Are UK Financial Regulators’ Failing?

What went wrong? Key Problems

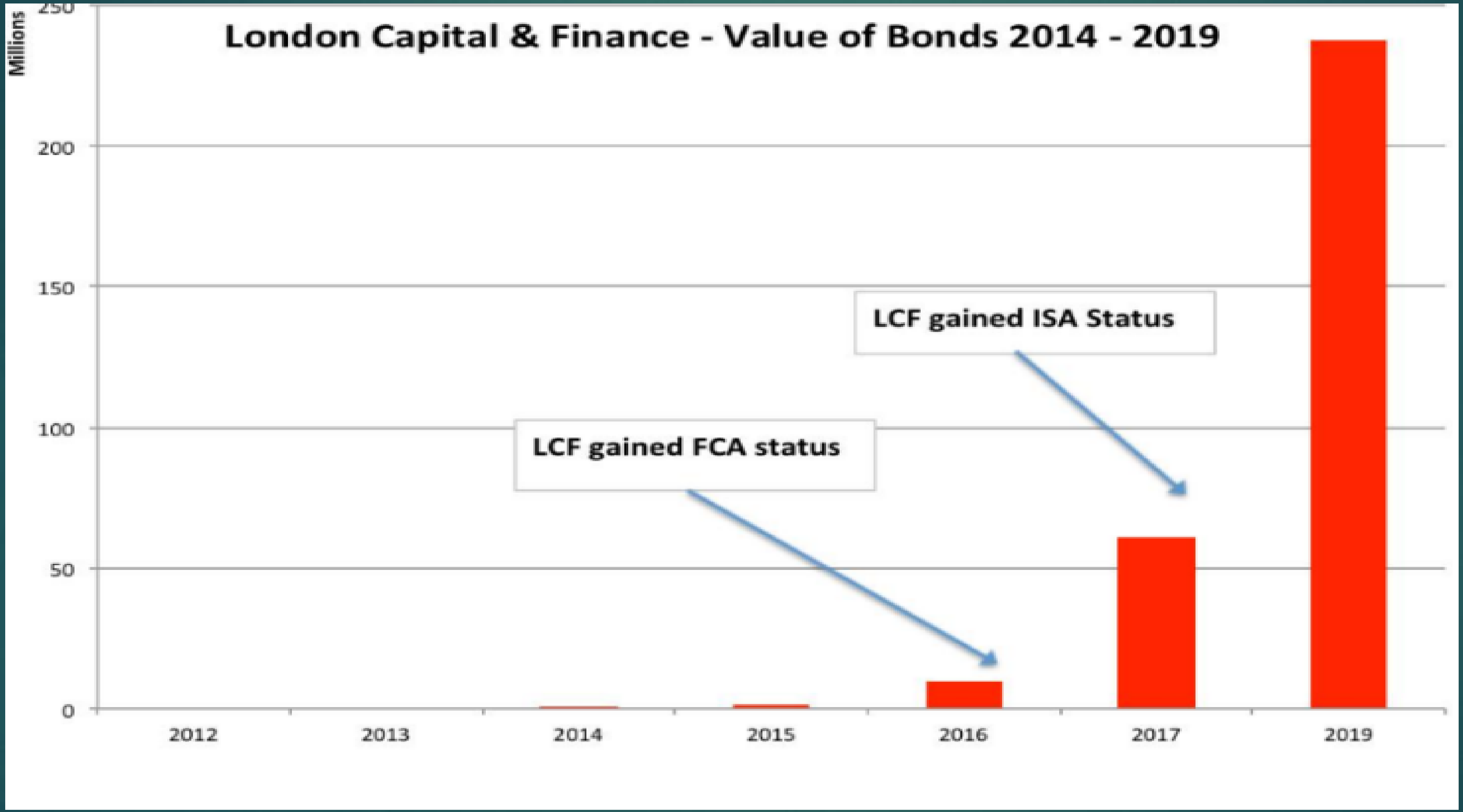
- Failures in the Enforcement and Supervision Team - Failure to act on IFA and retail consumer warnings on a timely basis has resulted in significant retail consumer loss (recurring pattern of failure)

- Flaws in the regulatory landscape - Lack of perimeter clarity, Quasi bank activity without the regulation

- Failures to learn from past failures and implement reform – e.g. lessons from Connaught scandal, LCF promotions, open and honest engagement with retail consumers

- Cultural challenges - Putting the FCA's reputation ahead of consumer protection and fairness, defensive approach re LCF "mini-bonds" and ISA', passing the buck, non-transparent, independence.

Impact of LCF regulatory failure



Recent Developments

- Permanent ban on the marketing of mini-bonds - Expected to reduce the risk of another LCF scandal.
- UK Investment Firm Prudential Regime (IFPR) for FCA prudentially-regulated investment firms (FCA investment firms) - New regime designed to streamline and simplify the prudential requirements for solo-regulated investment firms in the UK. At present, there are many different regimes which apply depending on size of firm and type of investment business. CP 20/24 consultation paper.
- FCA Consultation re its Compensation Scheme - CP20/11: Complaints against the Regulators (The Financial Conduct Authority, the Prudential Regulation Authority and the Bank of England). Serious concerns re new cap of £10,000, no basis in law, unfair, would hamper the Complaints Commissioner.
- New FCA CEO, Nikhil Rathi - The new chief executive of Britain's top financial regulator has said he is not afraid to rub people up the wrong way in pursuit of justice for consumers and has promised to maintain high standards post-Brexit.
- New FCA Complaints Commissioner, Amerdeep Somal - replacing Antony Townsend
- Independent Reports into FCA regulatory failure - LCF (Dame Gloster), Connaught, IRHP, Woodford. Exposure of scandals need to drive reform to avoid history repeating itself.

How can the problems be fixed?

- Institutional cultural change – change from a defensive organisation to one that is accountable and will implement reform in response to past failures and treatment of whistleblower evidence (faster response times). Serious penalties for failure to take action in response to warnings that result in consumer detriment. E.g. misfeasance or nonfeasance in public office.
- Registration process for online internet promotions - Until a global solution is found, all online promotions to UK retail consumers need to be FCA registered and approved by the FCA. If they are not on the registered list, then retail consumers should assume it is a scam. FCA has now banned mini-bonds but this relies on the "cat and mouse game" of ensuring these investments are no longer marketed on the internet. There need to be finds and enforcement.
- Improved transparency and collaborative approach with retail consumers - Information is passed to the FCA in good faith but retail consumers would have a far better experience if they knew the FCA were taking action or otherwise.
- Improvement in joined up regulation - There appears to be some gaps in the regulation with various agencies keen to pass the buck e.g. HMRC over the ISA's.
- Simplification as to what the FCA are regulating - Regulated firms should not be allowed to sell unregulated products, or the perimeter should be flexed so any product sold by a regulated firm is regulated.