



THE
TRANSPARENCY
TASK FORCE

Nikhil Rathi,
Chief Executive of the FCA
12 Endeavour Square
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Monday, October 12th, 2020.

Dear Nikhil

Thank you for our recent exchange of Emails and once again, congratulations on your appointment to the helm of the FCA.

As promised, I'm following up with an 'open letter' that sets out our wish-list for your consideration.

I will first provide some background about the Transparency Task Force:

- Our mission is to promote reform of the financial sector, so that it serves society better.
- Our vision is to build a highly respected international institution that helps to ensure consumers are treated fairly by the financial sector.

There is a great deal of alignment of purpose between us, particularly around your consumer protection objective. I believe we are on the same side. Hence, we have always sought to actively support the good work that the FCA does (an excellent example being the FCA's first class handling of the early stages of the Asset Management Market Study). We also, when required, offer constructive criticism. I hope, therefore, you will regard the Transparency Task Force 'a critical friend.'

Below are my suggested "key improvable." We hope that under your leadership the FCA will:

- Engage more often, proactively and effectively, with pro-consumer campaign groups; we feel the FCA is missing opportunities to benefit from the insights and experiences of campaigners and the consumers they represent.
- Explore how to make the Financial Services Consumer Panel visibly stronger and more effective; we feel it has become rather tokenistic.
- Do much more to prevent consumers being harmed; particularly through clamping down on misleading online advertising by scammers and some Foreign Exchange companies - I'll follow up separately with examples of misleading advertising in the FX market.
- Get behind our [initiative to bring Violation Tracker to the UK](#); this is a regulatory database benefiting U.S. regulators and investors that could be replicated here.
- Increase the deterrent effect of enforcement actions by following through on the provisions of the Senior Managers Certification Regime; and in all cases demanding disgorgement of all gains made by malefactors for distribution to affected consumers.
- Ask the government to extend the regulatory perimeter; and make it less porous.

- Build on the FCA's mission to identify and celebrate 'exemplary conduct,' as a counterpoint to its enforcement activities.
- Positively engage with our new [#regulatorswatch](#) group; a useful forum for you.
- Establish whether the FCA is good at absorbing constructive criticism; or whether it may have a predisposition towards defensiveness.
- Make the complaints scheme fully compliant with Financial Services Act 2012.
- Publicly reaffirm and make effective your commitment to protect whistleblowers.
- Use your excellent 'Duty of Care/Best Interests' initiative to drive the paradigm shift the FCA needs; do please take time to read our consultation response at the bottom of [this page](#).

A candid comment about why we feel so strongly about the need for these reforms:

I [keep hearing criticisms of the FCA](#) that are causing me to be genuinely concerned about the effectiveness of the FCA in relation to its statutory objective to protect consumers.

The FCA is a large and complex organisation with many competing demands placed on it. I recognize that being an effective conduct regulator is very challenging and it would be unrealistic to expect the FCA to get it right every time. However, even if one were to only believe a fraction of what is frequently being said, I cannot escape concluding that the FCA has some deep-rooted operational, cultural and conflict of interest issues.

We don't know all the answers, but we do believe the "asks" that are set out above would help.

I believe there is wisdom in the phrase 'progress begins with realism' so if I had to suggest just one thing it would be for you to actively engage with your critics - while it may not always be comfortable or pleasant to do so, I think it will help the FCA to become a better regulator.

With that in mind, we would be very pleased if you would join us at our symposium entitled:

"Are the UK's Financial Regulators Failing?"

...which is taking place on December 15th, 6:00pm to 8:30pm, via Zoom. Topics for debate will include what 'an appropriate degree of protection for consumers' means in practice and what consumers should reasonably expect from the FCA.

In drawing to a close, we wish you well during your time at the FCA. The TTF exists to help protect consumers' interests, so please feel free to suggest anything we can do to help you do that too.

Your thoughts please.

Yours sincerely

A. P. Agathangelou

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