided by the FSMA [Financial Services and Markets Act] to have a clear interpretation of their rules. It is a fundamental expectation of the aforesaid and failure by the FCA denotes both a statutory and common law breach for which the consequences are felt by every consumer.'

There are examples in many areas where bodies have formal powers but fail to use them effectively, sometimes due to a lack of resources, on other occasions more problematically due to a lack of will for whatever reason. If the issue is more about a lack of motivation rather than resource, the problem is linked to how the organisation is inadequately focusing on consumer protection and points to problems with the organisation's leadership and culture. And for the problem to persist, there must be inadequate transparency, accountability and oversight; and an inability for consumers to press for redress.

## How bad is the problem and what are its consequences?

This is a serious problem because Parliament has given the FCA powers that it is not making good use of, and the incidence of those powers not being used is high.

People invest in the belief that they are dealing with an organisation and individuals that the FCA has established are credible, competent and acting in good faith.

But if that is not the case they may lose substantial amounts of money either through deliberate scamming including outright fraud or incompetence.

There has been a collapse in confidence in the FCA's ability to regulate the market effectively, because too many people have lost substantial amounts of money because of the gap between

the standards of regulation they expect and the standards of regulation actually being provided.

The financial loss to investors has led to immense suffering and anguish - the consequences can be devastating.

There has been a collapse in confidence in the FCA's ability to regulate the market and protect consumers.

## PROPOSED REMEDIES

### Remedies that can be implemented unilaterally by the FCA

#### What does 'Regulated by the FCA' mean?

The term 'regulated by the FCA' has great significance, but there is a lack of clarity around what it actually means.

The FCA should spell out what the term means as far as it is concerned, and the narrative it provides should make it abundantly clear what it does and doesn't do, so as to accurately manage expectations.

#### Publish its powers

The powers that FCA has should be set out and published on its website; and it should set out its policies in relation to when each of those powers would be used, and not used.

There should also be information published to show what powers have been used, when; and thereby enable stakeholders to see what powers the FCA has that it is not using.

This kind of transparency would help ensure the FCA would make good use of its powers; and an independent body (such as the proposed FRSC) would constructively challenge the FCA through the data.

#### Guidance from legal experts including legal academics

The problem of a financial regulator not making good use of its full range of powers is not confined to the FCA.

For example, it is also a problem which besets the Australian conduct regulator, ASIC. Research conducted in Australia by Ramsay et al indicates that of the approximately 900 sections in Schedule 3 of the Corporations Act, No 50, 2001 (Cth), which ASIC is able to use to prosecute misconduct by Australian financial service providers, over the past ten years, only 27 sections out of a possible 900 have been used.

What this belies is that regulators stick to what they know, are insufficiently motivated to explore other available avenues of enforcement, and can become complacent about the (limited) breadth of their knowledge of the law.

One way in which this phenomenon can be mitigated, is by seeking input from legal experts,

including legal academics, whose knowledge of the legislation goes beyond that of practitioners (whose expertise may be confined to those parts of the legislation that have been previously tested in court). An ideal mechanism by which the expertise of legal academics could be harnessed, is through the on-going enquiries and assessments that would be made by the FRSC that has been proposed elsewhere.

Such an oversight body, charged with assessing the enforcement performance of the FCA could, quite naturally as part of its remit, seek independent advice from legal academics, as to whether the FCA was utilising the full gamut of legal powers available to it.

#### **Remedies that require interventions by Government**

Not applicable



## Concern: The FCA shuns responsibility, and lacks scrutiny and accountability

### About the concern

Many of the respondents feel that the FCA seems unwilling to accept responsibility and take accountability for its errors.

**R2i Valle de Uco Investor Group** ([p. 9 of 13](#)) said: 'The defensive nature of the FCA has resulted in a failure to accept responsibility when things have gone wrong and a failure to prevent a recurrence. The FCA repeatedly turned a blind eye and tried to resile from any responsibility on the basis that fraud allegations were a matter for the fraud agencies (once they had referred the matter, they felt they had complied with their responsibilities)...'

Many of the testimonies speak to the idea that the FCA seems unaccountable and unwilling to take responsibility, so much so that it is not at all clear what the term 'regulated by the FCA' actually means, when in effect the FCA does not, as a matter of FCA policy, carry out independent periodic checks that its rules are being complied with.

The FCA's stated policy is that:

***'It is a firm's responsibility to have systems and processes in place to make sure they meet all regulatory responsibilities and treat customers fairly.'***

In relation to this point, the submission by [Debt Hacker](#) is compelling and worth reading in full, especially as the APPG's involvement in the case is likely to have had a part to play in the high-cost lender SafetyNet closing.

The key points of the SafetyNet case are that:

- SafetyNet had been providing misleading information about the APR charged to their borrowers, where the actual cost of credit experienced by the customer was several times SafetyNet's advertised representative APR. Representative APR means that on each day that rate is advertised to the public, 51% or more of customers receive that rate or better
- Following engagement with the FOS and the FCA, several red flags appeared and were reported by Debt Hacker to the FCA for urgent investigation and enforcement action. But it seemed no investigation or regulatory action took place
- Debt Hacker rightly persisted with its campaign to the FCA, eventually with the support of the APPG
- During the ongoing dialogue with the FCA, the Interim Director of Retail Lending at the FCA set out 'an outline of our general supervisory approach and expectations around Representative APR', stating:

*'As a Regulator, it is not for us to periodically check the calculation of Representative APRs. It is a firm's responsibility to have systems and processes in place to make sure they meet all regulatory responsibilities and treat customers fairly.'*

- In other words, the FCA's position was that firms will be the final arbiter, judge, and jury as to what is the *'fair treatment of customers'* because the FCA as a matter of regulatory policy shall make no periodic independent supervisory checks, whatsoever
- This statement by the Interim Director of Retail Lending at the FCA on checking representative APR is impossible to reconcile with the FCA's core supervision function of protecting consumers as described on its website:

*'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.'*

- The FCA's *'general supervisory approach'* has created the environment where firms pursue their own self-interest by exploiting loopholes in the knowledge the FCA regulatory policy is never to make any periodic checks on representative APRs, or anything else. Consequently, the FCA has no ability to discover how many other firms are exploiting these, and other, loopholes, or how many customers receive the advertised representative APRs and crucially how many other firms are failing to meet their general obligations as a licence holder.
- It would be almost impossible for even the most financially sophisticated, astute and lawyered up customer to establish whether an advertised representative APR is correct, so what chance is there for the customer whom the FCA *'describes [these consumers of high-cost credit] as typically having relatively low levels of financial literacy'*. The FCA, on its own legal submissions, is fully cognisant that these customers are incapable of independently checking or policing the correctness of representative APRs. Therefore, the FCA's supervision policy to not check representative APRs is irrational because that abdicates its primary statutory purpose of protecting consumers who it knows are in no position to adequately protect themselves
- That's an outcome which the Government could never have intended
- The public have the right to expect that at the very least the FCA's *'general supervisory approach'* results in a representative APR that anticipates and reflects the APR's which they are likely to experience; not the present reality of paying many times the advertised representative APR.
- An independent analysis by the University of Edinburgh proves that high-cost lenders are advancing unaffordable loans exploiting consumers with multiple layers of unaffordable and unsustainable credit at interest rates of up to 1,333% APR. The analysis proves conclusively that the FCA's *'general supervisory approach'* is hopelessly flawed and patently inadequate to *'protect consumers from the harm that can be caused by bad conduct in the financial services industry'*.

- As far back as 1900 a Companies Act was passed that required financial statements to be subject to an independent audit. So, for over 120 years there has been a requirement for an independent auditor as companies, which includes FCA licensed firms, have proven time and time again that they cannot be relied upon to follow the rules without the independent checks of an auditor
- In the light of those 120 years of experience it is illogical for the FCA to argue that periodic independent checks of their regulations are unnecessary; in just the same way that it would be illogical for the Ofsted to not do periodic independent checks of schools, the CQC on Health settings or indeed for any competent regulatory body to not independently check the behaviour of the entities that it regulates
- It is important to stress that an auditor's responsibility does not extend to auditing the FCA regulations; merely that the financial statements have been prepared in accordance with the Companies Act. Therefore, the auditors are not required to make any checks that the lending is affordable or that the representative APR is fairly stated. This explains why over 30 pay lenders traded for years on unaffordable business models; and every one received unqualified audit opinions, until the moment they were overwhelmed with customer complaints.
- It is plainly obvious that the FCA's general supervisory approach has failed the public and is not fit for purpose, and once again calls into question what the term 'regulated by the FCA' actually means, when it is clear that the FCA as a matter of policy does not make independent periodic checks that licence holders are complying with their licence conditions.

The Debt Hacker submission includes these comments:

- *'Our perception is that the FCA is passive, as if disinterested, to the protection of consumers; lending legitimacy through authorisations whilst consumers are mercilessly exploited by unrestrained bad actors. The FCA behaves in practice as if its mission omits to protect consumers, and in particular the most vulnerable in society. It does not confront bad actors which engenders a permissive environment enabling bad actors to profit from dubious practices'.*
- *'The lack of ostensible enforcement action regarding SafetyNet by the FCA following the reports by Debt Hacker is all the more shocking given the excoriating report by Dame Elizabeth Gloster on the LCF scandal in November 2020 where repeated warnings and red flags were ignored by the FCA'*  
  
*'By its behaviour, the FCA has facilitated the exploitation of millions of consumers, contrary to its core statutory purpose. Debt Hacker wants that to change such that the protection of the consumer is put at the heart of the FCA's mission statement'.*
- *'The number of consumers who have been exploited by un-affordable loans from FCA authorised lenders runs into the millions. Many of these lenders have collapsed into insolvency under the weight of compensation claims made by consumers; all of whom had valid claims for reimbursement of interest and charges paid for unaffordable loans.*

*Most of the consumers ....never saw the compensation to which they were legally entitled having been sold unaffordable loans. Despite this there has been a distinct lack of personal accountability for the individuals responsible for inflicting the financial harm suffered by consumers; Debt Hacker is unable to identify any directors of insolvent high-cost lenders who have been disqualified by the FCA under the Company Directors Disqualification Act 1986.*

- *The FCA has not sought the disqualification of any directors of the numerous failed payday lenders which collapsed for lending in breach of FCA regulations. None. Can the APPG really believe that every one of those directors profiting from industrial scale unaffordable lending practices behaved impeccably such that not a single one is unfit as director? Clearly the FCA thinks so because it has not only taken no disqualification steps, but has approved those individuals as directors of other authorised firms. Consequentially, the FCA simply does not regard removing bad actors as a function falling within its 'general regulatory approach'.*

*Again, this cannot be a result intended by Parliament when it conferred those powers upon the FCA.'*

## How bad is the problem and what are its consequences?

This is a big problem area, because of the extensive evidence within the testimonies that the FCA seems reluctant to take responsibility and to be held accountable.

By not accepting responsibility for their actions (or lack of action), the FCA are setting a precedent which means scam victims and consumers generally do not feel reassured that the FCA are on their side.

The lack of accountability of the FCA means they are slow to learn from their mistakes; they do not experience any material adverse consequences when they get things wrong.

Furthermore, there will continue to be a lack of confidence in the wider bodies that are meant to ensure the FCA performs well such as the Treasury and the Treasury Committee.

## PROPOSED REMEDIES

### Remedies that can be implemented unilaterally by the FCA

Not applicable.

### Remedies that require interventions by Government

#### The Establishment of the Financial Regulators Supervisory Council

The overarching theme that comes through from many of the issues raised is that the FCA lacks robust, independent third party oversight. Even the mildest and most generous assessment of

the FCA's performance in relation to cases such as LC&F and Connaught would show this to be true.

While Parliamentary oversight is essential, and a core component of democracy and the rule of law, it is nonetheless sub-optimal. It is often ad hoc, almost never continuous and on-going, and relies upon the ability and expertise of those in the Government to understand the sophisticated and highly technical nature of financial products and services. While there are members of the UK Government who have the requisite levels of expertise and insight, the Government is not possessed of a particularly deep bench in this regard.

The position in Australia is even more impoverished. As a result, what is often seen from attempts to exert Parliamentary oversight over ASIC in Australia, is that the regulator runs rings around Parliamentary committees; the same could be said for what happens in the UK.

By establishing an FRSC (as explained elsewhere), whose purpose would be to conduct on-going, critical assessments of the FCA, conducted by suitably qualified individuals, placed at arms-length from the regulator and the industry, the FRSC's findings offer the potential to serve as a powerful complement to Parliamentary oversight.

This plays a vital role in balancing the scales; which is necessary because Financial industry regulators fall prey to capture and become suborned to the interests of the industry they are meant to police. This is because often they only experience unilateral pressure; that is to say, pressure from industry and its lobbyists, to forbear in their enforcement of the law.

By establishing the FRSC, comprised of individuals who are biased towards consumer protection, and who are at arms-length from the industry and the FCA, and who have the power (in concert with HM Treasury) to appoint and dismiss the executive leadership of the FCA, and who will critically evaluate the efficacy of the FCA's enforcement on an on-going basis, pressure on the FCA goes from being in only one direction, to being balanced, and in two, opposing directions. Such a balancing of pressure will not only give the leadership of the FCA cover to resist demands from industry to forbear in their enforcement, it will also, at the least, provide for an environment of neutrality in decision-making in respect of enforcement action.

There are many very important lessons we can learn from the aftermath of the global financial crisis, as follows:

1. We have long understood the importance of prudential regulation as a bulwark against systemic instability cum financial crises.
2. In the aftermath of the US subprime disaster (a crisis precipitated by market misconduct and consumer abuse, in the form of reckless and predatory lending), and the manner in which it metastasised into the global financial crisis, we came to understand more fully that conduct regulation - that is to say regulation to prevent market misconduct and consumer abuse - can also become a systemic risk, and a financial crisis.
3. The findings of the US Congressional Inquiry into the subprime disaster and the House of Commons House of Lords Inquiry into the collapse of HBOS and Northern Rock demonstrated that prudential and conduct regulation often seek outcomes which are mutually exclusive.
4. As a result, we came to understand that the optimal architecture for regulating the financial industry is one which comprises a paramount prudential regulatory authority,

and a paramount conduct regulatory authority and, crucially, that these authorities must be separate and equal in power. That realisation saw the disbanding of the UK prudential and conduct regulator, the FSA, and the establishment of a 'Twin Peaks' regulatory framework, in which was created the FCA (for conduct) and PRA (for prudential).

5. As such, there is, to date, no better architecture that has been developed, than the 'Twin Peaks' model.
  - a. Here it is of note that apart from the mega-regulator model (FSA) and the 'Twin Peaks' model, the only other methods for the regulation of the financial industry that have been conceived, fare even worse than the mega-regulator model. Those are:
    - i. Regulation by type of entity (banks, insurers etc). This model breaks down completely since the advent of bancassurance - that is to say the advent of banks becoming insurers, insurers becoming banks, etc.
    - ii. Regulation by type of product or service. This model relies upon the regulator providing definitions for what constitutes a banking product, what constitutes insurance etc. This model is unable to cope with hybrid products, and is rapidly overwhelmed by financial industry firms tweaking the definition of whatever product or service they sell, so as to bring that product or service under the jurisdiction of whichever regulator they deem more pliable. Put differently, financial industry entities will engage in regulatory arbitrage so as to enjoy what is, in effect, forum shopping.
6. What is needed, therefore, is not to scrap the notion of a paramount conduct regulatory peak. What is needed is to make that peak function effectively. Put differently, the problem does not lie with the regulatory architecture. It lies with the plumbing; and without fixing the plumbing, changing the architecture will not solve the problems currently faced.
7. Faced with the same deficiencies in regulatory efficacy in Australia, by Australia's FCA (ASIC), various proposals have been put forward. As similar proposals have been mooted in certain quarters in the UK, I turn to an analysis of those:
  - a. Separate the enforcement function from the FCA. This idea may have some merit, in that it envisages the creation of a specialist prosecution authority, unfettered by systemic risk considerations. It is evident that these considerations are either often overstated or they fail to recognise that turning a blind eye to misconduct may cause the issues to fester. If so, misconduct identified now but not punished, may become a far more serious systemic risk later. This is the 'misconduct threshold' paradox: where certain forms of misconduct are ignored by the FCA, because they are deemed to be below the threshold at which enforcement action should be considered. Put differently: bad acorns into bad oaks will grow. Often, nipping misconduct in the bud will cause less disruption than attempting to resolve it later. Put differently: the crisis proceeded slowly until it proceeded quickly.
  - b. What this proposal does not address, however, is that prosecution proceeds after investigation. Without a robust culture biased towards consumer protection, and not towards industry protection, effective investigation is not assured. And so, by implication, neither is effective prosecution which would proceed after investigation.
  - c. Prosecution and investigation are most effective when they work closely together.



- d. There is a danger that investigators will not submit evidence to a prosecutorial agency, where they fear systemic risk, or where they are captured by industry.
- e. As such, a better solution is a dedicated prosecutorial function within the FCA, able to work closely with investigators at the FCA, but crucially, within a framework that addresses the root causes of FCA inefficacy: culture and leadership. Put differently, the right culture, driven by the right leadership, would be a more effective means to resolve the observed failings of the FCA than separating-out the prosecutorial function.
- 8. Similarly, abolishing the FCA and establishing only a prosecutorial agency would fail, because who would conduct investigations preceding prosecution? Moreover, the FCA does, and should, perform an educative function - that is to say, it informs industry participants of what is expected of them in respect of their conduct. This function is vital, and must be maintained.
- 9. Maintaining the FCA is also necessary as a policy-generating agency. That is to say, where prosecutions and other forms of enforcement fail, because of deficiencies and loop-holes in the law, it is important to maintain a regulator capable of responding to those observed legislative and regulatory short-comings, and empowered to amend and enhance regulations, and where necessary, advise the Government of a need to strengthen and enhance legislation. This further supports the need for those charged with enforcement to be given the ability to make direct inputs into FCA policies.

Regulating market conduct and consumer protection in the financial industry, if done effectively, produces good outcomes for retail investors. That in turn engenders confidence in the financial industry by those investors, and increased participation. Where that increased participation also leads to good outcomes for investors, the size of the market grows, investors from other jurisdictions are attracted to the UK, and this virtuous cycle becomes positive for the industry, and positive for individuals - especially the poor, as it helps to lift them out of poverty and enables them to ventilate the full range of their human potential. Put differently, an efficient, fair, transparent financial industry which consistently produces good outcomes for consumers, drives financial inclusion, and enhances the UK as an investment destination, becomes a rising tide that lifts all ships.

To date this has not been achieved, and much of the blame has been laid at the feet of the FCA.

The failings evidenced by the FCA, and the causes of those failings, are not unique to the FCA or the UK. They have been observed in other regulators and in other jurisdictions, and have attracted the attention of scholars since the 1860s. So too, the solutions to those observed problems. The overarching solution is one that has been put forward by eminent scholars such as Barth, Caprio and Levine, McRaw and others. It is a solution which has found its first iteration in the Australian Financial Regulator Assessment Authority (FRAA), referred to as 'Twin Peaks 2.0' by Panellist Dr Andy Schmulow.

The proposal for an FRSC, builds upon the FRAA, but is an advance on that framework. It can tackle the most vexing and ethereal challenges faced by the FCA: how to enhance and strengthen the FCA's culture.



The creation of an independent body could provide the assurance to members of the public that the regulator has done all that is reasonable in the case and that the judgements it has made are also reasonable.

This body should have the power to direct the regulator to undertake further investigations, take action, make payments of compensation and order suitable punishment for managers who undermine the organisation's culture.

Again, FRSC as fully explained earlier, would provide exactly the kind of oversight, scrutiny and accountability that is needed. But the FRSC should not work alone - it should work collaboratively with other oversight bodies such as the Treasury Select Committee, such that there was greater accountability to the Government, through more frequent meetings, as part of an on-going process of accountability.

It should be stressed that consideration should be given to the type of people who would be a part of the FRSC. They should not be from 'the industry' but rather should represent the wider community. Mainly they should be selected for having moral compass and sensitivity towards consumers who have, probably, faced considerable financial hardship.

Their backgrounds could be academic, or business, or community. Administrative support should be separate from the main civil service. Subject to privacy and commerciality constraints, everything they and the FCA do should be subject to detailed public scrutiny.

And if the FRSC needed technical expertise, this should be provided to them by (carefully selected, independent) experts; and the FRSC should from time to time be able to commission deep-dive independent reports, including evaluations from proven independent researchers and academics; for example in Scotland there is The Fraser of Allander Institute based at Strathclyde University; there are many such competent organisations.

## Periodic Reviews to be carried out

Readers will be familiar with the economic concept of *satisficing*, the practice among executives and organisations of doing enough to satisfy shareholders, customers or other stakeholders, without actually optimising outputs. Remedies entail improving the measurement of outcomes and designing incentives and jeopardies that encourage higher performance.

Government therefore has a key part to play in ensuring that there is as much transparency as possible about what the FCA is doing and what it is achieving, that it is as fully accountable as possible to the Government and wider society and that the governance and reporting arrangements are in place that celebrate successes but ensure that failures aren't consequence-free.

Indeed, it may be naive to expect genuine cultural and operational change from the FCA until these measures are in place: in a principal-agent problem, any shortfall in outputs is at least as much the responsibility of the principal as it is the agent's. In that context, it may be significant that one of the questions in the Call for Evidence that generated the highest levels of consensus addressed whether the FCA's Transformation Programme had been effective: given that there

had been no meaningful change to the governance, transparency and accountability of the regulator, it may have been naive to expect anything other than window dressing.

So, whilst there is clearly merit in having deep-dive periodic reviews of the FCA, the FCA cannot be entrusted to 'mark its own homework', for the reasons set out above.

Further insights into the FCA's apparent inability to objectively self-critique comes in the way it has commissioned so-called independent reviews.

Taking the supposedly independent Raj Parker review into Connaught as an example, the FCA tends to:

- Select the author without advertising the position or considering other applicants
- Controls access to information
- Set the terms of reference
- Control the use of Maxwellisation rights
- Provide consulting/employment contracts to the author; which somewhat clouds the understanding of what the author's motivations might have been

Rather than the FCA reviewing itself, perhaps the FSCP could do it in conjunction with a government body such as the National Audit Office, which at the time of writing is reviewing the FCA; and it did that previously in 2014.

The efficacy of the regulatory framework can be considered in terms of the grand design i.e. the 'architecture' and the operational effectiveness i.e. the 'plumbing'. We propose that both are very important and both should be subject to periodic reviews.

The optimum is best architecture and best plumbing; the least optimum is worst architecture and worst plumbing.

And in between we have either the best architecture with the worst plumbing; and the worst architecture and the best plumbing.

Given the choice, it is best to have the worst architecture with the best plumbing, on the basis that what really matters is how things are actually done, in nitty-gritty day-to-day terms.

A good example of this is the Monetary Authority of Singapore - the architectural design of the regulatory framework is not impressive, but the execution is very good - so the system works well.

We therefore propose that the FRSC be tasked with closely scrutinising the operational effectiveness of the FCA, as well as everything else.

**The regulator must regulate**

It is unacceptable and untenable for the FCA to remain an outlier in the world of regulation, being the only regulator we are aware of that has a policy of not carrying out periodic independent checks of the entities it regulates; as explained through the Debt Hacker testimony.

This must change. For it to not do so brings into question the very meaning of the term 'Regulated by the FCA'.

## The regulator must investigate and enforce

As explained in numerous parts of this Report, there are legitimate and evidence-based concerns that the FCA fails to investigate and enforce even when given credible information of a firm that is in breach of its rules and regulations

Again, this must change; because again for it to not do so brings into question the very meaning of the term 'Regulated by the FCA' when the FCA's stated public policy is one of being non-interventionist .

## Audits of regulated entities to include regulatory risks

As mentioned in the submission by Debt Hacker that was referred to earlier, a significant opportunity is being missed, in that auditors are not auditing the regulatory risks of regulated entities.

The key points are that:

- Larger financial organisations have audits carried out
- Those audits supposedly reflect the position of the company including its exposure to all liabilities; including those arising from failure meet their FCA obligations.
- But any potential regulatory liabilities are excluded from that assessment because the audits don't cover the regulatory risks, even though the entity is regulated and therefore has potential claims against it, for example if it were involved in mis-selling
- In terms of an analogy, an audit on a regulated financial firm that does not cover regulatory risks is rather like an annual MOT inspection being done on a car to make sure it is safe and roadworthy, but the brakes not being on the list of things to be checked
- And to make it worse, the audit doesn't say *'this car is OK, but we don't know about the brakes because we don't check brakes; but what we do know is that as a matter of policy the brakes regulator does not make any independent periodic checks either'* it just says *'this car is OK'* i.e. there is no basis for a reader of the audit to be unaware that the entity's regulatory risks have not been independently periodically checked or audited
- We see this as a major systemic failure in the corporate and regulatory governance of the UK's financial services sector and cannot be reconciled with the approach taken in educational or health settings with Ofsted and the CQC; or indeed with the independent audit of all UK registered companies above a certain size.

We therefore propose that audit firms should start to audit regulated firms properly, i.e. their audits must in the future reflect the true regulatory risks that the audited entity has.

Such a reform would be transformational; it would mean that for the first time the public and consumers reading audits of regulated financial firms would be able to have an accurate picture of the financial position of the organisation, including its exposure to regulated liabilities e.g. for the risk of mis-selling fines. It also means that consumers are likely to have the opportunity of recourse as the liabilities arising from the licence holder's failure to meet its obligations will have been properly accounted for in the financial statements unlike with in the case of over thirty failed lenders; Wonga, Amigo; Provident etc where the liabilities crystallised as if from nowhere; despite the clean audit opinions.

A very immediate first step prior to this reform being enacted should be for all audits of financial firms to carry a clear notice that explains that the audit does not cover exposure to regulated liabilities for that is a matter currently for the FCA and clearly beyond the auditor's purview; as a matter of fact.

## Concern: The FCA treats whistleblowers badly

### About the concern

The respondents in this section were whistleblowers.

Most of the respondents alleged that the FCA had treated them and their evidence badly; some also claimed their privacy had not been protected. Some of the words the respondents used to describe what it's been like dealing with the FCA as a whistleblower were: disappointing, frustrating, horrible, shocking, pointless, appalling, soul-destroying, infuriating.

Several of the whistleblowers who submitted responses to this call for evidence said the FCA's communication and engagement with them after they had blown the whistle was poor. In many instances they did not receive any feedback or updates about their whistleblowing disclosures.

Such as **Concerned Insider** ([p. 5 of 8](#)), who said: '...We've been in contact with the whistleblowing department and Andre [sic] Bailey directly since about 2017. But Bailey has left now, his successor won't engage with us. And the whistleblowing department have simply emailed to say their enquiries have concluded, but refuse completely to tell us what the final outcome was.'

Several whistleblowers also felt that they were being mistreated by the FSA/FCA. One respondent, **Martin Woods** ([p. 4 of 8](#)), said his treatment was in contradiction to [SYSC 18.1 in the FCA handbook](#), and goes on to say 'Deception - committed by FSA employees when they fabricated allegations against me, invented a non-existent whistleblower and submitted a false whistleblowing report against me.'

Many of the whistleblowers who submitted responses to this call for evidence felt that the FCA did not do enough to protect them from the consequences of their whistleblowing.

Likewise, they did not feel that the FCA cared about their welfare.

Many of the whistleblowers in this report have suffered serious consequences since blowing the whistle which has affected their careers, their finances, their personal lives and physical and mental wellbeing, but the FCA has not offered any sort of assistance or sympathy.

**George Patellis** ([p. 19 of 52](#)): 'The Regulator has treated me appallingly over the years. They tipped off the fraudsters to my whistleblowing and they ruined my career. They publicly and without my permission 'outed' me as a whistleblower, and attempted to blame me for *their* failure to bring in the police when I'd given them clear evidence of criminality... The FCA's actions have caused irreparable damage to my reputation, my financial situation, my family, and my ability to secure a job at the level I enjoyed before I blew the whistle. I received multiple death threats. The impact of the FCA's actions flowed throughout my entire family. My children were harassed on social media and someone even phoned my daughter on her mobile while she was at school, striking fear in her and my wife. My wife and my children had friends who read the scores of false press about me (the FCA knew the stories were false) and would question

them about it. It was highly embarrassing for my wife and children. My children were ridiculed and lost friends. I’ve had my struggles and sought professional help and after 10 years I still see a counsellor and am on medication. After 30 years of marriage my wife and I separated. After a year apart we began marriage counselling and are now back together after months of counselling.'

**Respondent E1** ([p. 9 of 15](#)): '...There has been absolutely nothing the FCA has done to see if my welfare is OK or assist me in finding employment. This is even more ‘damning’ a word I have used a number of times in answering questions given my experience, depth of knowledge and qualifications to even to assist the FCA in investigations and enforcement. Common sense should say they need people like me to lead their organisation, but the truth is they don’t do their statutory duty.'

Several of the whistleblowers said they regret blowing the whistle, and would not recommend anyone else doing it.

**Nicholas Wilson** ([p. 6 of 9](#)): 'They have significantly impacted my mental health by blaming me, ignoring me, “gaslighting” me, belittling me - anything to protect HSBC. Even to this day the full extent of the wrongdoing has not been revealed.'

It is shocking to think it, but the evidence shows the FCA has been ‘throwing whistleblowers under the bus’. And that doesn’t just relate to recent times; it is clear from the writing of the BBC’s Economics Correspondent in his book [RIGGED](#) that there are many very serious legacy failures by the FSA/FCA to protect whistleblowers.

How bad is the problem and what are its consequences?

There is no way for us to be able to tell about how widespread the issue of the FCA treating whistleblowers badly is.

However, it is clear from the testimonies provided that for the individuals concerned the consequences can be disastrous, with severe, long-term and life-changing consequences.

People may be discouraged to blow the whistle as a consequence; that’s the opposite of what is needed.

PROPOSED REMEDIES

Remedies that can be implemented unilaterally by the FCA

Not applicable

Remedies that require interventions by Government

Establishment of the Financial Regulators Supervisory Council

Whistleblowers are incredibly important, and assuring them of their safety and anonymity is the only way in which such a regime can function. It is analogous to a witness protection programme. It only takes one witness, under protection, to be exposed, for the entire regime to collapse, and for future witnesses to be too scared to come forward. The clear allegations

amongst the testimonies that the FCA are not just deficient, but indeed complicit in this regard, are horrifying.

Once again, the best solution is the right culture, reinforced by the right people. A culture that seeks to prioritise good conduct in financial services in order to protect consumers, engenders confidence and participation in retail financial markets, and upholds the public good. This requires a culture that understands the value of whistleblowers, and seeks to encourage them and protect them as an essential adjunct to the effective functioning of the FCA.

A culture that is not riddled with conflicts of interest that create tensions for the FCA between doing the right thing, and choosing not to.

If the culture is deficient, if priorities at the FCA are incorrect, and if whistleblowers are not valorised, the best way to expose that, and remedy that, is through the establishment of a critical, arms-length, on-going, expert oversight authority, such as the Financial Regulators Supervisory Council.

### **New, specialist whistleblower unit**

In addition to the beneficial impact of the FRSC, a new specialist whistleblower unit needs to be created that is independent of the FCA. This is necessary because of the risk of conflicts of interest and regulatory capture within the FCA getting in the way of the FCA taking care of whistleblowers properly.

Whistleblowers would be referred to the new independent body not the FCA; and the new body would take up the case with the FCA on behalf of the whistleblower, liaising with a specified individual who operates as a counterpart.

Within the new whistleblower unit would be specialist caseworker staff who are trained to protect the interests and mental health of whistleblowers, and who deal with them throughout the process – once it has been established they are genuine and the information they have produced is significant.

This case workers should be trained around mental health/dealing with whistleblowers and provide practical and emotional support to the whistleblower during the process. In addition, the caseworkers would liaise with the FCA's whistleblowing intelligence team to ensure the information the whistleblower provided was being acted upon and to see if they would like to share any more information or documents.

Clear rules and procedures that are well-publicised and ruthlessly followed are needed to ensure consistently high standards of response to whistleblowers; such an approach will help ensure the whistleblower has every reason to feel confident that they can step forward with valuable information without their privacy or interests being jeopardised.

We urge that due consideration should be given to exploring whether the new [Office of the Whistleblower](#) that is being considered could become the basis for the new whistleblower entity proposed here.



**Severe consequences for failure to protect whistleblowers**

There must be severe consequences to both the FCA as an organisation and the particular individuals responsible within the FCA, supported by new powers from the Government, if the rights and interests of the whistleblower have not been protected, for example if their privacy rights have been compromised.

Under such circumstances there must be some form of redress available to whistleblowers who can demonstrate their rights have been compromised.

## Concern: The way the FCA deals with the regulatory perimeter

### About the concern

There may be opportunities for the Government to make the FCA's job easier by creating an environment that is effective in holding the regulator to account.

While there was not a widespread feeling among respondents that the FCA should be given a lot more powers - anecdotally, there are concerns about whether it's using to the full the ones already available to it - the Panel did identify some measures where it felt that small changes to regulations could have a big impact on the FCA's workload, not least by closing the most obvious holes in the regulatory perimeter.

A 'Regulatory Perimeter' can be thought of as the boundaries that apply in different ways to different types of financial institutions and financial services offerings. In broad terms, the FCA is responsible for conduct within the regulatory perimeter but it may also be responsible for activities that take place outside that perimeter.

It is unrealistic to expect people to fully understand the many nuances and complexities of the regulatory perimeter and its significance, given that:

- A firm that is 'authorised and regulated by the FCA' is allowed to sell regulated and unregulated products
- A firm may be operating as part of an interconnected syndicate where some entities are regulated and some are not; and where the investor interacts with several of them, either in series or concurrently
- A firm that is not regulated may be carrying out regulated activities
- An unregulated firm may be carrying out regulated activities that it should not and those activities deemed to be regulated may not actually be being regulated by the FCA

As such, it is vitally important that the FCA's communications around the regulatory perimeter are written in plain English to support accurate understanding and set realistic expectations.

The problems regarding the way the FCA handles the regulatory perimeter are exacerbated by the way it retrospectively redraws it to suit itself, at the expense of investors that have been harmed. An example is the way the FCA created the term 'mini-bonds' after investors lost money to LC&F, and then deemed 'mini-bonds' to be unregulated. By doing so it hopes to minimise its embarrassment and exposure to criticism when there has been catastrophic regulatory failure.

This is totally contrary to the FCA's statutory objective to provide 'an appropriate degree of consumer protection'

**Paul Carlier** ([p. 12 of 99](#)): 'The FCA has repeatedly over the past six and a half years altered various boundaries and perimeters as to their jurisdiction, scope and authority. Essentially,

saying whatever they needed to at any given time to suit an agenda or position.'

### **How bad is the problem and what are its consequences?**

Perimeter issues of one kind or another are frequently at the heart of regulatory failure cases; this is a serious and widespread problem.

Because investors do not understand the significance of the regulatory perimeter they unwittingly invest in a manner that denies them regulatory protections.

Not only do they lose money, they also lose much of their opportunity to get redress. Investors have therefore been cheated out of regulatory protections by the FCA. This has led to animosity and anger towards it; the FCA is seen to be acting in bad faith. Its reputation as an ethical and professional body of high integrity is being ruined as a result.

### **PROPOSED REMEDIES**

#### **Remedies that can be implemented unilaterally by the FCA**

Not applicable

#### **Remedies that require interventions by Government**

##### **The establishment of the Financial Regulators Supervisory Council**

Again, the FRSC (as explained elsewhere) has a part to play here, as it would surely help ensure the FCA handles perimeter issues properly.

As well as addressing the issue directly, it would also act as a check and balance on what may otherwise be an unfettered discretion to redraw the regulatory perimeter in an expedient fashion. Such a sober second thought on what should comprise the regulatory perimeter would compel the FCA to properly apply itself to its mandate.

As such the FRSC would act as an effective independent regulatory monitor, watching out for inappropriate shifting of the perimeter through 'regulation creep'.

Concern: The FCA’s Authorisations Register lacks rigour and data integrity
<p><b>About the concern</b></p> <p>The FCA’s Authorisations Register is often incomplete, inaccurate and misleading.</p> <p>For example, investors might conclude based upon what the Register shows that an entity is authorised when it actually isn’t.</p> <p>A particularly good example is in <b>Peter Cornell’s</b> case, where Collateral was showing as authorised on the Interim Permissions Register when he checked it before investing, even though an FCA statement suggested that <a href="#">none of the Collateral Companies held any valid authorisation or permission</a> to carry on regulated activities (<a href="#">p. 3 of 8</a>)</p>
<p><b>How bad is the problem and what are its consequences?</b></p> <p>The FCA’s inability to keep its Authorisations Register accurate and up to date has been a big problem for several years.</p> <p>People are using information that they expect to be able to rely on that is actually completely unreliable.</p> <p>This means they make investment and other decisions that they think are well-informed but in fact aren’t.</p>
<p><b>PROPOSED REMEDIES</b></p>
<p><b>Remedies that can be implemented unilaterally by the FCA</b></p>
<p><b>To be made a higher priority</b></p> <p>It is clear that the FCA must make its management of the Register a higher priority, and ensure the data within it is verified to be accurate such that it can be relied upon.</p>
<p><b>Remedies that require interventions by the Government</b></p>
<p><b>Establishment of the Financial Regulators Supervisory Council</b></p> <p>The FCA’s poor management of the Authorisations Register is yet another issue that would at least in part be remedied through the FRSC, as it would be able to evaluate the operational competency and accuracy of FCA record-keeping in general; and how the FCA handles the Authorisations Register in particular.</p> <p>It would review the Register routinely, perhaps annually, and In the event that the FCA’s management of the Register is deemed to be poor, the FRSC would be able to recommend sanctions against the FCA to the Treasury.</p>

Concern: The way the FCA deals with international jurisdiction issues
<p><b>About the concern</b></p> <p>There is rampant scamming by regulated entities that have regulatory links to the UK but operate overseas.</p> <p>Thousands of Brits living abroad, or even just temporarily overseas are losing their life savings through pension and investment scams.</p> <p>The FCA is failing to ensure there are sufficiently effective international agreements between regulators such that 'an appropriate degree of consumer protection' is being achieved; and there is a general lack of interconnectedness and joined up thinking between the long list of statutory and non-statutory bodies, both those in the UK and overseas.</p>
<p><b>How bad is the problem and what are its consequences?</b></p> <p>Investors have lost vast sums of money to international scammers - this is a massive problem that has led to immense suffering and anguish.</p> <p>There will continue to be a collapse in confidence in the FCA's ability to regulate the market effectively all the time that the problem persists and the FCA is failing to take a leadership role in the constellation of relevant bodies.</p>
<p><b>PROPOSED REMEDIES</b></p>
<p><b>Remedies that can be implemented unilaterally by the FCA</b></p> <p><b>The FCA to take a leadership and coordinating role</b></p> <p>The FCA should position itself as the lead actor and strive to create a sense of one-ness amongst all the relevant bodies, both within and outside the UK. There is huge scope for far more effective working relationships to be achieved, which in turn would lead to better disruption of criminal activity.</p>
<p><b>Remedies that require interventions by Government</b></p> <p>Not applicable.</p>

## Concern: The way the FCA deals with Appointed Representative status

### About the concern

Appointed Representative Status is confusing and problematic. It brings regulatory ambiguity that can be gamed by the unscrupulous and the criminal

The FCA has continued to regulate this area poorly.

Investors dealing through Appointed Representatives are often not fully protected by the regulatory status of the Principal of the Appointed Representative.

### How bad is the problem and what are its consequences?

Appointed Representative (AR) status issues have been a big problem for years.

Investors lose money when things go wrong and find it more difficult to get redress than might otherwise be the case.

There will continue to be a collapse in confidence in the FCA's ability to regulate the market effectively; and also in the wider bodies that are meant to ensure the FCA performs well such as the Treasury, the Treasury Select Committee, the Financial Services Consumer Panel and the Financial Regulators Complaints Commissioner.

### PROPOSED REMEDIES

#### Remedies that can be implemented unilaterally by the FCA

Not applicable

#### Remedies that require interventions by Government

##### **Banning AR status; or making AR Principals 100% responsible for their ARs**

As explained earlier, the Appointed Representatives status is a highly problematic area, and that there is a case for the AR regime to be scrapped i.e. the Government should legislate to ban the Appointed Representative regime.

The AR regime is rife with scams and this creates huge confusion among the public. The FCA could replace this and say if you want to become regulated, you will have to become directly regulated through us.

This would create a big issue for the advice networks, and organisations such as St James's Place, but they could change their model so all the advisers would become employees of their

business rather than having the status of running their own AR firms.

Banning the AR regime would make financial services simpler for consumers to understand and this would stop bad actors from using AR Principals that do not carry out sufficient checks on One issue with this proposal would be it would create a large amount of extra cost for the FCA but this could be in part covered by an increase in fees from more firms becoming authorised with the FCA.

Alternatively, a significant improvement would be to make the Principal firm 100% responsible for the activities of its AR(s).



<b>Concern: The FCA wastes money</b>	
<b>About the concern</b>	
<p>The FCA sometimes wastes considerable amounts of money, meaning that insufficient resources are available to be allocated effectively to consumer protection and other important areas.</p> <p>An example of the way it wastes money is its decision to not comply with the central conclusion of the Swift Review into misselling of Interest Rate Hedging Products; a review that it commissioned that cost the FCA <a href="#">£8.6 million</a></p>	
<b>How bad is the problem and what are its consequences?</b>	
<p>Wasting substantial amounts of money is never a good thing to do; in this particular example things are made even worse because of the FCA's decision to not take action to protect consumers interests from mistreatment by banks.</p> <p>When money is wasted it denies sufficient funding being available for mission-critical areas.</p>	
<b>PROPOSED REMEDIES</b>	
<b>Remedies that can be implemented unilaterally by the FCA</b>	
Not applicable	
<b>Remedies that require interventions by Government</b>	
<b>Financial Regulators' Security Council</b>	
<p>This is an issue that would be well within the envisaged ambit of the proposed Financial Regulators' Security Council: to evaluate the operational efficiency and cost-effectiveness of the FCA, and ensure that the public enjoys the maximum bang for its buck through closely scrutinising its expenditure.</p>	

## Concern: The risk that the FCA's Leadership Team will get in the way of the change that is needed

### Description of the problem

The breadth and depth of the FCA's problems led the Panel to conclude that there must be serious deficiencies with the FCA's Leadership Team, which is ultimately responsible for the organisation's culture and performance. There is no escaping that harsh reality and this is patently unacceptable.

The Panel were so concerned about the depth and breadth of these problems that serious consideration was given to the idea that the FCA should be completely scrapped and replaced with a new entity, because the existing Leadership Team in the existing organisation might just get in the way of the necessary changes.

In particular, it is the FCA's culture that gave concern that the FCA may be unsalvageable, because whilst there is so much that could and should be done to fix it, the changes needed would be opposed or introduced by the Leadership Team half-heartedly, with the risk that corrective action would prove futile, due to a tendency to 'revert to type' as soon as it became possible to do so.

This existential obstacle to progress is clearly of great importance, and at the heart of it is the question of whether the current Leadership Team will adopt and promote the cultural changes that the Panel consider to be critical.

As mentioned elsewhere, the Panel believes the existing Leadership Team are part of the problem and are likely to stand in the way of reforms they do not believe in - if they did believe in them they would be carrying them out already.

It is important to note that the Panel believes that the FCA being completely scrapped and replaced with one or more new entities would be the correct and necessary course of action if all other attempts to fix it, including the prior replacement of its Leadership Team, had failed.

However, it is vital that the mistakes made in 2013 are not repeated. In that year the FSA was replaced by the FCA, however, this was little more than a change of name, i.e. the people, remit and organisational design remained largely the same.

The exception was that supervision of the 1,500 (out of around 50,000) systemically important firms passed to the Prudential Regulatory Authority (PRA).

Replacing the FCA with a new entity will not work if the blueprint for the new entity is essentially the same as the existing one. If the underlying reasons for the FCA's failure are not dealt with, history will repeat itself and the new entity will either immediately or eventually morph into another failing regulator with little more than a change of name over the front door.

Here's a list of issues that ought to be considered if abolishing the FCA and replacing it with one or more new entities:

- So long as the external environment, such as its relationships with the firms it regulates and its lines of reporting, are the same, the new regulator risks becoming captured again and this must be avoided
- Wherever possible, the new appointments must not include senior managers or members of the Leadership Team, otherwise there is a risk that the culture of the old organisation becomes the culture of the new organisation
- It is vital that the new organisation is not given any objectives that conflicted with its primary objective of protecting consumers; so for example it must not be given a 'growth' objective where it would be responsible for promoting the City

## How bad is the problem and what are its consequences?

This is a very serious problem; there must be trust and confidence in the regulator and the thought that its own Leadership Team may get in the way of necessary reforms, causing it to remain unfit for purpose, leads to the serious consideration that the FCA may be unsalvageable i.e. that it may need to be closed and replaced.

As explained elsewhere the Panel is mindful that if the FCA were closed down, the fundamental problems might just reappear in the new, replacement organisation - just as happened when the FSA became the FCA.

## PROPOSED REMEDIES

### Remedies that can be implemented unilaterally by the FCA

Not applicable

### Remedies that require interventions by Government

#### Replace the FCA's Leadership Team

The APPG notes that the problems described in much of the testimony received by this Call for Evidence predate the current leadership, or at least have their genesis under the direction of previous CEOs and Chairs; but those in place now do not appear to have transformed the organisation.

While we believe that there is nothing to prevent the incumbents from implementing the changes recommended in this document, the fact remains that they are associated with a period not widely associated with regulatory excellence; it is conceivable that a new team, unconflicted and untainted by past controversies, might enjoy greater licence to act, and more stakeholder goodwill.

Replacing the FCA's Leadership Team, if the new Leadership Team were especially recruited to carry out far-reaching reforms, could be a far more pragmatic way to fix what is wrong with the organisation than closing it down and starting all over again, only for the same underlying issues causing the underperformance in the FCA to re-emerge in the new organisation.

In essence, at the heart of the idea of replacing the FCA's Leadership Team is the idea that 'People are Policy' i.e. the choice of the right kind of individuals in and of itself can lead to positive changes.

Special consideration needs to be given to the role of the Chair of the FCA, particularly around whether the semi-Executive role of the Chair is appropriate. It is felt that the role is currently muddled; sometimes a cheerleader, sometimes a constructive critic. The Panel felt that the Chair's role must be focused on governance and oversight and not conflicted with any other duties.

Furthermore, the Panel felt the Board of the FCA performs as though it is answerable to the Treasury, which is heavily influenced by the agenda of the City; as opposed to being responsible to consumers and society as a whole, via the Government.

As such, there is a serious and troubling conflict of interest around what the fundamental purpose of the FCA is. There needs to be a means by which the FCA is accountable to the Government and not the Treasury. Some might argue that the current arrangements provide that accountability to the Government already, through the Treasury, but even those that may hold that view would struggle to show that the existing accountability framework works well in practice - there is widespread support for more and better accountability for the FCA as expressed by many Parliamentarians of all political persuasions through many of the Financial Services and Markets Bill debates.

An important advantage of replacing the Leadership Team as opposed to completely abolishing the FCA is that it is less expensive to do so - evolution is cheaper than revolution; so long as it works.

Here's a list of issues that ought to be considered if the Leadership Team were to be replaced:

- All relevant laws must be followed
- There is absolutely no guarantee the design of another body will be any different from the existing FCA because the way in which policy is constructed may not change in the new setting
- The new Leadership Team could be tasked by Government to introduce the specific reforms needed that would lead to radical reform and true transformation
- The possibility that the FCA could be completely abolished by Government if even the introduction of a whole new Leadership Team does not lead to the changes that are needed should be sufficient motivation for the new Leadership Team to introduce the changes that are needed
- A new Leadership Team carrying out the reforms needed will result in a whole new culture, which in turn will lay the way for the other changes that are needed
- The entire Leadership Team would need to be replaced as they are collectively responsible for the status quo, including the organisation's culture
- They would need to be replaced with individuals with values and ethics that authentically align with a consumer protection agenda
- The CEO should be somebody genuinely passionate about consumer protection and justice, and not somebody that may just motivated by power or money; somebody with

fearless leadership qualities who will remain true to mission, regardless of the risk of capture and corruption; somebody with exceptionally high integrity and a lack of interest in monetary rewards and who places a high value on justice.

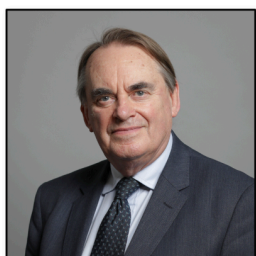
- The appointment of the replacements needs to be by people that are aligned to achieving good consumer outcomes and do not have conflicts of interest.
- The Treasury should not be responsible as it is too closely aligned to City interests and influence, for example, by a major bank's threat to redomiciling abroad
- The economic and non-economic incentives of the new Leadership Team must be carefully aligned to the organisation's consumer protection remit
- There needs to be far greater and more effective scrutiny and oversight of the FCA's new Leadership Team than has occurred in the past
- The incentives to encourage the new Leadership Team to perform well should include
  - Reputational enhancement/embarrassment
  - Positive/adverse media coverage
  - Financial reward

It should be noted that there is precedent for replacing a Leadership Team in a regulatory organisation that is seriously failing. For example, the Leadership Team of the Financial Reporting Council was replaced by Sir Jon Thompson who was tasked with transforming the organisation after the excoriating Kingman report highlighted many things that were wrong with it. Sir Jon Thompson explained his rationale for replacing the Financial Reporting Council's Leadership Team at an Institute for Government event entitled '[How to reform a regulator; in conversation with Sir Jon Thompson](#)' - watch from 53 minutes

## Other problems changing the FCA's Leadership Team would also help with

The idea of replacing the FCA's Leadership Team with a new Leadership Team specially recruited to bring in the true transformation that is desperately needed would have a positive impact on many of the concerns that have been identified.

### COMMENT OF SUPPORT FROM LORD KIRKHOPE OF HARROGATE



*"This is a significant report with some important proposals. Considering the role and operations of all Regulators is something we need to do on a regular basis. This report highlights deficiencies in the operation and purpose of the FCA. I hope that appropriate actions will be taken to ensure ongoing confidence in their activities"*

## Conclusion

The APPG's Call for Evidence resulted in the submission of 174 detailed written responses from people who have had cause to interact with the Financial Conduct Authority other than in the course of business within FCA-authorised firms. In short, they are the stakeholders best placed to form an impartial assessment of how the regulator is perceived by consumers, whistleblowers, its own staff and leaders of other relevant statutory bodies, and of how the organisation conducts itself when it thinks it is not at risk of being judged by politicians or the media.

The picture painted is not pretty. The FCA is seen as incompetent at best, dishonest at worst. Its actions are slow and inadequate, its leaders opaque and unaccountable.

The APPG's independent Recommendations Panel set out a series of reforms - some in the purview of the FCA's leadership, others in the gift of Government - that it believes can and must be implemented now. Together, these proposed reforms would result in a more agile, responsive, transparent and accountable regulatory regime, in which the interests of consumers would be uppermost.

And through putting the interest of consumers first, the sector itself would fully realise its potential to maximise sustainable profit whilst serving society; this is not about improving the lot of consumers at the expense of the sector.

The Panel also envisaged an alternative scenario in which inaction, or failure to fully implement these measures might lead to further regulatory failures, causing the evaporation of any remaining preference for evolution over revolution. In that counterfactual, the Panel suggested that a Royal Commission might be called for and suggested that a reassignment of regulatory responsibilities might be required.

The [Introduction](#) to this report references a number of other documents produced by public and civil society bodies. The oldest of these is New City Agenda's [report](#) into the culture of the regulators, published in October 2016 - more than seven years ago. We noted that many of its criticisms of the FCA were echoed in subsequent investigations, suggesting that the problems it identified had not been resolved.

Unfortunately, the APPG's work in connection with this Call for Evidence vindicates this view. It is tempting to claim that the FCA is now 'drinking in the last-chance saloon'. But the problem is worse than that: the bar is about to close, and the regulator is at risk of being thrown onto the street.

Unless the response of the FCA - and Government - is to act, urgently and energetically, to address the concerns and recommendations highlighted by this report, the time must surely be nearing when stakeholders' patience is exhausted and the debate shifts from reform to either replacement or at least a reapportionment of regulatory functions between existing bodies, as envisaged by the [Architectural change](#) section of the Recommendations chapter. Such debate inevitably casts doubt on the integrity of our financial system among consumers, businesses and our international partners, resulting in avoidable harm being caused to the economy and the country's reputational integrity on the world stage. Given the FCA's controversial new growth and competitiveness objective, if for no other reason, the time to act is now upon us.

Finally, this exercise has been extremely insightful. We believe that some means should be found to evaluate the FCA's progress in addressing the challenges set out in this report, its ongoing performance and the perceptions and experiences of consumers and others who interact with it (other than in the course of being regulated) on a periodic basis. To avoid the risk of the regulator 'marking its own homework' (or appointing the marker), we wonder whether the National Audit Office might be tasked with this role, or the APPG - perhaps funded by the Treasury or FCA - to carry out the function.



## Acknowledgments

The report was produced at no cost to the APPG, without donations or corporate sponsorships and largely on the basis of volunteers providing their time and expertise in the public interest. Despite that, a body of work has been produced that is the most detailed, extensive and wide-ranging qualitative research ever undertaken into a single UK financial regulator.

What made that possible has been a supremely successful collective endeavour that brought together people from all walks of life, united by one aim - the desire for the UK to have a financial regulatory framework that is fit for purpose.

We wish to acknowledge the time and effort provided by everybody involved, including:

- **The representatives from the testimony-giving stakeholder groups** whose invaluable input and contributions were crucial in developing the question sets designed to elicit evidence supporting the APPGs Call for Evidence
- **The 174 respondents that shared their testimony**; it is of course their witness statements that has given this report the raw authenticity that makes it so unique
- **The respondents that volunteered to go one step further and provide [video testimony](#)**; sharing their experience of interacting with the FCA was not easy and often upsetting
- **All the whistleblowers involved**; the FCA's treatment of whistleblowers is poor - many have suffered terribly and reliving their experience was often emotionally challenging
- **The victims of regulatory failure that have become advocates for change**; they have chosen to volunteer to help others avoid what they have had to endure
- **The current and former employees of the FCA**; their 'insider' commentary has confirmed and given credence and credibility to what many outsiders have been saying.
- **The Recommendations Panel members**; for generating and debating many well-considered ideas for reform that deserve to now be properly considered by the Government, the FCA and other key stakeholders
- **Peter Gibson MP, former Chairman of the APPG**; who initiated the dialogue that led to the conversations that resulted in the APPG's decision to examine the FCA's performance
- **Bob Blackman CBE MP, Co-Chairman of the APPG**; under whose management and leadership the original idea has become a reality - a reality that has exceeded all expectations
- **All the other [members of the APPG](#)**; despite notoriously challenging schedules, they have put in the time, effort and commitment needed to produce a report of the highest standard
- **Iain Mitchell KC**; for providing specialist counsel on a pro bono basis

- **The APPG's Secretariat;** for their hard work given voluntarily wherever possible. Particular thanks must be given to those who project-managed, wrote, fact-checked and edited the chapters, including: Alexandra Zitkus, Mark Bishop, Nigel Cairns, Brian Hall, Alex Varley-Winter, Rupert Nathan, Chelsea Houghton, Tina Kenyon, Rachel Brown, Juan Carlos Venegas and Andy Agathangelou
- All those who participated in workshops and otherwise assisted in creating the question sets on which the written testimony is based
- **The family of [Ian Davis R.I.P.](#);** for engaging at an especially difficult time, in keeping with their knowledge that Ian was committed to the idea that there needs to be reform

...and everybody else that has helped.

End; last updated 25 November 2024, at 9:45pm