

Written evidence from Premier FX Liquidation Committee [PPS0075]

1. We read with interest the comments made at the recent Work and Pensions Committee hearing (16th September 2020) and agree fully with the observations regarding the regulator, in particular the FCA. (Evidence from Tim Fassam of PIMFA, Margaret Snowden OBE President, Pensions Administration Board and President, Pensions Scams Industry Group and Andy Agathangelou of Transparency Task Force).
2. We are the Premier FX Liquidation Committee (LC) who represent circa 200 victims of a Ponzi scheme operated by a fully FCA authorised and registered payment services company called Premier FX (PFX) who operated through Barclays Bank as a tied agent. We would like to offer the following as evidence to your enquiries and welcome a discussion.
3. The value of misappropriated monies is circa £10.6M which we recognise is a small number in the world of finance but many victims have lost large sums of money resulting in some being made homeless and others losing their pension pots.
4. Your points regarding the current regulatory perimeter excluding too many high-risk products and the FCA supervision focusing on larger firms and missing the smaller firms, resonates well with our own circumstance of which both such failings are resulting in an escalation in the number of scams in the industry.
5. PFX were declared insolvent in July 2018 and went into Creditors Voluntary Liquidation in October that same year. Since then we (the LC) have established factual evidence of the levels of chosen neglect shown by both the FCA and Barclays Bank all at the expense of the innocent consumer. Such levels of neglect that make it so easy for fraudulent operators to scam the consumer, even under the regulatory authorisation of the FCA, which simply gives the fraudsters added credence in the eyes of the innocent consumer.
6. If I may give you just a few examples of the neglect shown by both the FCA regarding PFX, which perfectly supports your statement regarding the FCA focusing on larger firms and missing or excluding the smaller firms:

a. FCA Failings to Act and Decisions to Neglect Supervision of Smaller Firms

(1). Authorisation of PFX

- (a). Mr Andrew Bailey has replied to MPs letters that PFX were asked in 2018 *“if anything had changed from their previous authorisation”* (in 2011 & 2013) and said no further FCA verification/ checking took place.
- (b). In November 2018 Andrew Bailey and Maha El Dimachi stated that *“due to pressure to complete all the authorisations and re-authorisations of payments service institutions by January 2018 when the EU PSR 2017 came into effect, the re-authorisations were done online with one question asked ‘Has anything changed?’ and nothing else was checked”*.
- (c). This is a significant and a deliberate decision to dispense with due legal process, contrary to UK legislation. **The FCA first authorised PFX in 2013** when they were already trading insolvent and skimming off customers’ remittances, **so prime responsibility for the Ponzi scam rests here.**
- (d). **The issue of re-authorisation is also central.** It was granted on 23 May 2018, eight weeks before the firm collapsed insolvent and £10.6M of customers’ funds were stolen. If the FCA had intervened at this point during their legal verification of the firm's

suitability to be a Payments Institution, the founder director would still have been around to answer questions and the FCA could have prevented the large out flow of money which exceeded £28M in June and July 2018. Andrew Bailey told Helen Grant MP on 29 May 2019 that PFX did produce evidence that it met the five requirements for re-authorisation. Clearly, just saying “Yes, we meet the five requirements” is not the same as producing evidence and, given the state of the company at that time, it is hard to see that it could have provided genuine evidence.

(e). **We have asked the FCA to please explain how the authorised and re-authorised PFX was safely checked and verified as expected by the public and by parliament.** Customers were persuaded to hold their retirement funds in PFX when the FCA authorised firm did **not** have permission nor safeguarding guarantees to hold client money other than for onward remittance.

(f). The fraudsters knew the FCA were not performing any verification or monitoring, whereas the unsuspecting consumers followed the FCA Scam Smart advice and were misled by the FCA to believe that if the firm was authorised and approved, robust checks were taking place! (The FCA legal authorisation process is described in the FCA document: “Our Role under the Payment Services Regulations 2017 June 2019 V4”.)

(2). FCA Register

(a). On the 29 January 2019 Andrew Bailey made the following statement to the Her Majesty’s Treasury Select Committee when questioned about PFX and the FCA’s Register:

*“It was a legal requirement that the register exists, but it had been fairly neglected and did not seem to have a high priority in the institution and **things have come out of the woodwork that are not good.** Historically the register has not had the priority **it should have had.**”*

(Transcripts from HMTSC meetings with FCA)

(b). This is the ‘all important’ information link that gives the public an opportunity to check a company’s legitimacy and the confidence in who to deal with and not to deal with. **We followed this advice and, as a result of its neglect, we were still the victims of fraud.**

(3). FSCS

(a). The recognition by the FCA’s CEO of the fact that the Register has been so neglected has had a significant impact on PFX clients in that:

The web site’s PFX certificate confirmed PFX’s authorisation but stated that:
“It cannot be determined if FSCS cover would apply to this firm. Please contact the firm directly to understand whether their products/services would be covered by FSCS”.

(b). That the FCA has since confirmed that **it did know** that payment service providers (such as PFX) are **not** covered by the FSCS scheme. (Ref: email from Nikita Patel 31 July 2018 ref: FCA Query – 205446052. Also confirmed in a letter from the Treasury from Mr J Glenn to Barbara Keeley MP 23 October 2018 Ref: MC2018/16568.) **Therefore why did it not state that on the Register’s PFX web page?**

(4). Lack of information

On the authorisation certificate for PFX it simply states they are authorised and regulated for 'Money Remittance services' with no explanation as to what that means, what restrictions and impact it may have on the consumer.

(5). **Supervision**

(a). As the Regulator, there is a requirement for the FCA to supervise authorised companies and ensure they operate within their authorisations. The following is the FCA's defence for not actively supervising companies:

"The FCA is responsible for supervising the regulated activities of 58,000 firms with permission to undertake regulated activity in the UK. Our approach to the supervision of individual firms depends on their size, activity and the potential harm posed to consumers. The majority of firms, including Premier FX, are supervised on a reactive basis in response to evidence or intelligence of harm to consumers".

(Email dated 22 September 2018 from Nikita Patel, Associate, Consumer Contact Centre/Flannigan (Creditor).

(b). Yet they still failed to act on several significant 'red flag' pieces of intelligence:

(1) Financial irregularities reported by the Portuguese Financial Authorities.

(2) A customer of PFX alerted FCA in relation to severe concerns he had about the operations of the company.

(c). We now know that PFX had neither segregated accounts nor any professional indemnity insurance which suggests that PFX were not submitting their annual reports, of which both elements are an integral part of ten operational aspects.

(d). Basically PFX and similar companies are not supervised at all, not even on a reactive basis and thereby opening the floodgates to fraud and money laundering!

(6). **FCA Complaints Scheme**

(a). A significant number of the PFX victims have made written complaints to the FCA's Complaints Commissioner who has issued a monthly statement throughout the whole of 2019/20 simply stating:

"I am writing to update you on your complaint. We are making progress with our investigation of the matters raised, but are not yet able to conclude the investigation and provide you with our final response. I would like to apologise that our investigation has taken longer than we would like".

Clearly the complaints system is either not working or is being influenced or suppressed.

(b). Similar examples of neglect and lack of regulatory control have been identified with Barclays Bank who PFX banked with.

b. **Barclays Bank Failings and Complicity with a Tied Agent**

(1). **AML & KYC Responsibilities**

(a). An example of Barclay's Know Your Customer (KYC) and levels of due diligence are highlighted in the following correspondence received by Barbara Keeley MP from Barclays Customer Service Associate, Lisa Lines:

“Barclays simply operated the bank accounts of an FCA authorised business.”

Surely no bank should ‘simply operate’ a bank account, particular one that can be used so easily for money laundering or fraud, and processing upwards of £30M per month through their accounts.

(b). The following statement was in PFX’s marketing literature; it stated:

“Further security is provided by the fact that these accounts act as ESCROW accounts within Barclays Bank so are therefore protected up to £80K under the Financial Services Compensation Scheme.”

Barclays response was as follows:

*“As regard Premier FX’s claim that the segregated accounts were guaranteed by Barclays, Barclays is not aware of all communication between customers and their clients and did not approve or endorse this statement by Premier FX, **as it is inaccurate.**”*

The statement Barclays deny is a statement within the PFX marketing material, information readily available in any due diligence process!

(c). In that same letter Barclays also state they carry out ‘adequate’ client due diligence to meet its financial crime and regulatory obligations under the money laundering regulations. We would very much like to know what standard ‘adequate’ is and what documentary evidence exists that such a customer due diligence check was ever undertaken.

Such statements of denial clearly confirms the total lack of any, or even adequate, due diligence undertaken on PFX, and probably any other similar PI company.

(2). Barclays reluctance to support Administrator/Liquidator

(a). Throughout both the administration process (PKF Geoffrey Martin & Co, Administrator Peter Hart) and the liquidation process (Menzies LLP) Barclays proved extremely obstructive and reluctant to help or support in the Administrators’/Liquidators’ investigation.

(b). Of greatest concern is Peter McMahon, the Barclays Relationship Director and Account Manager, a key witness whose role it was to interface with PFX and ensure regulatory requirements were being maintained and adhered to. Immediately after the announced insolvency of PFX, Barclays placed him on ‘indefinite sick leave’ and prohibited access to him by the Administrator and Liquidator, issuing the following statement to the Liquidator:

“Information associated with Peter McMahon is the property of Barclay’s Bank”.

(c). Surely this questions Barclays’ integrity, transparency and willingness to support the detection of money laundering and fraud when it occurs.

7. Based on such evidence we believe the consumer deserves better from a regulator and major UK and global bank and victims, such as ourselves, have a valid claim against both the FCA and Barclays Bank for full compensation for our loss. Had both organisations applied the correct regulatory standards companies such as PFX would not be operating and the consumer would be better protected.

8. We have been informed by the Treasury that they cannot interfere with the workings of the FCA yet the FCA is an agent of the Government, given public duties, responsibility with accountability by Parliament and we cannot accept that any Government would be happy for a representative organisation such as the FCA to behave so badly and perform so poorly and leave Consumers so exposed.

9. A further example of the protections offered to the Banking industry by the regulator is the situation with Authorised Push Payments (APP). The Payment Systems Regulator (PSR) has chosen to ignore the recommendations of the Treasury Committee to retrospectively compensate from September 2016 (the date of the Super complaint by the consumer body Which) but the PSR has agreed retrospective payment from January 2019, another significant favouring of the Banks at the expense of the consumer.

10. We have 49 MP's supporting our case and we trust the Treasury Select Committee (TSC) and Treasury will recognise the validity of our case and put pressure on the FCA to compensate the victims of a crime which may measure low on the Financial Industry scale but extremely high to those who have lost their homes, life savings and retirement money.

11. Based on the above, are you and the Pensions committee willing to add your voice of support to our justified cause for full compensation and stricter regulatory standards which are *actually applied* by both the regulator and the Banks?

12. The current practice of the bankers and the FCA is to ignore regulations or apply due legal process so slackly it is merely a cost of doing business for the banks and their client fraudsters. The consumer is unprotected and simply prey under such a lawless regime which is completely contrary to what Parliament has legislated and what the unsuspecting public has been led to believe. The FCA is facilitating fraud and pensions scams by default and is too close to the City institutions to be effective.

13. Appeals to the City Minister John Glen have led nowhere. The SFO and Police refuse to investigate despite Police Commissioners saying they should. A senior Treasury civil servant advised us (off the record) that a policy decision has been taken within Government and the FCA to ignore fraud unless it is large and international and falls under obligations of the British government to comply with international finance agreements. After two years we realise we are wasting our time and money reporting and registering complaints to the FOS, FCA, Treasury, Police and insolvency agents as they all ultimately take their direction from the FCA.

14. The Treasury argue they cannot interfere with the FCA because the FCA is "independent" of government. The FCA, who are tasked with a serious public duty to protect consumers and ensure financial markets work efficiently for the benefit of the consumer are influenced by the City's interests *not the consumer*.

15. What can be done in the face of such blatant compliance with fraud? British citizens are unable to retire and forced into poverty late in life as their retirement money and life savings have been stolen by FCA authorised firms.

16. We are happy to discuss further / provide evidence to your enquiries and trust we will hear from you.

October 2020