



# Treasury Committee

House of Commons, Committee Office, London SW1A 0AA

Tel 020 7219 5769 Email [treascom@parliament.uk](mailto:treascom@parliament.uk) Website [www.parliament.uk/treascom](http://www.parliament.uk/treascom)

Nikhil Rathi  
Chief Executive  
Financial Conduct Authority  
via email

1 May 2024

Dear Nikhil,

## **Consultation Paper CP24/2: Our Enforcement Guide and publicising enforcement Investigations — a new approach**

The Treasury Sub-Committee on Financial Services Regulations recently met to discuss the FCA's "Our Enforcement Guide and publicising enforcement investigations—a new approach"<sup>1</sup> consultation. We have also noted your correspondence with the House of Lords Financial Services Regulation Committee.

Having done so, the Committee would like a response to the following questions:

1. Whether the FCA considered finding a method to publicise enforcement investigations anonymously until a decision has been made, thus preventing firms from having their reputation damaged unjustly should the investigation lead to no further action?
2. The consultation states that "There can inevitably be some time between the misconduct and harm [the FCA] identify, and the announcement of its resulting interventions and sanctions. Public concern about whether we are taking appropriate steps can develop in this gap." In your letter to the House of Lords Committee<sup>2</sup> you wrote that "investigations closed in 23/24 took an average of 43 months from our decision to open an enforcement investigation to closure". How much focus and resource is the FCA putting into speeding up investigations and enforcement to fix the root cause of this harm?
  - a. Do you agree that opening an investigation into a firm, and not concluding on that investigation until almost four years later, creates an unacceptably long period of uncertainty for companies which are being investigated?
  - b. In your letter to the Lords you wrote "We are committed to reducing the timelines of our investigations.[...] And we will improve our triage across our authorisations, supervision and enforcement teams to make sure that we are deploying all the tools available to us to resolve harm, enabling us to do fewer investigations at a faster pace. We expect to see fewer cases resulting in no further action as well as timely and impactful enforcement outcomes. We are already seeing the results of our sharper focus, opening fewer cases in 2023/24 than we have done in the preceding years."

How is reducing the number of investigations you carry out consistent with the ambition within your consultation paper to "strongly support our operational objectives, in particular securing an appropriate degree of protection for consumers and protecting and enhancing the integrity of the UK financial system?"

---

<sup>1</sup> FCA [CP24/2: Our Enforcement Guide and publicising enforcement investigations—a new approach](#)

<sup>2</sup> [Letter](#) from Therese Chambers & Steve Smart, Joint Executive Directors, Enforcement and Market Oversight, FCA, to the House of Lords Financial Services Regulation Committee, 25 April 2024

3. In your letter to the Lords Committee you explain that the US Securities and Exchange Commission, the French Autorite des Marches Financiers and the Swiss Financial Market Supervisory Authority all maintain privacy over their investigations. Can you therefore set out in more detail why you believe publicising enforcement investigations at the outset will improve the international competitiveness of the UK, and how it will make the UK a more desirable place for financial firms to do business, and list on the UK's stock market?
4. What work is the FCA doing to improve the metrics, and the communication of any relevant metrics it uses to measure enforcement action?
5. Under your proposals, how much preparatory work will be done on an investigation before a company is named?
  - a) Will the naming of an organisation require as much investigative work as is carried out by, for example, the police, before a formal decision to publicly charge a suspect?
6. Would these proposals be possible if the FCA was not able to rely on the legal immunity it is provided with under the Financial Services and Markets Act 2000?
7. What consideration has the FCA given to whether these proposals could place the ongoing viability of a firm in jeopardy, particularly for non-listed firms, and whether prudential or financial stability concerns would outweigh a desire to publish an investigation?
  - a. Do such considerations raise a risk of a two-tier or unfair system, in which some firms are named and others remain anonymous in light of such considerations?

In line with the Committee's usual practice, I will be placing this letter and your response in the public domain. I would be grateful for a reply by 15 May 2024.

*H. Baldwin*

**Dame Harriett Baldwin MP**  
**Chair of the Treasury Committee**