

Premier FX Liquidation Committee – Written evidence (FDF0037)

1. We are the Premier FX Liquidation Committee who represent the victims from the Premier FX scam which was discovered in July 2018 when Client transactions and payments worth £11.3M were stolen when the firm, an FCA authorised payments institution (API) ceased trading due to liquidity issues. We welcome this interest and opportunity from Baroness Morgan and the Committee as victims are rarely asked for their views. The fraudster Premier FX firm had been operating a Ponzi style scheme for more than 8 years while regulated by the FCA as an authorised payments firm and collapsed when the founder director died and the other signatories failed to attract sufficient funds to keep the scheme going. Despite the fact that the remaining family directors paid out circa £30m to their money laundering and tax evading clients in the weeks before the firm closed no one was prosecuted under any of the available laws ie the Fraud Act 2006, the Financial Services and Markets Act (FSMA 2000, 2012), Payment Service Regulations (PSRs 2009, 2017) nor banned from working in financial services.

2. The Fraud Act 2006 replaced the Theft Deception Act and looked on the face of it to be a straightforward statute of relevance. There were 3 new fraud offences: fraud by misrepresentation, fraud by failing to disclose information and fraud by abuse of position. Premier FX directors and shadow directors in addition to Barclays Bank officials who were the responsible officers for relations with their business customer Premier FX could and should have been prosecuted under all three offences. The problem for us is the FCA who regulated the firm claim they have no powers to prosecute fraud under the Act and the police had no appetite or skills for prosecuting our case or even banning fraudsters from working in financial services. Fraud is only investigated if an individual case is on an industrial scale and most cases are individually small but life damaging to the victim. The average fraud case is regarded as small and unimportant to the police and enforcement powers who only become involved if it is perceived as a threat to the stability of the financial system. This attitude places the impact of the crime solely on the victim which is depressing and costly to the victim and overall provides no consumer protection and no deterrent. Our case was regarded as too small and unimportant and the Serious Fraud Office or City of London police blandly said "it does not fit our remit " and refused to explain why. Barclays were banker to Crown Currency who committed similar offences to Premier FX in 2010. Premier had already banked with Barclays for 4 years at that point and according to ex employees and customers were already speculating with client money and unlawfully holding client money yet the bank did not red flag their activities and report them to the FSA/FCA. Instead Premier were first authorised as a payments firm in 2010 and failed from early on to operate safeguarding of funds and client designated accounts. Barclays have been fined £1.1m in February 2022 however in our opinion the bank will regard this as the cost of doing business and will commit these offences again.

3. Astonishingly, the FCA had re-authorised the Premier FX firm under the new payment service regulations 2017 on 23 May 2018 when the client accounts were not segregated and clients monies were flowing directly into the firms' accounts or to overseas accounts or being used to pay other people. There was an inadequate insurance policy of £20,000 and the accounts had not been audited independently for 12 years despite the firm transacting more than

£1.6BN. Furthermore, the firm was already insolvent and not fit for purpose and not complaint with PSRs 2009 or 2017. A total failure in due diligence, consumer care and money laundering protection checks by both bank and regulator leaving the public exposed to a fraudster firm. The amounts may look low: 244 victims, 167 accredited as claimants as 50+ victims were unable to provide sufficient evidence of their claim. Multiply 250 in multiple small to medium firms the figure becomes millions (we estimate 10m) people are being victimised and losing their savings and pension pots leaving them exposed and often dependent on benefits from the welfare state to survive or simply suicidal as reported in the two police reports on 11 March 2022.

Furthermore, we believe fraud is under-reported because :

- victims are scared to come forward or
- don't know how to report it
- are put off by the bewildering array of negative responses and slippery shoulders from the UK authorities and Police.

Fraud Landscape

4. We had to go to great lengths to get our money back and we know criminal offences were committed, namely

- The promotion and holding of client money in deposit accounts without appropriate authorisation and safeguarding
- Mis-selling and misleading customers on client security and regulation
- Fraudulently telling customers their services were covered by the Financial services Compensation Scheme and the firm held insurance for up to £5m
- The unlawful services were advertised on the firm's website and were in plain sight
- No director or employee was banned from working in financial services. Three of them still work in financial services two of them in senior roles in payment firms on the currency cloud platform licensed by the FCA.

5. The Police refused to help despite our case being approved by the National Crime Agency for investigation Victims of financial crime lack a central agency to deal with. Action Fraud are a customer help desk for sending crime reports only. The reports are sent to the National Crime Agency who are not customer facing and appear impossible to interact with. Surrey Police who were sent the PFX case to investigate said they did not want to carry out an investigation as they had insufficient skills and lacked a budget for international work. The Inspector of the economic crime team at Surrey Police which consists of 3 people further said to me they suspected that the majority of victims were money laundering and evading taxes. He made this challenging statement based on "Only 34 reports were filed at Action Fraud by PFX customers. I've been told by the administrators there are 244 claimants - where are their reports? They don't want to make them as they fear being investigated as to why they have large sums of money." The fact remains, I said, that 34 members of the public have filed reports of financial theft and they surely deserve to be investigated?. The legal directors of the firm lived 15 minutes drive from Surrey Police. They were not interviewed by the Police despite the theft of £11.3 m. Moreover, Surrey

Police took 5 months to tell the victims they would not carry out an investigation.

6. Despite letters to the Home Office and complaints nothing changed and no PFX director or Barclays employee has been banned from working in financial services nor faced any disciplinary action or criminal prosecutions. Three out of the 4 signatories still work in financial services: two are working in senior roles in payments firms on the currency cloud platform which is authorised by the FCA.

7. In the absence of a police investigation and any positive response to our case from enforcement agencies we had to work very hard to make ourselves heard and insert ourselves (uninvited) as stakeholders in a complex process operated by lawyers and insolvency practitioners to achieve an outcome which delivered the return of our money. We also stopped remaining client funds sitting in Barclays being squirrelled away into the liquidators' pockets. In this we were successful and persuaded the FCA to assist us. It took almost 4 years. Although our money was paid to us by the fraudster's banker Barclays under a negotiated settlement agreement where their fine of £1.1m was discounted by 30% for making a "voluntary payment" to the victims refunding 100% of our original principal we are not in the same place that we were before our money was stolen. First our money is worth considerably less than 4 years ago. Deductions were made for interest earned and foreign exchange wiping £52,000 - £100,000 off our principal and secondly the stress, inconvenience, frustration, despair and poverty of not having our money for several years, has not been compensated. Some of us were left homeless for almost 4 years because the funds from selling our only home had been stolen. The reality is no one in enforcement agencies currently gives a flying damn about victims of fraud and no agency wants responsibility for investigating fraud. This is the mountain the committee of fraud inquiry has to resolve in our opinion.

8. Our story is a good illustration of the terrible attitude to fraud, which was condemned in two recent police reports (Sky Crime News report 10 March 2022). Most victims never see their money again. The enforcement agencies are simply not interested in prosecuting fraud unless the case is huge in its own right. The sad reality is that the accumulation of individual fraud cases makes a mockery of democracy and fraud deterrence. The solution to this is not easy as the enforcement agencies will say individual cases are too expensive to investigate. Therefore the law has to be emphatic in its deterrence and regulators and fraud police supervised by an oversight authority with performance measurement metrics and powers to fire and change CEOs and fraud police commanders on an annual basis to bring a real change in attitude and bring proactive deterrence to fraudsters. Currently there is little to deter fraud.

9. Public trust in the policing needs to be restored and the rising tsunami of fraud and online crime tackled stated the Chief Inspector of Constabulary Sir Tom Winsor in his 10 Year review published 11 March 2022 'Report on the State of UK Policing.' Fraud is now the UK's most prevalent crime but police treat it as an " indefensible low priority" he said. "There is a tsunami of offending that can lead to catastrophic human suffering. It is an invisible and silent crime until an elderly person hangs himself in his garage or throws himself off a tall building". He added that fraud was now 53% of all crime but one police force failed to

investigate more than 90% of cases sent to it by the National Crime Agency/Action Fraud,

10. Part of the problem is the spectrum of legislation which affects how fraud and economic crime is reduced and prevented and it is fragmented and/or out of date and not working. For example the Fraud Act 2006, Computer Misuse Act 1990 and the FSMA doesn't give the FCA powers to prosecute fraud or criminal offences committed under the Acts. Who if anyone does have the powers when the Police have abdicated any responsibility in prosecuting fraud? Investigation and punishment is absent. The Online Safety Bill and Economic Crime Bill are welcome but again fragmented and appear to not be connected to other relevant legislation and taking a long time to be passed into law.

11. If It is unclear who if anyone has powers under the Fraud Act to prosecute there is no consumer protection. If the FCA were doing their job as custodian of consumer protection and prevention of market abuse they should be advocating a solution and offering expert help to the fraud inquiry committee. The FCA say they don't have powers and the Police say it is too difficult, requires forensic fraud skills which most police forces don't have and is too expensive with low success rates. The latter is due to the complexity of financial transactions which mask crimes and the speed of online scams where fraudsters move stolen money to overseas accounts making it expensive to trace. In our view the Fraud Act needs updating for the 21st century and combined with a new Cyber Offences Act and updated Computer Misuse Act to make it instantly an offence to solicit, steal or mislead customers into handing over their money whether by direct face to face contact or via digital/online media.

12. Fraudsters are on the ascent on an epic scale and if UK laws are not updated more swiftly it will become a national security threat if it is not already. Having checked the 'National Risk Assessment on Money Laundering and Economic Crime' (HMT Dec 2021) investment fraud (which includes payments fraud like PFX) is the highest amount of fraud in terms of value and **is the FCA remit**. The NRA perceive it as a threat to national security as fraud contributes to financing terrorists and other organised crime.

13. Online scams were the highest fraud crime in terms of numbers and the Online Safety Bill when passed into law may help here. However it will be policed by OFCOM who has digital and cyber skills however OFCOM have little experience in dealing with career fraudsters and cyber entrepreneurs. In fact, this is a serious problem in itself as skills in money laundering and fraud are in short supply in public agencies in the UK since the disbanding of the Police Special Branch in the 1980s and their move into counterterrorism. Forty years on there is dearth of trained officers to combat and investigate fraud and financial crime. The National Crime Agency and Serious Fraud Squad have a high turnover and appear to feel demotivated as they lack resources and skills to combat the fast moving tech savvy criminals. Graduates are easily recruited or lured into working for fraudulent schemes as they cannot find decent jobs and quickly learn the fraud trade and set up new fraud schemes from their living room or bedroom. Who would turn down an offer to work in organised crime if the alternative is low income, minimum wages and lack of prospects.

14. Unsurprisingly but still shocking a senior Treasury official told me no one in UK Government is interested in fraud unless it is big event and part of an international cooperation agreement where the Government will attract kudos

and positive PR for participating in an international crime investigation. He told me not to waste my time and get on with my life. Easy for the wealthy to say, however, victims don't have trust funds, wealthy parents and properties overseas to fall back on. They are often retired or ordinary folk who have worked hard and fraud devastates their lives and steals their well being and reason for living.

Action to Tackle Fraud

15. The public /consumers have little control or influence on how fraud is reduced and prevented, however, we the ones most affected by the crime and it is 52% of all crime. The FCA and National Economic Crime Centre have considerable insight due to information which is presented to them by victims and collated at the FCA or NCA.

16. There are MPs and other forces in Parliament trying to bring change and update the UK legislation, however, they need help from victims, enforcement experts and ex gratia help from big technology firms otherwise their effort will not translate into new or updated legislation. Big Tech could assist here in planning and organising software to help build a fraud prevention strategy.

17. Furthermore, the Treasury Committee (TC) asked for a figure or budget in June 2021 to allow the UK Financial Intelligence Unit to analyse more of the inert data collected. This is surely a welcome opportunity for the FCA/NCA /NECC to set out what they need. As you know the TC could be a significant ally in aiding the provision of resources and political support.

18. We have an unduly complex and fragmented financial crime legislation system that is trying to deal with sophisticated and costly fraud run by highly successful entrepreneurs and organised criminals. If the FCA, NCA and NECC don't provide the recommendations and budget for an effective solution - who will? Parliament, the civil service and national security agencies are failing or distracted in this area.

19. The PFX fraud is the third scam I have had to engage in since 2015 . All three have followed closely on each other from my parents being scammed by a POA - we won in the Court of Protection but the police failed to get the money returned due to lack of interest. Three months later I had the PFX scam and now since the closing of the PFX enforcement case I have found via a computer expert how my data including payments are available on dark websites. While the Police promptly contacted us they appear short of powers to intervene and access the hacker's computer with a warrant unless we are being physically threatened or theft has taken place. The Public are increasingly targeted like sitting ducks despite our best endeavours to stay safe.

20. Parliament is failing the public and the ones that do care are bogged down in the process.

HMT and the enforcement experts have abdicated responsibility for fraud. The revolving door of recruitment facilitates senior police doing time serving inadequate jobs in economic crime commandeer positions and 12-24 months later recruited by banks in high paid security positions helping banks help fraudsters. This surely has to be remedied, however, or democracy will be irreparably undermined by the nomadic super rich and their allies - the wealthy finance, law and accountancy firms in the city of London who have undue

influence in HMT and the FCA . If enforcement experts in the FCA, NCA and NECC don't intervene and redirect and help achieve real results it will only become worse. Relying on the Online Scams Bill which appears to be belief and intent of the FCA, will not be sufficient.

Legislative Remedies

21. To support or in addition to a new Fraud Act we recommend a new Regulator with powers of prosecution is created for small and medium payments and investment firms. Small firms are easy vehicles for fraud as they are not monitored adequately for consumer protection but are the backbone of the UK economy. Investment, financial and payment services firms are authorised every month by the FCA. The SME regulator should be independent and equal to the FCA with specific focus on consumer protection, regulation which is enforced proactively (not reactively) and anti fraud enforcement and powers to prosecute under a new Fraud Act.

Best Practice

22. Finally, an oversight authority should be created for the financial regulators and fraud police with powers to remove the chief executive and senior executives annually if they do not measure up against performance metrics.

This authority would be staffed with two financial academics with regulatory knowledge, two members of the public/victims, two MPs or Peers (and no recruitment from the following: magic circle of law firms, HMT, banks, city finance & accountancy firms).

It would help victims and the public if the unlawful behaviour by banks, regulators and failures by the police (as described above) is classed as a new statutory criminal negligence offence and failure to conduct their enforcement duties with due care and diligence in an act of Parliament to bring any hope of effective change.

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