

“No Confidence in the Financial Conduct Authority” Debate – 4pm Feb 1st

At around 4pm on February 1st there will be a backbencher debate of “No Confidence in the Financial Conduct Authority” in the Chamber of the House of Commons. The Debate will be opened by Guto Bebb MP.

This will be the culmination of a dismal fortnight for the FCA with a critical adjournment debate attended by over 40 MPs on the 15th January and a disastrous performance in front of the Treasury Select Committee on January 20th.

The “No Confidence” debate will be a unique event. It will be the first time such a parliamentary debate has been called in 30 years of regulation.

Accountability is the issue from which everything else emanates. If the FCA was properly accountable, both to Parliament and the consumers it claims to serve, it would have a proper governance regime in which the public could have confidence. But that is not what we have at the moment.

The FCA is attempting to deliver two contrary objectives – one declared and one hidden - within a structure that deliberately makes it unaccountable to anyone.

Its Declared Role

Its declared role is to protect consumers who pay for its existence through charges levied initially on producers and advisers. This happens on occasion but is often too little and too late. On many occasions, the FCA has failed to act even when presented with smoking gun evidence of fraud or malfeasance.

This is particularly apparent in the case of the £140m Connaught Income Fund; which was the subject of the Adjournment debate and is a major driver of this Vote of No Confidence.

The new CEO of a FCA authorised company realised that his company had been acting fraudulently. He travelled from the US to the FCA at his own cost to deliver a suitcase full of evidence and his Section 21 report. The FCA did not suspend the fund and as a result more than half of investors joined the fund after the whistle had been blown.

The victims’ angst has been further exacerbated by the FCA refusing to conduct an investigation into its own actions or to assist investors pursuing their redress with a number of culpable regulated professional entities.

- **The lack of accountability leads to regulatory costs to increase by 40% compound a year.**
- **The combined annual budget for regulation is now £1bn pa.**
- **If regulation was paid by the taxpayer - does a single MP believe that the Treasury would reserve £1bn pa for regulation?**
- **Consumers currently have taxation without representation**

Connaught is not the only example of the consumer being failed but it is the best example of how poorly regulation is working in all its forms. On its own this is enough to call a vote of no confidence.

Its Hidden Role

Its hidden role is to act as the Treasury's financial services undertaker - burying issues, many of which derive from Treasury's own decisions. It allows Treasury ministers and civil servants to interfere in industry issues without taking responsibility for their actions. This lack of accountability promotes poor decision making and charges of crony capitalism. Because; The Treasury itself is very susceptible to outside influences; particularly from Banks.

The Treasury actually has day to day influence over all aspects of regulation and uses regulation to bury embarrassing issues for so long meaningful parliamentary accountability is not possible. This puts the FCA's new CEO in an impossible position. He could do the Treasury's bidding only to be disowned if their ideas prove wrong.

Apart from the apparent affront to democracy of having a body which is created by Parliament but not accountable to it – there is a major flaw in the structure.

This line of influence has led to:

- The sacking of Martin Wheatley who was seen to be too anti-bank
- The HBOS Report which took so long that directors could not be fined and are unlikely to be disciplined.
- The RBS Report which has not been published after over 6 years despite the taxpayer sinking £46bn into RBS. We still do not know the real reason for the collapse and who was to blame. Not a single main board director has been fined.
- Similarly, The LIBOR scandal has not seen a senior bank director either prosecuted or disciplined
- The suggestion that FAMR is going to allow the banks back into advice business with a light touch – despite them clogging FOS with their cases and being the prime source of misadvice for decades.

This lack of action against the directors of bigger players is in contrast to the keenness of the regulator to discipline the directors of smaller firms.

So regulation is now split into a 2 tier Animal Farm type structure in which some areas are regulated to infinity but others, who present greater risk to the consumer, have the political muscle to demand a lighter touch. Simply, there is not the political will either at the Treasury or the FCA to apply the pressure required to rectify the issues.

The lack of accountability not only applied between the FCA and Parliament but also within regulation between the FCA, FOS and the Financial Services Compensation Scheme. Thus decisions made by the FCA are not reflected in FOS decisions. The FCA makes promises that the other 2 parts refuse to deliver.

All three F's need total revision and change. They must only deliver their prime objective and to do it in concert.