LC&F, Blackmore Bond, the FCA's 'responses' and the wider reality

Presented by

Paul Carlier

I need to make it clear that:

a) I never make an allegation or complaint unless I believe that I am right

and

b) I never make an allegation or complaint unless I believe that I have the evidence to demonstrate or prove it

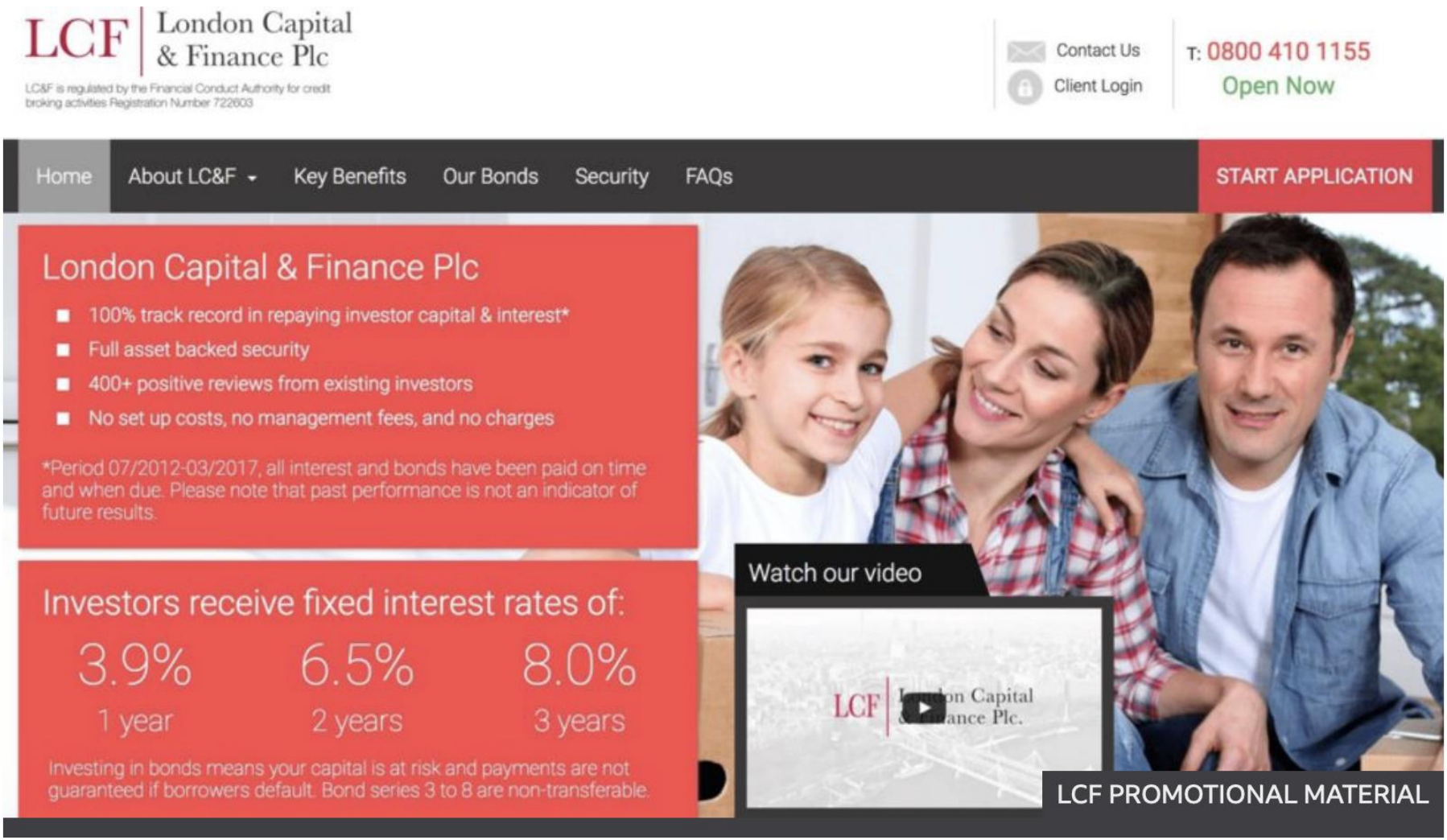
That applies to this presentation.

If I am expressing an ‘opinion’ or a conclusion, then I will establish that, and the grounds and/or evidence for drawing that conclusion.

'One of the biggest financial scandals around': FCA criticised over LC&F

Calls for investigation into financial watchdog after London Capital & Finance collapses with £236m of investors' money

The marketing campaign



Report of the Independent Investigation into the Financial Conduct Authority's Regulation of London Capital & Finance plc

The Rt. Hon. Dame Elizabeth Gloster DBE

23 November 2020

(Revised on 10 December 2020 – see overleaf)

1. The Investigation has 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.

2. The FCA's handling of information from third parties regarding LCF was wholly deficient. This was an egregious example of the FCA's failure to fulfil its statutory objectives. The FCA did not react appropriately (or at all) to express allegations received from third parties that LCF was engaged in fraud or seriously irregular conduct

3. The FCA's approach to its regulatory perimeter was unduly limited. In general, the FCA did not sufficiently encourage its staff to look outside the perimeter This made it possible for LCF to use its authorised status to promote risky, and ***potentially fraudulent, non-regulated investment products to unsophisticated retail investors.***

4. FCA staff who reviewed materials submitted by LCF had not been trained sufficiently to analyse a firm's financial information to detect indicators of fraud or other serious irregularity.

5. As part of its statutory objectives, the FCA is responsible for ensuring that the UK financial system is not being used for financial crime

6. The FCA failed to take basic steps to respond to express allegations of possible fraud and other misconduct made against LCF and also failed to respond to other red flags regarding LCF. Such failures cannot be explained away by reference to general resource or prioritisation issues.

7. Similarly, a paper presented to ExCo in September 2016 demonstrates that the FCA recognised that it was entitled to act even in respect of activities which were not regulated activities. In commenting on the FCA's statutory objectives, the paper stated as follows:

"*The integrity objective is not tied specifically to regulated activities as it relates to the overall financial system, but is limited to the UK. Thus it allows considerable scope to intervene outside of regulated activities.*"

8. …..the definition of consumer also covers, for example, those who have used financial services or may do so in future, it again allows [the FCA] *to make rules that impose requirements outside of regulatory activities*..."

9. The same ExCo Summary Paper of September 2016 includes: FCA Approach to the Perimeter:

The paper stated in the "*Summary*" section under the heading "*Key Issue – Legal Position and our mandate*": "***Our ability to regulate firms and markets effectively is often heavily dependent on matters outside the perimeter and risks can and do materialise which might have been mitigated by a different more proactive approach to monitoring perimeter issues****. …… We think that provided when we look outside the perimeter we do so with the clear object of advancing the better discharge of our functions and that potential risks are anchored to the effect on our statutory duties,* ***then these activities are within our mandate***"

The paper stated: "[w]***e will proactively look beyond the regulatory boundary to identify potential issues."***

10. The paper stated: "***Perimeter risks should be an integral part of the risk management process.*** *The process for identifying and managing risks is relatively generic. Any risks identified will be because they pose a risk to our statutory objectives. If follows therefore that risks inside and outside the perimeter should be part of the same process*

Evening Standard

NEWS SPORT **BUSINESS** ES MONEY CULTURE INSIDER THE ESC

BUSINESS

Blackmore Bond collapses leaving thousands in fear for their savings

FT ADVISER

Home Pensions Investments Mortgages Protection Regulation Tax

Investments April 23 2020

Mini-bond scheme collapses owing £45m to investors

FCA Spokesman said:
“Neither Blackmore or it’s Mini-Bonds were regulated by the FCA”

Andrew Bailey recently testified to the TSC that, and I paraphrase here:

Had we known about LC&F, we would have acted, but the 600 reports did not make it out of the contact centre to the people and departments that needed to know.

‘Sophistication Manipulation’

3.13 The FCA told the Investigation that it shared these concerns. The FCA also drew the Investigation's attention to the practical difficulties of investigating unregulated, online sales channels with some or all of the following features:

(f) a follow-up call or other communication which included encouraging consumers to self-certify as 'high net worth' or 'sophisticated' in order to bring them within one of the exemptions from section 21 FSMA contained in the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005.

Both FSMA and FCA Codes (COBS 4.12) have specific terms and prohibitions that apply to:

a) UCIS - Unregulated (Collective) Investment Schemes

b) Speculative illiquid securities

c) NMPI (Non-Mainstream Pooled Investment)

All of the above, and that cover the Blackmore Bond, share a common prohibition……

None of these ‘investment’ schemes can be promoted to the public in the UK, with these specific exemptions. Unless they are:

- Certified high net worth investors

- Certified sophisticated investors

- Self-certified sophisticated investors

This is not opinion, it is Fact.

And that applies whether regulated or unregulated, and whether the firm promoting them is regulated or unregulated.

To market or sell these products to non-sophisticated investors is a breach of FCA COBS and breach of FSMA, and to carry on a regulated activity without required permissions to do so.

This falls within the FCA's scope, perimeter and mandate.

It is further an obligation of any firm marketing or selling such products to take all reasonable steps to validate the ‘sophistication’ of the consumer, particularly in cases where the consumer has ‘self-certified’ as sophisticated.

Furthermore, the ‘manipulation of sophistication’ is done with the sole intent of circumventing FSMA, FCA COBS and the FCA perimeter and regulation:

THEREFORE, any such act and the products pursuant to it, are absolutely within the FCA perimeter.

3.14 The FCA informed the Investigation that, on the basis of the current legislative framework, in order for a regulator or enforcement authority to investigate such a sales channel, it would need to:

(i) follow the same "customer journey" as the consumer (in effect "mystery- shopping") and to do so in compliance with restrictions in the Regulation of Investigatory Powers Act 2000 and the E-Commerce Directive;

(ii) (ii) ***gather evidence of a breach****; and*

(iii) (iii) ***locate and identify the wrongdoer****, before it could start a criminal investigation or prosecution.* ***The FCA further stated that such a process would face considerable difficulties in terms of the time it would take, the resources it would require and the obtaining evidence which would meet the requisite standard of proof****, with the associated risks that, while this was going on, consumers might be losing money or the sales channel being investigated might close down and disappear.*

From the FCA formal response to Dame Gloster's findings:

"We are aware of evidence that suggests some unregulated companies (often known as introducers), which appear to be separate from firms offering investments, coach investors to self-certify as high-net worth or sophisticated so that they can assert their promotional activities are exempt from having to be approved. ***Although this type of practice can be difficult for us to identify and stop"***

From: Paul Carlier <paul.carlier@live.co.uk>
Subject: Are you aware of this firm?
Date: 6 March 2017 at 17:05:59 GMT
To: Whistle <Whistle@fca.org.uk>

John,
If you're not aware of a firm called Amyma (http://amyma.co.uk/)you should perhaps explore them.

They occupy the office next to us and the glass partition means we hear everything they say and do.

In a nutshell Boiler Room. Have a read of this thread I found when looking up one of the "investments" they are pushing.

http://forums.moneysavingexpert.com/showthread.php?t=5608646

They are pushing all manner of these bonds to pensioners citing them as "guaranteed by one of the worlds biggest banks".

Their sales spiel is something to behold.
"Our Applixation for FCA authorisation is being processed".
They are not FCA authorised and laugh between each other when anyone uses that line on a call.

"Everything is guaranteed"

"I'll put you down as a sophisticated investor"

And their phone rarely ever rings and assume from the fact that they have to ask people's names that cold calling in some form is involved.

Paul

Blackmore group — MoneySavingExpert Forum

Hi
I am currently looking into the best deal for investing 5k - Blackmore offer a 4 years investment at 8.9% interest or 5 year investment for 9.9% interest - is this too good to be true ?

25 February 2017 at 10:43AM

Read post #3

25 February 2017 at 12:55PM edited 25 February 2017 at 1:01PM

> I am currently looking into the best deal for investing 5k -

On 7 Mar 2017, at 10:20, John Dodd <John.Dodd@fca.org.uk> wrote:

Paul,

Thanks for the info about xxxxxxxxxxx and Amyma. I don't intend to treat these as whistleblowing per se, but I will pass to the relevant areas to consider. There won't be any reference to you in this process, all the teams will get is the relevant information, but I wanted to check that you are content with this approach before I do anything.

Many thanks

John

John Dodd
Team Leader / Whistleblowing Team / Enforcement & Market Oversight Division

From: Paul Carlier [mailto:paul.carlier@live.co.uk]
Sent: 07 March 2017 11:11
To: John Dodd
Subject: Re: Your recent information

John,
Please stress to whomever you pass the Amyma info to that pensioners are clearly being targeted.
It's not just a Boiler shop issue but activity related to misleading pensioners, vulnerable under the new rules.
Paul

On 7 Mar 2017, at 11:22, John Dodd <John.Dodd@fca.org.uk> wrote:

Paul,

Will do, thanks.

John

John Dodd
Team Leader / Whistleblowing Team / Enforcement & Market Oversight Division

On 13 Mar 2017, at 16:35, Paul Carlier <paul.carlier@live.co.uk> wrote:

Hi John,
FYI these guys are still pushing this Blackmore Group bond product.

Just overheard the pitch again:
9.9% yield
Interest paid quarterly
£75,000 maximum investment
All guaranteed.

Paul

Unauthorised firm and directors to pay restitution to consumers

Press Releases | First published: 10/07/2019 | Last updated: 10/07/2019

The High Court has consented to an order by which Samuel Golding, Shantelle Golding, Digital Wealth Limited and Outsourcing Express Limited will pay funds held by them to the Financial Conduct Authority (FCA) for distribution to investors. The funds were raised by the defendants in unauthorised investment schemes operated by them.

The schemes purported to involve the online purchase of wholesale goods from China for onward sale and promised unrealistically high returns, in some cases up to 100% of the amount invested. In fact, the schemes were an unauthorised collective investment scheme and illegal deposit-taking, in contravention of the Financial Services & Markets Act 2000. No significant trading was conducted and the schemes relied on a continuous flow of new investors to fund existing investors' returns. Samuel and Shantelle Golding admitted to the Court they were personally involved in these contraventions.

The schemes raised just over £15m from over 1,000 individual accounts. The FCA took urgent enforcement action to stop it and prevent the disposal of the remaining funds. Of the £15m that was raised, £9.25m was paid out to investors as returns and the defendants spent about £2.7m, including significant sums on travel, hotels and retail goods.


REPRESENTATIVE WORKSPACE

The Fraud Act 2006

2 Fraud by false representation

(1) A person is in breach of this section if he—

(a) dishonestly makes a false representation, and

(b) intends, by making the representation—

(i) to make a gain for himself or another, or

(ii) to cause loss to another or to expose another to a risk of loss.

(2) A representation is false if—

(a) it is untrue or misleading, and

(b) the person making it knows that it is, or might be, untrue or misleading.

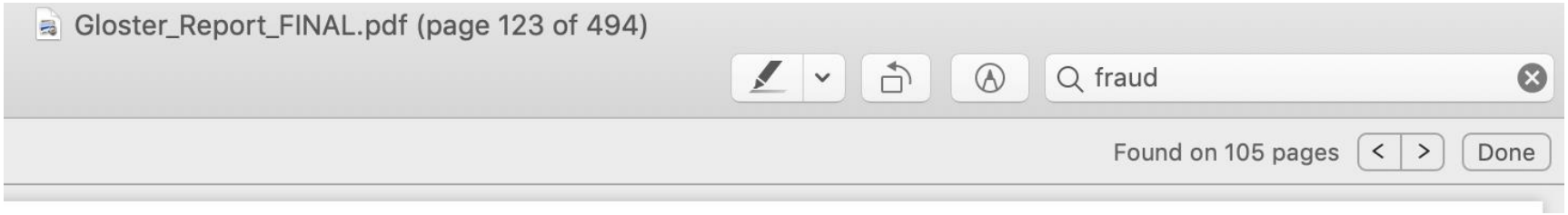
(3) "Representation" means any representation as to fact or law, including a representation as to the state of mind of—

(a) the person making the representation, or

(b) any other person.

(4) A representation may be express or implied.

(5) For the purposes of this section a representation may be regarded as made if it (or anything implying it) is submitted in any form to any system or device designed to receive, convey or respond to communications (with or without human intervention).


Gloster_Report_FINAL.pdf (page 123 of 494)
fraud
Found on 105 pages
Done

*"It is telling that the FCA staff in the Listing Transactions Team and the **Intelligence Team**, who eventually appreciated the risks posed by LCF (in late 2018), had backgrounds directly relevant to reading financial information to recognise indicators of fraud or other serious irregularities."*

This takes on a real significance given what happens next….

From: Paul Carlier [mailto:paul.carlier@live.co.uk]
Sent: 30 August 2018 11:08
To: John Dodd <John.Dodd@fca.org.uk>
Cc: Andrew Bailey <Andrew.Bailey@fca.org.uk>; Mark Steward <Mark.Steward@fca.org.uk>; Jane Attwood <Jane.Attwood@fca.org.uk>
Subject: Re: Your recent information

Good morning,
Below is an email exchange from 2017 whereby I informed the FCA of the conduct of this firm.
https://amyma.co.uk

Myself and my team all personally witnessed and heard each of their phone calls with 'clients'. The majority were clearly cold calls, and the majority clearly persons that were not sophisticated and they were clearly targetting pensioners and their pensions, all contrary to their website and FCA codes and applicable regulations.

Watching a news item on youtube this morning, I see an advert for a Crossrail Property Bond offering 9.25% fixed returns. WOW!
(See top right corner of attached screenshot)

I click the link and get taken to this page.

https://best-bonds.co.uk/?campaignid=1420179561&adgroupid=61282216932&adid=273073927584&gclid=EAIaIQobChMIwbWtp7-U3QIVUzXTCh1UlA_HEAEYASAAEgJS2PD_BwE

Lo and behold, it's a trading name of these Amyma cowboys who are still in business.

The products they are pushing to non sophisticated customers, such as the Blackmore Bond, are all offered as 'guaranteed' returns and guarantees in respect to the principal invested. Yet all appear to be investments entirely related to property and the property market.

You, the FCA, know exactly what happened following the financial crisis to anyone, personal or business, that had property assets. Yet you appear to have taken no action against this firm, and clearly not properly investigated them?

The FCA has certainly not reached out to interview myself or any of my colleagues that witnessed this firm in action first hand.

Please advise.

Regards

Paul Carlier

On 21 Sep 2018, at 08:39, Mark Steward <Mark.Steward@fca.org.uk> wrote:

Dear Mr Carlier,

We have received reports about Amyma's activities, and are making enquiries. In line with normal policy, we do not comment on operational matters, save in exceptional circumstances. I am sorry we cannot provide any further information at this stage.

Yours sincerely,

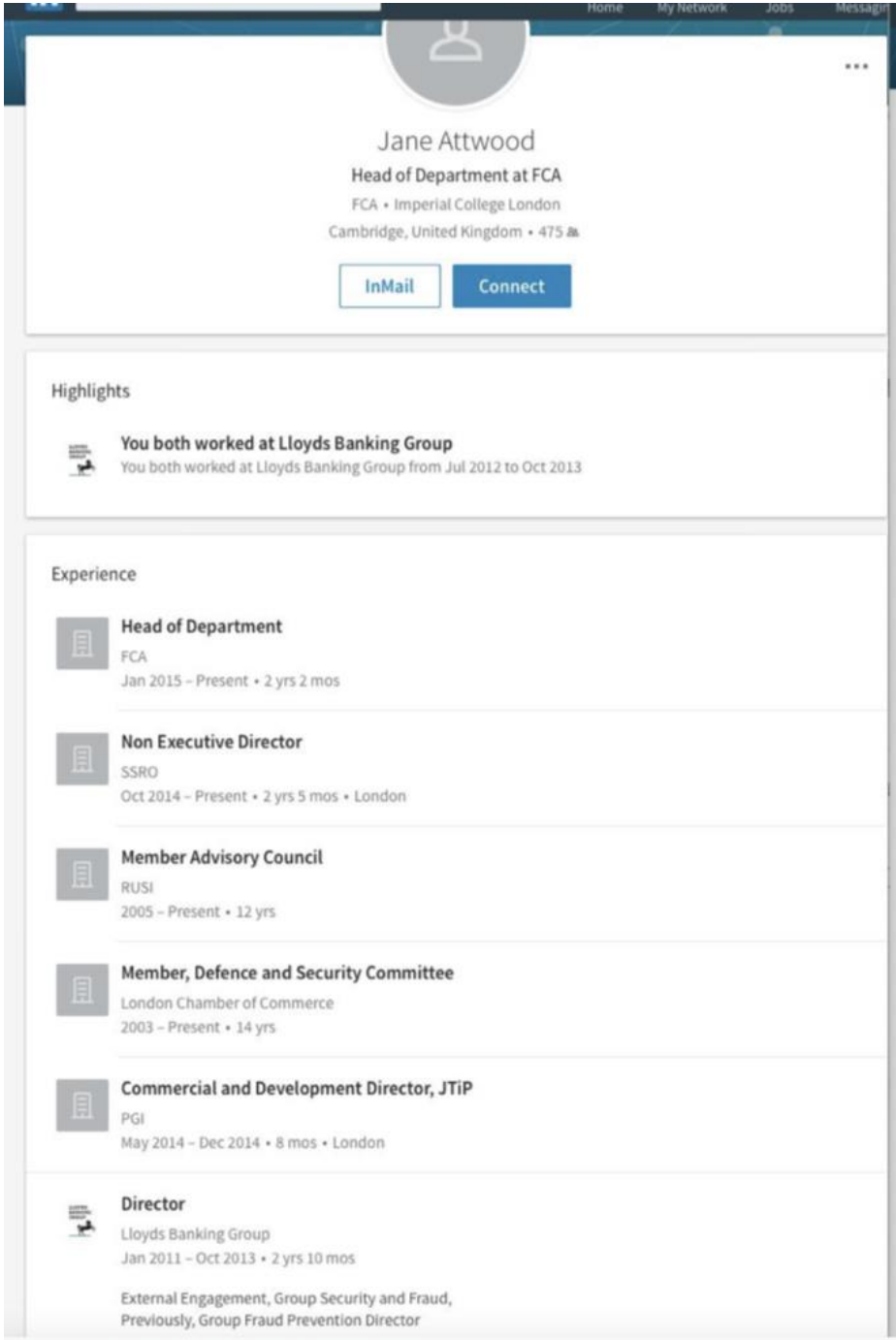
Mark Steward
Executive Director
Enforcement and Market Oversight

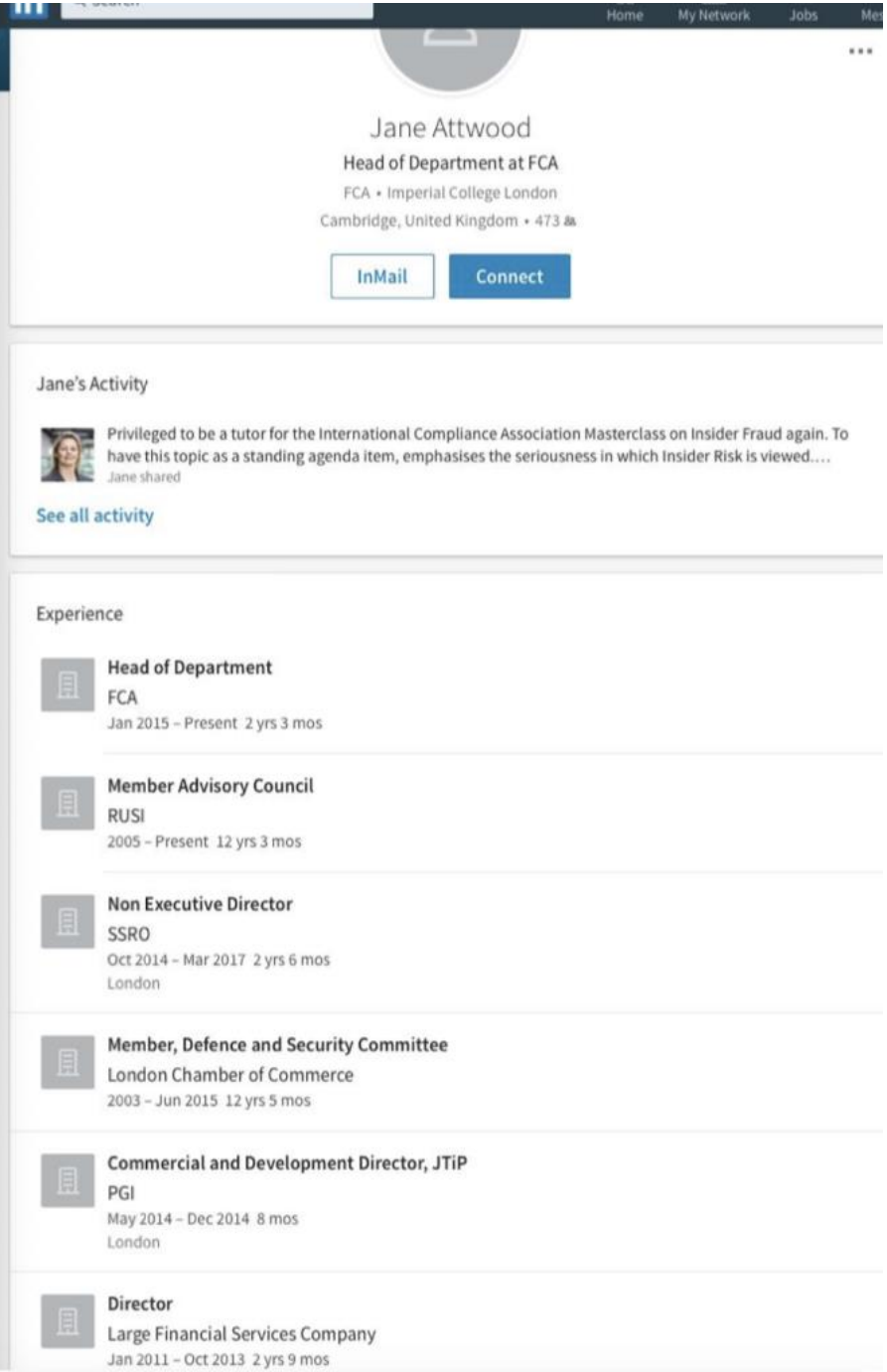
On 28 Nov 2018, at 17:48, Paul Carlier <paul.carlier@live.co.uk> wrote:

Mr Steward,
No need to apologise to me. I am not the one being conned out of their pensions by these parasites.

Separately, xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

Regards
Paul Carlier


Jane Attwood
Head of Department at FCA
FCA • Imperial College London
Cambridge, United Kingdom • 475
InMail
Connect
Highlights
You both worked at Lloyds Banking Group
You both worked at Lloyds Banking Group from Jul 2012 to Oct 2013
Experience
Head of Department
FCA
Jan 2015 – Present • 2 yrs 2 mos
Non Executive Director
SSRO
Oct 2014 – Present • 2 yrs 5 mos • London
Member Advisory Council
RUSI
2005 – Present • 12 yrs
Member, Defence and Security Committee
London Chamber of Commerce
2003 – Present • 14 yrs
Commercial and Development Director, JTiP
PGI
May 2014 – Dec 2014 • 8 mos • London
Director
Lloyds Banking Group
Jan 2011 – Oct 2013 • 2 yrs 10 mos
External Engagement, Group Security and Fraud,
Previously, Group Fraud Prevention Director


Jane Attwood
Head of Department at FCA
FCA • Imperial College London
Cambridge, United Kingdom • 473
InMail
Connect
Jane's Activity
Privileged to be a tutor for the International Compliance Association Masterclass on Insider Fraud again. To have this topic as a standing agenda item, emphasises the seriousness in which Insider Risk is viewed....
Jane shared
See all activity
Experience
Head of Department
FCA
Jan 2015 – Present 2 yrs 3 mos
Member Advisory Council
RUSI
2005 – Present 12 yrs 3 mos
Non Executive Director
SSRO
Oct 2014 – Mar 2017 2 yrs 6 mos
London
Member, Defence and Security Committee
London Chamber of Commerce
2003 – Jun 2015 12 yrs 5 mos
Commercial and Development Director, JTiP
PGI
May 2014 – Dec 2014 8 mos
London
Director
Large Financial Services Company
Jan 2011 – Oct 2013 2 yrs 9 mos

MEMORANDUM OF UNDERSTANDING (MOU)

BETWEEN

CITY OF LONDON POLICE (COLP)

AND

FINANCIAL CONDUCT AUTHORITY (FCA)

Purpose of this Memorandum of Understanding ("MOU")

A. The overarching objectives of this MOU are for the FCA and COLP (the "Parties") to work together more effectively in areas of mutual interest, for example to help combat financial crime, and to make the best use of each organisation's respective resources and expertise, with a view to achieving more successful outcomes through exchange of staff and secondments.

B. This MOU is not intended to impose any legal or procedural requirements on either COLP or the FCA. Nothing in this memorandum should be taken as either preventing or inhibiting COLP or the FCA in any way from acting in the proper performance of their statutory or other public functions.

C. Although the Parties agree to adhere to the contents of this MoU it is not intended to be a legally binding document. The MoU does not override each Party's statutory responsibilities or functions, nor does it infringe the autonomy and accountability of either Party or their governing bodies.

Sharing Knowledge

2.2. The Parties will look to opportunities to share knowledge and understanding by learning from each other but with an understanding of the need for operational and asset security and the "need to know" principles outlined as part of the Cabinet Office sponsored Security Policy framework as well as the need to maintain the Intelligence to Intelligence "sterile corridor" to protect information provenance and operational integrity. In addition to Part 1 of this MOU which provides for secondment agreements the Parties agree to discuss loans, attachments and exchanges of staff to facilitate shared learning where appropriate and of mutual benefit.

Sharing Information and Intelligence

2.4. Each Party will endeavour to share relevant information and draft intelligence products with the other Party as soon as is reasonable on a case by case basis for cases in which:

a) they believe the other would have an interest; and/or

b) the other Party may identify opportunities to coordinate their efforts; and/or

c) the other Party may highlight outputs which they would like to co-author.

of the statutory "gateways" as provided by FSMA.

2.7. Any disclosure of Confidential Information by the FCA to COLP will be made in accordance with a statutory gateway. Normally the relevant gateway would be pursuant to:

a) Regulation 3 of the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (as amended) (the "Disclosure Regulations"), which permits the FCA to disclose information for the purposes of enabling or assisting the FCA in discharging its public functions; and/or

b) Regulation 4 of the Disclosure Regulations, which permits the FCA to disclose information for the purposes of any criminal investigation, criminal proceedings or for the purposes of initiating or bringing to an end any such investigation or proceedings or facilitating a determination of whether it or they should be initiated or brought to an end.

Signatures

Authorised signatory for City of London Police:

Name: CLARK

Rank Position: COMMANDER

Signed: _____ **Date:** 15 FEB 2017

City of London Police
Economic Crime Division

Detective Chief Superintendent
David Clark

Authorised signatory for Financial Conduct Authority:

Name: MARK STEWARD

Rank Position: Executive Director, Enforcement & Market Oversight

Signed: _____ **Date:** 27/2/17

Dear Mark

I am writing to draw the FCA's attention to a serious and ongoing breach of FCA regulations which is creating a material risk to consumers.

1) Blackmore Bond plc is an unregulated company issuing corporate loan notes paying up to 8.5% per annum. As a security issued by a special purpose vehicle, their bonds are Non-Mainstream Pooled Investments, and in the absence of regulated advice should only be promoted to high net worth or sophisticated investors (COBS 4.12).

2) Blackmore Bond plc issues financial promotions via social media which do not mention anywhere the risk of 100% losses in its bonds. The promotion uses the term "Income Certainty", and with phrases like "Knowing how and where to invest your savings doesn't have to be difficult" and "Simple, fixed-rate returns" is clearly aimed at investors who do not qualify as high net worth or sophisticated. I have enclosed an example, which appeared in my Facebook feed on 7 March 2018.

3) The review site Trustpilot displays clear evidence that many people have invested in Blackmore Bonds despite not understanding the risk of total loss, and being extremely unlikely to qualify as high-net-worth or sophisticated. I have enclosed some of the clearer examples.

Blackmore Bond heavily encourages people who have recently purchased bonds to leave reviews on Trustpilot (a couple of the Trustpilot reviews register their irritation at being asked to do so).

With no independently audited valuation of Blackmore Global available, no ability to withdraw, and no secondary market for the shares, Blackmore Global must be considered worthless until evidence to the contrary emerges.

5) [redacted] and [redacted], via the now-dissolved company It's Your Pension Limited, also provided leads to Jackson Francis who arranged transfers into the fraudulent Capita Oak pension scheme. (See http://pension-life.com/[redacted]-scam-year-blackmore-global/ - pension-life.com is less than 100% reliable, however the fact that [redacted] and [redacted] provided leads to Jackson Francis comes from the Insolvency Service, and is to my knowledge not in dispute.)

6) There is no suggestion that either [redacted] or [redacted] have done anything illegal. It is not illegal to run a failed investment.

However, even if the NMPI issuer was whiter-than-white, it would still be unacceptable for non-HNW and unsophisticated investors to be systematically induced via misleading financial promotions to invest in NMPIs with potential for 100% loss.

Points 4) and 5) and the previous involvement of the Blackmore Bond directors in unregulated investments which have caused heavy losses to retail investors merely emphasise the urgency of taking action.

It is clear to me that the FCA needs to act as a matter of urgency by:

1) Ordering Blackmore Bond plc to **immediately** close to new investment until it can show that it has put in place robust processes to ensure that **all** of its investors qualify as high-net-worth or sophisticated, or are otherwise exempt from COBS 4.12.3. For example, by only accepting investors via regulated financial advisers, or asking investors to provide bank statements or tax returns as evidence that their assets or income qualify them as HNW. If the FCA lacks the power to do so itself (Blackmore Bond plc being unregulated), it should apply to the courts for an injunction as per section 380.

As per COBS 4.12, "self-certification" is not enough and an NMPI issuer must take reasonable steps to verify that investors are in fact HNW or sophisticated (COBS 4.12.9). Only accepting investors via regulated advisers or asking for bank statements or tax returns is a more than reasonable step to comply with COBS 4.12.9. This is what the SEC explicitly directs firms to do in the US if they are relying on the equivalent exemption in US securities law (see https://www.sec.gov/fast-answers/answers-rule506htm.html), so there is precedent of good practice.

2) Ordering Blackmore Bond plc to pro-actively contact all investors who did not invest via a regulated intermediary or provide documentary evidence of being HNW or sophisticated, remind them of the risk of permanent loss they are subject to in a clear and non-misleading fashion, and offer to immediately return their original investment minus any payments made to date. If Blackmore does not have sufficient liquid funds to do so, administrators should be immediately appointed to wind the company up in an orderly fashion and minimise the risk of loss by retail investors.

I understand the FCA is often unable to discuss details of ongoing investigations. However, it is not good enough for something to be going on behind the scenes when Blackmore Bond plc is still actively soliciting investors via Facebook and Google ads, who are blissfully unaware of any action the FCA may be taking or considering.

I will emphasise that I have no reason to believe that Blackmore Bond is in any financial difficulty, or is in any present danger of failing to make returns to investors. However, the financial soundness of a Non-Mainstream Pooled Investment is irrelevant when it comes to compliance with COBS 4.12. No matter their financial strength, all NMPIs by their nature have a risk of total loss, and should not be promoted to unsophisticated and non-HNW retail investors.

If Blackmore Bond does default on its bonds in the future (again, I have no reason to believe it will, I refer only to the possibility of default that is inherent in all corporate loan notes), there is potential for significant damage to the FCA's reputation should it emerge that it was aware of the systematic promotion of these bonds to retail investors, and took no action that would have prevented further retail investors from investing their money.

I look forward to hearing from you.

Yours sincerely

Sam Blanning BSc(Hons) DipPFS

Q108 **Felicity Buchan:** We have talked about the red flags and in particular on the contact centre. Why do you think multiple red flags, apart from the contact centre, were not picked up? Is that because of the siloed approach?

Andrew Bailey: It was two things. First, there was the lack of systems. As I said earlier, in my time the contact centre received 200,000 calls a year. There is a problem and the Connaught report is very good on this. The author of the Connaught report makes the point that you have to be very careful about hindsight judgments. Quite rightly, the FCA picked out the LCF calls for Dame Elizabeth and said, "Here they are". Dame Elizabeth said, "They are red flags", and she is right. The problem is that, at the time, they were in 200,000 calls and, as PA pointed out, there was no proper system for extracting that information.

Dame Gloster's findings include reference to an FCA ExCo letter from 2014 recorded that certain unregulated investments fell outside the FCA's "*regulatory grip*" and that these schemes conducted could be "*fraudulent or... highly speculative, with investors often not appraised of the high level of risk involved* ***and that attractive projected returns are extremely unlikely to materialise*****."**

“The FCA again reminds consumers not to invest in schemes being offered by firms that are not authorised by the FCA and that look too good to be true, like these ones.”

And referred to the FCA taking action…

‘…….before it inevitably collapsed’

Steward, like me and any other financial professional, knew that ‘too good to be true = inevitable collapse’

Andrew Bailey: The DES programme was introduced in phases and many phases were not delayed at all. The introduction of the DES programme ran from about the fourth quarter of 2017 to the third quarter of 2018, and quite a lot of the streams were not delayed. It was a progressive pick-up in the application of the new regime to firms.

I do not think this has really been opened up to argument. You can argue whether the fact that LCF was finally identified in September 2018 was a product of DES having been implemented or a product of something else. It is an open question. I am not sure it is hugely important to argue it, but there was no question that the FCA was becoming more effective at identifying these issues and dealing with them. It was too late, clearly, in that case.

This means that Bailey, Steward and Attwood knew about the issues with Blackmore BEFORE they knew about any of the issues with LC&F.

From: Paul Carlier [mailto:paul.carlier@live.co.uk]
Sent: 08 August 2019 12:51
To: Mark Steward <Mark.Steward@fca.org.uk>
Cc: Toby Hall <Toby.Hall@fca.org.uk>; Jane Attwood <Jane.Attwood@fca.org.uk>; John Dodd <John.Dodd@fca.org.uk>; Andrew Bailey <Andrew.Bailey@fca.org.uk>; Chris Hamilton (Press Office) <Chris.Hamilton@fca.org.uk>
Subject: Re: Your recent information

Good morning,
It is of no little concern that I've come across the Amyma website this morning, back up and running after a period of downtime.

And still marketing the same fixed return bonds. How is that possible given the information I gave you back in March 2017 and again in August 2018, when it was clear that you had ignored the first report I made?

And I have multiple witnesses, all prepared to testify and all highly qualifed financial markets experts, to them:

a) cold calling clients, (Their phones never actually rang. They only ever called out, and when they did, there was clearly no recognition by the customer of having encouraged a call given the amount of explaining they had to do)

b) claiming" their FCA registration was ‘in process’ if anyone dared to ask about their status,

c) telling pensioners “The returns are a fixed 8% and your principal is guaranteed by one of the world’s largest banks”

d) telling pensioners “Don’t worry, we won’t let you miss out on this opportunity. We will just put you down as sophisticated”

Any search of the clients that invested via them will have proven the lack of sophistication. Any 'secret shopper' or undercover exercise undertaken would have exposed all of the above.

There are no circumstances under which this firm should be permitted to continue operating, so can you please explain why it is they are?

It is further evident to me from this lack of action and your emails that you certainly did nothing in respect to my initial reports back in March 2017, and only lifted a finger to investigate after I reported them a second time, 18 months later.

I advised you that I had witnesses all of whom were higly qualified financial markets experts, I advised you what they were doing and I advised you that we were working in the office next door separated only by a glass partition meaning we could see and hear EVERYTHING. Everything they said to customers, all the high fiving when they caught some poor victim in their trap.

Yet you never once reached out to me to take statements, or come to our office and listen for yourselves. These are the most simple and obvious steps, yet you didn't take any of them, all further proving that you did nothing.

Please confirm or deny if you did act on my first report in March 2017 and, if so, what steps you took.

Regards

Paul Carlier

"A spokesperson at the regulator pointed out that Blackmore Bond nor the mini-bonds it sold were regulated by the FCA."

This is misleading at best, but in reality, given that this was intended for the public, and given all of that which we have covered, it presents a knowingly false impression to the effect that the FCA had no powers to act or intervene.

An FCA spokesperson said: "As a result of steps taken by the FCA, Northern Provident Investments, which had approved Blackmore's financial promotions for communication to the public, withdrew its approval, preventing the promotion of the mini bonds.

The FCA took this step in September 2019, five months after Blackmore was shut for new investment. To withdraw marketing approval for a product that can longer be sold, is shutting the stable door after the horse has not only bolted but has crossed the channel and is halfway across Europe.

To give the FCA legal powers to take action against issuers of mini-bonds would require an amendment to existing legislation and it is therefore a matter for parliament.

There is nothing misleading about this. This is an entirely false representation. The FCA does have the powers and it knows it.

The FCA spokesperson said: "In our mission [statement] we indicated we would be more likely to take action outside our perimeter where there may be fraud or the potential for the unregulated activity to undermine confidence in the financial system.

"In the case of fraud, this includes an authorised firm engaged in fraud, regardless of whether the fraud is carried out within its regulated activities or, in the case of an unauthorised firm, where the firm is carrying out regulated activities without approval and committing fraud.

Actually, a reasonable representation, but confirms that the FCA does have authority to act when it discovers an unauthorised firm carrying out regulated activities, or potential fraud, just as we have demonstrated in respect to Blackmore Bond and how it was being marketed.

"However, we do not have power to investigate a firm that is unauthorised and not carrying out any regulated activities, even if there are circumstances that suggest there may be fraud."

*In these cases the regulator said it **usually** refers the matter to a law enforcement agency with powers to investigate fraud.*

Firstly, the FCA falsely represents the regulatory classification of these activities, but then implies that it referred the potential fraud to law enforcement agency. However, they slip in the word 'usually', which I take to mean that they did not do so on this occasion.

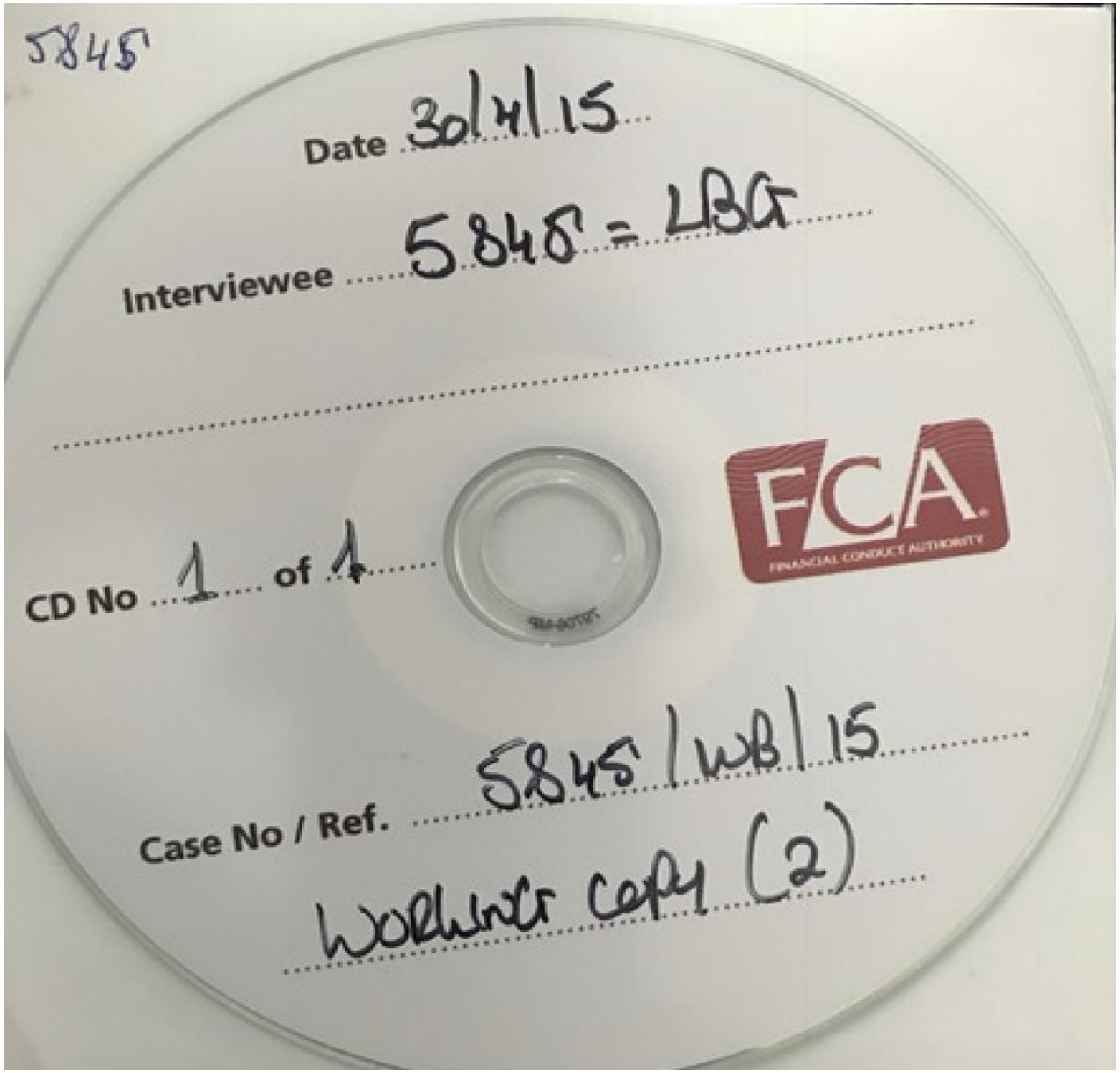
This is typical of legal word play we typically come across when dealing with lawyers representing large financial firms or banks. You do not expect it from a regulator.

And certainly not from a regulator whose former CEO, Current CEO and Current Chairmen have all recently testified to the Treasury Select Committee and the public, that the FCA is a much changed and much improved force.

Q88 **Alison Thewliss:** Do you accept the possibility that, had the contact centre policies been clearer and had there been adequate escalation procedures for staff for dealing with intelligence and third-party correspondence, the level of detriment to customers would have been less, had those procedures been properly in place?

Andrew Bailey: I hope it would. Yes, because that must be the right outcome.

Andrew Bailey: Can I say two things on that? One was a question of prioritisation in my first year or two. We did not introduce delivering effective supervision in a single big bang; we delivered it in phases. We prioritised tackling whistleblowing. The reason for that is that, if you read the Connaught review, the Connaught review was very critical of the FSA—well, the FCA, but really the FSA—on whistleblowing. There was a major problem on whistleblowing and the number of whistle-blowers was going up. It was about 1,000 a year by the time I left. We prioritised whistleblowing and that was the right thing to do. The Connaught review supports that.


5845
Date 30/4/15
Interviewee 5845 = LBG
CD No 1 of 1
FCA
FINANCIAL CONDUCT AUTHORITY
Case No / Ref. 5845/WB/15
Working copy (2)

BRODIE	That's just to give you an idea of.. of … you know kind've what we face on a day to day (inaudible). But this.. this information itself is interesting. I'm actually particularly, and I will be relaying this back to my ..erm ..colleague in retail bank supervision who looks after Lloyds because the whistleblower issue with Lloyds has been raised several times with them actually. I know there is a history of it. Erm.. there's a history of it from the independence of it from senior management. There's a history of it from the .. erm.. reporting aspect of it which is clearly what you experienced as well. And I think there's a very wide issue and certainly it's a focus within this building going forward from here… erm …and we have lots of issues around it and how firms are treating it. Erm .. but I know specifically that's .. that's.. something that she'll be very interested about this aspect. And that's certainly the kind of things that we will in the future be taking to firms and actually kind of bashing the firms around with a big stick to make sure that they do follow procedures correctly and it doesn't just go to the senior manager or it doesn't just go to an immediate stop where someone gets to adjudicate on it before it gets to the right level of committees…. (talking over each other)

FET1	Well, you .. you.. put the onus on them to ensure that their whistleblowing processes and procedures are… are… fit for purpose.
CARLIER	Yeah, and I think it is… because without it I mean … y'know .. as I say.. I mean the people I know at Lloyds who are now in that Catch 22 where…
FET1	Yeah
CARLIER	They were scared to come forward…
BRODIE/FET1	Ahem/Yeah … and…
CARLIER	They know…
FET1	And… and that's as a result of clearly that the y'know…
CARLIER	Breaches of the protections…
FET1	The system not being fit for purpose, because if it was….
BRODIE	Yeah, absolutely
FET1	Then employees would feel comfortable in going to their whistle team. They've got confidence, they know that y'know.. there going to be listened to, its going to be independent, as Andrew has said, but if they don't have that confidence then that's a reflection on the state of that .. of that.. particular system.

“In highly competitive markets, where clients are sophisticated, highly price-sensitive, with minimal requirement for market colour, AV may not be charged. Where AV is charged, for smaller, less sophisticated customers, it is limited to a set level.”

(AV= ‘Added Value’ aka ‘Mark Up’)

The policy is clear that pricing was targeted based upon the client’s awareness of the true price. And the ‘set level’ referred to was a high % ‘maximum’ level that allowed the sales persons to take mark up on a ‘whatever they could get away with basis’.

International services rates and charges

We offer a variety of ways for you to do business overseas. View a summary of the rates and charges for our international services below.

Sending and receiving money +

Currency accounts +

Cheques/drafts in foreign currency or drawn abroad +

Status enquiries +

Foreign exchange –

Transaction type	Charges
Spot transactions	No charge
Forward exchange contracts	No charge
Currency options	You will be advised of the charges when the service is provided

Post payment charges +

More rates and charges +

International services

Our comprehensive range of international accounts and services helps make international trading easier.

› Find out more

Trading internationally

Our business guides provide assistance with importing, exporting and making and receiving payments within Europe.

› Find out more

Arena

Arena is our comprehensive e-solution for businesses, combining foreign exchange and money markets trading with economic insight.

› Find out more

NYDFS (New York Department of Financial Services) Press Release May 20th 2015.

Additional Efforts to Cheat Barclays Clients

On numerous occasions, from at least 2008 to 2014, Barclays employees on the FX Sales team engaged in misleading sales practices with clients. Sales employees applied "hard mark-ups" to the prices that traders gave them without their clients' knowledge. A hard mark-up represents the difference between the price the trader gives a salesperson and the price the salesperson shows to the client.

As one FX Sales employee wrote in a chat to an employee at another bank on December 30, 2009, ***"hard mark up is key . . . but i was taught early . . . u dont have clients . . . u dont make money . . . so dont be stupid."***

The practice of certain FX Sales Employees …….. would allow Sales employees to add mark-up without the client's knowledge

Continued on next slide

Mark-ups represented a key revenue source for Barclays and generating mark-ups was a high priority for Sales managers. As the future Co-Head of UK FX Hedge Fund Sales (who was then a Vice President in the New York Branch) wrote in a November 5, 2010 chat:

"markup is making sure you make the right decision on price . . . which is ***whats the worst price i can put on this where the customers decision to trade with me or give me future business doesn't change*** *. . .* ***if you aint cheating, you aint trying."***

Barclays were fined $2.5bio for these and other FX wrongdoing, and forced to plead guilty to criminal charges in respect to them.

This is precisely what sales persons at Lloyds were encouraged to do, and it was written into a formal policy.

Fraud.

From: *Whistle <Whistle@fca.org.uk>*
Subject: RE: FCA Prescribed Persons Guidance
Date: *15 September 2015 12:11:59 BST*
To: *Paul Carlier <paul.carlier@live.co.uk>*

Paul,

The contact will be:

Greg Choyce, Head of Department for Advisory Counsel, FCA General Counsel Division
Telephone: 020 7066 3364
Email: Greg.Choyce@fca.org.uk

Greg has asked me to point out that at present the FCA are not willing to provide an opinion in this case, for various reasons, including that we do not currently hold an opinion which we could provide to the Tribunal and therefore there is no suitable individual at the FCA in a position to give an opinion. If the Tribunal contacts the FCA, we would explain this and our other points to them.

Regards

John Dodd
Senior Associate / Whistleblowing Team / Enforcement & Market Oversight Division

I note that in the closing of your email on 21 July 2015 to John Dodd, you mentioned: *'There is so much more I can expose here regarding these transcripts and this disgrace of a whistleblower investigation.' […] 'Rather than type them all up here, I would like to go over all of this with the Supervisory team and expose every issue these latest events expose.'*

I have reviewed the available evidence and identified the reasons why you might not have received a response from the Supervision team in particular, or a response to your email. As I mentioned, John Dodd duly forwarded your email to the relevant team and I could see that they considered the information you provided appropriately.

Horsley stated in his findings in respect to an attempt by two senior sales persons at Lloyds to defraud Tescos that:

"I interviewed Clive Jolin on 18 February 2015. Clive had no recollection of a heated discussion taking place or any reason to remember the incident".

To be clear, if a heated exchange between myself and sales had occurred behind Clive who sat next to me, it would entirely prove my version of events and the attempt to defraud Tesco's. The only reason that a heated exchange would be taking place at that time is if exactly that which I'd alleged had taken place.

WHEREAS, the transcripts PROVE that Jolin actually said was:

"I can't remember anything being as dramatic as this Tesco order mainly because, I guess, the discussion got quite heated, I guess, behind me."

Not only does this prove that Jolin remembered it VERY well (and this is 7 months after the attempted fraud that occurred on July 1st 2014 so clearly had every reason to remember it), but it proves that what Jolin actually said is entirely contradictory to that which Horsley falsey represented.

I have now placed your report on to the Action Fraud reporting system as is required for all reports of fraud in the UK. For your reference your crime report number is ***NFRC160701481206*** *and the password for the report is* ***XXXXX.*** *I have put your report to my senior managers at our weekly crime meeting where all new reports are discussed and where they make their decisions on how to proceed those reports. My manger (Detective Inspector Cook) has decided that we will not be opening a criminal investigation into Lloyds Bank at this time.*

As the matter has already been passed to the Financial Conduct Authority and they have decided that no action is to be taken then he does not believe that it is appropriate for the City of London Police to begin a full criminal investigation on offences, if proven, would probably sit better with the FCA

Hi Paul,

I can fully understand your disappointment and frustration. It has been a long journey for you. I spoke to the FCA and they confirmed that they would not be taking any further action on the disclosures that were made and the meetings that you had with them. For obvious reasons that is all we are told. Please pursue the matter and if I can be of further help please let me know.

(c) Paul's concerns about pricing and margins did not form part of his grievance appeal. They were investigated as part of Paul's whistleblowing complaint by Group Investigations. I was not therefore reviewing pricing and margin issues as part of the appeal. As an aside, I note that Paul would not have been aware that our Pricing Framework is shared with regulators and subject to monthly testing. Paul is entitled to his opinion however he would not have visibility of the cost allocation methodology within our pricing framework nor the level of visibility it has with our regulator.

Revealed: Lloyds' hidden fees for 'less sophisticated' clients

Kiki Loizou

Sunday May 08 2016, 1.01am,
The Sunday Times

Lloyds chief: Antonio Horta-Osorio
BLOOMBERG/GETTY

Lloyds bank is charging its small business customers hidden fees on foreign exchange deals as they are deemed to be "less sophisticated" than other clients, documents seen by The Sunday Times show.

From:
Sent: 16 May 2016 15:23
To:
Subject: Friday Email - LBG FX Fees Article

On 9 May 2016, The Times reported that LBG was charging hidden fees on FX trades to SME customers, following the leak of a pricing policy document.

It is possible that the policy was leaked by Paul Carlier, a whistleblower and former employee.

Regards

/ Wholesale Banking Department / Investment Management & Wholesale Markets Sub-Division
Supervision Division /
Visit our pages on MyFCAhub

From:
Sent: 20 May 2016 16:05
To: Tracey McDermott; Bailey, Andrew (Deputy Governor)
Cc: Andrew Whyte;
Subject: RE: Fx CEOoffice

Hello both,

Note on LBG FX fees times article

The firm has informed us that the leaked document was the 'Financial Markets - Pricing Framework' and it is possible that the policy was leaked by Paul Carlier, a whistle blower and former employee within the Financial Markets (FM) business.

- The Lloyds whistleblower policy itself and the fact that it:
a) Misleads all employees by stating that it is consistent with all applicable laws (PIDA is the only applicable)
b) Misleads all employees by stating that they are afforded protection under said policy
c) Misleads all employees by detailing precisely what employees are obliged to do; Simply 'Raise a concern' if you see conduct that breaches UK laws, regulatory codes or Lloyds own policies
d) Misleads all employees by stating that it is sufficient to raise these concerns with your line manager or other senior manager

I followed this to the letter as I was trained by Lloyds to do.
They then argued, only in the closing arguments rather than during the hearing so that it could not be contested by me, and produced precedent after precedent to support, that my disclosures were not protected disclosures in the first instance because I had not made them in the correct fashion, or had not made specific enough allegations etc etc.

Essentially, they trained me to blow the whistle in a manner that they knew was NOT consistent with all applicable laws, that they knew did NOT afford any protection to employees whatsoever, and that they knew would guarantee them a win in the event that any employee brought a whistleblower case to Tribunal or Court.

Their argument at the Tribunal was contrary to that contained in their own whistleblower policy.

IMPORTANTLY, and I cannot stress just how important this one line is, the policy tells employees 'HOW' to blow the whistle;

'Colleagues should report a concern about wrongdoing or malpractice to line management in the first instance.'

That's the only information in the whistleblower policy as to how an employee must make their disclosures so as to ensure that they receive the protection of law.

One line, but more important and more misleading than you can possibly imagine, and the line that means that every employee at Lloyds, and every employee of a bank or firm with such a policy based upon the Protect/PCAW model policy has no protection under law whatsoever.

Why? Because of this Employment Tribunal case law…..

16. A mere allegation that does not include a disclosure of information cannot be a protected disclosure: see **Cavendish Munroe Professional Risk Management Ltd -v- Geduld** [2010] ICR 325 in which a distinction was drawn between an example in which it is merely alleged that there is a breach of health and safety regulations occurring at a hospital, without any specificity as to the nature of the breach, as opposed to a disclosure that wards are not being cleaned and sharps are being left around that results in a breach of health and safety provisions. The latter includes a disclosure of information along with the allegation: the former does not. While it is correct that a mere allegation cannot constitute a protected disclosure, a disclosure of information together with an allegation clearly can.

17. In **Finchan -v- HM Prison Service** RAT/0925/01 Mr Justice Elias, as he then was, held, at paragraph 33, that in addition to there being a disclosure of information, there must be some assertion of a breach of a relevant legal obligation:

> "there must in our view be some disclosure which actually identifies, albeit not in strict legal language, the breach of legal obligation on which the employers is relying."

21. Accordingly, in assessing the disclosures factually we have considered so far as relevant:

21.1 Whether there was a disclosure of information

21.2 Whether there was, in broad terms, some assertion of a breach of a legal obligation

21.3 Whether, in the reasonable belief of the Claimant, the disclosure of the information tended to show a breach of the legal obligation.

21.4 For any disclosure made after 25 June 2013, whether in the reasonable belief of the Claimant the disclosure was made in the public interest

Your approach and understanding appears to be to provide comfort and encouragement to such people so that they come forward, and without regard for their wellbeing if they do.

This is utterly wrong.

This is knowingly creating the illusion to millions of employees that they have protection if they follow these policies as written, which most will do rather than call for advice, because these policies:
- State that they are consistent with relevant law
- State that employees have protection by law against retaliation or other detriment
- State clearly how they should blow the whistle so as to ensure said protection.

Every employee that blows the whistle faces the very real prospect of losing everything as you well know. So, your policy MUST first and foremost protect that employee and mitigate against EVERY possible detriment that they might suffer, and if it has to be legalistic then so be it.

Your model policy is misleading millions of employees and leaving them vulnerable.

However, worst of all is that they will trust the policy because of PCAW's (now Protect) supposed standing in respect to whistleblower law, and therefore you are knowingly leading them down the path whereby they will, without knowing it, be gambling their entire livelihood and the futures of their family and with little or no chance of justice should they need to avail themselves of the legal system.

The policy doesn't have to tell you how to sue if you suffer detriment, but it should tell you precisely what to do according to case law so that in the event that you do have to sue, you have not already prejudiced your case and guaranteed a defeat!!

Protect
Speak up, stop harm

SILENCE IN THE CITY

#SITC2

Liz Gardiner CEO of Protect (Formerly PCAW)

"We decided that, three years after the new whistleblowing rules were implemented by the financial regulators in 2016, it was time to revisit the sector and once again scrutinise the data to see what difference, if any, those rules made. Was it easier now to be a whistleblower? Were they better treated? Had the rules on employers made a difference to workplace culture in the City?

Our findings were revealing. We identified some real changes from our first Silence in The City report – with ***much more awareness and trust by employees in the internal whistleblowing arrangements put in place by employers****.*
But we also found much to suggest that the changes are only cosmetic. While our sample are whistleblowers who have self-identified as in need of advice - ***we were shocked to find that still 7 in 10 of those raising concerns were victimised for doing so and a third reported that their concerns were ignored****."*

The response from firms when whistleblowers reported to their employer that they had been victimised has been disappointing. While 75% of whistleblowers reported such behaviour to their employer, 58% of whistleblowers report that their employer ignored these incidents.

The Whistleblowing Rules calls for firms to be more proactive in dealing with victimisation. As a result of this, we coded each time a whistleblower reported acts of victimisation and the employer response to these reports.

We found that 75% of whistleblowers reported victimisation to their employers (defined here by acts that fall short of dismissal alleged to have come from either managers or co-workers) and 25% did not.

From here over half of whistleblowers (58%) stated that these reports were ignored by the employer. The next largest category of responses from employers was to deny the victimisation had occurred (24%).

Only 9% said that steps were taken by the employer to resolve or act on the report and we had zero situations where the victimisation was resolved.

RULE 18.3.9

The FCA would regard as a serious matter any evidence that a firm had acted to the detriment of a whistleblower. Such evidence could call into question the fitness and propriety of the firm or relevant members of its staff

Paul Carlier

Sent - Jupiter 87 15 March 2019 at 11:39

Hide

PC

URGENT COMPLAINT - Lloyds Banking Group & [redacted]

To: Karl.KC.Spalding@lloydsbanking.com,

Cc: groupexposureteam@birminghammidshires.co.uk, recteam@tltsolicitors.com, APPG Fair Business Banking, STompkins@rics.org, Matt Brewis, Adrian.white@lloydsbanking.com, damian.collins.mp@parliament.uk, [redacted] Tracey.Nugent@financial-ombudsman.org.uk

Good morning,
This is our formal, and URGENT, complaint to Lloyds Banking Group/Birmingham Midshires made on behalf of and with full authority of, their customer, [redacted] (Copied).

For the record, also copied are:

Adrian White - CFO Lloyds Banking Group
[redacted]
Sean Tompkins - CEO of RICS
[redacted] - Andrew Bailey's office (FCA)
Tracey Nugent - Financial Ombudsman Service
TLT Solicitors instructed by Lloyds Banking Group
Damian Collins - MP of [redacted]

Furthermore, and for the record, we were instructed by [redacted] to review her circumstances, financial position and her issues with Birmingham Midshires/Lloyds Banking Group last week, and a formal authority was provided by [redacted] to the bank this week, confirming that we could communicate with the bank on her behalf.

It is safe to say that we have barely scratched the surface in respect to this case, but that which we have discovered already is both incredibly disturbing in it's own right, but furthermore demonstrates that the toxic and dishonest culture within this banking group is very much alive and well, despite continued claims by the group to the contrary.

Before I outline the grounds of the complaint, I wish to formally put forward the following interim proposal and make this front and centre. A proposal that is an obvious solution but one that has, disturbingly, never been considered or proposed by the bank or the many property professionals at the bank that have been involved with this case over the years. This will feature as part of the complaint also.

Interim Proposal

1 - Mrs [redacted] be afforded the time to sell one (or more if necessary) of her properties mortgaged with Birmingham Midshires via standard process so as to achieve current fair market value.

2 - Mrs [redacted] solicitor will provide an undertaking that the proceeds from the sale/s will not only be used to pay down any mortgage secured on said property, but also used to pay down any and/all arrears across all mortgages with Birmingham Midshires.

3 - Mrs [redacted] will continue to keep up the regular monthly payments on all mortgages

4 - Birmingham Midshires/Lloyds Banking Group cease and desist from all further enforcement or collections activity whilst the property sale/sales are in train.

5 - Upon completion of the sale and removal of arrears, the bank and customer to continue dialogue and agree a way forward.

The proposal is both obvious and reasonable, and particularly relative to the course of action that the bank appears intent on. A course of action that the bank and their partners know will result in significant damage to Mrs [redacted]

Once again, we find it disturbing that such an obvious and reasonable proposal has never been suggested and has been completely ignored.

Complaint
Based on only the very limited information that we have to hand, attempts to contact the bank this past week and a disturbing but revealing call with Lloyds Banking Group yesterday, it is quite clear that Mrs [redacted] has been treated unfairly, that multiple breaches of FCA and other applicable regulatory codes, not to mention UK laws, have been breached and that she has been the victim of a sinister and unreasonable agenda put in place by the bank for their financial gain.

"You have copied FCA colleagues into exchanges which is how I have become aware of the matter.

I work in the recently formed CMC Department and have been asked to consider whether the assistance you are providing to Mrs XXXXXXXXXX could amount to the provision of claims management services under FSMA (as amended by the Financial Claims and Guidance Act). This isn't clear from the few exchanges I have seen as there are a number of factors to take into account before I'm able to take a view. I would therefore be grateful if you were able to provide me with some information about your arrangement in this case and whether you are assisting other individuals in similar matters.

The nature of the arrangement is probably the key piece of information, whether this is a formal arrangement and if there has been or if there is an expectation of remuneration for the assistance being provided. There are other factors to consider but these are likely to depend upon the capacity in which you are providing this assistance."

FCA fines Lloyds Bank, Bank of Scotland and The Mortgage Business £64,046,800 for failures in mortgage arrears handling

Press Releases | First published: 11/06/2020 | Last updated: 11/06/2020

The Financial Conduct Authority (FCA) has today fined Lloyds Bank plc, Bank of Scotland plc and The Mortgage Business plc (the banks) £64,046,800 for failures in relation to their handling of mortgage customers in payment difficulties or arrears. The banks have estimated that they will have paid approximately £300 million in redress. The redress programme is nearly complete.

Mark Steward, Executive Director of Enforcement and Market Oversight at the FCA said:

'Banks are required to treat customers fairly, even when those customers are in financial difficulties or are having trouble meeting their obligations. By not sufficiently understanding their customers' circumstances the banks risked treating unfairly more than a quarter of a million customers in mortgage arrears, over several years. In some cases, customers were treated unfairly, including vulnerable customers.

FCA acts to address unclear and excessive motor finance costs

We have found that the widespread use of commission models which allow brokers discretion to set the customer interest rate, to earn higher commission, can lead to conflicts of interest which are not controlled adequately by lenders. This can lead to customers paying significantly more for their motor finance.

In light of this, we are assessing the options for intervening to address the harm we have identified. This could include strengthening existing FCA rules or other steps such as banning certain types of commission model or limiting broker discretion. On 15 October 2019, we published an update on our work.

Key findings

- The way commission arrangements are operating in motor finance may be leading to consumer harm on a potentially significant scale.
- Some customers are paying significantly more for their motor finance because of the way lenders choose to remunerate their brokers.
- In particular, we are concerned about the widespread use of commission models, such as Difference in Charges (DiC), which link the broker commission to the customer interest rate and allow brokers wide discretion to set the interest rate.
- This gives rise to conflicts of interest and creates strong incentives for the broker to charge a higher interest rate, to earn more commission.
- Across the firms in our analysis (around 60% of the market) we estimate that such commission models could be costing customers £300 million more annually than under flat fee models (where there is no broker discretion).
- Our mystery shopping results raised concerns also in relation to disclosure of commission, and other pre-contractual disclosure and explanations.
- We are not satisfied that firms are complying with relevant regulatory requirements, including around affordability assessment.
- We will follow up with individual firms – both lenders and brokers – where we have concerns. However, we consider that change is needed across the market.
- We have therefore started work with a view to assessing the options for policy intervention in relation to commission arrangements.
- Subject to cost benefit analysis, this could involve consulting on changes to our rules to strengthen existing provisions or other policy interventions such as banning DiC and similar commission models or limiting broker discretion.

FCA FINANCIAL CONDUCT AUTHORITY

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www.fca.org.uk

Jim Fitzpatrick MP
House of Commons
London
SW1A 0AA

23 January 2019

Dear Mr Fitzpatrick

Our ref: 181220A

Your ref: ZA30120/RM

RE: Ms Julie Anne Davey

Thank you for following up on your previous correspondence of 20 December 2018 and for the extensive additional information you have supplied.

We welcome all the information provided by both you and Ms Davey. As I advised in my letter of 14 December 2018, we consider all the information we receive in developing our approach to the regulation of firms within our remit.

Our assessment of intelligence we receive about firms can result in a broad range of actions, deploying a range of investigative and supervisory tools as appropriate to the circumstance. We will, of course, consider the information you have provided in so far as it relates to potential misconduct by regulated firms. Unfortunately, legal considerations associated with the fair exercise of our powers, prevent me from setting out in detail what those next steps may be in Ms Davey's particular case.

In the interests of being fully transparent, I should also clarify that a number of the issues you have raised are in relation to firms and/or activities that are not regulated by the Financial Conduct Authority. For example, we do not regulate Baronsmead and, while we do regulate KPMG for certain activities, our remit does not stretch to their activities as insolvency practitioners. Likewise, we regulate many, but not all, of Lloyds Banking Group's activities. As I am sure you are aware, much of their commercial lending and banking activity lies outside of our jurisdiction. As such, we lack the power to investigate the full extent of these matters. That said, we maintain an open dialogue with other regulatory and law enforcement bodies and we often share information we think may be more appropriately handled by one of these agencies. Of course, in the event that information we receive indicates relevant misconduct by a regulated firm or individual we will consider carefully the appropriate action for us to take.

Thank you again for bringing these matters to our attention.

Yours Sincerely

Andrew Bailey

Andrew Bailey
Chief Executive

1. Lloyds ‘faked’ a default in September 2009 to justify the transfer of Angel Group to the BSU.

2. Lloyds unlawfully, and in breach of FCA & PRA regulations and AML legislation, did divert approximately £2mio of the businesses monies resulting from property sales to an Internal Lloyds ‘Wash’ account known as an MOA (Management Obligations Account). A type of account used in the HBOS Reading fraud.

3. whereas, the terms of a 2012 overdraft agreement specifically stated that the first £1.2mio of these property sales proceeds MUST be used to repay the overdraft on the regular business account.

4. In October 2012 Lloyds & KPMG forced the business into administration claiming it could no longer meet its payment obligations when they fell due. FALSE.

The day prior to when a £100,000 payment to British Gas had to be paid, the bank and its partners took £189,000 to settle multiple invoices. Internal emails prove that they had been feverishly getting everyone to submit invoices so as to take this money, leaving the business just short of the £100,000 required to pay British Gas.

Your account statement
Statement sheet number: **45**
Issue date: **15 October 2012**
Page: **1 of 3**

BANK OF SCOTLAND

ANGEL GROUP LTD
47 COLD HARBOUR
ISLE OF DOGS
LONDON
E14 9NS

L361827/PJ08137 1670 319/1/001218

Write to us at:
Bank of Scotland
PO Box 1000
BX2 1LB

Call us on: **0845 300 0268** (from UK)
+44 131 549 8724 (from Overseas)
Visit us online: **www.bankofscotland.co.uk**

Your branch: **33 OLD BROAD STREET, LONDON**
Sort code: **12-08-83**
Account number: **06030181**
BIC: **BOFSGB21257**
IBAN: **GB69 BOFS 1208 8306 0301 81**

CORP CURR ACC
ANGEL GROUP LTD

Account Summary

Balance On 9 October 2012	£1,159,991.75 OD
Total Paid In	£0.00
Total Paid Out	£196,313.53
Balance On 12 October 2012	**£1,356,305.28 OD**

Account Activity

Date	*Payment type*	*Details*	*Transactions (£)*	*Balance (£)*
9 Oct 12		**BALANCE BROUGHT FORWARD**		**1,159,991.75 OD**
11 Oct 12	Transfer	F/FLOW CMS CAMERON	31,223.96 DR	1,191,215.71 OD
11 Oct 12	Transfer	F/FLOW PAYMENT FEE	20.00 DR	1,191,235.71 OD
11 Oct 12	Transfer	F/FLOW KPMG LLP FE	27,865.20 DR	1,219,100.91 OD
11 Oct 12	Transfer	F/FLOW PAYMENT FEE	20.00 DR	1,219,120.91 OD
11 Oct 12	Transfer	F/FLOW BARONSMEAD - UNTITLED INVOICE NO	29,415.67 DR	1,248,536.58 OD
11 Oct 12	Transfer	F/FLOW PAYMENT FEE	20.00 DR	1,248,556.58 OD
11 Oct 12	Transfer	F/FLOW CMS CAMERON	18,820.29 DR	1,267,376.87 OD
12 Oct 12	Transfer	F/FLOW PAYMENT FEE	20.00 DR	1,267,396.87 OD
		F/FLOW CMS CAMERON	88,908.41 DR	1,356,305.28 OD

5. This left the business just short of the available funds required to pay the £100,000 to British Gas.

6. However, and more importantly, the bank knew there was £947,000 of monies belonging to the business in the internal wash account where it had been unlawfully diverted.

BANK OF SCOTLAND
Select Statement - 12088306060516

BOS RE ANGEL GROUP LTD
FAO MS JO HEYWOOD
LLOYDS BANKING GROUP
PRINCESS HOUSE
1 SUFFOLK LANE STREET
LONDON
EC4R 0AX

Branch Name: LEEDS
Sort Code: 120883
Account no: 06060516

account statement

BUSINESS ACCOUNT
BOS RE ANGEL GROUP LTD

Sheet: 12 Of 13
Date issued: 10/05/2013

Date	Activity	Paid out	Paid in	Balance
29Jun12				947,806.96
09Jul12	INTEREST (GROSS)		360.56	948,167.52
24Jul12	TFR F/FLOW CAMERON MCK		605,424.00	1,553,591.52
30Jul12	TFR F/FLOW CAMERON MCK		230,582.00	1,784,173.52
09Aug12	INTEREST (GROSS)		578.38	1,784,751.90
15Aug12	TFR F/FLOW CAMERON MCK		50,972.00	1,835,723.90
15Aug12	TFR F/FLOW CAMERON MCK		216,373.65	2,052,097.55
10Sep12	INTEREST (GROSS)		881.24	2,052,978.79

Fig 2. Non-redacted statements for the MOA, INTERNAL Wash account

The evidence to prove multiple counts of fraud, conspiracy to defraud and money laundering is overwhelming.

The bank, Herbert Smith Freehills have engineered entirely false representations so as to deny.

The FCA on behalf of both itself and Andrew Bailey have produced positions and representations that are entirely false in an effort to defend the banks actions, and also made extraordinary efforts to claim that deposit taking and other activities are beyond its perimeter.

Martin Kuzmicki of the Executive Complaints team that act on behalf of the CEO, in January of this year wrote, in an attempt to legitimize the banks actions in diverting the monies to the wash account:

"a bank may use funds held in an account with the bank to pay off debt ***if the account holder has agreed to it, or the terms of the account permits it.***"

Indeed, however, the facts and evidence we have and presented to the FCA, PROVES that the only agreement that existed determined that these monies MUST be credited to the Angel Group business account.
Kuzmicki was desperate to justify the banks actions, he has inadvertently confirmed that the actions were unlawful and breach of FCA codes.