

ASC Advisors LLC – Written evidence (EGC0031)

ASC Advisors LLC, a strategic communications firm based in the United States and representing investment advisor registrants, appreciates the opportunity to provide evidence in response to the Committee's request for information relating to the FCA proposal. We also submitted a comment letter to the FCA.

We applaud the Committee's review of the proposed rule and its potential impact. ASC Advisors has represented investment firms in dozens of regulatory matters around the globe since its founding over 14 years ago and has a unique view of the reputational impact such investigations can have on those managers, their investors, employees, prospects and the media.

The proposed rule represents a significant departure from FCA past practices. The proposed rule allows the FCA to issue a public announcement of the initiation of an investigation. Since the FCA has stated that their intent is to publicize the initiation of investigations, we must expect that they will seek widespread media coverage of the announcement.

The FCA proposal states that it would provide notice to the target of up to one day or no notice at all. This insufficient notice prevents managers from effectively communicating with key constituents, permanently damaging their reputations in the marketplace. Imagine, an investor calling a manager for information upon hearing the news of an investigation and the best answer the firm can give is "we don't know." Put simply, this is not due process.

Further, it is guaranteed that the initial announcement will be on social media and websites immediately and remain there forever, even if the FCA decides not to take any enforcement action. And, if an individual is named and later cleared, their reputations will be forever tainted on those online platforms.

Once announced and promoted by FCA, the reputational damage will have been done. Given the nature of these businesses, the repercussions of that public announcement would be severe. Investors will be harmed, funds dissolved, illiquid investment positions put under pressure, employees may flee and recruiting will halt. It may take months or years for the FCA to announce the conclusion of its investigation, and by that time, it will be too late. With past history as guide, irreparable harm is certain and this will lead to firm closures and job losses with catastrophic economic impact on those

individuals affected who may have played no role in the issues under investigation.

We firmly believe enforcement of regulations is critical for investor confidence in markets, and that the FCA is a respected regulator. However, the proposed rule, in our view, will cause more harm than good.

If we can assist the Committee in its inquiry, please let us know given the importance of this proposal to the industry and its constituents.

11 October 2024