

The Rt Hon. the Lord Forsyth of Drumlean
Chair, Financial Services Regulation Committee
House of Lords
London
SW1A 0PW

11 March 2025

Dear Lord Forsyth,

RE: Transparency of enforcement investigations

I am writing to provide an update on our work following CP 24/2, *Our Enforcement Guide and publicising enforcement investigations – a new approach*.

We welcome the Committee's report published on 6 February and we are considering its contents carefully. We will provide a formal response to each of the recommendations made by the Committee in advance of the final policy statement, as requested.

As set out in correspondence to the Committee, and as recognised in the report, we have significantly increased the pace and focus of our enforcement work and will continue to do so. Five recent investigations closed with a public outcome in less than 16 months, compared to an average length of 42 months in 2023/24. The number of open operations has fallen by around 35% from 1 April 2023, down from 220 to under 140.¹ With a higher threshold to open an enforcement investigation, no investigations into regulated firms opened since April 2023 have closed with no further action. These improvements have been widely welcomed. We can provide reassurance that our plan is so far delivering at least the same number of, if not more, enforcement outcomes.

Alongside this increased focus and pace, we proposed, in February 2024, a measured increase in transparency to serve the public interest, in line with a recommendation by the Public Accounts Committee in July 2022. In response to strongly expressed concerns from industry groups and successive governments, we set out 4 changes to our initial proposals in November 2024 for further consultation.

We have engaged extensively and appreciate the constructive dialogue with the sector. The consultation closed on 17 February and we have rapidly worked through the feedback. We have also provided a data update in an annex.

¹ An operation can incorporate more than one investigation into a number of firms.

We are mindful of the concerns expressed that uncertainty about our approach might impact the investment climate. We are therefore providing clarity on our next steps as quickly as possible.

When giving evidence before your Committee, I stated that I hoped we would be able to find more consensus following the second phase of consultation, a point I also made in my letter to the Treasury Select Committee of 7 May 2024.²

While consumer and whistleblowing groups generally supported greater transparency, industry remains largely opposed to certain aspects – specifically publicising an investigation into a regulated firm carrying out authorised activity when a public interest test is met. Given the lack of consensus, we will not proceed with this and will therefore stick to our existing exceptional circumstances test to determine if we should publicise investigations into regulated firms.

We plan to proceed with the following aspects of our proposals, where there is broad support and much less concern:

- Reactively confirming investigations which are officially announced by others, typically market announcements made by firms themselves or sometimes announcements by a partner regulator. 22 out of 37 of our open investigations into regulated or listed firms are already public. But our current approach means that, even when the investigation is already public, we are generally not able to confirm or deny its existence.
- Public notifications which focus on the potentially unlawful activities of unregulated firms and regulated firms operating outside the regulatory perimeter – where desirable to protect consumers or to help the investigation itself. Around 60% of our investigations into firms relate to activities of unregulated firms, which are often frauds involving significant consumer harm, where we have no supervisory tools available.
- Publishing greater detail of issues under investigation on an anonymous basis, perhaps via a regular bulletin such as *Enforcement Watch*. This may help highlight more quickly significant areas of concern and where firms may consider making improvements.

Nine of the largest financial services trade associations recognised the value of these aspects of our proposals earlier this year.

We expect to continue to engage actively with stakeholders before publishing a final policy statement by the end of June, alongside an updated copy of our Enforcement Guide. We will respond to the Committee's recommendations in full before then, but given the public interest in this work, I wanted to update you as soon as possible.

² <https://committees.parliament.uk/publications/44667/documents/221908/default/>

We are also writing to the Treasury Select Committee with a similar update, given their interest in this consultation.

Yours sincerely,

Nikhil Rathi

Nikhil Rathi
Chief Executive

Annex 1: Data regarding open firm investigations

Our proposals on increased transparency related only to our enforcement work, not our supervision work. While many firms engage with our supervisory teams, this will only result in enforcement action in a tiny fraction of cases. Enforcement action typically follows an intensive period of supervisory engagement with many opportunities to resolve our concerns.

As of 5 March 2025, we have 105 open investigations into firms. This includes 37 into regulated and/or listed or publicly traded firms, of which:

- 22 are in the public domain (14 were made public by the firm, we made 6 public during the investigation stage and we made 2 public through our formal statutory processes around the publication of Warning Notice Statements and Decision Notices).
- We anticipate that investigations into 2 firms that are not in the public domain are likely to reach a public outcome by mid-2025.

In respect of the remaining 13 investigations that are not in the public domain, we have considered how we might have applied the public interest criteria that we consulted on to these cases:

- 7 are covert or involve sensitive information and we believe it would not be in the public interest to announce.
- 2 are cases where there may be public interest factors in favour of announcing but we consider it likely that any announcements would be on an anonymised basis also so as not to risk prejudicing a criminal investigation.
- 4 are cases where there may also be public interest factors in favour of announcing possibly on a named basis. All 4 were opened before April 2023 and have been subject to public supervisory action. 2 of these involve firms that were linked by a commercial relationship. There have been requests for information from MPs relating to 4 of the firms. 1 firm is now in administration. Developments in relation to 1 case may become public through court proceedings by mid-2025.