

Dame Harriett Baldwin  
Chair  
Treasury Sub-Select Committee on Financial Services Regulations  
House of Commons  
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7 May 2024

Dear Dame Harriett,

Thank you for your letter of 1 May 2024 about our consultation on publicising enforcement investigations, in which the Sub-Committee raises a number of important questions.

Thank you also for giving us your usual two week deadline for providing a response.

Given Ashley Alder and I are giving evidence in one of our regular accountability hearings with the Treasury Committee tomorrow and this issue will inevitably feature, I thought it would be helpful to answer the Committee's questions in advance. In line with general practice, my Executive Director colleagues leading on this consultation, Therese Chambers and Steve Smart, have responded to your detailed questions in the attached letter.

As the Committee has noted, our consultation has prompted a lively public debate, including comments from the Chancellor reported in the Financial Times last week about the relationship of our proposals to the FCA's secondary international competitiveness and growth objective and the particular context of financial services. The consultation closed on 30<sup>th</sup> April. We have not yet completed a detailed assessment of the extensive range of responses received. While there are nuances and some different perspectives, at a high level and as widely reported, the industry view as represented by trade bodies and law firms records generally strong opposition to what we are proposing. Industry concern has particularly focused on the implications of an increase in transparency on international competitiveness and growth of the financial services industry and reputational impacts. Consumer groups and groups representing retail investors have tended to view the proposals significantly more positively, with some calling for the FCA to go further. There have been supportive responses from those with experience of dealing with whistleblowers and some individual whistleblowers who have submitted responses. Certain law enforcement partners have also submitted supportive feedback.

We also recognise that the issues raised in our consultation are sensitive and can be emotive. We will therefore take several months to consider the feedback carefully and engage further with stakeholders, including the Treasury, to explore the concerns. As part of this, we will consider any evidence shared with us about the implications for international competitiveness and growth. We hope for a measured debate as this engagement continues.

The FCA is unique amongst domestic and international regulators with the range of objectives, breadth of coverage or accountability framework that we have. Our remit covers over 40,000 firms of all sizes from sole traders and individual financial advisers through to the largest global financial services firms, and we increasingly interface with big tech and social media firms too. We enforce on matters relating to breaches of consumer protection rules, financial services and market integrity rules more generally, fraud, anti-money laundering and financial crime, as well as competition and cartel investigations. We are taking on additional responsibilities in relation to digital regulation in fast-moving markets. We have taken cases on non-financial misconduct. We tackle unauthorised businesses.

There will be no system for considering the disclosure of enforcement investigations at an appropriate time that will give us full consistency with all our domestic and international regulatory and law enforcement partners.

We consulted on changes because the FCA, under oversight of our Board, no longer considers that our current approach of a presumption against disclosure of the fact of an investigation other than in exceptional circumstances adequately serves our primary statutory objectives or supports an appropriate degree of transparency and accountability, including to Parliament. We also consider that clean markets with more effective enforcement of proportionate regulation support competitiveness of the UK economy and wider financial services industry, including its reputation.

As recent independent analysis has shown,<sup>1</sup> the FCA is the regulatory body in the UK that is most scrutinized by parliamentary committees and we take our responsibilities to Parliament seriously. We therefore hope that a significant period of continued engagement on our proposals over a number of months will also give enough time for the Treasury Sub-Committee on Financial Regulation and the House of Lords Financial Services Regulation Committee as well as other parliamentary stakeholders to consider and share your views on the issues.

While we are clear that change and a degree of greater transparency are necessary, we remain open-minded on ideas as to how to address the issues we have identified. We aim to build a broad consensus and understanding as to how we achieve this so all parties can have confidence in our approach to enforcement. We look forward to discussing these issues in more detail with the Committee tomorrow and answering your questions.

Yours sincerely,



**Nikhil Rathi**  
**Chief Executive**

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<sup>1</sup> <https://www.instituteforgovernment.org.uk/sites/default/files/2024-05/parliament-and-regulators.pdf>