

Kevin Hollinrake MP
House of Commons
London
SW1A 0AA

28 January 2019

Our ref: SA190110A

Dear Kevin,

Thank you for your letter of 8 January 2019 sharing the APPG's concerns. You raise a number of points, some of which we have already addressed in previous correspondence. In order to ensure I cover all of your questions, I have set out a response to each in turn below.

RBS GRG Phase 2

As I said in my letter of 17 September 2018, given the seriousness of the issues identified by the Skilled Person, we decided that it was appropriate for the FCA to undertake further work itself, including conducting a focused investigation. This approach meant we have been able to use the FCA's statutory powers to gather information (for example through compelled interviews with GRG senior management), rather than relying on RBS' general obligation to co-operate with its regulators under Principle 11.

It also meant that, if we had pursued disciplinary action we could have done so without the delay that would have come from first engaging a Skilled Person.

On 31 July 2018, we published a statement on the FCA's further investigative steps in relation to RBS GRG. We also said we would publish a fuller account of our findings, to the extent permitted by the law and after allowing for any 'Maxwellisation' process.

As I indicated during the Treasury Committee Accountability hearing on 15 January, Maxwellisation of the fuller account has commenced. The deadline we have given of 21 days for providing representations will take us to the first half of February. The FCA will need to carefully consider any representations made as part of the Maxwellisation process before we can publish the fuller account. The FCA will publish the fuller account as soon as possible, but we are unable to provide a precise date at this stage as it will depend, in part, upon the extent of any representations which we receive.

The Griggs Review

You ask about LBG's response to the matters raised in your letter of 30 July 2018. I understand that Lord Blackwell wrote to you setting out his response to your letter and that representatives of LBG met with you to respond to the concerns that you raised.

I recognise that these responses have not assuaged your concerns or those of some customers in the review and I agree that it is of vital importance that the Griggs Review delivers fair outcomes to customers. That is why I welcome the decision to commission an independent quality assurance review led by an individual with senior legal experience. As I noted in email exchanges of 11-14 January, it is essential that this review commands the confidence of stakeholders.

In response to your Question 4, I can confirm that the FCA was consulted on the choice of Independent Reviewer for the Griggs Review but did not approve the scope and methodology for review and redress. This reflects the limited powers we have to supervise commercial lending, an unregulated activity.

You also ask who within Lloyds Banking Group has explicit responsibility for the Griggs Review under the Senior Managers & Certification Regime. I can confirm that this individual is Juan Colombas, Group Chief Operating Officer. We regard his responsibilities in respect of the Griggs Review to be to ensure that the review is properly set up and adequately resourced, to ensure that Professor Griggs has unfettered access to the information, documents and individuals he requires in order to fulfil his role, and to ensure that his work is subject to no undue interference or restriction. We consider that this also applies to his responsibilities in relation to the independent quality assurance review. We do not consider, however, that he is accountable for the individual decisions and outcomes of Professor Griggs or the QA review – those are rightly matters for which the reviewer must hold ultimate accountability.

In relation to your query regarding whether the FCA will carry out an investigation under SMCR, I refer you to my letter of 14 December 2018, where I made clear that, as a general principle, we do not disclose whether firms and individuals are under investigation, or details of our decision-making about possible investigations. That general principle stands and I am, therefore, unable to give you a different response to that which I have already previously provided.

In response to Question 7 regarding the inclusion of Griggs Review cases in the proposed SME dispute resolution scheme, I agree with the position outlined by the Chancellor in his letter to Stephen Jones of UK Finance on 19 January 2019 that the scheme should not seek to re-open complaints that have already been settled under a previous redress scheme. In our view, this would include Griggs Review cases. But, this view is of course supported by the fact that there will be the independent quality assurance review.

FCA HBOS Reading Investigation

The investigative work is drawing to its conclusion and the investigation team is considering the findings. Until that process is completed I am unable to comment on the outcome of the investigation and what, if any, action is appropriate. Whilst I cannot give you a deadline by which this will be completed, I would like to reiterate that the investigation is a priority for the FCA and we are committed to concluding this work as soon as possible.

The Dobbs Review & Sally Masterton

In your Question 10 you query whether the FCA will ask LBG for assurances that the findings of the Dobbs Review will be released to the public. We understand that Dame Linda Dobbs expects to complete her review in the second half of 2019. We will review her findings closely. LBG has also committed to sharing her findings with the Treasury Select Committee. In my view, LBG must be open in all matters relating to the Review.

You also ask whether we will make a formal request to Dame Linda to release interim findings. Dame Linda's work is entirely independent and so whether to do so is entirely a matter for Dame Linda herself.

You have queried whether the FCA will be carrying out investigations of HBOS Reading related events between 2009 and 2017 and in relation to Mrs Sally Masterton. I refer you to my comments above on the FCA's approach to disclosure of investigations. I am similarly unable to provide any further information on this matter, but please rest assured that we consider all information we receive in developing our approach to the regulation of firms and where there is evidence of misconduct and we have jurisdiction we will take the appropriate action.

SME compensation scheme

Regarding SME dispute resolution, the FCA's focus is on the appropriate use of our powers to decide who should be eligible for the Financial Ombudsman Service's (FOS) compulsory jurisdiction (CJ). The SMEs who will become eligible for the FOS in April are those who, in our view, are most likely to struggle to protect their interests in disputes with firms and, as such, have a justifiable right to access the FOS. Our consultation on the eligibility criteria did not receive compelling evidence that, generally, businesses above the proposed thresholds should also have this access.

However, we recognise that there may be exceptions. For example, relationships between very large firms, such as retail banks, and SME customers who are not eligible for the FOS may exhibit a greater imbalance of bargaining power than relationships between smaller firms and the same SME customers. This imbalance is likely to be particularly pronounced where disputes involve substantial compensation claims. UK Finance's proposal for a voluntary ombudsman-type scheme, with an award limit of £600,000, to resolve prospective complaints between large retail banks and ineligible SME customers is welcome as an important addition to the dispute resolution landscape. Similarly, we naturally welcome the principle of a scheme to address historic complaints from SMEs that would otherwise be eligible for the FOS.

In terms of the appropriate dispute resolution model and eligibility criteria for UK Finance's schemes, our primary concern is that the widest possible range of interested parties are able to have a meaningful say in the development of the model. If the schemes are to help restore trust between banks and their SME customers after a number of serious failings, it seems unlikely this will be achieved if the process set up to develop the schemes is not considered genuinely independent by all stakeholders. I would, therefore, agree that UK Finance needs to take the APPG's concerns about the independence of the steering group process seriously.

I hope that this letter is helpful in addressing the concerns of the APPG.

Yours sincerely,

A handwritten signature in black ink that reads "Andrew Bailey". The signature is written in a cursive, slightly slanted style.

Andrew Bailey
Chief Executive