Annual Public Meeting 2019: pre-submitted questions

Name: Agi Gamski

Question: My question relates to authorised push payment fraud. 'Which' consumer group made their super complaint in Sept 2016 to the FCA highlighting the scale of the problem. Three years later we are still waiting for a payee confirmation system, while, according to trade body UK finance, £354m was lost in 2018 alone. Despite the FCA's introduction of new rules to receiving PSPs, banks are still reluctant to supply information on the fraudulent account holder to APP fraud victims, claiming they do not owe a duty of care to non-customers and under Data Protection Regulations, they are limited in what information they can provide. This creates a vicious circle.

Will the current voluntary industry code to reimburse victims of APP fraud, that some banks signed up to, be made compulsory (if so, when?) and will past and current victims be eligible for re-imbursement, especially where there's police evidence the receiving bank 'facilitated' fraud (if not, why not?).

As the UK's independent regulator of the payment systems industry, the Payments Systems Regulator (PSR) did a lot of work to understand how quickly banks could deliver Confirmation of Payee (CoP) effectively. This included issuing formal 'notices for information' on their achievable delivery timeframes and following up with banks. As a result, the PSR's Draft Specific Direction, published in May 2019, requires the relevant banks to implement CoP fully by 31 March 2020. These are the earliest dates by which the PSR has confidence the directed banks can effectively introduce CoP. Rushed implementation risks undermining benefits for consumers, as consumer trust in the service will fall if it fails to work.

A voluntary code can be put in place much faster than regulation. To provide as much protection to consumers as quickly as possible, the voluntary code was the best method. The major banks have all signed up to the code, meaning it has widespread coverage. Banks can still choose to do more, as demonstrated by TSB's Fraud Guarantee.

The code will only apply to APP scams which occurred after implementation (28 May 2019). In the PSR's consultation on the code it was concluded that this was appropriate. The code depends on banks establishing rules and processes that they are expected to meet, and they cannot retrospectively implement or adhere to these. However, this does not preclude banks from making goodwill payments and we would expect them to consider this.

Name: Chris Gorgon

Question: At last year's FCA AGM I spoke and said the FCA had published a false 2012 IT glitch report. I was invited to meet Mark Steward head of enforcement which I did.

The FCA said they would do a review but instead published a false Global Restructuring Group phase 2 report re senior management being cleared of any involvement. I therefore allege and can prove that the FCA has not only published a false IT report in regards to the 2012 IT glitch in RBS but also a false IRHP review, false Global Restructuring Group report summaries, false unredacted phase 1 and phase 2 reports over a 5 year period as RBS senior management hammered its Irish and Northern Irish customers while lying to the media repeatedly.

Will the FCA please deny in this public meeting that Mark Steward has the evidence that shows all these things to be true.

As you point out, Mr Steward and others met with you and listened to your allegations about what you claim occurred in relation to Ulster Bank in Northern Ireland and we are making inquiries into those matters. We are unable to comment publicly in relation to that and it is inappropriate to comment on the claims you are now making other than to say the FCA does not publish false reports and its findings are based on objective evidence.

Name: Christopher Williams

Question: This question relates to the potential breakdown of stock exchange trading between the EU and London at the end of October - and how to plan for market makers to act between the two regions in a compliant and cost-effective manner.

The EU MiFID II and onshored UK MiFID regimes both have share trading obligations (STOs) which mandate investment firms to trade certain shares on regulated markets, multilateral trading facilities, systematic internalisers or third-country trading venues assessed as equivalent by the EU and UK respectively.

On 29 May ESMA published a statement on the revised scope of the EU's STO under a no-deal scenario, following their initial announcement on 19 March 2019. According to ESMA, the revised approach would mean that EU banks and investment firms will be able to trade all UK shares in the UK, where for most the primary centre of liquidity exists.

On the same day, the FCA published a statement noting that applying the EU STO to all shares issued by firms incorporated in the EU (EU ISINs) would still cause disruption to investors, some issuers and other market participants, leading to fragmentation of markets and liquidity in both the EU and UK. A number of shares with EU-27 ISINs have both a listing, as well as their main or only significant centre of market liquidity, on UK markets. In our view, the ISIN that a share carries does not and should not determine the scope of the STO. Some shares have their main or only centre of market liquidity outside the country in which the issuer is incorporated. This approach would place restrictions on a company's access to investors and freedom to choose where they seek a listing on a public stock market.

The FCA believes in open markets and competition between trading venues and that reciprocal equivalence - which reflects the reality - remains the best way of dealing with overlapping STOs. The UK has onshored the same regime, making us one of the most equivalent countries in the world.

In the absence of reciprocal equivalence, applying both UK and EU STOs in a way that maintains the status quo for a limited period of time after exit remains an alternative way of mitigating disruption whilst longer term solutions are found. The FCA stands ready to use the extra time available due to the delay to the UK's withdrawal to engage constructively with ESMA and other European authorities to achieve either of these outcomes.

In addition, absent of a determination of equivalence, the FCA will engage with market participants and trading venues about the steps that may be needed to protect the integrity of markets in the UK and to ensure that participants in the UK can continue to achieve high standards of execution for their clients, including when trading EU-27 shares, and that the MiFID II calibrations, which were designed for a pan European market of 28 countries, remain appropriate in a fragmented market.

The FCA will continue to consider its approach to the implementation of any STO that is needed in a hard exit. We will set out our approach if it is clear that there will be a no-deal exit, including our expectations of how firms can comply with applicable requirements.

Name: Christopher Williams

Question: The manner in which health insurance is sold in the UK is concerning; the broker is encouraged to take as little information as possible so the insurer is selling a simple, one-priced package, ignoring the fact that upon a claim bring presented, they can deny it as having been incorrectly set up. For instance, if one is on a heart pill which is controlling atrial fibrillation for many years, any heart-related treatment will be denied. So, the patient has paid for a service which was never going to be provided. (The similarity of the broker/ insurer relationship here with the mortgage brokers role in 2006/08 in USA becomes clear!)

We are aware that the broker model does have the possibility for conflicts of interest, particularly around contingent commission. However, firms are required to have appropriate systems and controls around remuneration in place to mitigate these potential conflicts.

The Senior Managers and Certification Regime Rules will apply to brokers in December and should assist in removing such individuals from the market. They also require firms to report any conduct rule breaches to the FCA.

Additionally, since the implementation of new Insurance Distribution Directive rules in October 2018, insurers, as the manufacturer of the products, are now more responsible for the oversight of their distribution chain and assessing how their products are sold.

We cannot comment on individual cases but have become aware of a small number of rogue individuals in the health insurance market that may not have passed pre-existing medical conditions information onto the insurer. Where this has been identified we have taken appropriate action in line with our approach to supervision and engaged with insurers to mitigate consumer detriment.

Name: David Taylor

Question: Clydesdale Bank's David Duffy & Gavin Opperman made a false representation to the FCA regarding the information they failed to disclose. An act of deliberate concealment. This to cover up a fraud by a CF manager. As per Mr David Thorburn's admission in 2015 to the Treasury Select Committee. Mark Steward has received the Greater Manchester Police summary and has failed to respond to me.

Mark Steward has already written to inform you that the FCA has no jurisdiction to take action on the basis of the Greater Manchester Police report. Commercial lending and the enforcement of commercial loans by banks is not a regulated activity. This means that there are no enforceable regulatory rules, against which to assess the bank and its staff's treatment of you.

Name: Don Groves

Question: The FCA and the PRA both have a number of documents that are relevant to the SM&CR regime but these documents are not easy to find and I am afraid that I may miss something. Does the FCA plan to create a summary document that links to the individual documents? This would make it much more straight forward for regulated firms to ensure that they were reviewing everything that was relevant for compliance with the regime.

The Senior Managers and Certification Regime is a significant policy intervention, intended to bring about fundamental changes within firms to enhance and embed a culture of individual accountability and personal responsibility within firms.

You're right that as we've introduced the regime, we've produced a number of guides, policy documents, videos, checklists, etc, to support firms to understand and implement the Senior Managers and Certification Regime.

Our web pages do already bring most of these together; there's a homepage at (www.fca.org.uk/firms/senior-managers-certification-regime) that you can go to and choose the links relevant to you (for example, you can choose to see the information for banks, insurers or solo regulated firms).

We would stress that our Handbook is the key document for firms when making sure they meet our rules.

One thing we would highlight, that we appreciate can be frustrating, is that the 'time jump' feature in our online Handbook does not yet show the rules that will be in place once the Senior Managers and Certification Regime is extended. This is because the Treasury have not yet published the statutory instrument that will enable us to make final rules.

This will be made available when our rules are finalised.

Name: Elizabeth Watson

Question: What is Mr Bailey's view on insider dealing and how is this being tackled in the marketplace?

Insider dealing enables some market participants to exploit different levels of information. This creates an uneven playing field and allows unfair transfers of value. Ultimately investors are less likely to participate in markets which they perceive as unfair.

In order to limit the potential for insider dealing, we work with FCA authorised firms and UK issuers to ensure that they properly control access to and dissemination of inside information in their possession.

Firms involved in relevant markets must also report suspected market abuse to us by filing a suspicious transaction and order report (STOR).

We work closely with firms across all sectors to ensure their controls for detecting and reporting suspicious trading are robust. We also ensure that these firms counter the risk that they are used by their clients to further financial crime, by identifying and not executing obviously suspicious orders, and taking steps to mitigate the risk posed by clients who continually trade suspiciously.

We review all STORs we receive and prioritise the most suspicious behaviour for further review. We also use our own surveillance and analysis of market events to detect suspicious behaviour.

If we suspect serious misconduct may have occurred, we open an investigation to find out what happened. Depending on what we find, this may result in enforcement action, which could include financial penalties or criminal proceedings. For example, in an action brought by the FCA, Walid Choucair and Fabian Abdel-Malik were both convicted of insider dealing in June 2019 and each sentenced to 3 years' imprisonment. Ms Abdel-Malik was a compliance officer at an authorised firm who had routine access to inside information which she passed to Mr Choucair who traded on the basis of it, making profits in the region of £1.4m.

The FCA's Market Cleanliness Statistic measures abnormal price movements ahead of UK takeovers. Our new, more encompassing Abnormal Trading Volume ratio shows that there were abnormal increases in market volume ahead of 6.4% of relevant announcements in 2018. As with any statistic there are limitations to the conclusions that we can draw from these calculations but they do assist us in our understanding of market integrity in the UK.

Name: James Humphrey-Evans

Question: Does the FCA have concerns that the market data and index licensing markets may not be competitive?

The competitiveness of market data and index licensing markets is captured by the FCA's wider consideration of the access to and use of data in markets.

Changes in technology enabling firms to gather and analyse data in markets increasingly easily, while creating potential benefits also poses potential risks. One of these concerns is the effect of innovation on competition.

As stated in our 19/20 Business Plan, we are planning to carry out a Call for Input in Wholesale markets, checking the extent to which competition issues, and other concerns may exist. This work would capture concerns about market data and index licensing markets, and would allow us to decide whether further investigation or action may be needed.

Name: Jane Wilson

Question: Please can you update the UK on the outstanding HSBC fraud investigation?

The FCA has published an update on its website on 11 July 2019 outlining recent action that HSBC has undertaken to voluntarily extend its redress scheme for customers who may have lost out by paying an unreasonable debt collection charge imposed by HFC Bank Ltd (HFC) and John Lewis Financial Services Limited (JLFS): https://www.fca.org.uk/news/press-releases/hsbc-agrees-extend-redress-scheme-customers-impacted-historical-debt-collection-practices

HSBC confirmed in May 2019 that approximately 18,500 customers who had not previously been contacted were written to as part of this process.

We have encouraged customers who have received a letter in relation to the matter, or who think they may have been impacted, to contact HSBC directly.

Name: Jinmi Macaulay

Question: On the back of the FCA's motor finance review, can we get an update on the policy position on commissions?

Our motor finance review found widespread use of commission models that link the broker’s commission to a customer’s interest rate, and allow brokers wide discretion to set that interest rate.

This creates strong incentives for the broker to charge a higher interest rate.

We estimate this could be costing consumers around £300m per year. We believe that change is needed across the market, to address the potential harm we have identified.

We are exploring a range of policy options, including banning particular commission models in this market, limiting brokers' discretion in setting interest rates and changes in disclosure.

Economic and policy analysis is ongoing. We recently surveyed around 40 firms to understand the costs of various policy options.

We can't share further details while that work is ongoing, but we aim to consult later this year.

Name: Joel Benjamin

Question: During an October 2017 Treasury Select Committee meeting - John Mann MP asked yourself and the FCA for a full list of the powers you need and the powers you would want, for the FCA to be able to do its job effectively.

Your response to the TSC of January 2018 falls somewhat short of that request - rather than a list of powers, or changes to legislation as requested by Mr Mann, you simply replied with a list of narrowly defined regulatory issues.

Your response was just 10 pages long, contrast with the complexity of the FCA system of firm self-regulation via the FCA handbook, which runs to 10,000 pages and costs £3641 to purchase, or an ever growing list of FCA complainants whose needs are simply not being met by the 'can't do' attitude of the so-called financial regulator.

As an example of the FCA's failure to tackle or address the short-comings of the ill-defined regulatory perimeter, let's take the 'investment consultants' referenced on page 6 of your perimeter letter & your duty to prevent harm to consumers – or wider market abuse.

In your response to Mr Mann - investment consultants are defined narrowly, as relating to pension schemes only, not an issue of unregulated market abuse across the financial landscape more broadly. For example, the dubious role of introducing or facilitating brokers of financial products and loans is deemed outside of the regulatory perimeter.

In 2009, the Communities and Local Government (CLG) Select Committee pleaded with the FSA on 2 occasions following the Iceland scandal - to regulate conflicted Treasury Management Advisors, firms which advise councils, housing associations, NHS Trusts, Universities, and Charities where to borrow or place investments, after these firms lost £1bn in Iceland, on the advice of CAPITA AS - now Link, and Butlers/ICAP run by then Tory Treasurer, Michael Spencer. Twice the FSA refused to act.

The CLG Committee report stated: 'The Financial Services Authority (FSA) should take a more active role in the regulation of treasury management advisers' [para 120] yet found answers from the FSA to questions on the regulation of TMAs: 'unhelpful to the point where we wonder whether they might constitute deliberate obfuscation?'.

Instead of conducting a public inquiry, the FSA conducted a behind close doors 'arrow review' into ICAP in 2010 – prompting the disposal of its Butlers TMA division to Capita. The FCA is now fighting with the Information Commissioner and information requesters to prevent the details of this Arrow report being released publicly under FOIA?

In 2015, the FCA released information under a FOIA request referencing investigations into Lender Option Borrower Option loans (LOBOs) within the 'long list' of market risks monitored by the Market Risk Group and flagged to supervision. This sample concludes that local authorities are not 'vulnerable' borrowers – a ridiculous term for organisations the FCA know were listed as market counterparties, and concludes that while some LOBO loans have unfair terms, the majority did not have unfair terms nor provide cause for alarm.

This is in contrast with expert witness provided by Abhishek Sachdev to the 2015 Communities and Local Government Committee investigation into LOBOs, where they found the average LOBO loan breakage fee was 90%, vs 38% for a PWLB loan.

There is an obvious distinction here between consultants providing 'information', and consultants providing regulated 'advice' on financial instruments within these firms. While Sector and Butlers made representations to the 2009 Iceland Committee that they only provided information on borrowing and investment – we have since uncovered dozens of contracts via FOIA, confirming professional advice on borrowing, investment and the use of financial instruments was routinely provided – to councils such as Kent County Council (a Capita/ Butlers advised council which is now ground zero in terms of exposure to the Woodford scandal) and that representatives of these companies have clearly misled Parliament and the regulator.

Following exposure of LOBO loans - featuring embedded swaps & derivatives to Councils by myself and colleagues, and Channel 4's Dispatches in 2015, there were further calls for FCA regulation of Treasury Management Advisors by Clive Betts MP – Chairman of the Ministry of Housing, Communities and Local Government (MHCLG) Committee, with these companies taking millions of pounds in undeclared commission on both sides of LOBO trades from banks & brokers, - clear market abuse - yet again the FCA refused to act – leaving council taxpayers as much £16bn pounds out of pocket, relative to alternative Public Works Loan Board (PWLB) borrowing.

Now we have the emergence of the Woodford scandal - where it transpires that the FCA pressured Woodford into using Capita Asset Services [now Link] in 2014, a firm the FCA told us categorically it does not regulate, because its size and activities were below FCA threshold.

How is it that your organisation feels compelled to act as a backroom political fixer to recommend Capita for the regulation and compliance of Woodford funds - yet at the same time, maintains it is unable to provide

> even the most basic level of regulatory scrutiny & enforcement to guard against market abuse by this firm?
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> Time & time again, we see the supposedly independent FCA kicking the can down the road – and refusing to use its powers, until forced to act by Parliament.
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> Rather than applying the precautionary principle to protect consumers, the FCA on issues like the Global Restructuring Group & LOBOs is acting as a firewall, protecting the politically connected financial fraudsters who fund your organisation from media scrutiny and public accountability.
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> Why, when presented with an opportunity by Mr Mann to request wider powers to tackle investment consultants more broadly in 2017 - has the FCA only framed the issue narrowly in relation to pensions? - despite being asked 3 times in the last decade by Parliament to tackle investment consultants more broadly?
>
> What concrete steps have been taken by the FCA to identify and actually close the gap outside of the regulatory perimeter?
>
> Should the victims of financial fraud & the aggrieved public blame the FCA, or the TSC for ongoing inaction to address the absurdities of the regulatory perimeter and the regulators refusal to accurately identify blind spots and Parliament's lack of action to address them?

Thank you for your question. As I stated in my response to the Treasury Select Committee the question as to what is and is not regulated is a decision for Government and Parliament to make, not for the FCA. I believe it would be wrong for the FCA to ignore the clear choice expressed in legislation about the degree of regulatory scrutiny in the financial services sector.

Before addressing your other points, I think it would be helpful to clarify the distinction between investment consultancy services and treasury management advisory (TMA) services. The concept of investment consultancy services is not currently defined in financial services law. When referring to such services, we are referring to the provision of a range of advice to institutional investors in relation to such matters as strategic asset allocation, manager selection, fiduciary management and advice to employers in relation to pension schemes for the benefit of their employees. Strategic asset allocation advice and manager selection advice can currently be provided in a way that is not regulated by the FCA. Similarly, in the occupational pension sector, advice to employers in relation to pension schemes for the benefit of their employees (such as advice on the choice of provider and on how to set up and manage the scheme on an ongoing basis) may also fall outside the FCA's perimeter.

When referring to TMA services we refer to the advice given to public and private sector bodies to assist them to manage their cash flows and associated financial risks. This includes advising on when, for how long and with whom to invest surplus funds and/or from whom to borrow additional funds and on what terms. It is not necessary to be authorised by the FCA to provide TMA services. However, a TMA service provider will require authorisation by the FCA if it wishes to provide any service which is a regulated activity as defined by the Financial Services and Markets Act 2000 (FSMA).
Regulated activity includes 'advice given to a person in his capacity as an investor or

potential investor (or in his capacity as an agent for such a person) on the merits of his buying, selling, subscribing for or underwriting certain investments specified under FSMA or exercising certain rights conferred by such investment'. The provision of broad strategic advice or generic advice on investments (e.g. a recommendation to invest in a particular type of financial instrument, without recommending a specific transaction) is not regulated investment advice. In addition, advice on making cash deposits is not classified as regulated investment advice, unless the deposit is a so-called structured deposit (ie one with a structured interest rate, such as one linked to an investment or commodities index).

Whilst we recognise that there is some cross-over in terms of types of services and client base, we consider investment consultancy services and treasury management advisory services to be distinct services, typically provided by different firms.

To address your point on why our response in relation to investment consultants focused on pensions, the Law Commission in 2013/14 reviewed the question of whether investment consultants should be within the FCA's perimeter. Their conclusion was that, while the lack of FCA regulation of investment consultants appeared anomalous, they could not identify any specific risk that would objectively justify the extension of regulation into this area. They asked the Government to actively monitor the issue.

Subsequently, the FCA carried out a competition market study into the asset management market. Despite falling outside the FCA's regulatory perimeter for some of the activities they undertake, we included investment consultants in this work because of concerns around the effect that investment consultants have on competition for institutional investment management.

As part of this study, we engaged with a range of clients served by investment consultants, including charities, endowment funds and companies. However, our analysis focused particularly on pension schemes as they make up a large proportion of the client base for investment consultancy services.

In 2015 we found that 93% of investment consultant advisory revenues came from pension schemes. Following the FCA's market study, the FCA referred the investment consultancy industry to the Competition and Markets Authority (CMA) because of our concerns around the impact on competition of features of the investment consultant and fiduciary management markets.

We also recommended that the Treasury consider the case for bringing asset allocation advice within the regulatory perimeter, subject to the outcome of the CMA's investigation. To clarify, our recommendation to the Treasury was not limited to pension clients. Following the CMA's review, it has recommended to the Treasury that investment consultancy should be brought into the perimeter, and the Treasury has responded that they will consult on this in due course.

On the FCA's regulatory perimeter more broadly, as you recognise it is complex. In our first annual perimeter report published on 19 June we describe how we are dealing with some of the challenges to our regulatory perimeter.

We also describe the action we are taking and plan to undertake, to clarify understanding around the perimeter, including working with the Financial Ombudsman Service, the Financial Services Compensation Scheme, industry and consumer groups to enhance mechanisms to help consumers understand the protections in place.

This report can be found at https://www.fca.org.uk/publication/annual-reports/perimeter-report-2018-19.pdf

The Treasury Select Committee, as part of its inquiry *The Work of the Financial Conduct Authority,* took account of this report in addition to the evidence we provided in oral evidence sessions about the complexity of the legislative framework for regulated activities. We also took the opportunity to explain that the regulatory system as currently set up does not provide the FCA with the remit to actively monitor or intervene outside the regulatory perimeter.

As a result, the Treasury Select Committee has published The work of the Financial Conduct Authority: the perimeter of regulation. The report recommends:

- that the FCA is given the formal power to recommend to the Treasury changes to the perimeter of regulation
- the FCA should be given the remit to highlight the potential risks to consumers of an unregulated activity
- the Treasury should undertake research on enabling the FCA to determine whether it should gather data from non-regulated entities

We welcome this report which recognises the issues the FCA has raised over a number of years and we now look forward to working with Parliament, the Treasury and others to examine the recommendations.

In the meantime, we will continue to provide guidance on the perimeter where it is appropriate and within our remit to do so. We have recently for example published guidance on our approach to cryptoassets in relation to the perimeter.

Finally, to address your point on the LF Woodford Equity Income Fund (WEIF), I thought it would be helpful to set out some background information. The FCA authorises the Authorised Fund Manager and the fund itself, as well as other entities which may be involved in running the fund (e.g. the depositary and, where the Authorised Fund Manager appoints one, delegate portfolio managers that are based in the UK). In the United Kingdom, currently there are just over 3,200 authorised Undertakings for the Collective Investment in Transferable Securities (UCITS) funds managed by nearly 200 Authorised Fund Managers.

In the case of WEIF, the Authorised Fund manager is Link Fund Solutions (Link). The fund manager has the regulatory responsibilities in relation to operating the fund and therefore, for WEIF, Link is accountable to the FCA. Link therefore needs to comply with our rules and regulations, and is subject to ongoing supervisory scrutiny. In addition, the FCA did not press or tell the Woodford fund to use Link or any other particular Authorised Fund Manager.

Name: Judith Crawford

Question: How the FCA engages with smaller firms in the payments sector?

Our strategy for engagement with smaller firms in the Payments Sector is designed to ensure that the whole sector understands our standards and expectations, and where individual firms are causing harm, or at high risk of causing harm, we are able to identify those firms and intervene quickly.

We use our Supervision Hub to answer firm queries by telephone and email. We also conduct thematic work in areas at potential risk of harm, where we engage directly with samples of firms to see how firms are conducting themselves.
For example, we are looking into how firms are safeguarding customers' money so that it can be quickly and safely returned in the event of the firm's failure.

Based on the results of this we have sent out our findings to firms and issued a 'Dear CEO' letter requiring firms to attest that they are meeting our standards. We will use sources of intelligence to target firms that might not be reaching the standards.

Finally, we use a range of sources of intelligence to identify firms where there are indicators that harm is, or might be occurring for intervention with Supervision and potentially Enforcement.

To build understanding and ensure that firms reach our standards, we hold regular meetings with key industry trade bodies who represent many of the firms which we supervise, and we attend industry conferences and roundtables.

We also host special events like our 'Live & Local' series in London which over 100 firms attended. We use social media to reach our firm population, for example through LinkedIn and Twitter. We posted a video of our most recent 'Live & Local' event to the FCA website which allowed firms who did not attend to hear messages directly from our supervision team.

Name: Juliette Mottram

Question: I would like to ask the question why the FCA have failed to address the fraud carried out by various banks? I myself have lost everything due to the HBOS Reading fraud and want to know why the regulator isn't doing its job.

The fraud here was investigated by Thames Valley Police leading to convictions and the jailing of 6 individuals including Lynden Scourfield and another Bank of Scotland employee, Mark Dobson.

As the activities occurred outside our jurisdiction, we do not have any power to require any person, including Lloyds to pay compensation to victims. However, Lloyds is conducting a review of the customers who may have been affected by the fraud and has appointed an independent reviewer, Professor Russel Griggs, to review the information provided and determine the appropriate amount of redress for customers. Lloyds Banking Group has since commissioned an independent review to provide assurance that the Griggs Review methodology has delivered fair and reasonable outcomes for customers. The assurance review will be led by Sir Ross Cranston and LBG has committed to publish the findings in full.

If we had the power to do this ourselves, you can be assured we would be doing it. But we don't.

We were however, concerned that the fraud was unreported for a considerable period of time which delayed justice for victims. We took action against Bank of Scotland (BOS) and imposed a fine of £45.5m. This is an important point. Had BOS communicated its suspicions to us when it should have done, in May 2007, the criminal misconduct could have been identified much earlier and the redress exercise would have started much sooner as well.

Name: Lindsay Reid

Question: How will you monitor, conduct, good behaviour and positive outcomes for customers? Do you have the resources in place to monitor this, market abuse and the facilitation of tax evasion or are you anticipating firms will self-report as part of their commitment to good conduct?

Our regulation aims to serve the public interest by improving the way the UK financial system works and how firms conduct their business. Historically, the activity of regulators has typically been framed as disciplinarian, monitoring firms and markets, dealing with breaches of written rules and imposing penalties.

This is a necessary function of regulation in financial services and remains fully in place. However, the role of regulators, particularly on issues like conduct and culture, has evolved to include a wider range of activity.

In our Approach to Supervision document, published in April, we consider a range of factors including business models, culture and prudential soundness when we assess potential harm. We have focused intensively on behaviour, conduct and culture as these matters sit at the core of good management and good outcomes. We have intensified our collaborative engagement to develop multi-disciplinary perspectives and develop thought leadership, that can help lead to healthy sustainable culture change.

We supervise most firms as members of a portfolio of firms that share a common business model. We analyse each portfolio and agree a strategy to take action on firms posing the greatest harm. We also have dedicated supervision teams to supervise firms that pose the greatest potential impact on consumers and markets.

We focus on the drivers of behaviour and the role individuals play within firms. A firm's managers are responsible for the firm's culture, and for preventing harm. We provide feedback and challenge on the behaviour we observe through our supervisory engagement.

For firms to which the Senior Managers and Certification Regime applies, we have clearly set out our expectations of firms and the behaviour of their employees. Through this, most employees will be subject to 5 conduct rules that represent minimum standards of behaviour – act with integrity; act with due care, skill and diligence; be open and cooperative with regulators; pay due regard to the interests of customers and treat them fairly; and observe proper standards of market conduct.

The Senior Managers and Certification Regime currently applies to UK banks, building societies, credit unions, branches of foreign banks operating in the UK and the largest investment firms regulated by the Prudential Regulation Authority and the FCA. All firms the FCA regulated will be brought under SM&CR from 9 December 2019.

Name: Morten Frisch

Question: Based on my personal experiences and supported by numerous reports in the media, the Financial Ombudsman Services or FOS has failed and continue to fail to deal with more complex pension investment complaints in a proper and effective manner. As a result retail consumers are not protected by an effective regulation of the financial services industry. How can the FCA change this totally unacceptable situation?

The Financial Ombudsman Service (the ombudsman service) is operationally independently from the FCA and the FCA cannot intervene in the handling and outcome of individual cases. The ombudsman service may refer the case to the FCA for enforcement action against a firm for a rule breach, however this may not result in the consumer obtaining redress.

If a consumer wishes to make a complaint about a firm to the ombudsman service, the ombudsman service will ask the firm to explain what it thinks happened and then decide whether to uphold the consumer's complaint. The ombudsman service's role is to be impartial and investigate the dispute between the consumer and the firm. Once the ombudsman service has made a decision on a complaint, the decision is final. The consumer can choose whether or not to accept the ombudsman service's decision. If the consumer accepts the decision, it is binding on both the consumer and the firm. If the consumer does not accept, they can take their case against the firm to court. If a consumer is not happy with the way the ombudsman service has dealt with their case or with the level of service provided, the ombudsman service operates a special procedure to handle complaints about their service. This procedure involves an independent assessor who will review the way the ombudsman service have handled the consumer's case.

It is worth noting that the ombudsman service was independently reviewed in 2018. The independent reviewer, Richard Lloyd, found that the ombudsman service provides an effective and essential service for many thousands of people. The review considered the issue of casework complexity and found that while there are fluctuating levels of consumer satisfaction with casework likely to present the greatest complexity, there are reasonable confidence scores even where a complaint has not been upheld (for example satisfaction with pensions cases not upheld ranged from 48% to 60% in the first 4 months of 2018).

Name: Neil Gunn

Question: I met with Andrew Bailey 31 October 2018, regarding significant stress to bank victims, some very long term like myself, why does the FCA not order banks to redress victims?

If individuals have a complaint against a financial services firm, in the first instance they should contact the firm to make a complaint. By our rules, regulated firms are required to review complaints and issue their response. If the complainant remains dissatisfied with the outcome, they can refer their complaint to the Financial Ombudsman Service for consideration.

The ombudsman service is independent, impartial and free for consumers to use. The decisions it issues are legally binding. More information on the ombudsman service can be found on its website: www.financial-ombudsman.org.uk

For Small and Medium Sized Enterprises (SMEs), the Business Banking Resolution Scheme (BBRS) is being established to deliver stronger, fairer outcomes for more SME customers. For more information, please visit https://www.ukfinance.org.uk/banking-industry-fund-new-alternative-dispute-resolution-adr-scheme-larger-smes.

Name: Nick Burton

Question: Why is there no report on the FCA's role as Registrar for Mutual Societies within the Annual Report? Why does the FCA have a policy of wilfully evading Parliament's wishes as expressed in the 2014 Cooperative Society and Community Benefits Act Section 106 and 107? These sections explicitly give members of a mutual society (at a threshold of at least 10% of members) the right to ask the FCA to order a Special Meeting of the Society, over the heads of the Society's management, with all the powers of a General Meeting. FCA Mutual Society team email dated 29 May2019 at 18:54 refuses that request on the grounds that a dispute is in progress. This is arrant nonsense as it is difficult to conceive of a series of events where 35 members would make such an application in a mutual society unless some form of dispute was ongoing. Such a failure to support members' rights was clearly not Parliament's intention in passing the legislation, and enables societies to cover up bullying, fraud and other wrongdoing. If the FCA does not wish to fulfil its responsibilities to members of mutual societies what representations has it made to the Government or Parliament to appoint a Principal Regulator for Mutual Societies as promised in the Charities Review in 2011?

We have over 9,600 registered societies and collectively they have well over 10 million members. As you will appreciate there are a significant number of disputes that can arise.

The legislation specifically provides that the FCA is not to play a role in individual disputes, for example, around the role and treatment of individuals. Instead, these types of dispute should be dealt with in the first instance through whatever dispute resolution is set out in the society's own rules, and if that fails, through the courts. The rules of a society are in effect a contract between members and the society. Where one person believes that this contract is not being fulfilled, the appropriate remedy is for them to seek enforcement of their rights through the courts.

The calling of a special meeting is a discretionary power and only a handful have been called within the past 150 years. The calling of a special meeting is appropriate in exceptional cases, such as where a society finds itself in some difficulty it cannot easily resolve of its own volition, or where a significant minority or proportion of a society's members are directly affected by a decision or policy of a society.

The FCA also has a mechanism to objectively and independently review complaints about our judgement in the exercise of our powers, and we welcome that you have availed yourself of this.

Name: Peter Crowley

Question: The domestic mortgage market is now far more of a gamble than previously, with the risks of becoming a variable rate prisoner (provider switching blocked), or fixed rate prisoner (FCA plugs long term fixed rate loans, with misleading assertions). The average borrowers takes out a 2-3 year fix, and switches product (and provider) when it expires. Lenders lose money on hyper competitive fixes, and claw it back from the prisoners. Short termism in a mortgage market cannot be good for either customers or providers.

The market study we recently completed found that the mortgage market works well in many respects. It is very different to how it was before the financial crisis. This reflects both the immediate market reaction to the crisis and the regulatory response. Importantly, engagement is high and consumers are getting mortgages that are suitable and affordable. Moreover, the level of switching at the end of the introductory period is high. Over three quarters of consumers switch within 6 months of moving on to a reversion rate.

However, there are limitations to the effectiveness of the information and tools available. Many consumers miss out on cheaper deals that are just as suitable. There is also a small number of consumers on a relatively high reversion rate, who are up-to-date with their payments, but unable to switch.

We want to enable greater innovation in mortgage distribution and help consumers to identify, at an earlier stage, the mortgages for which they qualify. We have consulted on changes to reduce barriers to switching for those consumers' who are up-to-date with payments and not seeking to borrow more. We have also proposed changes to make it possible for consumers to have greater choice about the support (including advice) they receive when buying a mortgage. We plan to finalise these changes this autumn. These interventions are part of a package of measures that will help consumers' get the best value, suitable mortgage.

Name: Rajpal Khangura

Question: Is it likely that SM&CR will be applied to payment institutions in the near future?

The aim of the Senior Managers and Certification Regime of enhancing and embedding a culture of individual accountability and personal responsibility within firms, and raising standards of conducts at all levels could bring benefits to all types of firms.

However, any further extension of the Senior Managers and Certification Regime, for example to payment institutions, would first require legislative change from Parliament. Only once these changes receive Royal Assent could we bring forward proposals for consultation. Any such proposals would be followed by final rules which would come into force at a later date to give firms time to prepare.

Name: Roger Nasey

Question: What criteria was considered and satisfied prior to authorising Lendy as a secured P2P platform, and if this criteria did not include consideration of already known over value RICS valuations, why not? Such valuations are a key element of due diligence undertaken by investors, a fact the FCA and any other professional related to property investment would/should be aware of.

As set out in the Approach to Authorisation publication & Threshold Condition Sourcebook, our criteria for assessing all applications to become a regulated entity are the Threshold Conditions. A firm must demonstrate that it can meet these conditions. We cannot usually comment specifically on the information provided to us by firms during the application process, since Section 348 of the Financial Services and Markets Act 2000 prevents us from disclosing private information about a firm.

However, when assessing applications for potential P2P platforms we do consider their approach to lending and borrower due diligence, amongst other factors. Where appropriate, for example where the applicant proposes to undertake secured lending, this will include how the firm values the secured assets. We recently published a response to a parliamentary question from Lord Myners about Lendy's authorisation which gives further detail of our authorisation assessment.

It is worth saying that the P2P industry business models have evolved a long way from the original concept that they were platforms for investors to make loans to borrowers, towards a considerably greater role of the platform in the origination of the loans, the credit risk assessment, and the administration of the loans on behalf of the investor.

With this has come ever more focus on the risks of harm that have led to us putting in place new rules designed, among other things, to make sure that platforms have strong governance and control on what they advertise and how they approach credit risk including valuations; to ensure that they have good arrangements for winding down so that in the event of platform failure, the administration of investors' loans can continue; and to limit the amount that investors can invest to prevent overexposure to risk. These new rules come into force in December this year.

Name: Zachary Davies

Question: What preparations have the FCA taken in relation to a no-deal Brexit?

The FCA is continuing to prepare for a range of scenarios, including one in which the UK leaves the EU without a withdrawal agreement and implementation period having been ratified between the UK Government and the EU. We are providing technical advice to the Government and working with firms to understand their plans, to ensure we have a robust regulatory system in place on the day the UK leaves the EU. These preparations have included:

To ensure a robust regulatory regime is in place at exit, we have worked with the Government and the Bank of England to onshore EU legislation into UK law, and to amend our Handbook.

On 28 February, we published near-final rules and guidance that will apply in the event the UK leaves the EU without an implementation period (PS19/5). The documents published confirm our proposals in the event of a no-deal and bring together feedback from a number of consultation papers. As a result of the extension we are providing further technical advice to the Government on additional EU legislation which will need to be incorporated into UK law.

The Government has introduced a temporary permissions regime to allow EU firms and funds that currently passport into the UK to continue operating in the UK if we leave the EU with no deal, and passporting stops.

The temporary permissions regime will provide a backstop to ensure firms and investment funds can continue their business with minimal disruption. It will allow inbound firms to continue operating in the UK within the scope of their current permissions for a limited period after exit day, while seeking full UK authorisation. It will also allow investment funds with a passport to continue temporarily marketing in the UK. In May, we confirmed the deadline for notifications for the regime will be extended to the end of 30 October 2019.

Firms which have not notified us that they wish to enter the regime but need UK permission to perform their existing contracts, will automatically fall within the Financial Services Contracts Regime (FSCR). This will allow firms that have pre-existing contracts in the UK to wind down their business in an orderly fashion.

We have also developed arrangements for other types of EEA firms which currently do business in the UK. This includes a temporary authorisation regime for data reporting service providers, and a direction clarifying the application process for EEA market operators wishing to become Recognised as an Overseas Investment Exchange.

The European Securities and Markets Authority (ESMA) is the direct EU supervisor of Credit Rating Agencies (CRAs) and Trade Repositories (TRs). When the UK leaves the EU, the FCA will become the UK regulator of CRAs and TRs.

We are preparing to take on the regulation of CRAs and TRs. Any legal person wishing to issue credit ratings in the UK for regulatory purposes on or after exit day will need to be registered or certified with the FCA. Any TR wishing to offer its services in the UK will need to be registered with, or recognised by the FCA. We are in close contact with CRAs and TRs to support a smooth transition to the new regime.

We expect all firms to continue to plan for all scenarios, including a no-deal Brexit at the end of October 2019.

To ensure firms are aware of our expectations, we have published communications outlining the relevant considerations for firms. We have met with trade bodies, industry groups, and engaged directly with firms of all sizes and sectors. We will continue with this approach leading up to exit and beyond.

We have also published information to help consumers with questions they have or decisions they may need to take in relation to EU withdrawal.