

Question Set F, for other stakeholders

Please note all of these points before answering:

- If you have any questions contact Andy Agathangelou by [Email](#)
- Only reply to this question set if it applies to you
- This Call for Evidence is being handled by the APPG's [Secretariat](#) and support staff, who will collate the evidence and provide it to [the APPG's members](#).
- Respondents' information will only be shared as necessary to enable the successful completion of the exercise and it will not be shared beyond the scope of this Call for Evidence.
- Please note that we ask respondents to only give evidence that they are free to provide. It is entirely the responsibility of the respondent to ensure they take into account any agreement(s) they may have entered into.
- Respondents may choose to skip answering any of the questions if they wish.
- It is for each respondent to decide whether their name and/or their responses are put into the public domain.
 - Do you give permission that your name is put into the public domain?
 - Yes J
 - No
 - Do you give permission that your response is put into the public domain?
 - Yes J
 - No

The process to follow

Once you have downloaded this document and answered the questions that you wish to, and having first saved your answers Email your completed document to the Chair of the APPG's Secretariat Committee, Andy Agathangelou, who can be reached by [Email](#).

Timelines

We would like all written responses to be provided by 5pm on Monday 6th September, please. If you may require longer than that, liaise with Andy Agathangelou.

Other important points to note

Please note that:

- This exercise is about gathering evidence on what people think about the FCA; it is not about providing any assistance, guidance or advice on any case a respondent may have against the FCA, or any other entity.
- Respondents are asked to only provide answers to the questions given
- Respondents are asked to not provide any supplementary evidence or documentation
- Respondents are asked that their written response does not exceed 10,000 words in total

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Name: Peter O'Donnell

Address including postcode: **Redacted**

Email address: **Redacted**

Mobile telephone number: **Redacted**

Questions.

1. Please tell us about yourself and outline, just briefly to begin with, how you came to interact with the Financial Conduct Authority?

I was a victim of investment fraud in 2002 when a good friend of mine introduced me to an investment opportunity with a firm of chartered accountants in Leicester known as Dobb White. He then introduced me to a bank manager from a high street bank based in Scotland, who recommended the investment and how to raise funds through an equity release interest only mortgage with him. He arranged borrowing through a broker in Northampton. My wife and I discussed it and decided to go ahead. Two weeks after transferring the funds, an article in a London paper advised that the two partners in Dobb White had been arrested for operating a Ponzi scheme. It was later reported that they had stolen over £125m. Several years later, they received sentences of 7.5 years. The bank manager was not implicated and was immediately retired by the bank. From this experience I sought help and took legal action against the bank. I was not successful, but it did lead to the introduction of several professionals in the debt management and recovery field. From that I promoted claims for a law firm in Preston but joined what was to become a law firm, as an owner and director, specialising in helping victims of investment fraud.

2. What is your interest in, or connection with, the FCA?

I was referred to the FCA by one of the solicitors at the FSCS because of the work I had done supporting their efforts to stop regulated companies phoenixing as new IFAs or claims management companies. I had a video conference call with them and exchanged many emails. Mainly to do with phoenixing but especially their role in regulated companies that become insolvent after losing complaints adjudicated by FOS.

3. Briefly describe the interactions you have personally had with the FCA.

Acting as a director of a firm of solicitors specialising in acting for victims of regulated financial adviser mis-selling investments. In particular, trying to understand the relationship

between the FCA and firms or their directors, not being held to account for mis-advising clients to transfer their pensions into scams.

What I have discovered is that once insolvent or on application, a regulated company is no longer held accountable to the FCA, as they are no longer regulated. In fact, there is no agency or body responsible for what was done when they were regulated. It falls on their victims and the insolvency practitioners (IPs), if appointed.

IPs are not trained or required by their regulator, company law or insolvency law to consider those persons who were advised to risk their pensions or cash in high-risk, unregulated and often collective investment schemes, designed to fail and hide their misfeasance in insolvency.

The FCA has no requirement to hold individuals to account, only the regulated companies, Once insolvent, authorisation to operate as a regulated entity is removed and the firm, plus it's directors and staff are of no interest to the FCA.

No one supervises IPs other than their regulators, which means their own industry "marking their homework".

Late last year the FCA issued a consultation paper on guidance for IPs of regulated firms. I responded in detail. The guidance was issued in May but has no teeth because the FCA has no oversight of IPs.

This creates the opportunity for bad IFAs to mis-advise clients to invest and generate significant secret commissions from investment providers without fear of either being caught and in full knowledge that IPs won't investigate or report them.

I have tried to point out this significant anomaly to the FCA and insolvency regulators, as well as the Insolvency Service. No one is interested. In fact, I reported seven IPs, after I informed them in writing, for not investigating directors of formerly regulated companies for what amounted to fraud or dishonest assistance, via the Insolvency Service complaints gateway. All were rejected and not sent to respective insolvency regulators.

4. In broad terms, what have your dealings with the FCA been like?

Trying to effect interest to lead to change to overcome the huge gap between the role and responsibilities of the FCA and insolvency to investigate.

5. Have you experienced situations where interacting with the FCA has been helpful to either yourself or others? If so, please explain what made the interaction(s) helpful.

No. I found them to be argumentative, protective and unempathetic to issues they deem as not within their remit.

6. What are your thoughts on whether the FCA lacks the powers that it needs; or conversely, that it doesn't make good use of the powers it already has?

From my experience only, there is definitely a strong desire to not get involved in bad behaviour by regulated persons mis-advising retail clients to invest in scams. Neither are the

scams investigated after being reported. The FCA, FSCS, Pensions Regulator, POS, FOS, Insolvency Service, police, SFO, NCA and PRA all operate in bubbles with very limited coordination between them. This means that each could fulfil their remit and allow fraud to go undetected and unpunished.

Unlike the USA and Australia, for which I have experience, there is no over-arching agency or laws to identify and investigate bad actors in financial services. For instance, no FBI or SEC. In the US there is the federal crime known as Wire Fraud. A federal crime that requires a person not to misdescribe an investment and in so doing, obtain money by deception. It carries a mandatory jail sentence of up to 30 years. This “white-collar” law has no equivalent and no body interested in either investigating or holding, especially regulated persons, to account. The FCA is not the SEC, as it has much less scope and powers.

A good example is the successful case against the directors of Avacade and Alexandria Associates. They have been found guilty under S.21 of FSMA 2000 for advising retail clients to invest, a regulated activity, for £91m. They have been fined £10.7m. Whereas, the IFAs and pension companies that approved transfers and promotions of unregulated investments to retail clients, and received secret commissions for so doing, have had their companies liquidated with no punishment or even removal of authorisation to be FCA regulated.

7. Have you experienced any difficulties or shortcomings in your interactions with the FCA?

Yes, as mentioned above.

8. Have you experienced the FCA being reluctant to give clear answers to questions?

Yes. Direct questions get responses that are obtuse and dismissive. As if how could a director of a firm of solicitors understand the nuances and responsibilities of the FCA.

9. What is your perception of the culture of the FCA, and what do you think of it?

“It is not our role or within our remit to be responsible or investigate” encapsulates that is used to dismiss enquiries of inaction or disinterest in matters where regulated persons lied to clients for personal advantage, resulting in lifetime financial and psychological damage to individuals. Or, “clients of regulated firms have the Ombudsman service to complain to if the firm they have a problem with dismisses their complaint”. And if the firm becomes insolvent, there is the FSCS to obtain financial redress. The Ombudsman takes up to five years to adjudicate a dispute. Once a firm becomes insolvent, complaints are passed to the FSCS, which has a totally different method of handling complaints and far less to pay compensation

if upheld; £355k compared with £85k. FOS can consider complaints regarding investment promotion. The FSCS can't. And many other anomalies.

10. Have you ever complained officially about the FCA; if so to whom? What happened, and how do you feel about what happened? What feedback, if any, have you had about your complaint? How helpful was the feedback? How long has it taken for your complaint to be processed?

I have never complained officially about the FCA. I have done so about the FOS.

11. What do you think about the possibility of conflict of interest issues at the FCA?

I believe there is a considerable amount of conflict of interest at the FCA. Firstly, other than what I consider a token non-financial services background director, all are "members" of the financial services club. There appears to be disinterest in the personal harm done to hundreds of thousands of ordinary people in the UK by bad regulated actors. It always seem to other agencies role to investigate and act. The example of Avacade above is typical. In Australia, there is a board of management from non-financial services industries, that has oversight of the boards of the equivalent to the FCA. This is essential to remove bias and poor behaviour based on culture of banking and finance view of providing financial services to retail clients. Why aren't individual IFAs held to account instead of the companies they work for? Bad IFAs and company directors keep their regulated status and continue to work in the industry whilst their victims suffer life-changing harm.

Another recent example is the FCA now regulates claims management companies and the companies CMCs act against, regulated financial advice companies. The FCA does not regulate solicitors who provide the same service. This is he equivalent to the police arresting, charging and judging those found to be accused of breaking the law.

12. Do you believe there should be spot checks by the FCA on regulated and/or unregulated entities, perhaps similar to the spot-checks by VAT inspectors

No. I believe there needs to be a root and branch change to ensure that both the FCA and actors involved in financial services firms, especially including insolvency practitioners and the Official Receiver, be undertaken. The FCA and associated bodies are not "fit for purpose" and should be radically changed bottom up to reveal bad behaviour and be able to punish those who use the regulations that apply, regardless of who creates them.

13. What positives are there about the FCA that you would like to comment on?

I can't think of any.

14. If you could change three things about the FCA, what would they be?

- a. Investigate how fit for purpose the FCA is in protecting UK citizens of financial misbehaviour. The apply what is found to be bad practice and reorganise and replace management, including board of directors, with less biased competent people with a much better attitude and culture.
- b. Provide an oversight of the FCA with power to change and react to poor performance, keeping in mind one thing, protecting the people and enabling better financial services for all.
- c. Create a separate agency, with similar powers and investigation the equivalent of the FBI and SEC in America.

15. The FCA is undertaking a Transformation Project. Do you have any comments to make about that?

I can only believe it will more far more cosmetic and progressive given past performance.

16. Are there any other comments that you would like to make?

There is the strong possibility that the banking and finance sector has too much power and influence over government and politicians for change to be meaningful.