

Question Set F

For other stakeholders

Please note all of these points before answering:

- **If you have any questions please contact Andy Agathangelou, Chair of the APPG's Secretariat, at 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.**

The process to follow

- **Select the question set that relates to you. You may respond to more than one question set if you have different experiences of contact with the FCA.**
- **Download it, as a Word document, and save it on your computer.**
- **Provide your answers after each question.**
- **Please leave blank any questions that don't apply to you or that you do not wish to answer.**
- **Save the completed document on your computer.**
 - Please email it to Andy Agathangelou, by 5pm on Monday 6th September, at Email

Other important points to note

- 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.

Question Set F

For other stakeholders

Your Details

Name:

Andrew Kaye

Company/Business (if applicable):

REDACTED

Address including postcode:

REDACTED

Email address:

REDACTED

Mobile telephone number:

Permissions

- Do you give permission that your name is put into the public domain?
§ Please enter Yes or No. ...**Yes.....**
- Do you give permission that your response is put into the public domain?
§ Please enter Yes or No.**Yes..**

Questions

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

We are Europe's leading escrow service, and accordingly FCA authorised and regulated as a Payment Service Provider, so that we can remit payment.

Escrow is the only payment method that fully protects both a payer and a payee simultaneously.

Escrow is a must have for online marketplaces, to ensure that their buyers obtain everything they were promised by the seller, whilst simultaneously ensuring that their sellers are paid 100%. Use of escrow eliminates fraud and problems.

The Payment Services Regulations 2017 introduced into law from early 2018 the requirement for virtually all online marketplaces to register with the FCA as Payment Services Providers (Money Remitters), as the online marketplaces received payment from the sellers and passed these client-money payments on to the buyers.

The new law also mandated the FCA to ensure that online marketplaces were not handling payment whilst FCA-unregistered.

Only a very few online marketplaces were exempt from the new law, either because they did not handle payment (such as AutoTrader), or because they were the subject of an exclusion (the Commercial Agent Exclusion or CAE), but the CAE is very narrow and in reality applies to hardly any online marketplace.

The FCAs own research showed that hundreds of online marketplaces as a minimum should be captured under the new law and require FCA registration.

However, after the law came into force, the FCA registered almost no online marketplaces, and continues to look the other way whilst these firms handled and still continue to handle payment whilst unregistered with the FCA in breach of the law.

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

Our firm is an FCA authorised Payment Service Provider.

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

After corresponding with the FCA, it became apparent that the FCA were not and are not interested in applying the new law, and would not take active steps to ensure that online marketplaces were not handling payment illegally under the Payment Services Regulations 2017.

We took out a Judicial Review to try and declare that the FCA was in contempt of its obligations under the Payment Services Regulations 2017.

However, the manner in which Judicial Review is set up leads to the onus being placed heavily on the challenging party, and the FCA were able to convince the Judge that simply by having a website form up where the public could report cases of online marketplaces handling payment when not FCA registered, was good enough for the FCA to fulfil their mandate to prevent such practice under the law.

And this was ruled even though one of our directors personally used the form against several online marketplaces, and the FCA took no action and continues to take no action against those online marketplaces who are remitting payment in breach of the law.

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

Frustrating.

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.

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?

Not only does the FCA have powers, the law itself (the Payments Service Regulations 2017) mandates the FCA to use those powers by law, but the FCA refuses to do so and looks the other way in breach of the law.

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

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

Yes – trying to obtain clear disclosure from the FCA is next to impossible.

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

Our perception is one where the FCA is disinterested in applying the law as passed by Parliament and in force in the UK, and instead continues the status quo which the FCA is comfortable with.

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?

See above.

The feedback took the form of a sustained denial of there being a problem, and there being a problem today – even as the law is continually broken ongoing, continuing to today and tomorrow.

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

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

The FCA refuses to engage or consider most unregulated entities.

The FCA's whole focus is on regulated entities.

And so unregulated entities are the weak link in the FCA toolkit, which causes repeated failure for the FCA.

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

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

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

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

~~ END ~~

Thank you