

Direction to the Financial Conduct Authority to investigate events and circumstances surrounding the failure and placing into administration of London Capital & Finance plc

The Treasury give the following direction in exercise of the powers conferred by sections 77(1) and (2) and 78(5) and (6) of the Financial Services Act 2012 (“the Act”).

In accordance with section 77(1) of the Act, the Treasury consider that it is in the public interest that the Financial Conduct Authority (“the FCA”) should undertake an investigation into the relevant events relating to the regulation of London Capital & Finance plc (“LCF”) and it does not appear to the Treasury that the FCA has undertaken or is undertaking an investigation into those events.

Direction

The Relevant Events

1. In this direction—

“the relevant events” means the events and circumstances surrounding the failure of LCF, and the supervision of LCF by the FCA (with reference to the specific matters set out in paragraph 3 below), during the relevant period,

“the relevant period” means the period beginning on 1 April 2014 (being the date on which the FCA assumed responsibility for consumer credit from the Office of Fair Trade and the date from which LCF held interim permission to carry on certain regulated activities), and ending on 30 January 2019 (being the date on which joint administrators were appointed under the Insolvency Act 1986).

2.—(1) The FCA must appoint an independent person (“the Investigator”) to carry out an investigation (“the Investigation”) into the relevant events and the circumstances surrounding the relevant events.

(2) Before appointing the Investigator, the FCA must obtain the approval of the Treasury to the appointment.

Scope of the Investigation

3.—(1) The Investigation must focus on whether the FCA discharged its functions in respect of LCF in a manner which enabled it to effectively fulfil its statutory objectives, and must consider the following matters—

- (a) whether the FCA adequately supervised LCF’s compliance with its rules and policies;
- (b) whether the FCA had in place appropriate rules and policies relating to the communication of financial promotions by LCF;
- (c) whether—
 - (i) the FCA had established appropriate policies for responding to information provided by third parties regarding the conduct of LCF,
 - (ii) whether the FCA received such information during the relevant period, and
 - (iii) whether those policies were properly applied;
- (d) whether the permissions that LCF were granted were appropriate for the business activities that it carried on.

(2) The Investigator may also consider any other matters which they may deem relevant to the question of whether the FCA discharged its functions in a manner which enabled it to effectively fulfil its statutory objectives.

(3) The Investigator may, in an interim report or in the final report (or both), highlight to the Treasury any aspects of the regulatory framework that the Investigator considers may have affected the FCA's ability to effectively supervise LCF.

Conduct of the Investigation

4.—(1) The FCA must facilitate the disclosure to the Investigator of such information as the Investigator considers is relevant to the scope of the Investigation.

(2) The duty in sub-paragraph (1) does not apply in respect of any information which is subject to any legal restriction on its disclosure.

5. The Investigation must be conducted in accordance with the statement of policy that the FCA has prepared in accordance with section 80(1) of the Act.

6.—(1) The Investigator may rely upon any evidence relating to the relevant events set out in or gathered during the preparation of—

- (a) any review or report into the market for non-transferable securities commissioned or conducted by the Treasury prior to the Investigation being concluded, and
- (b) such other reports, notices or other publications as the Investigator considers appropriate.

(2) The Investigator must liaise with the Serious Fraud Office ("the SFO") and FCA in order that reasonable precautions are taken to ensure that the ongoing joint SFO/FCA investigation and any subsequent prosecution or regulatory action by the SFO and/or FCA are not prejudiced by the Investigation or written report (as referred to in paragraphs 8 and 9 below).

Duration of the Investigation

7.—(1) Subject to sub-paragraph (2), the Investigation must be completed within a period of 12 months beginning on the date upon which the Investigator is appointed by the FCA.

(2) If the Investigator considers that it will not be possible to complete the Investigation within the period of 12 months mentioned in sub-paragraph (1), the FCA must inform the Treasury of—

- (a) the reasons for the delay in the conclusion of the Investigation, and
- (b) a revised target date for the conclusion of the Investigation.

(3) In considering the matters in sub-paragraph (2), the Investigator must have regard to the requirement to avoid prejudicing any ongoing investigation by the SFO and/or FCA, as required by paragraph 6(2).

Reporting

8. The Investigator may, at any time prior to the making of the written report referred to in paragraph 9, make an interim report to the Treasury setting out such matters as the Investigator may deem appropriate.

9. On completion of the Investigation, the FCA must as soon as reasonably practicable make a written report to the Treasury—

- (a) setting out the Investigator's findings, conclusions and such recommendations (if any) as the Investigator considers appropriate;
- (b) setting out the FCA's response to the Investigator's findings, conclusions and recommendations, including the lessons (if any) the FCA considers that it should learn from the Investigation; and
- (c) making such recommendations (if any) as the FCA considers appropriate.

Date

22nd May 2019

John P. Glen

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