

**IN THE MATTER OF THE UK COVID-19 INQUIRY:  
MODULE 9**

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**WITNESS STATEMENT OF EMAD ALADHAL**

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**A) INTRODUCTION**

1. I am employed by the Financial Conduct Authority (**FCA**) as its Director of Retail Banking, which forms part of the FCA's Supervision, Policy & Competition Division. My work address is 12 Endeavour Square, Stratford Cross, London E20 1JN.
2. I am providing this statement on behalf of the FCA in response to a request dated 20 February 2025 (**Request**) issued by the UK Covid-19 Inquiry (**Inquiry**) for the purposes of Module 9. This statement also responds to the Inquiry's supplemental questions asked by way of letter dated 5 August 2025 (**Supplemental Questions**).
3. I was employed by the FCA in various roles during the period that is the subject of Module 9 of the Inquiry (1 January 2020 to 28 June 2022 – **Specified Period**), and so I have some personal recollection of some of the steps that the FCA took as part of the economic response to the pandemic. However, I was not directly involved in all aspects of the FCA's response. I have therefore co-ordinated and liaised with various colleagues in the FCA who are better placed to respond to the Inquiry's questions that relate to areas outside my experience. I have used (and relied on) the input of those colleagues to assist me in preparing this witness statement.
4. In preparing this witness statement, as agreed with the Inquiry, the FCA has conducted a proportionate search for key documents, which we have identified by asking key individuals to identify those documents that they consider may be relevant to the FCA's response to the Request. If the Inquiry would be assisted by the provision of additional specific documents, the FCA will of course work with the Inquiry to provide it with the appropriate material.
5. Subject to the previous paragraphs, to the extent that the facts and matters set out in this statement are within my own knowledge I believe them to be true, and, to the extent they are based on information supplied by others, I believe that information to be true to the best of my knowledge and belief.
6. Accompanying this witness statement are copies of various documents, marked "EA/001-

**INQ000652794** through to “EA/067**INQ000652859**”. Unless otherwise stated, all references to documents in this statement in the format ‘EA[x]/[x]’ are to the corresponding exhibit and (if relevant) page number of that exhibit.

7. In the following sections of this witness statement I provide (by way of context) an overview of the FCA’s role as regulator of the UK’s financial services industry, before addressing the questions asked by the Inquiry. I have aligned the structure of the rest of my witness statement with the 7 categories of questions in the Inquiry’s Request, as follows:
  - a) Section B - Background and context, including the FCA’s role in the economic response to the pandemic (Request Part A).
  - b) Section C - Co-operation and joint working involving the FCA (Request Part B).
  - c) Section D - Data and informing the economic response of the Government (Request Part C).
  - d) Section E - The FCA’s consumer credit guidance (Request Part D).
  - e) Section F - The FCA’s role in the COVID-19 loan schemes (Request Part E).
  - f) Section G - The FCA’s role in other key economic interventions (Request Part F).
  - g) Section H - Lessons learned and reflections (Request Part G).

## **B) BACKGROUND AND CONTEXT**

### **The role of the FCA**

8. Financial markets must be honest, competitive and fair so consumers get a fair deal, and the FCA works to ensure that the UK’s financial markets work well for individuals, for businesses, and for the growth and competitiveness of the UK economy.
9. The FCA was established on 1 April 2013. It is an independent public body, funded largely by the fees we charge the firms that we regulate. We are (and have at all times been) accountable to HM Treasury (**HMT**), which is responsible for the UK’s financial system, and to Parliament.
10. While the figure changes over time, as at January 2021 we regulated the conduct of around 50,000 authorised and registered financial services firms. We were also (and remain) the prudential supervisor of the substantial majority of financial services firms, which involves the FCA monitoring their financial safety and soundness. The Prudential Regulation Authority (**PRA**) is responsible for the prudential supervision of the remaining financial services firms (principally banks, credit unions, insurers and major investment firms). The PRA is a part of the Bank of England (**Bank**) and, for convenience, where I

refer to the Bank in this witness statement I am including the PRA within that reference.

11. The FCA's role and objectives are set out in legislation, primarily the *Financial Services and Markets Act 2000 (FSMA)*. The FCA's 'strategic objective' (both today and during the pandemic) is to make sure that relevant markets function well. The FCA also has 3 'operational objectives', which are to:

- a) ensure an appropriate degree of protection for consumers;
- b) protect and enhance the integrity of the UK financial system; and
- c) promote effective competition in the interests of consumers in the markets for regulated financial services (and other defined services).

Alongside the FCA's primary strategic and operational objectives, since 29 August 2023 the FCA also has a secondary objective of facilitating, subject to aligning with relevant international standards: (a) the international competitiveness of the economy of the United Kingdom (including in particular the financial services sector); and (b) its growth in the medium to long term.

12. The FCA works towards its objectives in a variety of ways. For example:

- a) The FCA makes new rules and issue guidance and standards.
- b) The FCA works to detect market-wide harm and put in place remedies through market studies.
- c) The FCA authorises or registers financial firms and individuals.
- d) The FCA supervises firms and take appropriate action (which can include exercising formal intervention or disciplinary powers) where it identifies concerns.

### **The FCA's role in the economic response to the pandemic**

13. The FCA's role and responsibilities as described above remained unchanged before and during the pandemic: as a financial services regulator that was responsible for the conduct and prudential supervision of financial services firms. During the pandemic we also continued to provide support to HMT on matters within the FCA's remit or expertise (for example in relation to certain of the Covid-19 loan schemes that HMT introduced – discussed later in this witness statement).

14. While our formal role and responsibilities did not change, the pandemic did have a significant impact on what we did and how we did it: but the FCA's focus remained on acting quickly during a time of unprecedented difficulty and uncertainty to secure appropriate protection for consumers and to ensure markets functioned well. As I discuss more fully in this witness statement, the FCA acted at speed across the breadth of the

markets that we regulate to help firms continue to operate and provide services to their customers in a compliant manner.

15. To do this, the FCA needed to adapt and re-prioritise its resources to respond quickly to an evolving public health emergency and the unfolding economic backdrop. This involved a number of steps, including:
  - a) A streamlining of the FCA's policy decision-making process: the FCA's policymaking process typically requires several months from establishing an evidence base, working through policy proposals, consulting to finalising any new rules or guidance. To deliver guidance quickly, the FCA did not publish formal consultations accompanied by cost benefit analyses (as is our usual practice) due to a concern that in the circumstances this might inject delay that would be prejudicial to consumers. To mitigate possible risks arising from this approach and enable stakeholders to provide input, the FCA invited comments on its proposals over a short period, which it then considered before finalising its guidance. The FCA governance process was also streamlined, with the Board and ExCo (the senior most committee in the FCA's governance structure below its Board) sitting more often as and when was needed, rather than on a set/regular cycle date.
  - b) Reprioritising previous workstreams: the FCA's response to the pandemic necessitated a reprioritisation of other ongoing and planned work, with the FCA moving staff internally to areas with the greatest need. Throughout, the FCA's focus was on advancing its statutory objectives to protect consumers, promote effective competition and protect and enhance the integrity of the financial system. For example, between 17 March 2020 and the end of June 2020 the FCA put a moratorium on publishing any new policy work and any supervisory announcements/publications that did not form part of its contribution to the economic response to the pandemic.
  - c) Responding to Government guidance: the FCA worked with firms to understand how the introduction of and changes in Government guidance on, for example, lockdown and social distancing rules might impact them and their ability to provide services.
16. Over the course of the pandemic (and as I discuss later in this statement), the FCA engaged closely with HMT, the Bank, industry and consumer groups to ensure that:
  - a) customers impacted by the pandemic would receive timely support to help them through periods of potential or actual financial difficulty;
  - b) firms would be able to deliver this support at scale;

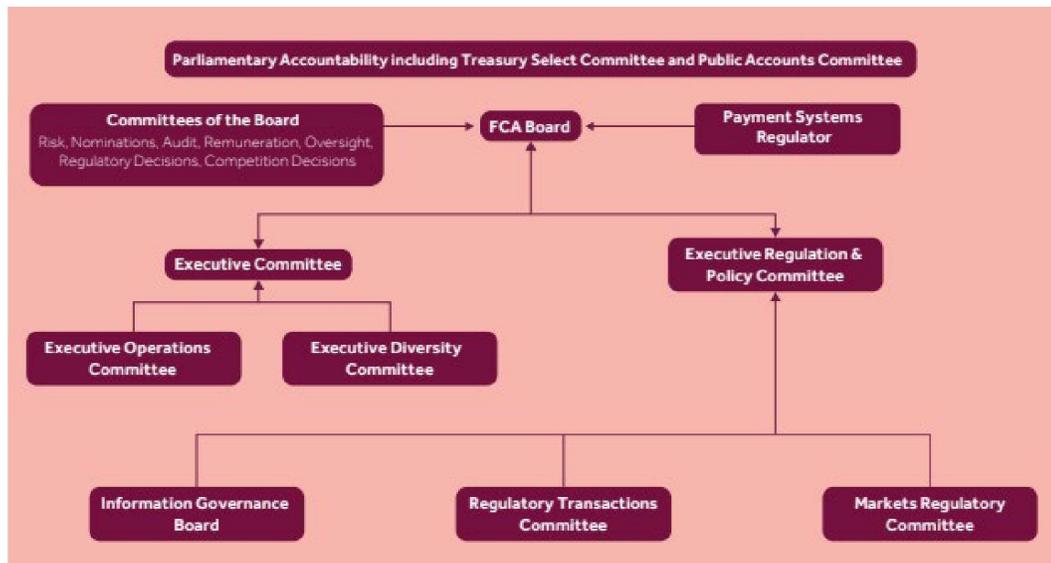
- c) consumers would benefit from tailored support from financial services firms as the pandemic evolved; and
- d) markets would remain orderly and open, with the wider wholesale financial system continuing to be operationally resilient.

17. By way of illustration of the FCA's efforts to respond at pace:

- a) On 17 March 2020 the Government announced that members of UK Finance (a trade body for the UK banking and financial services sector) would offer their mortgage customers at least a three-month payment holiday.
- b) On 20 March 2020 the FCA published guidance that expanded on the Government's announcement (including going further on whether a customer could benefit from an additional payment deferral and a less time-bound moratorium on repossessions) and made clear the FCA's own expectations.
- c) In effect, the FCA compressed the work of several weeks or months into a matter of days, so as to ensure that consumers and firms had clarity as to what was being offered and what was expected of them.

**Changes to the FCA's governance structure**

18. Prior to the pandemic, the FCA's governance structure looked like this:



19. In March 2020 the FCA's ExCo invoked its internal crisis management framework, and also launched the Rubix programme to centrally coordinate the FCA's external response to the pandemic. Rubix was the project name used by HMT, the Bank and the FCA for the coordinated external response to the pandemic. The FCA used the Rubix programme

internally as a temporary governance structure to coordinate efforts internally in addressing risks of harm caused or exacerbated by the pandemic.

20. The start of the pandemic coincided with a change in the FCA's CEO: on 16 March 2020 Christopher Woolard succeeded Andrew Bailey as the FCA's interim CEO (Mr Bailey having stepped down following his appointment as Governor of the Bank). Nikhil Rathi succeeded Mr Woolard as the FCA's permanent CEO on 1 October 2020.
21. In order to ensure that it implemented a co-ordinated and comprehensive response to the pandemic, the FCA set up 8 internal 'Delivery Groups' to identify, mitigate and take the lead on responding to pandemic related harms with the following remits:
  - a) Retail Delivery Group: this group covered the banking and lending sectors, as well as issues (such as redress and vulnerability) that cut across several markets.
  - b) Non-Bank Lenders Delivery Group: this group focussed on non-bank lenders, which encompasses a diverse range of business models, funding arrangements and product types (for example high-cost lenders, non-bank mortgage lenders and motor finance lenders).
  - c) Asset Management Delivery Group: this group focussed on the asset management sector, and included within its scope firms that are supervised in the FCA's Asset Management, Alternatives and Custody Services portfolios.
  - d) Resolution Delivery Group: the objective of this group was to identify and actively manage potential and actual firm failures during/caused by the pandemic to ensure they happened in as orderly way as possible, minimising harm to consumers.
  - e) Small and Medium Sized Enterprises (**SME**) Delivery Group: this group considered issues that impacted SMEs during the pandemic, which included issues that cut across multiple markets.
  - f) Insurance Delivery Group: this group identified and mitigated harms in the insurance sector, considering the potential impacts on both insurers and insureds.
  - g) Consumer Investments Delivery Group: this group identified and mitigated pandemic-related harms impacting consumer investments (including ensuring that consumers were treated fairly and had continued access to products, information and investments advice that were suitable/appropriate for their needs).
  - h) Wholesale Markets Delivery Group: this group coordinated the FCA's regulatory response to the crisis in wholesale markets.
22. In addition to having an internal co-ordination function, these groups worked closely with

external stakeholders to understand the impact of the pandemic on consumers and firms (including in terms of operational and financial resilience). These groups were led by relevant senior leaders within the FCA, and had representation from across the FCA's supervisory and other functions.

23. The Rubix Co-ordination Team was responsible for organising these Delivery Groups and provided updates to FCA senior management on pandemic-related issues in the regulated sectors. The Rubix programme also co-ordinated the FCA's communications with other regulators through the Authorities Response Framework (**ARF**). These other regulators include HMT, the Bank and the PRA (which as I note above is technically a part of the Bank but has its own specific functions); other authorities also participated in the ARF from time to time, including the Payment Systems Regulator (**PSR**). I discuss the ARF later in my witness statement.
24. The Rubix programme was sponsored by an FCA Executive Director and led by a Director.

#### **Charles Randell's speech on 27 September 2019**

25. The Inquiry has noted that on 27 September 2019 the FCA's (then) Chair, Charles Randell, gave a speech to the Gleneagles Pensions & Savings Symposium (**EA/001-INQ000652794**). The Inquiry has invited the FCA to elaborate on the extent to which Mr Randell was commenting on (among other things) the sufficiency of existing public policy tools to deal with a large number of people who could not afford to pay their bills in the event of a hypothetical economic downturn.
26. A theme of Mr Randell's chairmanship was an interest in improving the outlook for those who find themselves with problem debt. This is reflected in his speech, which aimed to challenge firms to look at their own preparations for an adverse economic event in the context of consumer's low financial resilience.
27. Mr Randell noted that many people had low financial resilience (though fewer were in debt than before the 2008 crisis) and were struggling to pay their bills, even without an economic recession. The evidence for the state of financial resilience cited in the speech was primarily the FCA's inaugural Financial Lives Survey, which had been conducted in 2017. As I discuss in paragraphs 90 onwards below, the data from our Financial Lives Surveys has given the FCA a more complete insight into the financial states and resilience of consumers across the UK. Mr Randell expressed the view that firms should think about what they could do to support their customers and provide fair treatment in the event of a crisis.

28. Mr Randell hypothesised about the impact of a potential economic downturn on people with low financial resilience and said that the FCA alone does not have the remit or tools to singlehandedly stop or fully mitigate the impact of a recession:

*“It’s not easy to increase the supply of good quality debt advice quickly, and it needs to be funded. Both those tasks lie outside the FCA’s direct remit but they are critical in mitigating harm which we care about...”*

*But even with all of these measures, in a severe downturn our society would face the challenge of an increase in the number of people who could not meet their bills. This challenge goes far beyond our remit at the FCA...*

*Whenever an economic recession comes, we will use the tools we have to mitigate its effect on people’s debt, savings and investments. But if it came now, it would hit at a time when many people have low financial resilience. And our tools are limited, and would need to be used as part of a much broader monetary, fiscal and social policy response.”*

29. Mr Randell’s view that in the event of an economic downturn there would be a need for a cooperative and joined-up approach between several different bodies (“*a much broader monetary, fiscal and social policy response*”) was borne out by the approach adopted in response to the pandemic by the Government, the Bank, and other policy makers in providing support to specific groups and the economy as a whole through a range of measures, and by our engagement with firms, consumer partnerships and other regulatory bodies, as I discuss in this statement.

### **C) CO-OPERATION AND JOINT WORKING INVOLVING THE FCA**

30. In this section I provide a high-level overview of the nature of the FCA’s relationships with various UK government departments and financial institutions identified by the Inquiry. I then go on to discuss various structures through which the FCA worked with those bodies (in particular HMT and the Bank). The departments and institutions include:

- a) HMT.
- b) The Bank.
- c) The British Business Bank (**BBB**).
- d) The former Department for Business Energy and Industrial Strategy (**BEIS**).
- e) The Ministry of Housing, Communities and Local Government (**MHCLG**).
- f) Banks, building societies and other similar institutions (including insurers).
- g) The Devolved Administrations of Scotland, Wales and Northern Ireland.

The FCA engaged with various entities or bodies during the course of the pandemic that are not included in the list above (for example consumer groups), and I have made reference to those entities/bodies at appropriate points in my witness statement.

31. Finally, as requested by the Inquiry I conclude this section of my statement by considering what worked well/challenges in our joint working with the above bodies.

### **Overview of key relationships**

#### *HMT*

32. As I have explained above, the FCA is accountable to HMT and Parliament in relation to the discharge of its functions. The FCA maintains a close working dialogue with HMT on matters of interest to it, and HMT will seek our input on matters within the FCA's remit or expertise. More formally, each year the FCA reports to HMT and Parliament on its progress through its Annual Report, and the Chancellor sends a remit letter to the FCA that sets out recommendations to the FCA about aspects of the Government's economic policy to which the FCA should have regard when considering how to advance its objectives and discharge its functions. I have exhibited copies of the remit letters sent during the Specified Period, on 23 March 2021 and 7 April 2022, at **EA/002-INQ000652795** and **EA/003:INQ000652796** respectively.
33. During the pandemic the FCA maintained a close, collaborative working relationship with HMT at both a working level through officials, and through specific structures set up to help facilitate co-ordination and information sharing between HMT, the Bank and the FCA. Those structures included the ARF (as adapted for Project Rubix) and the Regulatory Initiatives Forum (**Forum**), both of which I discuss further in paragraphs 54 onwards below.
34. By way of illustration of the types of matters on which the FCA worked with HMT during the pandemic:
- a) In relation to guidance that the FCA issued to firms on specific regulated activities, the FCA engaged regularly (often daily) with HMT to understand developing Government policy and discuss impacts on financial services firms.
  - b) The FCA discussed measures that it was putting in place – for example, the FCA discussed its initial and subsequent approaches to payment deferrals and the tailored support guidance (both of which I discuss in Section E of this witness statement).

#### *The Bank and the PRA*

35. The mandates of the Bank and the PRA are very different to the FCA's mandate. Broadly: the Bank's primary functions are to maintain monetary stability and oversee financial stability of the UK financial system; and the PRA's statutory objectives are promoting the safety and soundness of PRA-authorised persons and contributing to the securing of an appropriate degree of protection for those who are or may become policyholders.
36. While our mandates are different they also interact, and each authority recognises that it is essential that we co-ordinate in some areas and co-operate in others. To facilitate this, there is a memorandum of understanding that sets out the high-level framework we will use to co-ordinate and co-operate in carrying out our respective responsibilities. In practice, we have developed strong working relationships (both at senior and working levels) with counterparts in both the Bank and the PRA.
37. During the pandemic, the FCA engaged with the Bank and the PRA in advance of issuing new guidance. For example, at a meeting on 1 April 2020 the PRA highlighted work by the Financial Reporting Council (**FRC**) on International Financial Reporting Standard 9 (specifically on indicators of default in retail banks) that overlapped with wording in the FCA's draft Payment Deferral Guidance (which term I define and discuss further in paragraph 152 below). The FCA subsequently made changes to its draft guidance that addressed the risk of it leading to banks immediately writing off lending balances owed by anyone who had applied for a payment deferral under the Payment Deferral Guidance.
38. Given their mandates, the FCA also engaged with the Bank and the PRA on a regular basis to ensure that any impacts on the market and/or dual-regulated firms (i.e. firms for which the PRA is the prudential regulator and the FCA regulates conduct) were considered. The Bank and the PRA were also members of the ARF, which I discuss further below.

#### *The BBB*

39. The FCA engaged with the BBB in relation to the Bounce Bank Loan Scheme (**BBLs**), which was launched on 4 May 2020. The BBB owned and administered the BBLs (as well as the other Government Covid-19 loan schemes), so the FCA's engagement with the BBB was principally in relation to collections and recovery (in light of FCA rules that applied to that activity) and in relation to fraud.
40. Our engagement with the BBB lasted over the period of the Government's Covid loan schemes and beyond (until approximately June 2023). The FCA met with the BBB fairly frequently, once a week or more to begin with, then dropping to fortnightly, and as required when matters arose. These initial engagements set the tone for cooperative working between the FCA and the BBB.

41. From March 2021 there was more structured engagement through regular meetings of the BBLs working group, which was convened by the which was convened by the Lending Standard Board (**LSB**) and included the BBB and other public sector and other partners. Regular bilateral engagement also took place between the FCA's Head of Department for Retail Banks (who led the FCA's engagement with the BBB more generally) and, at times, the FCA's Head of Competition Policy, and the BBB's Director for Business Lending and members of their team (including the BBLs Director, Process Director and Legal).

#### *BEIS*

42. The FCA engaged constructively with BEIS on several specific issues, including:
- a) The requirements for public companies to complete and then file their annual report and accounts with Companies House and hold AGMs in person to discuss them. BEIS considered that the lockdowns in 2020 and 2021 would result in delays in compliance with these requirements, and sought to put in place relevant arrangements to accommodate this. Temporary provisions were introduced by the Corporate Insolvency and Governance Act 2020, which directly linked to the FCA's Listing Rules requirements around listed firms publishing this information and holding AGMs to discuss it. The FCA also engaged with the FRC and the PRA about the implications of these changes, in particular for listed firms. This happened in both 2020 and 2021 as result of the different lockdowns.
  - b) Ensuring that similar outcomes to those in sub-paragraph (a) were achieved for mutual societies, which are subject to a different statutory regime to companies and so required a different approach. Before acting, the FCA engaged (via HMT) to ensure it understood BEIS's proposed approach.
  - c) BEIS attended various meetings at which the FCA was present (generally also involving the BBB and HMT) that discussed matters concerning the BBLs.
  - d) The FCA also engaged with BEIS in relation to changes to the insolvency rules that it introduced in June 2020, as I discuss further in Section G below.

The FCA's engagement with BEIS took place through a number of different teams, including (among others) the FCA's client assets and resolution team members (led by a Head of Department) and the FCA's Mutuals team.

43. Separately, BEIS maintained a portal through which data on the Government's Covid loan schemes could be accessed (BEIS received that data from the BBB, which received it directly from lenders through its own portal). BEIS provided access to the data to a stakeholder group which comprised BEIS, the FCA, HMT, the Bank, the Home Office, the

Cabinet Office, and HMRC. The FCA used this data to create dashboards of lender performance, particularly focused on arrears management, to help it spot any trends/issues before they had the potential to become larger problems.

44. In the Supplemental Questions the Inquiry has asked the FCA to confirm how effective the data to which I refer in the previous paragraph was, whether there were any gaps or limitations in it, and how such data could be improved in a future emergency. The data was factual and covered all relevant variables, providing an overview of matters such as loan performance, geographic spread, loan size and industry sector of the borrower; the FCA has not identified any gaps for its purposes in the variables on which data was gathered. Looking to a hypothetical future emergency, we have not identified any specific improvements: the data that is required will be determined by the specifics of the situation.

#### *MHCLG*

45. MHCLG was the Government department responsible for the ban on bailiff-enforced evictions of renters in England and Wales that was brought into force during the pandemic, which (in effect) also prevented enforcement of repossession orders of residential property obtained by lenders during the period of the ban. Based on the enquiries we have carried out for the purpose of preparing this statement, following the announcement of the second national lockdown in November 2020 the FCA engaged with MHCLG to ensure it had a sufficient understanding of MHCLG's ban and how it interacted with relevant FCA rules and guidance that applied to mortgage lenders. In effect the Government ban superseded the guidance that the FCA had introduced on 19 November 2020 that firms could only enforce repossessions before 31 January 2021 in exceptional circumstances. MHCLG extended its ban until 21 February 2021 and subsequently to 31 May 2021; the FCA extended the application of its Tailored Support Guidance (defined and discussed in Section E of this witness statement), including guidance relating to the enforceability of repossession orders obtained by mortgage lenders, until 31 March 2021.
46. The FCA's engagement with the MHCLG was led by its Covid Credit Policy Team.

#### *The Devolved Administrations*

47. Given that the regulation of financial services is a reserved matter for which the UK Parliament retains responsibility, the majority of the FCA's correspondence in relation to economic matters in response to the pandemic was through HMT.
48. To the extent that the FCA engaged directly with the Scottish Government, this was led by the FCA's (then) Head of Scotland Office. The core formal structure for our

engagement was the Scottish Government's Financial Services Advisory Board (**FiSAB**), chaired by the First Minister of Scotland, then Nicola Sturgeon, which the FCA's (then) Head of Scotland Office attended. FiSAB brought together senior Scottish Government ministers and officials, industry (including banks, asset managers, professional organisations and trade associations), regulators, and public bodies, usually meeting on a quarterly basis. By way of illustration, the July 2020 meeting of FiSab focussed on how to build a sustainable economic recovery.

49. The FCA also engaged proactively with Members of the Scottish Parliament (**MSPs**): in April 2020 we wrote to MSPs setting out the work the FCA was undertaking to keep markets functioning and provide consumers with support and protection (**EA/004-**

**INQ000652797**

50. In contrast with the position in Scotland (where the FCA has an office), the FCA did not have a formal structure in place for engagement with the devolved administrations in Wales and Northern Ireland. However, the FCA did have *ad hoc* engagement with all the Devolved Administrations on discrete issues – for example:

- a) On 24 March 2020 the FCA participated in two calls that discussed 'key workers', one with HMT and the Scottish Government and the other with HMT and the Northern Irish Executive. Through those calls the FCA sought to understand any differences in approach between the nations, to help us understand the potential operational business impacts on regulated firms and consumers.
- b) In January 2021 the FCA corresponded with the Scottish Government to understand its approach to the ban on enforced repossession of rented properties (which I discuss in paragraph 45 above). The FCA subsequently engaged with the Welsh Government in March 2021 to understand whether MHCLG's decision to extend that ban to May 2021 had similar effect in Wales.

#### *Banks and other financial institutions*

51. As noted above, the FCA is the conduct regulator for all authorised financial services firms in the UK, and is responsible for the prudential regulation of firms that fall outside of the PRA's remit. I have discussed in greater detail below some of the steps we took to engage with firms during the pandemic. At a high level, our principal focus (outside of our usual supervisory functions) was to work closely with firms to understand the impact of the pandemic on their ability to meet the FCA's rules; we could then take such action as was appropriate in the interests of consumers, firms and the integrity of the UK financial system.

52. Engagement with financial services institutions and other stakeholders took place in a variety of ways, including:
- a) frequent roundtables and bilateral meetings involving firms and trade bodies;
  - b) meeting with consumer groups (including StepChange Debt Charity, Money Advice Trust, Which?, Money and Pensions Service, Citizens Advice, Money Advice Scotland, Citizens Advice Scotland and the Financial Services Consumer Panel), using the consumer network run by the FCA to assist it in engaging with consumer groups;
  - c) the stakeholders referred to above responding to draft guidance published by the FCA for comments prior to the FCA finalising that guidance; and
  - d) through the Cross Market Business Continuity Group (**CMBCG**), an executive level group chaired by the Bank to enable financial authorities (the Bank, PRA, FCA and HMT) to interact with the financial sector during times of major operational disruption – I discuss this group further in paragraphs 72 onwards below.

Staff from across the FCA at all levels of seniority will have been involved in the FCA's engagement with financial services institutions and other stakeholders (both in the ways set out above and through more 'business as usual' supervisory engagement with firms and trade bodies).

53. The FCA took various steps to understand the issues facing financial institutions and to proactively manage the risk of harm to both firms and consumers. Given the range and number of steps that the FCA took I have not sought to list them all, but by way of example:
- a) Business interruption (BI) insurance test case: Many policyholders whose businesses were affected by the pandemic suffered significant losses, resulting in large numbers of claims under BI policies. In some limited cases, insurers had accepted liability under these policies, but in the vast majority insurers had disputed liability while policyholders considered that they had cover, leading to widespread concern about the lack of clarity and certainty. In order to bring clarity to the market in the quickest way possible, on 1 May 2020 the FCA announced that it intended to bring a test case before the courts, to urgently clarify key issues of contractual uncertainty for as many policyholders and insurers as possible. The FCA selected a representative sample of 21 types of policy issued by eight insurers which covered the majority of contract wordings. The FCA took the approach of putting forward policyholders' arguments to their best advantage in the public interest. 370,000

policyholders were identified as holding 700 types of policies issued by 60 insurers that may be affected by the outcome of the test case. The High Court's judgment resolved most of the key issues (EA/005 INQ000652798) but, because we were unable to reach finality on all areas, insurers and the FCA made 'leapfrog' appeals to the Supreme Court (i.e. without going to the Court of Appeal first) (EA/006-INQ000652799). The courts' judgments brought to an end legal arguments under 14 types of policy issued by 6 insurers and a substantial number of similar policies in the wider market, bringing clarity to both policyholders and insurers. As at 31 March 2023, insurers had paid final settlements to BI policyholders totalling £1,406,662,310, with a further £294,949,957 paid on an interim basis on claims that had not yet been settled. The FCA maintained a webpage providing information on the test cases (EA/007 INQ000652800).

- b) Close engagement with retail banks: throughout 2020 the FCA's Retail Delivery Group engaged the UK Finance trade body on a regular basis to understand issues impacting retail banks' ability to serve consumers. At a working level, further engagement with UK Finance and retail banks took place on key areas of policy – such as ensuring that access to branches for essential services was maintained.
- c) Clarifying rights to refunds on holiday/event cancellations: The pandemic resulted in cancellations of trips, holidays, and other events. In order to protect consumers who may suffer inconvenience and frustration when trying to get a refund, in July 2020 the FCA consulted on temporary guidance setting out its expectations of insurance and card providers dealing with consumers seeking to claim money back (EA/008-INQ000652801). The guidance was finalised in October 2020 and extended in April 2021.
- d) Ensuring the orderly operation of capital markets: On 8 April 2020 the FCA announced various measures aimed at assisting companies to raise new share capital in response to the coronavirus crisis while retaining an appropriate degree of investor protection (EA/009 INQ000652802) including:
  - i) varying the FCA's requirements related to the production of working capital statements in prospectuses; and
  - ii) publicly supporting revised guidance issued by the Pre-Emption Group (which represents listed companies, investors and intermediaries) in relation to issuances in the pandemic environment.
- e) Monitoring resilience of wholesale banks: The FCA engaged closely with wholesale banks during the pandemic, including through trade associations like the Association

for Financial Markets in Europe (**AFME**). For example, on 7 April 2020, the FCA held a roundtable with the CEOs of the largest wholesale banks that discussed the need to keep markets open, compliance with Government guidance on 'key workers', operational resilience, the impact of the pandemic on outsourced services and support for wholesale banks' customers.

- f) Working with international counterparts: The FCA worked with international counterparts in the US, EU and elsewhere to ensure that markets could remain open and orderly, and so that wholesale firms could continue to perform their essential role in supporting businesses, governments, jobs and the broader economy (**EA/010-INQ000652803**).
- g) Payment deferrals for borrowers: Following the Government's announcement in March 2020 of payment deferrals for mortgage borrowers, between March and June 2020 the FCA published various sets of guidance making clear that mortgage and consumer credit providers should provide exceptional and immediate support to borrowers by way of payment deferrals. This approach ensured that borrowers had quick, clear and simple support that was easy for them to understand, and was kept under review and extended by the FCA as the pandemic evolved. I discuss these steps further in Section E of this witness statement.

#### **Structures used to facilitate co-operation and joint working**

- 54. The FCA was party to pre-existing structures that were used during the pandemic to facilitate cooperation and information sharing between HMT, the Bank and the PRA. Of particular note were:
  - a) the ARF, discussed in paragraphs 56 onwards below; and
  - b) the Forum, discussed in paragraphs 67 onwards below.
- 55. As mentioned at paragraph 52.d) above, part of the FCA's engagement with industry occurred through the CMBCG. I explain what this was and the role it played in facilitating our engagement with external stakeholders in paragraphs 72 onwards below.

#### *The ARF*

- 56. The primary structure through which the FCA coordinated its regulatory response to the pandemic with other authorities was the ARF, as adapted for the purposes of Project Rubix. The PRA's website provides an overview of the ARF (**EA/011: INQ000652804**) which I have used to produce the summary below.
- 57. The ARF provides a formal framework for the UK financial authorities (HMT, the Bank and

the FCA) to co-ordinate with each other when there is an incident or threat that could cause a major disruption to financial services. The ARF was established as a successor to the Tripartite Response Framework shortly after the establishment of the PRA and the FCA on 1 April 2013. The framework is jointly owned, governed and supported by senior representation from all three authorities, and enables the authorities to work together to respond to an incident while ensuring they consider any impacts to their own statutory objectives.

58. All three authorities have a role to play in maintaining the ARF. In particular: HMT as Lead Government Department for the finance sector owns the framework; and the Bank has a delegated responsibility to maintain the framework to ensure it remains fit for purpose.
59. In terms of how the ARF operates, in broad terms:
  - a) Resilience specialists at the three authorities will form a group to activate and run the framework. This group engages with regulated firms and financial market infrastructure (**FMI** – essentially the networks that allow financial transactions to take place), assesses financial impacts, and agrees communications. Subject matter experts provide their expertise when needed.
  - b) The framework operates at three levels (called ‘monitor’, ‘engage’ and ‘escalate’). The level determines the extent of the engagement between the authorities and the seniority of participants.
  - c) In the most severe cases (‘escalate’), senior officials can be brought together to direct the authorities’ response, through a body known at the time as the Strategic Decision Coordination Body (**SDCB**). These seniors include the Second Permanent Secretary from HMT, Deputy Governors from the Bank and members of the Executive Committee from the FCA.
60. The ARF was invoked in February 2020, at the onset of (and in response to) the pandemic. At around the same time, HMT established Project Rubix to manage the financial impacts of the pandemic. This was a director-level call between HMT, the Bank and the FCA with a focus on key risks, sector impacts and planned actions including communications across the authorities.
61. On 5 March 2020 the three authorities discussed merging the ARF and Project Rubix so that all activity could be centralised through an adapted ARF management structure. The first meeting of that adapted structure took place on 9 March 2020. The subsequent structure was referred to by participants as the ‘Rubix ARF’.
62. At a high level, the ARF was operational as follows:

- a) It was invoked on 28 February 2020 at its lowest level of escalation ('monitor') to coordinate the authorities' response to the pandemic.
  - b) On 4 March 2020 the ARF moved to its mid-point level of escalation ('engage') to coincide with proactive and more formalised engagement with regulated firms and FMI's and the need for enhanced information gathering, impact assessment and mitigation activities across the finance sector.
  - c) On 16 March 2020, in line with agreed triggers, the ARF moved to its highest level of escalation ('escalate') in response to the systemic risk posed to market functioning, consumers, and the integrity of the financial system as a whole.
  - d) Following a stabilisation in markets and a relaxation of the Government's restrictions in August 2020, the ARF moved back to the 'engage' level of escalation, with agreed indicators to allow for rapid re-escalation if necessary.
  - e) In early 2021, firms and markets were managing the impact of the third national lockdown. This led to the triggers for de-escalating formal ARF engagement being met in February 2021, when it was closed (subject to agreed triggers to re-escalate if required).
  - f) Following the closing down of the ARF in February 2021, the authorities agreed that while the risks of the pandemic remained, 'business as usual' processes were in place to both mitigate potential longer-term financial consequences for the sector and monitor specific risks. In addition, regular working-level calls between HMT and the regulators allowed the authorities to monitor and spot any cross-cutting issues that might require a more concerted approach. It was agreed at the time that the ARF channels could be used to re-escalate the Rubix ARF should these various monitoring structures and the authorities' respective internal risk management frameworks suggest that risks from the pandemic were increasing in such a way that greater central co-ordination was required.
63. While at the 'escalate' level during the pandemic, the SDCB was used to coordinate the financial authorities' responses across operational, policy, markets and consumer events. The SDCB met as and when required by developments.
64. Each of HMT, the Bank and the FCA was represented in the ARF at a senior (Director) level. For the FCA this was its Director of Specialist Supervision between February 2020 and April 2020, its Interim Director of the Operational Resilience, Response Coordination and OPBAS division from April 2020 to December 2020, and its Director of Specialists (which was me) from January 2021 to February 2021.

65. Examples of matters that were discussed by the Bank, PRA and FCA through the ARF are:
- a) operational service disruption caused by the impact of lockdowns and staff absences due to illness, such as the indirect impact of postal service disruptions, the reduction in the opening of bank branches and/or their closure, and disruptions to outsourcing providers like call centres both in the UK and overseas;
  - b) providing input on new pandemic-related policies and coordinating communication in relation to such policies (for example the FCA added information on its own website about the key worker policy to help financial services firms apply the policy effectively);
  - c) potential operational service disruption to firms' services due to increased and/or volatile/unexpected trading volumes, such as increased listed market trading activities in firms and FMI, margin call disputes, and call centre activities; and
  - d) the response of the financial market to the pandemic, including the Gilt market, Sterling market, US Treasury liquidity, and money market funds.
66. Upon being activated the ARF met frequently, ranging from daily to every few days, with the frequency reducing over time reflecting the changing stability of the situation.

#### *The Forum*

67. Between 19 July 2019 and 18 October 2019, HMT conducted a 'Call for Evidence' on regulatory co-ordination. The responses to the Call for Evidence highlighted a demand for increased regulatory co-ordination. In response, the Government, the FCA, the PRA, the PSR and the Competition & Markets Authority agreed to set up and maintain an 'air traffic control' process to help improve co-ordination of regulatory initiatives affecting financial services firms. This was announced in March 2020 through HMT's feedback statement as a one-year pilot of the Forum, to which the FCA agreed to provide secretariat support. The Pensions Regulator, Information Commissioner's Office and Financial Reporting Council joined the Forum between September 2020 and April 2021.
68. The purpose of the Forum was (and continues to be) to share information on, and review the timing of, regulatory initiatives with a view to considering the operational impact of their implementation by firms. The Forum does not have (and never had) policy decision-making responsibility, and does not prevent its member authorities from acting in pursuit of their respective statutory functions.
69. While the Forum was not prompted by the pandemic, the Forum's members used it as a mechanism to support the co-ordination of regulatory activities between key financial

services regulators and Government at the start of the pandemic. Representation at the Forum is at CEO or senior executive level, with the FCA having been represented by its CEO.

70. One of the key outputs of the Forum was the 'Regulatory Initiatives Grid' (**Grid**). The Grid was launched to provide an indicative two-year forward look of major upcoming regulatory initiatives affecting the financial services sector, and was to be managed by the Forum. The Grid is normally published twice a year, usually in Spring and Autumn. It is split by sector (including initiatives that cut across multiple sectors) and identifies the lead authority and any joint initiatives.
71. Originally, the Forum planned to publish its first Grid in Summer 2020, but following the start of the pandemic members agreed to bring the first meeting of the Forum forward to 9 April 2020. This reflected the urgent need to communicate with industry around changes to regulatory plans due to the impact of the pandemic:
- a) Following that first meeting, the first Grid was published on the FCA's website on 7 May 2020 (EA/012; INQ000652805). The foreword and executive summary (EA/012@2-3; INQ000652805) set out the approach taken to the pandemic and co-ordination between regulators and HMT, which included cancelling or delaying several initiatives to reduce operational burdens on firms.
  - b) The ongoing impact of the pandemic continued to be reflected in the next iteration of the Grid in September 2020 (EA/013; INQ000652806), and the third iteration in May 2021 (EA/014; INQ000652807).
  - c) In May 2021, the Forum confirmed that the Grid would be extended beyond the one-year pilot to become a regular ongoing process.
  - d) After that time, the Grid did not specifically reference disruption to or rescheduling of activities due to the pandemic, reflecting that the longer-term approach between Forum members had generally stabilised and Forum members were no longer routinely looking to change or delay the timing of projects because of the pandemic. Projects which had been rescheduled were being replanned and prioritised in the normal way, and the FCA was considering the context of the pandemic as necessary when it started new work.

#### CMBCG

72. As mentioned in paragraph 52.d) above, HMT, the Bank and the FCA also engaged with industry (firms, FMIs and their associations) through the CMBCG, which is led by the Bank. The CMBCG is part of what is referred to as the 'Sector Response Framework',

which is best understood by way of the schematic at EA/015- INQ000652808. Broadly, it is a mechanism that brings together firms, FMI, Government and regulators to facilitate the collective response of the UK financial services sector in the event of severe and systemic disruption. During the pandemic the CMBCG was used by the financial authorities to coordinate industry engagement.

73. The FCA was generally represented at the CMBCG by the FCA Director representing the FCA in the ARF, and it met approximately every two to three weeks.
74. The first meeting of the CMBCG to discuss the pandemic was held in March 2020. The purpose of the call was to develop a strategic view of developments in relation to Covid-19 and support baseline readiness across the sector. Discussions focused on the initial cross-sector impact of the pandemic, and initial areas that industry wanted to explore with the authorities. This included consideration of potential delay or relief from forthcoming initiatives, and regulatory respite or forbearance on existing requirements. One example of this was UK Finance emphasising the need for regulatory guidance as to how to support industry to allow employees to work from home where doing so was against existing regulatory rules for certain roles.
75. In the following meetings on 23 March 2020 and 7 April 2020, the authorities provided updates on the policy responses and forbearance measures they were taking (FCA senior management having decided on 16 March 2020 to support firms by providing such accommodations to firms). By way of example, the FCA provided an update on its proposed range of targeted temporary measures to provide relief for users of certain consumer credit products that I discuss further in Section E below.
76. Over the course of the pandemic, the FCA introduced a number of cross-sector accommodations with the aim of supporting regulated firms to continue operating in the context of the practical challenges and uncertainty caused by the pandemic. The following table provides an overview of the measures that the FCA took in the first six months of the pandemic:

Measure	Summary
SM&CR arrangements for <a href="#">solo regulated</a> and <a href="#">dual regulated</a> firms	<ul style="list-style-type: none"> <li>• Forbearance on submission requirements in relation to Statements of Responsibilities</li> <li>• Extension of the 12-week rule</li> <li>• Flexibility on the allocation of Prescribed Responsibilities</li> </ul>
<a href="#">Wet-ink signatures</a>	<ul style="list-style-type: none"> <li>• Guidance on interpreting PRIN and general rules</li> <li>• Allowances for fund-related applications and mutual societies</li> </ul>
<a href="#">Regulatory reporting</a>	Flexibility in relation to submission deadlines for specified regulatory returns
Mutual societies annual returns	Forbearance for annual returns and accounts

Mutual societies statutory declaration forms	Acceptance of partially completed forms (e.g. without lawyer signature)
<a href="#">AGMs</a> (mutual societies and other)	Advice to take reasonable steps to meet requirements
<a href="#">Complaints handling</a>	Recognition of reduced capacity to handle complaints
<a href="#">Financial Crime systems and controls</a>	Guidance for a risk-based approach to financial crime during operational challenges
<a href="#">Handling post</a>	Forbearance if best efforts are made to ensure customers are not disadvantaged because of delays
<a href="#">Continuous Professional Development deferral</a>	Forbearance; individuals can carry over to the next CPD year
<a href="#">Approved Person arrangements</a>	Extension of the '12-week rule' in SUP10C.3.13R permitting a person to carry on functions without FCA approval in temporary/reasonably unforeseen circumstances

77. In addition to these cross-sector measures, the FCA also introduced a number of sector-specific accommodations. By way of example, these included:

- a) extending deadlines for certain reports required of asset management firms;
- b) giving firms in the retail sector an additional 6 months to implement strong customer authentication measures for e-commerce;
- c) relief for users of consumer credit products to which I refer in paragraph 75 above; and
- d) confirming to venues and brokers with best execution obligations that the FCA would not take action if they delayed publication of the general best execution reports required under RTS 27 and 28 of MiFID II to 30 June 2020.

78. As I explain in paragraph 52 above, the CMBCG was not the only mechanism through which the FCA shared information with and got feedback from firms: the FCA engaged with trade bodies, and individual firms also provided input to the FCA directly.

### **What worked well / challenges**

79. The various authorities listed in paragraph 30 above were quick to recognise the need to co-ordinate with each other to respond more effectively to the unprecedented challenges and uncertainty posed by the pandemic. The FCA's relationships with each of those authorities was constructive at both working and senior levels. To the extent that the FCA experienced any challenges (for example being asked to input on proposed legislation in short timeframes) they were not atypical or concerning, especially taking into account the extraordinary circumstances and the need to react quickly to the impacts of the pandemic over time. Where other authorities took actions that interacted with the FCA's regulatory remit (such as the MHCLG intervention that I discuss at paragraph 45 above), the FCA acted promptly to understand those impacts and consider what (if any) further action it

needed to take.

80. Similarly, the FCA had regular and constructive engagement with industry. There was the usual (and healthy) debate on points of policy detail, with the FCA's objective of supporting consumers understood by the industry.
81. The pre-existing incident response frameworks that I discuss above (in particular the ARF) played an important role in ensuring there were appropriate mechanisms in place to facilitate dialogue between the authorities at senior and working levels, and that information was shared between us.
82. The ARF members conducted a 'lessons learned' exercise by way of two workshops (one in November 2020 while the ARF was in use and one after it closed) to identify any areas for improvement should the ARF be invoked again in the future (EA/016 INQ000652809). The conclusions of that exercise were:

*"Project Rubix (initiated by HMT) was originally stood up to look at the financial impacts of Covid-19. In parallel, the ARF had also been activated primarily to look at the operational impacts. It was quickly noted that both would benefit from being merged, so that all activity could be centralised through an adapted ARF structure. The merged activity enabled a more effective coordination mechanism between the authorities' acute crisis response mechanisms and consideration of more medium-term risks. The subsequent response was referred to as the Rubix ARF.*

*The complex nature of this incident raised challenges in managing separate processes (e.g., incident response versus risk management) with distinct skillsets, stakeholders and indicators for escalation..."*

83. The recommendations fell into three broad categories, comprising: seniority of engagement (focussing on improvements in information sharing in advance of meetings and involvement of working level staff); escalation and de-escalation (including enhancing escalation/de-escalation triggers and ensuring ongoing awareness of issues following de-escalation); and the role of the ARF (including ensuring co-ordination through a single structure with clear communication channels).
84. Separately, the members of the Forum conducted a lessons learned exercise in June 2020 (EA/017 INQ000652810) and followed up with a Forum discussion on process improvements and stakeholder feedback in September 2020 (EA/018 INQ000652811). In summary, the members considered that the group worked well but that improvements could be made in terms of streamlining processes (for example around agendas and the timings for putting together drafts of the Grid). Consideration was also given to

enhancements that could be made to the Grid and the process around it, such as publishing the minutes of the meetings to improve transparency.

85. The Inquiry has asked the FCA to comment specifically on any notable successful relationships with the Devolved Administration or significant challenges, and how they have been overcome. As explained in paragraph 47 above, the FCA's engagement with the Devolved Administrations was limited in nature and, while broadly constructive, did not present any notable successes or challenges.
86. As a result of its experience in the pandemic, the FCA recognised that its engagement with the Devolved Administrations in Wales and Northern Ireland could be improved. By January 2022 the FCA had put in place a new structure to ensure a presence in each of the Devolved Nations and a person who would lead on engagement with the Devolved Administrations. In addition to the pre-existing representation in its Scotland office, the FCA established two additional dedicated roles: one based in Belfast, Northern Ireland; and another in Cardiff, Wales. As a result of these positions, the FCA now has locally-based representatives who are focused on fostering constructive relationships with the respective Devolved Administrations. Beyond their direct engagement responsibilities, the new structure has been successful in enhancing senior-level interactions between the FCA and the Devolved Administrations.

#### **D) DATA AND INFORMING THE GOVERNMENT'S ECONOMIC RESPONSE**

87. In this section of my witness statement, I:
- a) provide an overview on how information, data and economic analysis was shared between the FCA and HMT, the Bank and financial institutions during the Specified Period;
  - b) discuss the Financial Lives Surveys, COVID-19 Panel Survey and Financial Resilience Surveys that the FCA conducted in the Specified Period (**Surveys**);
  - c) address lessons the FCA has learnt on the use of surveys;
  - d) set out our view on the adequacy of the data to which we have access; and
  - e) conclude by addressing the Inquiry's questions in Part C of its Request on the appropriateness of the Government's economic response to the pandemic.

#### **Sharing of information, data and analysis**

88. As I have explained in paragraphs 32 to 78 above, the FCA worked closely with HMT and the Bank throughout the pandemic, with dialogue at both senior and working levels that took place through both formal and more 'business-as-usual' mechanisms. As part of that

close dialogue, there was an ongoing exchange of information between HMT, the Bank and the FCA to assist each body in carrying out its functions.

89. The FCA undertook the various surveys referred to at paragraph 87 above, the results of which played a significant role in ensuring the FCA understood the impact that the pandemic was having on consumers and firms. The FCA published those surveys, making a substantial amount of data and analysis available to interested bodies, firms and the public more generally. As part of the FCA's communication strategies for major publications such as these surveys, the FCA sends tailored emails to key stakeholders such as HMT and PRA. While the enquiries we have conducted for the purpose of preparing this witness statement have not identified the specific emails sent to HMT or the PRA in relation to the surveys, this is perhaps unsurprising given the passage of time and I have no reason to believe that HMT or the PRA were unaware of the surveys or their results.

#### **FCA consumer surveys**

90. Having up to date, timely data is essential to make informed and data driven/evidence-based policy decisions. During the pandemic, the FCA assessed the data it had available to help it understand how consumers were responding to the new challenges posed by the pandemic. Mindful of the challenges consumers were facing in an uncertain environment, the FCA recognised that it would benefit from more up-to-date and broader information than was currently available to it (including on the extent to which consumers were getting into financial difficulty, going into arrears or expecting to experience financial trouble). The FCA therefore set up a survey involving 6,000 consumers, which was carried out in 5 quarterly waves starting in May 2020, in order to give it a timely and ongoing picture over the course of more than a year of emerging issues and potential harms.
91. A further and important way in which the FCA obtained the data it required during the pandemic was through the Financial Lives Surveys and the Covid-19 Panel Survey. Financial Lives, the FCA's flagship survey of UK consumers, provides a wealth of information about consumers' attitudes towards managing their money, the financial products they have and their experiences of engaging with financial services firms. It is unique in the combination of its design, its breadth (over 1,300 questions covering all the retail sectors that the FCA regulates) and its size (over 16,000 respondents in 2020 and over 19,000 in 2022). As a tracking survey, it provides evidence of how things are improving, worsening, or staying the same, from the point of view of the consumer.
92. To date there have been four Financial Lives Surveys (run in April 2017, February 2020, May 2022 and May 2024), and in each case the objectives of the survey were the same:

as a consumer-focused and data-led regulator, it is vital that the FCA has the insights to understand the realities of consumers' changing financial lives. The Financial Lives Survey's nationally representative data helps the FCA to advance its consumer protection and competition objectives through identifying harm and improving consumer outcomes.

93. The FCA has published the main reports, multiple volumes of survey data tables, the questionnaires and Technical Reports for the Financial Lives 2020 and 2022 Surveys (with the latter also including the survey questionnaire and data tables for the Covid-19 Panel Survey). That material is accessible on the 'Financial Lives Resources Library' webpage on the FCA's website (accessible at <https://www.fca.org.uk/financial-lives/resources-library>), and provides valuable insights for the financial services industry, the Government, policymakers, consumer bodies, other regulators, and academics.
94. Before turning to the detailed questions that the Inquiry has asked about these surveys, I have set out the chronology of the surveys and what they tell us about the impact of the pandemic on consumers:
  - a) The Financial Lives 2020 Survey was planned before the pandemic. Fieldwork was conducted from 30 August 2019 to 18 February 2020, but (as the FCA started the survey by running a smaller pilot) just over 70% of the interviews were completed in January and February 2020. The survey therefore gives an understanding of consumers' financial positions before the pandemic, which tells us much about their likely ability in February 2020 to deal with financial shocks. It also means that the survey acts as a baseline against which to understand changes in people's financial situations during and after the pandemic.
  - b) To test how the pandemic had already affected UK consumers, the FCA ran another survey (the Covid-19 Panel Survey) in October 2020. This survey was designed specifically to measure the changes in consumers' financial positions and to understand their experiences with financial firms since March 2020. The survey explores with consumers the impact of the pandemic and the resulting national lock-down and restrictions. It covers the topics of awareness, and experience, of mortgage and credit deferrals.
  - c) The third Financial Lives Survey, which was run in May 2022, took place after the pandemic restrictions had been lifted in the UK. While it provides some useful 'post-pandemic' results, findings will have been impacted by the rising cost of living and by the consequences of the war in Ukraine, as well as reflecting the after-effects of the pandemic.

#### *Survey methodologies*

95. In this section I provide an overview of the methodologies used in the Financial Lives 2020 and 2022 Surveys and the Covid-19 Panel Survey.

#### Methodology for the Financial Lives 2020 Survey

96. The FCA published the full detail of its survey methodology in a Technical Report (**EA/019-INQ000652812**) on 11 February 2021. I have provided a high-level summary of key points below, and note that chapter 2 of that Technical Report discusses the approach to sampling generally, chapter 8 discusses weighting and paragraphs 6.35 and 6.65 discuss the response rates.

97. Of the 16,190 valid interviews conducted for the February 2020 survey, 15,217 were completed online and 973 were completed by in-home interview. The in-home survey was designed principally to make sure non-internet users could take part; it also served to increase the number of participants aged 70+. Online and in-home survey respondents were asked the same questions, and their answers were combined for analysis and reporting.

98. In terms of the survey methodology:

- a) The combined survey utilised a random probability-based sample design, which is the most robust approach to sampling. It is based on the principle that all units (in this case respondents) have a known, measurable chance of being selected for the survey. It means that margins of error around survey estimates (i.e. the range of values within which the survey value lies, with a probability of 95%) can be calculated accurately.
- b) Sampling and sample stratification was very similar for the online and in-home surveys. The main difference was that the in-home survey required a two-stage random sample, whereby 240 Lower Super Output Areas (**LSOAs**) were first selected on a stratified random basis, before addresses were selected. LSOAs are geographies designed specifically for statistical purposes – there are nearly 43,000 in the UK and each one contains around 400 to 1,200 households and around 1,000 to 3,000 residents. Selection of these 'clusters' of addresses in the first stage of sampling is essential for efficient in-home interviewing; interviewers cannot visit a random sample of addresses anywhere in the UK.
- c) As regards the online survey:
  - i) A 'push-to-web' approach was used. Letters were sent to addresses across the UK, which had been selected on a completely random basis from the Royal Mail's Small User Postcode Address File (**PAF**). Each letter invited up to three

- adults (aged 18 or over) at that address to complete the online survey. The letter included a link to the survey website and three unique log-in codes.
- ii) To enable the selection of addresses, all PAF addresses within each country of the UK were sorted hierarchically by: (a) deciles of the Index of Multiple Deprivation (**IMD**); (b) within deciles of IMD by Local Authority Area (**LAA**); (c) within LAA alphabetically by postcode; and (d) within postcode alphabetically by address. This ensured that the selected sample of addresses would adequately represent the population in terms of deprivation, but also ensured a good geographical spread within each country and within each region of England.
  - iii) Because of varying achieved interview target numbers for each country, sampling fractions were varied between countries. In effect, this means that higher sampling fractions were applied to Scotland, Wales, and Northern Ireland than to England, in effect boosting these countries.
  - iv) In total, nearly 260,000 addresses were selected.
- d) As regards the in-home survey:
- i) The (estimated) proportion of adults aged 18+ without internet access was used as the first stratifier in each country. This variable was chosen because the in-home survey was designed primarily to provide a sample of those who do not regularly use the internet. This 'eligibility' variable was grouped into quartiles for stratification. Within each quartile, LSOAs were sorted by region (for England only), then by urban/rural category and finally by deprivation rank, using the IMD.
  - ii) A systematic sample of 114 addresses was selected for each of the 240 LSOAs, i.e. a total of 27,360 addresses.
  - iii) Interviewers on the doorstep screened for eligible respondents: those aged 18-69 who had not used the internet in the last 3 months, or those aged 70 or over (whether or not they had used the internet in the last 3 months). Up to one eligible person per household was selected for an in-home interview.
- e) On completion of the fieldwork, the data was cleaned. A sophisticated weighting regime was then applied to the data, to make the results as representative as possible of all adults in each country and in the UK overall. Weights were calculated to reduce non-response bias caused by systematic differences: (i) between participating and non-participating addresses; (ii) in the number of completed surveys returned by responding households in the online survey; and (iii) in the

profile of respondents when compared to the UK adult population.

99. The decisions to select nearly 260,000 addresses for the online survey and 27,360 for the in-home survey were determined by survey interview targets and by what the FCA knew (particularly from its experience with the Financial Lives 2017 Survey) about likely response rates. The total of 16,190 interviews exceeded the target of 15,850; online there were 15,217 respondents against a target of 14,750, and in-home there were 973 respondents against a target of 1,100:
- a) For the online survey, where all adults aged 18+ were eligible to take part, the response rate was 3.85% of individuals, which is a reasonable response rate for a long survey on financial topics conducted online. This was calculated on the basis that 92% of selected addresses would be occupied residential addresses, with an average of 1.8 adults a residence. The response rate for households was 5.34%.
  - b) For the in-home survey, where eligible respondents included non-internet users and adults aged 70+, interviewers screened as many addresses as they could during the fieldwork period. Of the 4,284 households identified as having one or more eligible respondent, 973 or 22.7% took part.

#### Methodology for the Covid-19 Panel Survey

100. The FCA published the survey questionnaire and data tables for this survey on 11 February 2021, at the same time as it published the Financial Lives 2020 Survey material referred to at paragraph 96 above. I have provided a high-level summary of key points below.

101. In terms of the survey methodology:

- a) The Covid-19 Panel Survey was conducted between 2 and 25 October 2020, involving 22,267 interviews.
- b) Most interviews (22,017) were completed online, using a blended online panel designed by our supplier Critical Research. The blended panel drew on two primary sources: the single largest panel at the time, hosted by Savanta; and a platform of smaller panels hosted by Lucid.
- c) A top-up of 250 telephone interviews was also completed, using a Random Digit Dialling sample (random telephone numbers which have been pre-contacted to ensure the telephone number is valid) to ensure that non-internet users and infrequent users were included in the survey.
- d) The natural fall-out from commercial panel surveys is often a biased sample (e.g.

people not in work are over-represented, and younger men are under-represented), meaning that weighting can result in a lower than desirable effective sample size. To maximise the accuracy of the survey results, quotas were set on several parameters (gender, gender by age, UK nations and English regions, working status, working status by age, education, housing tenure, marital status, ethnicity, and internet use) using the Financial Lives 2020 Survey weighted profile of interviews. The results were weighted to be representative of UK adults, with a bespoke approach to weighting (designed and implemented by a statistician who specialises in survey statistics) that means that the FCA considers the results to be robust.

102. It is not possible to provide a response rate for this survey, as no data was retained on the number of invitations (online panels) or the number of dial attempts (random digit dialling). This was because (a) multiple panels were used and (b) quotas were set on many variables which meant that, as fieldwork progressed, a new sample was released dynamically to get as close to targets as possible.

#### Methodology for the Financial Lives 2022 Survey

103. The FCA has published the full detail of its survey methodology by way of a Technical Report (EA/020: INQ000652813) on 26 July 2023. I have provided a high-level summary of key points below, and note that chapter 2 of that Technical Report discusses the approach to sampling generally, chapter 7 discusses weighting and paragraph 5.55 discusses the response rates.

104. Of the 19,145 valid interviews conducted for the May 2022 survey, 18,881 were completed online and 264 were completed by telephone. After Covid-19, in-home surveying was not practical and was cost-prohibitive. Therefore, the FCA moved from in-home to telephone interviewing for the 2022 survey, using a telephone survey option principally to allow non-internet users take part in the survey (that said, more non-internet users participated online, with support, than took part by telephone). Online and telephone survey respondents were asked the same questions, and their answers were combined for analysis and reporting.

105. In terms of the sampling methodology:

- a) As with the Financial Lives 2020 Survey, this combined survey again utilised a robust random probability-based sample design. This time, the sampling and sample stratification were identical for the online and telephone surveys: just a single sample was drawn.
- b) A push-to-web approach with a telephone option was used. Invitation letters were

posted to 255,000 addresses across the UK, again selected on a random basis from the Royal Mail's Small User PAF. Each letter invited up to three adults (aged 18+) at that address to complete the survey. The letter also included information on how to participate over the telephone, if this was preferable.

- c) To enable the selection of addresses, all PAF addresses within each country of the UK were sorted hierarchically, in the same way as for the 2020 online survey, i.e. by: (a) deciles of the IMD; (b) within deciles of IMD by LAA; (c) within LAA alphabetically by postcode; and (d) within postcode alphabetically by address.
- d) On completion of the fieldwork, the data was cleaned, and weighted robustly.

106. The decision to select 255,000 addresses for the combined online and telephone survey was determined by survey interview targets and by what the FCA knew (in part from its experience with the Financial Lives 2020 Survey) about likely response rates. Although the overall individual response rate for the Financial Lives 2020 Survey was 3.85% of individuals, we had trialled different recruitment letters during the 2020 survey fieldwork period, achieving a top response rate of 4.34%. To be cautious, a response rate of 4.22% was targeted for the Financial Lives 2022 Survey (18,500 interviews), which was exceeded by the overall response rate of 4.5% (i.e. 19,145 interviews).

#### *Analysis and trends identified in the surveys*

##### Introductory observations

107. As I have explained in paragraph 91 above, the Financial Lives Surveys are wide-ranging surveys covering all the retail financial sectors that the FCA regulates. The FCA has published a substantial amount of material in relation to these surveys, including:

- a) substantial reports for the 2020 (EA/021 INQ000652814) and 2022 surveys (EA/022 INQ000652815)
- b) executive summaries to the reports (EA/023 INQ000652816) for the 2020 survey and EA/022 INQ000652815 for the 2022 survey);
- c) 'Crib sheets' to help readers navigate the 2020 and 2022 survey content (which I have included at EA/024 INQ000652817 and EA/025 INQ000652818 respectively);
- d) multiple volumes of survey data tables, the questionnaires and Technical Reports for each survey; and
- e) for the Financial Lives 2022 Survey, we published 6 sector-focused slide decks (EA/026 INQ000652819 to 031 INQ000652824)

I have not exhibited the reports at sub-paragraph a) or the materials at sub-paragraph d)

above due to their size, but all of that material is accessible on the FCA's website in the 'Financial Lives Resources Library' (accessible at <https://www.fca.org.uk/financial-lives/resources-library>).

108. I should note that the Financial Lives 2020 Survey data tables were rerun in June 2022 with some corrections and a full round of enhancements (these enhancements resulted from improving data weighting as explained in Appendix E of the Financial Lives 2022 Survey's Technical Report). Very few of the 2020 survey results changed by more than one percentage point. The FCA did not update the Financial Lives 2020 Survey report with enhanced results, but did use these enhanced results when citing 2020 survey results in the Financial Lives 2022 Survey report. I have also used the enhanced or updated Financial Lives 2020 Survey results when preparing this witness statement.

#### Summary of the results

109. Between 2017 and early 2020 (i.e. before the pandemic) the proportion of UK adults with low financial resilience (i.e. they were over-indebted or had little capacity to withstand financial shocks) stayed about the same at 11.6 million (23% of UK adults) in 2017 and 11.9 million (23%) in February 2020. In February 2020, some demographic groups were far more likely than others to have low financial resilience; those least able to cope with a financial shock included unemployed adults (50%), adults with a household income of less than £15,000 (47%), renters (46%) and Black adults (36%).

110. The pandemic firmly changed things. By October 2020, the number of adults with low financial resilience increased to 14.2 million, or 27% of UK adults. The Covid-19 Panel Survey has a different methodology from our Financial Lives Surveys, meaning that the 11.9mn and 14.2mn statistics in the Financial Lives 2020 Survey and the Covid-19 Panel Survey are not directly comparable. However, because the Covid-19 Panel Survey has been weighted rigorously, the FCA is confident that the number of UK adults with low financial resilience increased significantly over the course of 2020. By way of summary:

- a) While adults across society were affected, the largest proportional increases in low financial resilience were among younger adults aged 18 to 34, adults in employment in February 2020 (employees and the self-employed), and adults with a mortgage.
- b) 31% of adults suffered a drop in their household income between March 2020 and October 2020. By far the hardest hit were the self-employed and younger working age adults.
- c) 37% of adults reported an overall decrease in their household spending between March 2020 and October 2020. 19% cut back on essentials because of the

pandemic, while 6% (2.9mn) cancelled an insurance or protection policy to save money because of it.

- d) 15% saw their unsecured debt levels increase in this period (10% by a bit and 4% by a lot). Those aged 25-44, those who were employed or self-employed in February 2020, and those who rented or had a mortgage saw their debt levels increase the most.
- e) In October 2020, 38% of adults (20.0mn) reported that their financial situation overall had worsened because of the pandemic, including 15% (7.7mn) who had seen it worsen a lot. Groups particularly hard hit included the self-employed, adults with a household income of less than £15,000 per year, those aged 18-54, and ethnic minority adults.
- f) Comparatively, the retired population was better insulated from the financial impacts of the pandemic. This is perhaps not surprising as key sources of income for this group - the State pension and defined benefit pensions - had not changed.

111. Without mortgage and credit payment deferrals, many adults would have found it even more difficult to cope:

- a) 17% of mortgage holders (3.2mn) told us they took up a mortgage payment deferral between March 2020 and October 2020 - rising to 45% of over-indebted adults and 37% of the employees who had been laid off or made redundant due to the pandemic.
- b) Another 14% (2.6mn) of mortgage holders were considering taking a payment deferral.
- c) Of those who took a deferral, 40% told us they would have struggled a lot without it, and 67% felt their lender was sympathetic to their circumstances.
- d) Awareness of the scheme was high, with just 6% of all mortgage holders saying they might have taken a deferral, had they been aware of it.
- e) 19% of adults with any credit or loan product (excluding overdrafts) told us they took a credit payment deferral, rising to 49% of those holding high-cost short-term credit such as payday loans or short-term instalment credit.
- f) Of those who took out a credit deferral, 63% took out a deferral on more than one loan.
- g) For many this support was a welcome lifeline: 32% said they would have struggled a lot more if credit deferrals were not available.

- h) 51% of those who took up a credit payment deferral felt their lender was sympathetic to their circumstances.

112. In May 2022, the number of UK adults with low financial resilience was 12.9 million, up by 1.0 million on the pre-pandemic figure in February 2020 of 11.9 million - reflecting the rising cost of living.

113. For further discussion of the 2020 and 2022 survey results, please see Chapter 4 of each of the main survey reports referred to at paragraph 107.a) above.

#### Analysis on vulnerable groups

114. Each of the Financial Lives Surveys capture consumers with characteristics of vulnerability, under four drivers or categories: poor health; recent negative life events; low resilience (mainly low financial resilience); and low capability (low financial capability and being digitally excluded).

115. In 2017, 51% of UK adults (26.0mn) showed one or more characteristics of vulnerability. By February 2020 this proportion had fallen to 48% (25.1mn):

- a) This drop was largely due to the decrease in adults with low capability from 27% to 21%. Fewer adults were digitally excluded (14% in 2017 vs. 9% in 2020). Older people aged 75+ saw the largest improvements in digital inclusion in this period (41% were digitally active in 2017, compared with 63% in 2020).
- b) Compared with the national average of 48%, the adults most likely in February 2020 to show characteristics of vulnerability were unemployed (77%), had a household income of under £15,000 a year (73%), rented (66%), were Black (65%) or aged 75+ (58%).

116. In February 2020, while the number of consumers with characteristics of vulnerability had fallen, many faced issues with their finances or struggled to interact with financial services. Examples include:

- a) Adults with poor mental health or low mental capacity or cognitive difficulties: 43% of these people found dealing with customer services on the phone confusing or difficult; 37% were anxious when shopping around for financial products and services; 36% put off dealing with financial matters, such as ignoring warning letters; and 33% had fallen into debt because they had not wanted to deal with difficult financial situations.
- b) Adults with a physical disability: 33% of these people faced difficulties getting to a bank branch, while 29% found dealing with customer services on the phone

confusing or difficult.

- c) Adults with a hearing or visual impairment: 35% of these people found dealing with customer services on the phone confusing or difficult; 38% faced difficulties getting to a bank branch; and 21% struggled to follow instructions which makes it hard for them to interact with financial services providers.
- d) Adults who had a relationship breakdown in the previous 12 months: 19% of these people had fallen into debt because they did not want to deal with difficult financial situations, while 21% struggled to manage their money.
- e) Adults with low capability about money and finances: 58% of these people felt nervous, overwhelmed or stressed speaking to financial services providers or found it hard to find suitable financial products or services; 37% struggled to assess financial products or found it difficult to shop around; and 17% had fallen into debt which might have been avoidable if they had understood their options better.

117. The pandemic reversed the positive trend in vulnerability. By October 2020, there were 27.7 million adults with characteristics of vulnerability - an increase of 2.6 million from February 2020 - taking the proportion of UK adults in vulnerable circumstances from 48% to 53%:

- a) This increase was driven mostly by more people experiencing negative life events, particularly redundancy or reduced working hours (up from 21% of adults in February to 29% in October 2020), and more having low financial resilience (up from 23% of adults in February to 27% in October 2020).
- b) From the end of February 2020 to October 2020:
  - i) 27% of all employees were furloughed. This includes 4% who were put on paid leave, but not under the Coronavirus Job Retention Scheme. 17% of employees reported that their employer had cut their hours, while 7% had their hours increased or worked overtime.
  - ii) 71% of self-employed businesses experienced a reduction in business revenues between March and October, and 9% ceased trading altogether.
- c) The pandemic had a disproportionate impact on those of working age. The largest proportional increases in vulnerability since February 2020 - by more than 40% - were among younger adults aged 18-34 and the self-employed. In contrast, retirees saw a small proportionate decrease in the numbers who have characteristics of vulnerability.

- d) There were similarly large impacts for those with a mortgage, and those with a household income of £50,000 or more.
- e) The pandemic had a significant impact on mental health, which can result in a range of difficulties when dealing with financial services. In October 2020: 18% of adults told us they had a mental health condition or illness, up from 13% in February 2020. 43% of these were aged 18-34.

118. In May 2022, measuring characteristics of vulnerability in the same way as in earlier surveys, 47% (or 24.9mn) of adults showed characteristics of vulnerability, not statistically different from 48% (or 25.1mn) in February 2020. More adults had low financial resilience (24% vs. 23% in February 2020). More had poor health (7% vs. 6% in February 2020). Fewer had low capability (19% vs. 21% in February 2020). Fewer had experienced a negative life event in the previous 12 months (20% vs. 21% in February 2020).

119. Finally, the Financial Lives 2022 Survey also captured five additional characteristics of vulnerability that were not covered in previous surveys: progressive health conditions, financial abuse, low emotional resilience, low English language skills, and learning impairments. Including these characteristics, 52% of UK adults (27.3mn) showed one or more characteristics of vulnerability in May 2022.

#### **FCA survey of regulated firms' financial resilience**

120. The Financial Lives Surveys and the Covid-19 Panel Survey are consumer-focused surveys that assess individuals' financial situations. In contrast, the Financial Resilience Survey was sent to around 23,000 regulated firms for which the FCA is the prudential supervisor (what the FCA refer to as 'solo regulated firms'). The survey was sent roughly every quarter between June 2020 and October 2023.

#### *Purpose of the Financial Resilience Surveys*

121. As of March 2020, the FCA was the prudential supervisor of around 49,000 firms. The FCA was concerned that, as many firms' sources of income could be impacted by the pandemic, a significant number of these firms might fail. The FCA's objective (as stated publicly by the FCA in for example its publication '*FG 20/1: Assessing adequate financial resources*') is to avoid disorderly failure and minimise harm in failure, and so the FCA was concerned that any failures could result in consumer harm through financial loss and/or loss of access to essential financial services.

122. In line with the regulatory principle of proportionality, at the time most of the firms for which the FCA was the prudential supervisor reported relatively limited financial information to the FCA periodically. However, with the strains placed on firms with the onset of the

pandemic, the FCA now needed access to fuller and more timely data on those firms' prudential positions, particularly in relation to their latest and forecast cashflow position.

123. The purpose of the Financial Resilience Surveys was therefore to assist the FCA in assessing the immediate impact that the pandemic was having on the finances of firms that it prudentially regulated; the data also assisted the FCA in understanding the effect of the pandemic on the sectors that the FCA regulated. Through access to more frequent and timely financial resilience data for a large proportion of our solo regulated firms, the FCA was able to quickly assess those markets and firms which presented the most significant financial resilience risks; this allowed the FCA to prioritise its supervisory interventions, resulting in reduced harm to consumers and market.

124. The FCA's Financial Resilience Surveys were the only data source offering real-time insights into the impact of the pandemic on the financial resilience of thousands of FCA solo regulated firms. It provided a common baseline to identify trends, detect anomalies and prioritise regulatory interventions across the financial services sector.

#### *Methodology*

125. The FCA took a risk-based approach to determining from which firms it needed more financial information. This resulted in the FCA surveying approximately 23,000 firms where it considered their activities could result in harm if they failed in a disorderly manner. Around 26,000 firms were excluded, based on the FCA's view that they posed low harm if they failed (which included credit brokers and debt advice firms that did not hold client money).

126. The survey asked firms to report on topics such as their liquidity profile, profitability, business model impact of the pandemic and use of government schemes. The survey also asked firms whether they had furloughed staff or used Government-backed Covid-19 loan schemes.

127. Once we had the survey data, firms were triaged based on their financial resilience using metrics such as liquidity coverage, capital position, profitability and use of government schemes. This helped the FCA prioritise its supervisory interventions and resolution planning. As part of the financial resilience-based triage, the FCA combined data from the survey with other datasets to form a more comprehensive view of resilience risks.

#### *Analysis of the survey results*

128. The FCA published two reports based on key insights from the Financial Resilience Survey data on its external website in January 2021 and April 2024 (exhibited at **EA/032-INQ000652825** and **EA/033-INQ000652826** respectively), which summarised the

findings of the surveys issued in June 2020 and August 2020 and in October 2023 respectively. The reports provided sectoral analysis of liquidity, cash flows, profitability, and macroeconomic impacts. The FCA also provided regular updates to HMT throughout this period, with insights aggregated at the portfolio level.

129. While direct comparisons between the two surveys are challenging due to differences in the categorization of firms, a broad (positive) trend can be identified:

- a) The 2021 report, based on data early in the pandemic, provided crucial insights into the immediate impact of the pandemic on firms' finances. It revealed a bleak outlook for many firms, with nearly 60% expecting reduced profits and over 20% receiving Government support. The anticipated impact varied by sector, with insurance intermediaries, retail investments, and retail lending firms being the hardest hit.
- b) The 2024 publication, three years later, showed that while liquidity and profitability challenges persisted, the outlook had improved significantly. Less than 20% of firms anticipated reduced profits, and under 18% had received government support since the start of the pandemic.

### **The FCA's use of surveys and its access to data**

#### *Lessons learned on the use of surveys*

130. The FCA recognises the importance of having accurate, timely and comprehensive data to help it identify emerging issues and trends and to inform its regulatory decisions. Our experience during the pandemic has reinforced that view.

131. There were challenges in setting up new data collections at short notice, and the exercise highlighted the need for pre-event baselines and ready access to data. To enhance its preparedness, the FCA has enhanced its capacity for rapid survey deployment and gained access to external data sources such as Open Banking data, which provide continuous insights into consumer behaviour and financial well-being. The FCA is also obtaining more forward-looking data from new sources, including financial aggregator apps, to further boost its readiness.

132. Regular collection of baseline financial data from regulated firms is also essential. One of the main reasons for developing the Financial Resilience Survey was to enhance our liquidity data for thousands of FCA solo regulated firms. This data is important since, in periods of crisis, there is an increased risk of firms failing in a disorderly manner due to liquidity stresses.

133. In the specific context of the pandemic, the FCA's regulatory returns did not give it access to up-to-date timely metrics such as liquidity data for most of the FCA solo regulated firms.

Mindful that the FCA should be proportionate in its data collection to minimise the burden on firms, in January 2024 the FCA replaced the Financial Resilience Survey with a new regulatory return called 'FIN073' that solo regulated firms must complete quarterly. This is a simplified version of the Financial Resilience Survey, which has assisted the FCA in gathering information about firms' financial resilience without incurring the time and costs involved in a full survey exercise, in a way that is more consistent and predictable for firms.

*The quality of data to which the FCA had access*

134. As I have explained in paragraphs 90 and 122 above, the onset of the pandemic was unexpected and the challenges that it placed on consumers and regulated firms required that the FCA enhance the data to which it had access in order to better inform its regulatory decisions. I have summarised above various steps that the FCA took by way of surveys to access the additional data it required in those extraordinary circumstances, and the valuable insights that the FCA gained as a result
135. In addition to data that it receives from firms and that it generates, the FCA purchases consumer research from third parties (a practice which pre-dated the pandemic and continued through it). This included IPSOS's Financial Research Survey and Mintel's consumer research, which are used to enhance and enrich the FCA's understanding and analysis.
136. While the FCA has not undertaken a review of its access to good quality data, advice, or analysis used in the economic response to the pandemic specifically, it has reviewed and enhanced its approach to acquiring and using data more generally. In case it assists the Inquiry, I have summarised below the steps that the FCA has taken.
137. Prior to the pandemic the FCA's (as it then was) Data Strategy & Services department (**DS&S**) approved and monitored the collection of regular and ad hoc data ('RegData' and surveys respectively) from across all FCA regulated firms and individuals. It was a requirement that all requests to collect data in support of new policy or handbook rules were presented to the FCA's Information Governance Board (**IGB**) for review and approval where the request did not form part of the FCA's 'business as usual' supervision of regulated firms and/or was being sent to more than one firm.
138. Work to improve the quality of data that the FCA holds had already been initiated prior to the pandemic, as the FCA started a transformation to becoming a data-led regulator (a journey which continues).
139. With the onset of the pandemic, the FCA's approach to gathering data was not sufficiently

agile to meet the challenges faced by firms and the FCA. DS&S (in conjunction with the FCA Senior Leadership Team) took the following actions to improve the efficiency of the data collection process:

- a) A moratorium on existing data collection was introduced to ease the burden on firms of existing regular reporting, to allow firms to focus on urgent ad hoc requests for new pandemic related data to be collected.
- b) The internal governance process was shortened significantly to reduce the time taken to review and approve new ad hoc data collections. A team was established, in addition to IGB, that weekly to sign off new requests where an urgent exception to the moratorium described above was sought. The smaller sign-off team consisted of the IGB Chair, FCA Communications Director and an ExCo representative.

140. Since the end of the pandemic DS&S has grown significantly in terms of responsibility, processes and resources to ensure that the FCA has the data it needs to be a data-led regulator. DS&S reviewed its existing data acquisition and data management capabilities to ensure they remained fit-for-purpose and aligned to the FCA's strategy, and would meet the increased demand for data in the most efficient and effective manner. Where the FCA identified improvements to its approach to data gathering during the pandemic it has continued them in the post-pandemic period.

141. While not a direct response to the pandemic, as part of the work to transform the FCA into a data led regulator to which I refer above, DS&S now has a regular process in place (working with relevant areas within the FCA) for reviewing data sources, identifying data gaps and ensuring data management activities are undertaken. This has improved the FCA's visibility of available data and enables more informed decisions regarding the data the FCA uses in its analysis.

#### **The use by the Government of the Survey data/analysis**

142. The Inquiry has asked the FCA to what extent the Survey results (discussed at paragraphs 90 onwards above) informed the Government's economic response to the pandemic. As the Inquiry will appreciate, the FCA is not able to give a reliable response to this question and so I note that HMT will likely be better placed to respond to the Inquiry on this point.

143. Given what I have said in the previous paragraph, it follows that the FCA is not in a position to comment on the extent to which the economic response of the Government was appropriate.

144. In the Supplemental Questions the Inquiry has asked the FCA to confirm whether HMT

requested any data from the FCA (which I have interpreted as asking about data relating to the Surveys). The FCA provided HMT with aggregated insights from the Financial Resilience Survey as part of its ongoing engagement with HMT in connection with financial resilience of FCA-authorized firms, and the data published in relation to the Financial Lives Survey (see paragraph 107 above) was likely highlighted to HMT around the time of its publication as I explain in paragraph 89 above. Beyond that, in the course of preparing this statement the FCA has not identified any specific requests from HMT for data relating to the Surveys, but given the passage of time the FCA cannot confirm categorically that no such requests were made by HMT.

## E. THE FCA'S CONSUMER CREDIT GUIDANCE

145. As requested by the Inquiry, we have included at EA/034-[INQ000652827](#) a table setting out a chronological list of the guidance published by the FCA in relation to consumer credit practices that was introduced in response to the pandemic (**Consumer Credit Guidance**). For each piece of guidance, the table includes a high-level summary of its contents and (for convenience) a hyperlink to the published guidance.

146. In the remainder of this section of my witness statement, I set out the following:

- a) The nature of, and rationale for, the various Consumer Credit Guidance (which was introduced over the period March 2020 to April 2021).
- b) The extent to which pre-pandemic restrictions on access to consumer credit or safeguards were disappplied, why, and the impact of those changes.
- c) The steps that the FCA took to monitor and protect vulnerable customers.
- d) Reflections on whether (in the context of consumer credit<sup>1</sup>) the FCA took appropriate steps during the economic response to the pandemic to protect consumers.

147. In preparing the table referred to in paragraph 145 above and the summary in paragraphs 148 onwards below, I consider not only 'traditional' consumer credit products (such as credit cards, revolving credit, overdrafts and personal loans) but also other credit products that may be of interest to the Inquiry (such as mortgages and premium finance). As the summary below explains, while there were differences in the detail of the FCA's guidance for some products (as I touch on below), the FCA adopted a fundamentally consistent approach to the nature of the support it expected firms to provide to consumers.

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<sup>1</sup> DRAFTING NOTE: Q21 could be interpreted as a broad question about the FCA's response more generally. However, as it sits in Part D on "Consumer Credit Guidance" we think it is reasonable to interpret it more narrowly in this way.

## The Consumer Credit Guidance

148. The Consumer Credit Guidance covers what can (for ease of discussion) be described as 3 broad 'phases':

- a) Phase 1 (March to June 2020): at the start of the pandemic, the FCA needed to act quickly to get support to consumers. Overnight, millions of people suffered income shocks and uncertainty, impacting their ability to pay their mortgage and credit debts. In that first phase, the FCA worked to deliver quick, clear, and simple support that was easy for consumers to understand and easy for firms to operationalise.
- b) Phase 2 (July to September 2020): with consumers' payment deferrals coming to an end in June/July 2020, the FCA needed to review its approach. Firms had already taken significant steps under our temporary guidance. As the FCA set out in its Call for Input dated 31 July 2020 (which I discuss in paragraph 156 below):
  - i) Firms had provided over 1.8 million mortgage payment deferrals.
  - ii) Firms had provided over 1.6 million personal loan and credit card payment deferrals.
  - iii) A majority of people coming to the end of their initial payment deferral would be able to restart repayments, and some would be able to afford partial repayments, but others would need to continue to receive the support they had.

It was clear that different people would have different needs requiring more tailored support.

- c) Phase 3 (October to November 2020): as people moved off their second payment deferrals towards the end of October 2020, the FCA needed to assess what (if any) further support would be needed. The guidance that the FCA published in this period built on the existing forbearance framework under the FCA's Principles for Businesses (**Principles** – the fundamental obligations that apply to regulated firms under the regulatory system) and other rules, and set expectations based on individual circumstances and needs (reflecting the challenges of the pandemic at the time).

149. In the following paragraphs I discuss in greater detail the challenges the Consumer Credit Guidance that was published in each of Phases 1 to 3 was designed to meet and why the FCA published it.

### *Phase 1*

150. Consumers were facing significant upheaval caused by (among other things) lockdowns,

reduction in income, and uncertainty over when there would be a 'return to normal'. The number of customers in financial difficulty or at risk of financial difficulty at the same time was unprecedented.

151. The FCA's rules in the 'Consumer Credit' sourcebook (known as 'CONC') and the 'Mortgages and Home Finance: Conduct of Business' sourcebook (known as 'MCOB') in the FCA's Handbook of rules and guidance already imposed requirements on firms in relation to forbearance for customers in financial difficulty. However, those rules required firms to take account of customers' individual circumstances, and firms faced significant challenges in doing so (and therefore complying with those rules) at the speed and scale required in the pandemic. This meant that there was a risk of significant harm in the consumer credit and mortgage lending sectors.

152. There was a need for a straightforward, 'one-size-fits-all' forbearance solution for firms to assist their customers for a temporary period. Accordingly, in March 2020 and April 2020 the FCA published guidance (**Payment Deferral Guidance**) setting out that:

- a) its expectation was that firms should provide, for a temporary period only, exceptional and immediate support to consumers facing payment difficulties due to the circumstances arising out of Covid-19;
- b) where a customer was already experiencing or expected to experience temporary payment difficulties as a result of Covid-19, and wished to receive a payment deferral, the firm should grant the customer a payment deferral for 3 months;
- c) with respect to mortgages, firms should not commence or continue repossession proceedings absent exceptional circumstances;
- d) with respect to motor finance, Rent-to-Own, and those buy-now-pay-later agreements within the FCA's regulatory perimeter, firms should not take steps to terminate agreements or seek to repossess the vehicle or goods where customers were in temporary payment difficulties and needed the use of the vehicle or goods; and
- e) the Payment Deferral Guidance built on Principle 6 (which requires that a firm must pay due regard to the interests of its customers and treat them fairly) and on the rules and guidance in CONC and MCOB.

This guidance was tailored where necessary to fit the specific characteristics of products. For example, the FCA said that: deferrals on high-cost short-term credit products should be for at least one month (the basis for this difference being that these were short-term products); in relation to overdrafts firms should waive interest on the first £500 for a period

of 1 to 3 months; and, in relation to premium finance, firms should, where appropriate, offer deferrals of between 1 and 3 months and not cancel associated insurance contracts solely on the basis of arrears on the premium finance loan.

153. The FCA had two broad aims in taking this step. The first was to provide temporary relief for consumers during the pandemic, via differentiated guidance that considers the nature of the different lending products. The second was to give firms certainty on the FCA's expectations (including on the automatic application of forbearance measures without needing to assess individual customer circumstances).

154. Recognising the uncertainty of the environment in which the FCA and industry was operating, the FCA stated that it would review this guidance within 3 months and in light of developments regarding Covid-19.

155. In order to enable firms to continue to act quickly to deliver immediate and temporary support to their customers, in May 2020 (for mortgage lending) and June 2020 (for other products) the FCA published proposals to update and extend the Payment Deferral Guidance for a further 3 months. The consumer credit guidance made clear that customers unable to resume payments at the end of a further payment deferral period were entitled to forbearance under the FCA's existing CONC 7 rules. As part of this, the guidance provided that any interest that would not have accrued but for the payment deferrals, should be waived as soon as practicable at the end of the further payment deferral period. This updated guidance came into force in June 2020 (for mortgage products) and July 2020 (for other products) and was set to expire on 31 October 2020.

## *Phase 2*

156. As the pandemic continued, it became clear that it was likely to have a long-term impact on many consumers' financial situation. Accordingly, on 31 July 2020 the FCA published a 'Call for Input' on the subject of ongoing support for consumers affected by the pandemic (EA/035: INQ000652828). The purpose of the Call for Input was to:

- a) Explore what further support was needed by consumers who had already benefitted from the existing FCA temporary guidance but remained in difficulty.
- b) Seek views on several propositions that the FCA considered should underpin this next phase of support.
- c) Understand the challenges firms might face, understand how they were planning to deliver good consumer outcomes and identify what further guidance they need.
- d) Seek early views on the factors that should inform the FCA's decision of whether to extend its guidance, or provide an alternative form of support, beyond 31 October

2020.

157. The FCA explained that it was issuing the Call for Input as:

*“...many consumers who have benefitted from second payment deferrals under our temporary guidance will have payment deferrals that end from September onwards.*

*These consumers will have a range of needs and circumstances. Some will still be in temporary payment difficulty. And some will be in longer term difficulty. Our research shows that consumers with deferrals who do not expect to resume full repayments appear to be particularly vulnerable compared to those expecting to resume full repayments. We want to ensure that all consumers who need it get appropriate and sustainable support when their current temporary arrangements end.”*

158. The FCA asked for responses to the Call for Input by 7 August 2020.

159. Having considered the responses it received, the FCA concluded that customers who had benefited from payment deferrals under the July 2020 guidance, and remained in payment difficulties, needed more tailored support.

160. On 26 August 2020 the FCA consulted on additional guidance (**Tailored Support Guidance**) relating to mortgage products that set out its expectations of how firms should support those customers who were affected by the pandemic after 31 October 2020, whether or not they had benefitted from a payment deferral. The FCA consulted on similar guidance for other credit products during September 2020 and October 2020.

161. The FCA published the Tailored Support Guidance for mortgage lending on 14 September 2020, and it came into force on 16 September 2020. The Tailored Support Guidance for the other credit products was published between 30 September 2020 and 30 October 2020, and in each case came into force by 1 November 2020. The guidance took into account that further deferrals may not be in the interests of all customers who were experiencing difficulties, and so envisaged firms taking other (more appropriate) steps where that was the case.

### *Phase 3*

162. On 31 October 2020 the Government announced a further lockdown taking effect the following week, along with extensions to the furlough scheme and the availability of mortgage payment deferrals. The same day the FCA confirmed (EA/036 INQ000652829) that, as a result of the further measures announced by the Government to control the pandemic, it planned to consult on extending the availability of payment deferrals for mortgage borrowers. The FCA also confirmed that it was considering the implications for consumer credit.

163. Following consultation on 2 November 2020, on 19 November 2020 the FCA published updated versions of the Payment Deferral Guidance (which was extended to 31 July 2021 and gave customers the option to seek a deferral up to 31 March 2021) and the Tailored Support Guidance for mortgage lending. The updated guidance came into force on 20 November 2020. The FCA consulted on a draft updated version of comparable guidance for other credit products on 4 November 2020 and published the final version on 19 November 2020.

164. In January 2021 the FCA updated the Tailored Support Guidance for credit lenders to reflect that firms would be able to repossess goods or vehicles from 31 January 2021 as a last resort and in accordance with all relevant government public health guidelines. The FCA updated the Tailored Support Guidance for mortgage lenders to extend the guidance that firms should not enforce repossession before 1 April 2021, except in exceptional circumstances.

### *Conclusion*

165. As can be seen, the FCA acted promptly in March 2020 and April 2020 to ensure that customers had the support they needed in the face of significant challenges, in a way that firms would be able to operationally deliver at scale in light of the (operational) challenges that firms were also facing at that time. As the situation evolved the FCA kept the position under review, extending the guidance in 3 monthly increments as it became clear that consumers and firms remained under extraordinary pressure. This enabled the FCA to ensure that consumers were protected appropriately, and expectations of firms were as clear as possible without placing an undue burden on regulated firms.

### **Changes to pre-pandemic consumer credit restrictions/safeguards**

166. To ensure the effectiveness of the Payment Deferral Guidance, the FCA disapplied the following protections where a firm was acting in accordance with that guidance:

- a) A rule that requires firms to include in their credit or store card agreements an obligation on consumers to make minimum monthly payments (CONC 6.7.5R(1) in the Consumer Credit section of the FCA's Handbook (referred to as 'CONC')). The FCA's concern was that, if not disapplied, this rule would have been inconsistent with a payment deferral.
- b) The rule requiring a firm to monitor a credit card customer's or revolving credit customer's payments record and act where there were signs of financial difficulty (CONC 6.7.3AR and 6.7.3BG). The FCA's concern was the same as in subparagraph (a) above.

- c) The 'persistent debt' rules that apply to credit and store card debts (CONC 6.7.27R to 6.7.40G), which concern a situation where a customer is, over time, paying more in interest, fees and charges than they are paying off their balance and requires firms to engage with the customer at specified intervals. The suspension would apply in respect of a customer who the firm has allowed to defer repayments for the duration of the payment deferral period. The provisions would start to apply for these customers after this period. The FCA was concerned that, if these provisions were not disapplied, the rule would have caused confusion and gone against the intention of the Payment Deferral Guidance.
- d) Rules that require a firm not to refinance a customer's existing credit unless this is sustainable, done with the customer's consent and the firm reasonably believes that it is not against the customer's best interests. The FCA made clear that the term 'refinance' in its rules did not include payment deferrals granted under the Payment Deferral Guidance; as a result, there was no expectation under the guidance that firms make enquiries with each customer to determine the circumstances surrounding a request for a payment deferral (given effect of CONC 6.7.17R(4)). The FCA was also concerned that firms might push consumers to refinance their credit so that the firm would not have to waive interest due at the end of a payment deferral – so the FCA made clear that customers should be given sufficient information to make informed decisions and to understand the refinancing option as against CONC forbearance.
- e) Rules and guidance on the provision of forbearance for consumer credit customers (CONC 7.3.3G to 7.3.6G and CONC 7.3.8G). The FCA wanted to avoid the risk that these (existing pre-pandemic) alternative provisions (which presupposed due consideration of an individual's personal circumstances) around forbearance might cut across the Payment Deferral Guidance and undermine its objectives.

The alternative would have been to not disapply these provisions, but that was not a desirable approach for the reasons given above.

167. The FCA also took a number of other steps to ensure that, if a consumer took a payment deferral during the pandemic, they were not prejudiced for doing so:

- a) Recognising the temporary and exceptional nature of the support being made available to consumers, the FCA made clear in its publication '*FS20/3: Temporary financial relief for consumers impacted by coronavirus: Feedback on draft guidance and rules 9 April 2020*', that the FCA did not expect firms to report any worsening arrears status on a consumer's credit file during an agreed payment deferral period

(but that any other forbearance should be reported in the usual manner). Many respondents to the consultation raised concerns surrounding the potential impacts of departing from usual credit reporting processes (for example on the effectiveness of future risk-based decision-making, differential impacts on credit files in relation to other Covid-19 related forbearance measures, and the need for a consistent and co-ordinated 'exit strategy' from current reporting processes). The FCA considered that, in circumstances where there were no established industry mechanisms to report short-term emergency forbearance in ways that minimised credit file impacts, its position was an appropriate and proportionate step to protect consumers' future access to credit.

- b) The FCA made clear in the Tailored Support Guidance for mortgage lending published on 14 September 2020 that customers who had taken a payment deferral and repaid their deferred amount (even by capitalising it) could benefit from the modified affordability assessment in MCOB 11.9 (designed to aid switching between lenders). Typically, the modified assessment is restricted to customers not in payment shortfall.
- c) In April 2020, the FCA clarified (by way of the Payment Deferral Guidance for overdrafts) the extent to which firms providing overdrafts could use their judgement to amend their strategies for addressing harm from repeat use, such as by phasing implementation and delaying contact where appropriate. The FCA considered this was appropriate given the other priorities facing both firms and consumers given the challenges posed by the pandemic.
- d) In April 2020, the FCA made clear (by way of the Payment Deferral Guidance for credit cards) that firms should not automatically suspend a customer's credit facility where payments had been deferred under the Payment Deferral Guidance. The FCA did not consider such action would be fair in the circumstances (albeit this would not prevent firms from suspending an account separately under section 98 of the Consumer Credit Act 1974).

168. The FCA considers that each of the steps above were reasonable ones for it to take, aimed at ensuring that the Payment Deferral Guidance would have its desired effect and that taking a payment deferral would not expose consumers to unexpected or unfair consequences. These steps therefore played a role in supporting consumers in the challenging economic circumstances caused by the pandemic.

169. For completeness, as the Inquiry has asked specific questions on the FCA's involvement in relation to the Government's Covid-19 loan schemes in Part E of the Request, I have

not addressed those loans/loan schemes here. The FCA's response to the Inquiry's questions in relation to those loan schemes is at paragraphs 182 onwards below.

### **The FCA's steps to monitor and protect vulnerable consumers**

170. The principal means by which the FCA monitored vulnerable consumers during the pandemic was the Financial Lives Survey, which I have summarised in paragraphs 90 onwards above. I have summarised at paragraphs 114 to 119 what the data tells us about vulnerable consumers, and so I do not repeat that here.

171. The FCA took a number of steps during the pandemic to protect vulnerable consumers:

- a) Publication of GC 20/3:
  - i) The FCA initially consulted on Guidance for firms on the fair treatment of vulnerable customers in July 2019 by way of GC 19/3 (EA/037 INQ000652830). This was paused at the start of the pandemic, as part of the urgent reprioritisation of the FCA's resources. However, the FCA continued to engage with consumer groups and worked to understand the impact of the pandemic on consumers and how it might affect vulnerability.
  - ii) After the initial pause, the FCA decided to publish the guidance and draft consultation because the fair treatment of vulnerable consumers remained a key priority for it. The FCA published a further consultation on guidance for firms on the fair treatment of vulnerable customers (GC20/3) on 29 July 2020 (EA/038 INQ000652831), publishing the final guidance (FG 21/1) on 23 February 2021 (EA/039 INQ000652832).
  - iii) The purpose of this guidance was to drive improvements in the way firms treat vulnerable consumers and bring about a practical shift in firms' actions and behaviour. The FCA wanted vulnerable consumers to experience outcomes as good as other consumers and to get consistently fair treatment across the sectors that it regulates.
- b) Access to cash/essential banking services: the FCA worked with the PSR and retail banks to ensure that consumers' access to essential banking services and cash was maintained in difficult operational circumstances, ensuring that vulnerable customers' needs in particular were addressed and that they were given the necessary support.
- c) Processing of complaints: the FCA issued guidance on the processing of complaints (EA/040 INQ000652833), so that firms prioritised those most vulnerable to harm.

- d) Consideration of vulnerability in our guidance: vulnerability was also considered as part of the guidance on mortgages, credit and access to cash. For example, in the Payment Deferral Guidance for credit products, the FCA made clear that firms should take account of the particular needs of their vulnerable customers.
- e) Emphasising vulnerability in our messaging: The FCA recognised the impact of the pandemic on vulnerable consumers and emphasised this in its messaging and planning. For example, the FCA's Business Plan for 2020/21 (EA/041-INQ000652834) made clear that it would be focusing on the longer-term economic impacts of the pandemic on society, including ensuring that the most vulnerable are protected (EA/041@4-INQ000652834).

172. The FCA's work enabled firms and other stakeholders to understand the impact of the pandemic and take action to meet the needs of their customers, while also putting in place measures intended to protect vulnerable consumers.

173. It is difficult to measure the exact impact of the FCA's work to protect vulnerable consumers independent from other factors. However, we believe that our work helped firms and other stakeholders to understand that consumers in vulnerable circumstances are at greater risk of harm than other consumers, if they do not receive an appropriate level of care. It enabled them to understand the drivers of vulnerability and the actions firms should take to meet their needs. Ultimately, the FCA wants consumers in vulnerable circumstances to experience outcomes as good as those for other consumers and receive consistently fair treatment across the firms and sectors that the FCA regulates.

#### **The appropriateness of the steps taken by the FCA**

174. The Inquiry has asked whether, looking back, the FCA considers it took appropriate steps during the economic response to the pandemic to protect consumer credit consumers.

175. The economic challenges posed by the pandemic were significant, both for consumers (in terms of how they would cope with reduced income) and for firms (including in how they would support customers at scale). The FCA acted quickly and decisively, deprioritising other work to play its part in supporting firms and consumers.

176. There are, of course, risks in operating at speed. For example, as the Woolard Review (conducted in 2020 and accessible on the FCA's website) notes in relation to the FCA's approach to masking credit files at paragraphs 2.16 and 2.17:

*"Many [respondents] viewed protecting consumers' credit files from a situation out of their control as generally positive, although the reduction in transparency and accuracy of credit information was seen by some to have created problems. Respondents noted*

*that it has made some firms less willing to lend as they don't have the full picture of the consumer. In the short term, this may have a negative impact on access to credit.*

*It was appreciated that while the approach taken to deliver 'masking' was a fairly blunt solution, more refined approaches were not available at the time, and it was important for the FCA to act swiftly..."*

177. There is evidence suggesting that the FCA's actions had a positive impact. For example:

- a) The take-up of support offered by firms under the Payment Deferral Guidance was high, as confirmed by the Financial Lives Survey results discussed at paragraph 111 above (recognising it may be that not all consumers who took a payment deferral will have strictly needed one).
- b) Research in January 2023 from Fair4All Finance, in conjunction with Lloyds Banking Group, NatWest Group and Yorkshire Building Society found that the support offered by firms "significantly helped customers during Covid-19, with no detrimental impact on bottom lines" (EA/042-**INQ000652835**).
- c) While median debt levels increased between May and August 2020, this increase was temporary and levels returned close to pre-pandemic levels by May 2021. Mean debt levels decreased from around £39,000 in May 2020 to £35,000 in May 2021. Unsecured debt levels for those with high debt (90th percentile) fell below pre-pandemic levels from £11,300 in August 2020 to £8,700 in May 2021.

178. The steps that the FCA took were temporary and kept under review. As the wider environment became less unsettled, the FCA moved back to requiring that firms consider individual customer circumstances as set out in the Tailored Support Guidance.

179. Further, the FCA undertook supervisory work that tested whether firms were delivering good outcomes for consumers in financial difficulty in this period:

- a) In March 2021 the FCA published the findings of its review into mortgage and consumer credit firms' implementation of its Tailored Support Guidance and the operational readiness of firms to support customers in financial difficulty (EA/043-**INQ000652836**). The FCA found that, in general, customers were able to get support as they exited payment deferrals. The FCA's monitoring of lenders' operational readiness to support customers had not identified any systemic issues with firms' ability to meet the demand from customers seeking further help (subject to noting potential risks around firms' use of inexperienced staff and plans to automate forbearance processes).
- b) In March 2021 the FCA launched the 'Borrowers in Financial Difficulty' (BiFD) project

to ensure that firms continued to support borrowers in financial difficulty in line with the Tailored Support Guidance. Following firm surveys in July, September and November 2021, the FCA published interim findings in January 2022 that focussed on the results of its multi firm work in relation to training, competence and oversight of staff.

- c) In June 2022 the FCA published a Dear CEO letter (EA/044- INQ000652837) (broadly these are letters written to a portfolio of firms that typically set out emerging concerns and/or invite specific action to be taken), sent to more than 3,500 lenders. This letter outlined further emerging findings from the FCA's work looking at consumer outcomes and reminded firms of the standards they should meet as consumers are affected by the rising cost of living.
- d) In November 2022 the FCA published the findings of its review of firms' treatment of borrowers in financial difficulty after the pandemic (EA/045- INQ000652838), which formed part of the BiFD project. The findings included that firms could be doing more to improve outcomes for customers, particularly in relation to engaging with customers, the effectiveness of conversations with customers, helping customers access debt advice, and fees and charges. These findings informed work to move the expectations set out in the Tailored Support Guidance into the FCA's Handbook on a permanent basis.

180. Importantly, the FCA sought to ensure that it was mindful of the interests and needs of both consumers and firms. For example, while the FCA expected consumer credit lenders to waive interest accrued during the deferral period if consumers were unable to resume payments at the end of it, the FCA also made clear in the guidance documents it published in July 2020 and November 2020 in relation to personal loans, motor finance, HCSTC, credit cards and rent-to-own products that firms did not need to waive the accrued interest where consumers were able to resume payments at the end of a deferral period.

181. Taking all of the above together, the FCA considers that the steps it took to protect consumer credit customers in the Specified Period, including by way of the Consumer Credit Guidance, were an appropriate response to the extraordinary circumstances posed by the pandemic.

## **F. THE FCA'S ROLE IN THE COVID-19 LOAN SCHEMES**

182. In this section, I summarise the FCA's involvement in the design, implementation and delivery of the Coronavirus Business Interruption Loan Scheme (CBILS) and the BBLS. I then go on to address the specific questions that the Inquiry has asked in connection with:

- a) the letter dated 25 March 2021 sent by the Chancellor, Governor of the Bank and CEO of the FCA to the CEO's of the UK banks;
- b) the changes made to the CBILS and the launch of the BBLS;
- c) whether FCA rules were relaxed so that lenders could lend quickly to small businesses;
- d) Mr Randell's speech on 16 June 2020 to a virtual roundtable of bank chairs; and
- e) the guidance the FCA published on 26 January 2021 in relation to the BBLS, following its consultation on 4 December 2020.

183. For completeness, the Inquiry asked if the FCA had any involvement in the design, implementation and delivery of the Coronavirus Large Business Interruption Loan Scheme (**CLBILS**), Term Funding Scheme, Covid Corporate Financing Facility or Recovery Loan Scheme (**RLS**). Based on the enquiries that we have carried out for the purpose of preparing this witness statement, we have identified that the FCA issued a statement on 26 May 2021, in response to a request from UK Finance (which HMT supported), confirming that the FCA's rules would apply to any regulated lending under the RLS and that lenders should continue to undertake appropriate anti-money laundering and fraud checks on RLS applications (**EA/046**: **INQ000652839**). Outside of that, we have not identified any substantive involvement in any of the said schemes.

### **The FCA's involvement in the CBILS**

#### *Summary*

184. The BBB owned and administered the Government's Covid-19 loan schemes. Its website records that CBILS "*supported businesses that needed finance to survive the challenges of the coronavirus pandemic and recover afterwards*", and that "*businesses could access financial support of up to £5 million if they had been adversely affected by COVID-19*" (**EA/047**: **INQ000652840**).

185. The Government, the Bank, the FCA, the BBB and lenders (which in the remainder of this section of my statement I refer to as 'firms') worked together constructively and collaboratively to achieve the goal of ensuring that funding was obtained by businesses in need at a time of extreme difficulty. This involved working under significant pressure to achieve this aim, thinking creatively and challenging each other on how to best do so while maintaining appropriate and proportionate controls and protections.

186. The FCA's role in relation to the CBILS was principally focussed on providing guidance and statements to firms on how the scheme could be delivered by them in compliance

with existing FCA rules and guidance.

187. In summary, the key aspects of the FCA's involvement were:

- a) Issuing guidance on 20 March 2020 on how firms could comply with the FCA's creditworthiness assessment rules in the FCA's Consumer Credit Sourcebook, in particular CONC 5.2A (EA/048 INQ000652841)
- b) Issuing a 'Dear CEO' letter on 15 April 2020 (EA/049 INQ000652842) that highlighted the need to support SMEs during the pandemic, and reminded CEOs and senior managers of the requirements imposed on them under the Senior Managers and Certification Regime (SMCR).
- c) Publishing a statement on 27 April 2020 following changes to the CBILS (EA/050- INQ000652843), which: set out the FCA's approach to the relationship between CBILS and the rules on creditworthiness assessments in CONC; confirmed that compliance with the requirements of the CBILS (and BBLs) by those senior individuals within scope of the SMCR would be considered adequate for the purpose of compliance with various SMCR rules; and provided guidance on managing financial crime including with respect to carrying out customer due diligence (CDD).
- d) Updating the statement on 4 May 2020 (EA/051 INQ000652844), following the launch of the BBLs, to clarify that the statement of 27 April 2020 still applied to any CBILS lending that was regulated.
- e) Following the commencement of the CBILS, having daily update calls with major lenders that were providing CBILS (and BBLs) loans to gather data on the number of loan applications and drawdowns as well as any other associated developments. This was initially gathered in conjunction with the Bank, and then later by the FCA alone, before moving to rely on the figures supplied by the BBB once its systems became able to report on the number of loan applications and drawdowns through their 'lender portal'. The FCA used this data to identify whether there were any outliers which might indicate challenges lenders were facing, and the data helped evidence a broadly consistent experience among lenders.

While colleagues from various areas of the FCA will have input into the above matters, the FCA's engagement was led principally by the FCA's Head of Department for Retail Banks. Other senior staff involved were the Head of Competition Policy, Director of Consumer and Retail Policy, the Executive Director of Retail Supervision and Authorisations, the Executive Director for Strategy and Competition (later Consumers and Competition), the Head of Department for Financial Crime, and the Head of Department

of Redress and Retail Lending.

*Chronology of the FCA's involvement*

188. On 17 March 2020 HMT shared its proposals for the CBILS scheme with the FCA for the first time. At this point HMT was particularly interested in discussing the reassurances that the FCA could provide to lenders who were concerned about their ability to adhere to the full requirements of the FCA's consumer credit rules for credit-related regulated activities when lending under the CBILS. Of particular concern were the FCA's rules contained in CONC, and the Consumer Credit Act 1974, particularly (given borrowers were experiencing significant downturns in trade as pandemic restrictions were being put in place) the creditworthiness assessments that lenders were required to carry out in respect of borrowers under CONC 5.2A.
189. On 18 March 2020 the FCA agreed that it would issue guidance to give reassurance to lenders and conveyed this decision to HMT.
190. On 20 March 2020 the FCA published its guidance on its website (**EA/052-INQ000652845**). While not changing the rules, the guidance explained that where borrowers were applying for business loans to which the CBILS applied, the fact that a borrower may at the time of the application be temporarily experiencing exceptional financial pressures did not mean that lenders would be prevented by CONC 5.2A.5R from making the loan.
191. On 25 March 2020 HMT, the Bank and the FCA issued a joint letter to the CEOs of UK banks on the subject of pandemic and bank lending (**EA/053-INQ000652846**), stating that the priority for all three bodies was to take all action necessary to ensure that the benefits of measures that had recently been put in place, including the CBILS, were passed through to businesses and customers. I discuss this letter further in paragraphs 234 onwards below.
192. Between 30 March 2020 and 2 April 2020 the FCA and BBB discussed amendments that the BBB proposed to the CBILS eligibility criteria. The amendments had been proposed in light of firms' concerns over how in practice to assess the viability of potential borrowers. The FCA confirmed it had no objection to the amendments.
193. On 15 April 2020 the FCA published a 'Dear CEO' letter (**EA/054-INQ000652847**) addressed to the CEOs of UK banks and insurers on the subject of lending to small businesses. In this letter the FCA set out the importance of support from lenders to SMEs, referring to both the FCA's 20 March 2020 CBILS guidance (paragraph 190 above) and the 25 March 2020 joint letter (paragraph 191 above). The letter asked CEOs to take

reasonable steps to ensure that Senior Managers with responsibility for small business lending were discharging their roles suitably. The letter also recognised that banks would be making different judgements and adopting different risk tolerances than they would have prior to the pandemic to support SMEs.

194. From around 20 April 2020 the CBILS attracted criticism, primarily due to the low level of funding drawn down in the first few weeks. Businesses claimed that lenders were taking too long to process applications and believed that too many applications were being declined. Lenders highlighted challenges around confirming affordability in the prevailing economic climate, the volume of loans that were being made, and the delays which they suggested were caused by the need for regulatory compliance. Lenders noted in particular that the smallest loans were subject to the Consumer Credit Act 1974 and CONC requirements. Lenders flagged their concerns in calls they held with various FCA Supervision teams, and also at a roundtable that the FCA held with key retail banking CEOs on 23 April 2020 to discuss the challenges that were being faced in CBILS lending.
195. Around this time HMT was in contact with the FCA to discuss the possibility of taking CBILS loans outside of the FCA's regulatory perimeter through amendments to the Regulated Activities Order. By way of context, business lending is regulated by the FCA where (i) both the amount of the credit (or hire payments in the case of consumer hire) does not exceed £25,000 and (ii) the borrower is an individual or a relevant recipient of credit (for example, a partnership consisting of two or three persons). It follows that lending to limited companies, limited liability partnerships and partnerships consisting of more than three persons falls outside of the FCA's regulatory perimeter.
196. The FCA understood that Ministers were keen to replicate the 'Swiss solution', which was a pandemic loan scheme that had been launched in Switzerland with a very simple application form, and a self-declaration from borrowers that they understood the commitment. The Swiss scheme also provided lenders with a 100% government-backed guarantee, whereas the Government guarantee for CBILS was 80%. The implications of taking CBILS outside of the FCA's regulatory perimeter were considered, namely that doing so would lead to a loss of statutory and regulatory protections provided by the Consumer Credit Act 1974, CONC, and the Principles (in particular Principles 6, 7 and 9).
197. On 26 April 2020 HMT informed the FCA that the Chancellor had confirmed a new package of support for businesses. These were:
- a) The CBILS for loans above £25,000. The Government and the BBB were intending to amend the terms of the CBILS to allow lenders to rely on a business being a going concern at a given date in 2019 as reasonable grounds to lend. The FCA was asked

to issue a statement confirming that the FCA would treat this as reasonable for the purposes of compliance with the SMCR, which statement the FCA issued on 27 April 2020 (see paragraph 199 below).

- b) The launch of a new small CBILS scheme for loans of between £2,000 and £25,000. This was subsequently renamed the BBLS (which I discuss in paragraphs 206 onwards below), and the maximum size of loan under the scheme increased to £50,000 before it was launched. HMT first made the FCA aware of this proposal on a call on 22 April 2020.

198. On 27 April 2020 HMT announced changes to the CBILS scheme (EA/055-[INQ000652848](#)), including changing the viability tests so that all that banks would need to assess is whether a business was viable before the pandemic. As the FCA noted in its subsequent letter to the FOS that I discuss in paragraph 201 below, for smaller value facilities (such as those up to £25,000 that were subject to FCA regulation), in determining the applicant's eligibility lenders could decide to determine the business's creditworthiness based on the lender's internal credit scoring models from time to time rather than assessing viability.

199. On the same day, 27 April 2020, the FCA issued a statement on its website setting out its new position on the amended creditworthiness assessments under the CBILS (EA/050-[INQ000652843](#)). In that statement the FCA:

- a) Announced that, as an interim measure pending the roll-out of the BBLS, if firms complied with the relevant requirements of CBILS as announced by HMT on 27 April 2020, the FCA would not expect them to comply with the FCA's rules in CONC 5.2A.4R to CONC 5.2A.34G where the lending was regulated (broadly, credit agreements of £25,000 or under with sole traders, certain small partnerships and other relevant recipients of credit).
- b) Clarified, in response to industry concerns, that compliance with the requirements of the CBILS by those subject to the SMCR would be considered adequate for the purpose of their compliance with the requirements imposed on them by various rules under the SMCR.
- c) Provided guidance for firms on managing financial crime risk, including in relation to CDD requirements for existing customers and for new customers, to help firms manage the risks of fraud and money laundering within the context of the pandemic.

200. On 4 May 2020, following the launch of BBLS, the FCA updated its statement of 27 April 2020 (EA/051-[INQ000652844](#)) to clarify that its position would remain applicable to

regulated lending that continued to take place under CBILS. However, it was not anticipated that any material regulated lending would take place via CBILS going forward, as BBLs loans would be available for sums from £2,000 to £50,000 on much more attractive terms than CBILS loans.

201. On the same date, the FCA wrote to the FOS (EA/056 INQ000652849) to seek assurances that it would recognise the exceptional circumstances when handling complaints from lending under the CBILS and BBLs (including taking into account the different approach that would be taken by lenders under the schemes, and the schemes requirements). The FOS responded the same day confirming the FCA's understanding (EA/057 INQ000652850). The detail of the FCA's letter had been the subject of discussions over the previous days, including with HMT.

202. On 1 February 2021 HMT informed the FCA that it had become aware that some borrowers were seeking to refinance their CBILS loans simply for the purpose of resetting the 12 month period during which the Government covered interest under the scheme. HMT explained that it proposed to issue guidance clarifying to lenders that borrowers could refinance if they wanted or needed to change their CBILS product (e.g. from overdraft to term loan) or had found a cheaper product (i.e. with a lower interest rate), but that they could not refinance purely to reset the 12 month period. HMT asked the FCA whether it considered this posed any issues in terms of compliance with Principle 6 (which requires that FCA authorised firms must pay due regard to the interests of their customers and treat them fairly). The FCA replied to HMT on 2 February 2021, noting that only a small amount of CBILS lending would be regulated by the FCA and so subject to Principle 6 – but that, in respect of that small segment of lending, HMT's proposed guidance did not present any issues in terms of Principle 6. The FCA also flagged the potential for harm if firms were inappropriately refinancing for the purpose of resetting the said 12 month period in other circumstances, in particular where this involved a product with a higher interest rate, and suggested that the BBB might consider monitoring this in their audits.

203. Based on the enquiries we have carried out for the purpose of preparing this witness statement, we have not identified that the FCA had any substantive involvement in the design, implementation or delivery of the CBILS scheme after this date. We also observe that, after this date, given the availability of loans under the BBLs on more attractive terms, CBILS lending was almost entirely outside of the FCA's regulatory perimeter.

*What worked well and where might improvements be made*

204. The collaborative effort between the FCA, HMT, the Bank, the BBB, the LSB and lenders was a success, that worked towards the goal of trying to ensure that businesses were

able to access the financial support they needed. The FCA responded promptly to concerns from lenders, providing guidance and statements of comfort.

205. While the FCA was not involved directly in most discussions with lenders, it is unclear whether (in the circumstances) that would have resulted in any material efficiency gains.

### **The FCA's involvement in the BBLs**

#### *Summary*

206. The Government launched the BBLs on 4 May 2020 in the context of feedback from industry that CBILS loans were taking too long to deliver funds to businesses. There was a real concern that businesses risked collapsing if they did not have swift access to finance, and that risk needed to be balanced with an appropriate level of checks in the circumstances. Consistent with this, the BBB states on its website that the BBLs “*was designed to enable businesses to access finance more quickly during the coronavirus outbreak*” (EA/058 INQ000652851).

207. As with the CBILS (see paragraph 185 above), the FCA worked with Government, regulators and firms under significant pressure to achieve the goal of ensuring that funding was obtained by businesses in need at a time of extreme difficulty, thinking creatively and challenging each other on how to best do so while maintaining appropriate and proportionate controls and protections.

208. By way of overview of the FCA's involvement in the design, implementation and delivery of the BBLs:

- a) The FCA was involved in detailed discussions with HMT on the BBLs in the short period between the scheme's conception and its launch. Those discussions focused on unaffordable lending, risks in the collection process, the extent to which the loans should be subject to consumer credit regulation, financial crime issues and ongoing discussions relating to the FOS's role when assessing complaints relating to the BBLs. The FCA engaged constructively to assist HMT to put in place the Chancellor's design for the scheme; the FCA's role was partly as a consumer voice in the process, identifying risks and advocating for borrower protections to be included. HMT also sought the FCA's advice on how to speed up the loan approval process, taking into account fraud risks and CDD requirements. The HMT team accepted that a key part of the FCA's role was to protect borrowers, and they anticipated a number of the concerns that the FCA raised. HMT was receptive to the FCA's input on borrower protection, as demonstrated by HMT's acceptance that the substantive protections that apply to collections and recoveries activity under CONC

7 should be incorporated in the BBLs (even though those loans had been taken outside of the FCA's regulatory remit).

- b) From March 2021 the FCA maintained a representative on a BBLs working group that ran during the life of the scheme, and was intended to keep open channels of communication and updates on the scheme's performance. The group was convened by the LSB and included HMT and the BBB.
- c) The FCA maintained bilateral meetings with the BBB, in order to understand regulated firms' challenges, and the progress of the BBB's audits of lenders, which it carried out at various stages of the scheme. BBLs will also have been discussed as part of the FCA's regular ongoing engagement with HMT.
- d) The FCA set up a small BBLs fraud unit within its Retail Banks Project Team in May 2021 for 6 months. The aim of the unit was to triage FCA regulated firms that had been flagged as suspected of fraud by lenders or had flags attached to them in the BBB lender database.
- e) As a result of the increased focus on SME vulnerability due to the pandemic and BBLs, the FCA decided to carry out Multi Firm Work on firms' approach to collections and recoveries for SMEs in July 2021.
- f) Between August 2020 and December 2020 the FCA was involved in discussions with HMT on the collection and recovery of BBLs facilities, which resulted in the FCA publishing guidance on 26 January 2021.

Whilst colleagues from various areas of the FCA will have input into the above matters, the FCA's engagement was led principally by the FCA's Head of Department for Retail Banks. Other senior staff involved were the Head of Competition Policy, Director of Consumer and Retail Policy, the Executive Director of Retail Supervision and Authorisations, the Executive Director for Strategy and Competition (later Consumers and Competition), the Head of Department for Financial Crime, and the Head of Department of Redress and Retail Lending.

#### *Chronology of the FCA's involvement*

##### Discussions pre-launch of the BBLs

209. While the FCA was first made aware of HMT's proposals for BBLs on 22 April 2020, the FCA became heavily involved in detailed discussions with HMT on the design of the BBLs between 27 April 2020 and 4 May 2020 (when the BBLs was launched). These discussions focused on (broadly):

- a) the amendments to legislation required to take outside of the FCA's regulatory perimeter those BBLS loans that would otherwise fall within it (which I refer to below as the **Exemption**);
- b) consumer protection matters such as unaffordable lending, risks in the collection process, and the extent to which the loans should be subject to consumer credit regulation;
- c) on-going financial crime considerations, including anti-money laundering and fraud prevention; and
- d) continuing discussions regarding the role of the FOS in dispute resolution.

I discuss each of these below, but in summary the FCA engaged constructively to assist HMT.

210. HMT had already decided that lending under the BBLS should be exempt from consumer credit regulation. The FCA therefore worked with HMT at the end of April 2020 to make the necessary legislative amendments to achieve this objective. As part of this work, the FCA requested that lenders' collection activity on BBLS loans that were within the Exemption remain within the regulatory perimeter, to which HMT agreed. In light of these legislative amendments, the FCA made consequential amendments to Chapter 7 of CONC (or 'CONC 7') to ensure that the forbearance provisions in the chapter would apply to lenders' debt collection activity in relation to exempt BBLS loans.

211. In terms of consumer protection considerations, the focus of discussions was on the standard of care owed by the lender and the extent to which protections in the Consumer Credit Act 1974 should be reflected in the BBLS documentation, specifically the Guarantee Agreement. By way of example:

- a) Given that the FCA's Principles 6 and 7 would not apply (except in relation to collections activity), it was important that lender firms understood the overarching standard of care expected of them. The relevant wording in the agreement was therefore an area of focus in discussions with HMT, with HMT including wording in the Guarantee Agreement concerning the duty of care owed by lenders (a specific aspect of which I discuss further in paragraph 212.c) below).
- b) Requirements on lenders to make appropriate adjustments to support the borrower if they were identified as vulnerable or potentially vulnerable were added at the FCA's request.
- c) Certain minimum requirements on the information to be provided to the borrower were included at the FCA's request.

- d) Schedule 9 to the agreement set out minimum standards for the lender's recovery processes, in line with their existing standards and either (depending on the status of the recovery activity) CONC 7 or the LSB's Standards of Lending Practice for business customers. The FCA also raised whether references to the lender should extend to commercial third parties to whom the guarantor's rights to recover may pass by assignment or right.
- e) Schedule 10 to the guarantee agreement provided wording to be included in scheme facility letters to: explain the role of the BLS guarantee provided by the UK Government, explain the customers responsibility to repay the loan and direct customers to where important information relating to their loans, including information on how to complain, could be located on the firm's website.

212. The Inquiry has asked in the Supplemental Questions whether there were any recommendations that the FCA made that HMT did not adopt. During the course of discussions between HMT and the FCA, the FCA made a number of suggestions or recommendations for HMT to consider. As indicated above, many of these were adopted by HMT. With the passage of time we are not able to provide a definitive list of suggestions/recommendations that HMT did not accept. However, we have identified the following suggestions/recommendations that HMT ultimately did not adopt:

- a) First, the FCA recommended that protections/provisions in the Guarantee Agreement should be directly enforceable by borrowers. HMT informed the FCA that there was considerable resistance from lenders to this suggestion. The FCA's view was that, even without this direct right, borrowers would be protected by having rights of complaint to lenders and to make referrals to FOS (which could require payment of redress) available to them.
- b) Second, the FCA proposed that the requirements to which lenders were subject include a provision requiring that lenders treat borrowers fairly. However, the FCA did not consider the decision not to include this specific requirement was significant in the circumstances: the substantial majority of the other protections the FCA had recommended were adopted by HMT, and the Guarantee Agreement contained provisions requiring lenders to: take all action in a reasonable manner; always act in good faith; pay due regard to the borrowers' information needs; and provide information to borrower in a way which is clear, fair and not misleading.
- c) Third, HMT introduced a qualification that lenders would not be in breach of the standard of care in clause 3.1 of the Guarantee Agreement if they complied with the provisions of Schedule 8 for fraud checking and Schedule 9 regarding recoveries

processes. The FCA suggested that these qualifications be removed so that the standard of care in clause 3.1 was an overarching one but HMT declined to do so, noting a concern on the part of lenders around uncertainty as to what the standard would require of them.

- d) Fourth, the FCA proposed that consumers be given a 14 day cooling-off period and a 14-day period to remedy any breach. HMT decided not to include the former, and on the latter preferred to provide for a “reasonable” period.
- e) Fifth, the FCA suggested that the provisions in CONC 6.7.24R to 6.7.26R be incorporated into the Guarantee Agreement. These rules provide protection from a firm seeking to amend the terms of a continuous payment authority after the contract is entered into. It is not clear why these provisions were not incorporated, although I note that they apply to payments by credit/debit card and not direct debit (and it may be that in practice lenders opted for collecting by direct debit).
- f) Sixth, the FCA raised with HMT whether CONC 6.4 might be incorporated into the Guarantee Agreement. Whilst HMT did not take that specific step, it did include provisions in Schedule 6 to the Guarantee Agreement to deal with the appropriation of net receipts following demand for repayment of a facility owed by a borrower where they had a non-scheme facility as well as a scheme facility with the lender.
- g) Seventh, the FCA noted that Declaration 10 in the BBLs Application Form (found at Schedule 3 to the Guarantee Agreement) required borrowers to confirm they understood the costs associated with repayment of the loan and that they were able to complete timely repayment. Given that the borrower would have not yet seen the costs associated with repayment of the loan at the time they gave this declaration, the FCA proposed amending the wording to state that the borrower understood they would need to review and understand the costs and that they would need to confirm their ability to make the payments.
- h) Eighth, the FCA suggested adding to the key features included in the BBLs application form that BBLs loans were not subject to the usual consumer protections.
- i) Ninth, the FCA identified that the standard of care provisions in Clause 3.1 of the Guarantee Agreement and the minimum recovery standards in Schedule 9 to the Guarantee Agreement only applied to the “lender” in a recovery scenario, and that Schedule 9 would not cover third party collection agents appointed by the Government after it had paid out the loan, or an assignee from the Government of the right to recover the guarantee payment. HMT accepted the need in principle to ensure protections did not get lost on assignment, but in the course of preparing this

statement the FCA has not identified whether/how HMT addressed this in practice (the point was not addressed in the Guarantee Agreement).

For completeness, while there were other points that the FCA raised that were not taken forward by HMT, they were not relevant given how the BBLs was ultimately designed and the loans were structured (e.g. provisions around variable interests rates and open-ended agreements were not relevant given that the rate was fixed and these were term loans).

213. The Inquiry has asked why HMT did not take on board the recommendations to which I refer above. Ultimately, HMT will be able to confirm why this was the case. However, I expect (but am speculating) that HMT considered that the BBLs conferred appropriate protections on borrowers in substantive terms whilst also allowing HMT to advance its other policy objectives in establishing the BBLs.

214. On collections and recoveries specifically, the FCA raised with HMT that:

- a) It was not clear what the incentive was for lenders to pursue payment from the borrower: lenders benefitted from a full guarantee that could be called on once the lender issued a default notice to the borrower, and the scheme rules only required lenders to engage in their usual recovery procedures for 12 months (with no minimum activity level stipulated).
- b) While a borrower's principal residence and motor vehicle were to be excluded from any recovery, other personal assets of a sole trader borrower (or partner in a partnership) could be pursued. This was at odds with the position for a limited company borrower, where the inability to obtain personal guarantees meant that the lender could not pursue individuals for repayment of the BBLs liability.

215. As regards financial crime matters:

- a) The FCA was asked to input on the risks of money laundering and combatting the financing of terrorism, particularly in relation to CDD given that SMEs completed self-certified loan applications under the BBLs.
- b) The FCA sought to have qualifications on the standard of care in respect of anti-money laundering, 'know your client' (**KYC**) requirements and fraud checking removed.
- c) The FCA's input also covered fraud risks, specifically in connection with a limitation proposed by HMT of the loans restricting them to businesses that had been in operation since at least January 2019. While recognising that decisions in relation to fraud risk rested with HMT, the FCA agreed that this limitation could help mitigate the possibility of fraud. HMT ultimately chose not to implement this limitation. HMT would

be best placed to confirm the reason for its decision, but from discussions at the time the FCA's understanding is that HMT took into account that the limitation: would have been unfair to businesses that were established between January 2019 and March 2020 that also needed help; and would have added to the overall loan application processing time by requiring additional checks (such as checking Companies House for registration dates).

- d) On a telephone call with the FCA on 24 April 2020, HMT informed the FCA that the National Crime Agency had supplied HMT with a fraud typology around criminal gangs getting legitimate firms to apply for a loan and then defaulting, and confirmed that it was aware that CDD checks would not mitigate this risk. HMT did not share the fraud typology with the FCA or seek the FCA's views on it, and it follows that the FCA did not provide any comments on the typology or that risk. In response to the Inquiry's request in the Supplemental Questions for confirmation of who supplied/received this information on the call, we have checked the FCA's note of the call; while the note does not record the identity of the HMT attendee, the call was attended for the FCA by its Head of Financial Crime Specialist Supervision Department.
- e) The FCA queried whether lenders would know if a borrower had applied for multiple loans from different lenders, and HMT confirmed it was considering this issue. The FCA suggested that the fraud risk could be reduced by only allowing businesses to apply for loans from their current bank.

The FCA had calls with HMT on these issues on 22 and 24 April 2020. I note that HMT has significant internal anti-money laundering expertise on which it draws (by virtue of its role overseeing the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (**MLRs**)). After these initial discussions discussing financial crime risks, HMT therefore did not require detailed input from the FCA on this aspect of the BBLs.

216. As regards the FOS, there was a discussion around its role, which led to the FCA sending the FOS the letter to which I refer in paragraph 221 below.

217. On 27 April 2020 the FCA published information on its website outlining the FCA's position on (among other things) financial crime matters (**EA/055 INQ000652848**). While the FCA did not think it was appropriate, or possible, to grant waivers against the application of the requirement to conduct customer due diligence, the statement:

- a) recognised that the need to manage financial crime risks should be balanced against the need for the fast and efficient release of funds to businesses under CIBLS (and

subsequently the BBLs when it was launched on 4 May 2020);

- b) outlined for this reason that, for existing customers, if authorised firms had carried out appropriate CDD before receiving an application under CBILS (and subsequently the BBLs) it did not need to make further checks;
- c) clarified that if an authorised firm had information, including any relevant flags or alerts, suggesting a customer posed a higher risk, for example, of fraud, money laundering, or terrorist financing, it should carry out additional checks; and
- d) acknowledged that for new customers the financial crime risks may be significantly higher and stated that authorised firms should carry out the normal CDD process in accordance with the MLRs.

This statement was updated on 4 May 2020 to include reference to the BBLs following its launch, and on 10 November 2020 providing updated financial crime guidance following amendments to the BBLs on that date.

218. On 2 May 2020 the FCA's Chair<sup>2</sup> wrote to the Economic Secretary to the Treasury, John Glen, setting out the key issues and concerns about BBLs for the final agreements that weekend and for the future (EA/059; INQ000652852). Among other things, the letter confirmed the need for firms to continue to meet their obligations under the MLRs and, therefore, requested that the BBLs rules should include appropriate provisions including KYC requirements (which could be done in a streamlined way) and noting the residual fraud and money laundering risks with the scheme. On 15 May 2020 the Economic Secretary to the Treasury responded, acknowledging the matters raised and stating that he was confident that the design of the BBLs addressed them (EA/060; INQ000652853).

219. In its Supplemental Questions the Inquiry has asked whether, at the time of the exchange of correspondence between the EST and FCA Chair mentioned in the previous paragraph, the FCA considered that the design of the BBLs addressed the matters raised by the FCA's Chair in his letter of 2 May 2020. As a specialist regulator, the FCA's role was to provide HMT with input within its area of expertise, for HMT to take into account alongside wider considerations when determining how to proceed in the circumstances. Accordingly, while the FCA is not well placed to comment on the 'balancing exercise' conducted by the EST and HMT, it is clear that the EST (and HMT in our discussions more generally) gave due consideration to the FCA's input.

#### Involvement post-launch of the BBLs

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<sup>2</sup> DRAFTING NOTE: Charles Randell

220. The BBLs opened to applications on 4 May 2020.
221. On the same date, the exchange of correspondence between the FCA and FOS to which I refer in paragraph 201 above took place.
222. Between August 2020 and December 2020 the FCA was involved in discussions with HMT on the collection and recovery of BBLs facilities. I discuss this correspondence in paragraphs 246 onwards below, in the context of the guidance that the FCA published in relation to the BBLs on 26 January 2021.
223. On 10 November 2020 the FCA published an updated statement to remind firms of their obligations in respect of financial crime checks generally but also specifically for the BBLs “top ups” (EA/061 INQ000652854). The statement outlined that the FCA expected lenders to: have addressed any specific red flags that they became aware of at the time of, or subsequent to, the original loan issue; and consider the risk of fraud for both new loans and top-up loans in relation to new customers, ensuring robust CDD processes were applied in accordance with the requirements set out under the BBLs rules and the MLRs. In the days before this statement the FCA was in discussion with HMT about the roll-out of BBLs top-ups and the content of the FCA’s statement. As part of these discussions, on a telephone call on 6 November 2020 the FCA suggested that HMT could change the fraud requirements in the BBLs agreement; HMT agreed that there was a high fraud risk in the BBLs, but decided against amending the requirements as they were keen to minimise the need for additional information from borrowers (EA/063b-INQ INQ000652861). In response to the Inquiry’s request in the Supplemental Questions for confirmation of who participated in this call, the FCA was represented by its Heads of Department for Financial Crime and for Retail Banks and HMT was represented by its Head of Business Lending.
224. As I discuss further in paragraphs 246 onwards below, after the launch of BBLs the FCA engaged in dialogue with HMT regarding prospective guidance for lenders on providing support for customers in arrears or financial difficulty. On 4 December 2020 the FCA consulted on draft guidance on how firms could implement ‘Pay As You Grow’ (PAYG) options in compliance with FCA rules, and that guidance was published in final form on 26 January 2021.
225. More generally:
- a) From March 2021 the FCA maintained a representative on a BBLs working group which was intended to keep open channels of communication and updates on the scheme’s performance. The group was convened by the LSB and included HMT and the BBB.

- b) The FCA attended bilateral meetings with the BBB to understand regulated lenders' challenges, and the progress of the BBB's audits of lenders (which it carried out at various stages of the scheme). The BBLs will have also been discussed as part of the FCA's regular ongoing engagement with HMT.
- c) As with the CBILS, during the initial phase of the BBLs the FCA carried out daily update calls with major regulated lenders: see paragraph 187.e) above.
- d) The FCA held regular bilateral calls with the Small Business section of UK Finance, which was convening industry groups of BBLs lenders that considered (among other things) how best to collect repayments on BBLs loans. This engagement ran from November 2020 until January 2023.
- e) From around March 2021 the FCA held bilateral meetings with the FOS teams responsible for BBLs complaints, to understand the complaints experience and identify if any firms were treating customers poorly. In turn the FCA updated the FOS on trends and issues in the broader BBL scheme that were relevant to borrowers.

#### Post-closure of the BBLs

226. The BBLs closed to new applications and applications for top-ups on 31 March 2021.

227. After the scheme ended the working group referred to at paragraph 225.a) above focussed on repayment data gathered through the BBB's portal, which contained all the data available on the loans across CLBILS, CBILS and BBLs. The FCA was interested in this data as it helped it understand the performance of regulated lenders' loan books, so that any potential problems for borrowers in financial distress might be identified early and quantified.

228. In May 2021 the FCA set up a small BBLs fraud unit for 6 months to triage FCA regulated firms that had been flagged as suspected of fraud by lenders or had flags attached to them in the BBB's lender database. 619 firms or individuals were flagged for triaging and reviewed, but no supervisory action was taken as there was not sufficient evidence in any of the cases to take any action in relation to BBLs fraud.

229. In June 2021 the FCA commissioned a survey of 626 SMEs to help better understand their needs during the pandemic and how they might be met. The survey found that at that time, although SME confidence was low (25% of those accessing support still felt they could not last through the pandemic), needs were generally being met. This survey was shared with HMT. It also provided helpful evidence when considering the FCA's approach to supporting SMEs through the Covid period.

230. On 28 July 2021 the FCA sent a 'Dear CEO' letter to lenders highlighting its expectations

on reporting BBLs fraud to the FCA (EA/062 INQ000652855).

231. There was an increased focus on SME vulnerability as a result of the pandemic and BBLs, which, as a self-certified loan scheme, ran the inevitable risk that some borrowers would find repayments unaffordable. In May 2021 the FCA held a webinar with senior individuals at various retail banks to reinforce the FCA's expectations in relation to collections and recoveries. The FCA then undertook a multi-firm project in July 2021 that focussed on the SME customers of retail banks with 'business as usual' and/or BBLs lending, focussing on when they got into difficulty with their borrowing. The project identified several themes that appeared to have driven poor customer outcomes. The outcome of the review was published on 12 July 2022, and the FCA provided individual feedback to each retail bank for further action. The FCA also communicated its findings and expectations in a 'Dear Chair' letter to all firms with an SME customer base (EA/063a-INQ000652860).

*What worked well and where might improvements be made*

232. The BBLs was a unique scheme designed to provide SMEs with quick and easy access to loan funding in the unique circumstances of the pandemic. As the lending was taken outside the FCA's regulatory perimeter through amendments to the Regulated Activities Order, the key issue for the FCA was to work quickly with HMT to ascertain those aspects of consumer protection and financial crime management that the FCA considered had to be included into the BBLs. The FCA and HMT teams worked together in a collaborative and co-operative way, achieving a substantial amount of work in the week between the announcement of the BBLs scheme and its launch.

233. Areas where (with the benefit of hindsight) a different approach might have been adopted include:

- a) The pre-contractual information provided to prospective borrowers: given the focus on a streamlined application process, the solution reached was to allow lenders to refer borrowers to their websites for this information. However, early monitoring of those websites showed variability in the information provided.
- b) Collections and recoveries: the BBLs was launched in a tight timeframe, and the issue of collections and recoveries did not receive as much attention pre-launch of the BBLs as it might have done. The challenges of lenders operating with different policies and processes for 'business as usual' collections and recoveries, and often having difficulties making changes to IT, made attempts to standardise collections and recoveries policies and procedures challenging. The FCA is aware that some lenders proposed setting up a third party 'utility' entity for handling all collections and

recoveries for BBLs loans; this might have improved consistency of approach across cases, but agreement was not reached between lenders on the proposal.

- c) Growth of the BBB: the BBB managed an unprecedented role in the UK's financial system. The FCA's work with the BBB was cooperative and effective. The major challenge that we believe the BBB had to face was the significant escalation of its activities in a very short period; this brought inevitable stretch for the organisation and a period of adaptation, for example, in working through how to most effectively share information with other agencies.
- d) Period between conception and launch: the BBLs was launched in extraordinary circumstances, with the aim of improving lending to businesses operating in highly challenging circumstances. The short period between conception and launch was a product of this, and there will have inevitably been trade-offs between the length of that period and the time available to (for example) set up systems to check for duplicate applications.

#### **The joint 25 March 2020 letter to UK banks**

234. As noted in paragraph 191 above, on 25 March 2020 the Chancellor, the Governor of the Bank and the CEO of the FCA wrote a letter to the CEOs of UK banks on the subject of the pandemic and bank lending.

235. The letter was written by HMT to be sent to lenders jointly by the Chancellor and the Governor of the Bank. The FCA was asked to review the letter, and suggested adding its interim Chief Executive as a signatory. The FCA made this suggestion because the letter referred to measures taken by the regulators to ease operational pressure on lenders, so they could concentrate on supporting their customers through the pandemic.

236. The letter was sent two days after the Government had launched the CBILS, so it would have been too early to judge whether lending pursuant to the CBILS was flowing as intended. However, I am aware that there were public reports (for example via the BBC) in relation to the time it was taking for funds to be made available to businesses. While HMT will be best placed to confirm what prompted this letter, I infer the letter was prompted by a desire on the part of the Chancellor to ensure businesses received the money they needed through the Government's schemes.

237. The FCA's role in ensuring the benefits of the schemes referred to in the letter of 25 March 2020 were passed through to businesses and consumers are addressed in paragraphs 184 to 202 and 206 to 231 above. Those paragraphs also provide an overview of our engagement with HMT and the Bank.

## **Interaction between the CBILS/BBLS and FCA rules**

238. The Inquiry has asked the FCA to explain whether FCA rules were adjusted to assist lenders in lending quickly under the CBILS or BBLS and, if so, what rules were adjusted, why this was necessary and the effect this had on safeguards.

### *CBILS*

239. As set out in paragraph 199 above on 27 April 2020, the FCA issued a statement confirming, among other matters, that it did not expect lenders who complied with the requirements of CBILS to comply with the requirements in CONC 5.2A.4R to CONC 5.2A.34G on creditworthiness assessments where the lending was regulated by the FCA.

240. It was anticipated that the majority of CBILS loans would fall outside of the FCA's regulatory perimeter, and following the launch of the BBLS, lenders transferred their CBILS loans of under £25,000 to BBLS facilities that were outside of the FCA's regulatory perimeter. Nonetheless, the FCA took the approach in the previous paragraph to address concerns expressed by lenders around their being able to issue loans under the CBILS in a manner that complied with FCA rules.

241. The FCA's CONC rules required lenders to assess borrowers' credit risk (typically based on lenders' internal credit scoring models) and affordability risk (the borrower's ability to make repayments without those repayments having a significant adverse impact on their financial situation) in their creditworthiness assessments. In contrast, under the CBILS terms, for loans within scope of CONC (i.e. business loans to individuals or relevant recipients of credit up to £25,000) lenders were able to assess creditworthiness by reference to credit risk alone, without taking account of affordability risk.

### *BBLS*

242. As I have explained above, the Government amended the relevant legislation to take outside of the FCA's regulatory perimeter those loans under the BBLS that would otherwise have been within it. As a result of that decision, the usual regulatory regime that applies to lending by way of regulated credit agreements (including the requirements in the Consumer Credit Act) did not apply to lending or post-lending activity under the BBLS (apart from the debt-collecting activity to which I refer in the next paragraph). The most important aspect of these changes was that it removed the requirement for BBLS lenders to conduct creditworthiness assessments under CONC for loans that would otherwise have been regulated. I have explained in paragraph 211 above the steps taken to build in consumer protections into the BBLS documentation.

243. Debt collecting activity by the lender in respect of BBLS scheme loans that were within

the Exemption remained within the FCA's regulatory perimeter, and so the FCA's rules in CONC 7 applied to that activity.

#### **Mr Randell's speech on 16 June 2020**

244. On 16 June 2020 the FCA's (then) Chair, Mr Randell, gave a speech to a virtual roundtable of bank chairs (a copy is at EA/064: INQ000652856). In that speech, Mr Randell stated that "[t]he pandemic has already exposed some stark truths. We have too much debt", and went on to emphasise the need to tackle the "legacy" of business and personal debt.

245. Against that context, Mr Randell stated that "some of the debt that businesses have incurred in the crisis will turn out to be unaffordable", and he similarly expressed concerns about the financial resilience of personal borrowers and their ability to repay their debts. Whenever debt is provided at scale, whether in benign or difficult economic conditions, some of it will turn out to be unaffordable. HMT's design of the BBLs did not require affordability assessments to be carried out and so carried an increased risk of unaffordable lending, but this was a public policy decision consciously taken by the government during a time of national crisis. Mr Randell made clear that, in the extraordinary circumstances that prevailed in the early stages of the pandemic, "[i]ndividual creditworthiness checks would have slowed the process down so much that many fundamentally healthy businesses would have gone under before they got the support they needed". The increased risk of unaffordable lending was balanced against the importance (in the extraordinary circumstances prevailing at that time) of ensuring that small businesses had swift access to the finance they needed to avoid collapsing.

#### **The FCA's BBLs guidance dated 26 January 2021**

246. On 4 December 2020 the FCA consulted on guidance for firms on the use of the PAYG options under the BBLs. The proposed guidance did not change existing rules or create new requirements/standards. Instead, the proposed guidance aimed to help firms understand how they could use and offer PAYG options in a manner compliant with CONC 7; the purpose of the guidance was to ensure that firms that provided PAYG options under BBLs understood the FCA's expectations in advance of starting to collect debts from their customers.

247. The timing of the guidance was a product of ongoing discussions with HMT, and the BBB on their prospective guidance for lenders on PAYG options and whether it would be published.

248. After the launch of BBLs the FCA engaged in dialogue with HMT regarding prospective

guidance for lenders on providing support for customers in arrears or financial difficulty. Initial discussions on this began on 30 July 2020 when HMT advised the FCA that the Chancellor favoured as standardised an approach as possible to all parts of the BBLs, including arrears; HMT was therefore considering a standardised self-select forbearance approach, subsequently named PAYG. The FCA identified key areas for focus as being: (a) that consumers are offered appropriate forbearance and customers should not be prevented from seeking additional assistance where they do not consider that the standardised options will suit their needs; and (b) that vulnerable customers are identified and treated appropriately. The FCA also highlighted the need to ensure that the standardised options are described clearly, including any downsides or increases in costs.

249. On 25 August 2020 HMT requested an official response from the FCA on its proposed approach to recoveries on BBLs loans. In particular, HMT sought confirmation of whether the FCA would issue a statement to provide comfort to lenders that the approach HMT was likely to suggest would meet lenders' CONC 7 obligations. The FCA provided that response on 4 September 2020 (EA/065- INQ000652857).

250. In its 25 August 2020 request, HMT had also indicated that it intended to explore whether it might deliver 'masking' of credit file impacts for the proposed PAYG options (i.e. ensuring that accessing the PAYG options did not have an adverse impact on the borrower's credit files), noting this had been done previously for mortgage payment holidays. In its 4 September 2020 letter the FCA shared some initial observations with HMT on that proposal, and on 17 September 2020 the FCA provided HMT with its fuller views on this point – identifying the following points for consideration if lenders were to be asked to report BBLs loans generally and PAYG options in particular in a non-standard way:

- a) the impact on future lending decisions;
- b) the possible consequences of over-indebtedness and impairments leading to an increase in the cost of credit or reducing access to credit;
- c) the longer the masking the greater the risk that lenders would not be able to make informed lending decisions; and
- d) competition implications as non-bank lenders were more likely to rely on credit reference agency data and less likely to be able to devise workarounds than larger bank lenders.

251. In the following weeks HMT continued to develop its guidance, with the intention of issuing it by the end of November 2020. However, during October 2020 HMT informed the FCA

that rather than publish its guidance it would instead send it to scheme lenders.

252. Throughout November 2020 there was ongoing discussion with HMT, with the FCA being asked to review and comment on drafts of HMT's guidance document, particularly in relation to whether it was consistent with the FCA's rules. There was also discussion of whether the FCA would be able to issue public guidance confirming this position, despite HMT's guidance not being issued publicly.

253. On 19 November 2020 the FCA decided to consult on guidance aiming to help firms understand how they could use and offer PAYG options in a manner compliant with CONC 7. On 4 December 2020 the FCA published draft guidance with a two-week consultation period. HMT's guidance was finalised and sent to scheme lenders on around 9 December 2020, and the FCA's guidance was finalised and published on 26 January 2021.

### **G) THE FCA'S ROLE IN OTHER KEY ECONOMIC INTERVENTIONS**

254. The Inquiry has asked whether the FCA had any involvement in the design and implementation of any of the following economic interventions by the UK Government:

- a) Coronavirus Job Retention Scheme.
- b) Self Employed Income Support Scheme.
- c) Business rate relief.
- d) Grants to businesses.
- e) Statutory Sick Pay (including the Statutory Sick Pay Rebate Scheme).
- f) Uplift to Universal Credit.
- g) Eat Out to Help Out.
- h) Changes to the insolvency rules (including but not limited to changes to directors' duties and the moratorium on statutory demands and winding-up petitions).

255. Based on the enquiries that we have carried out for the purpose of preparing this witness statement, we have not identified that the FCA had any involvement in either the design or the implementation of any of the interventions listed above. The only exception is the insolvency rules, which I describe below at paragraph 257.

256. For completeness, it is possible that the FCA might have considered how one or more of these interventions was impacting on regulated firms, but that would have been as part of our usual supervisory oversight of the firms we regulate (as opposed to our being involved in the design or implementation of the Government's intervention). In preparing this witness statement, we have therefore not explored this point further.

## Changes to the insolvency rules

### *Summary*

257. In June 2020 BEIS introduced legislation making changes to the insolvency rules and temporarily amending requirements in relation to companies' general meeting and voting rules. These changes were made through the Corporate Insolvency and Governance Act 2020 (**CIGA 2020**), which came into force on 26 June 2020 and (among other things) made various amendments to the Insolvency Act 1986.

258. As I discuss below, the FCA's input between March 2020 and June 2020 focussed on the extent to which FCA supervised firms should benefit or be excluded from the proposed changes to insolvency rules. The FCA's input in relation to the proposed changes was led by the Head of Department of the FCA's Client Assets and Resolution Department, with involvement at various stages by the FCA's Interim Executive Director of Strategy and Competition and its Interim Director of Firms and Emerging Policy.

259. The FCA also attended weekly coordination calls with BEIS, the IS, the FRC and Companies House between 9 April 2020 and 23 June 2020 during which the (as it was then) Corporate Insolvency and Governance Bill (**CIG Bill**) was discussed at a high level. These calls were principally attended by the FCA's Head of Markets Policy (who became Interim Director of Firms and Emerging Policy during this period), as well as (at different times) the acting Head of Department of Markets and a Technical Specialist in Markets Policy.

### *Chronology of the FCA's involvement*

260. On 27 March 2020 HMT contacted the FCA to discuss whether/which financial services firms should be excluded from the proposed changes to insolvency rules. The reform proposals included:

- a) an extendable 28-day moratorium period during which no legal action could be taken or continued against a company without leave of the court (**Moratorium**);
- b) suspension of termination clauses in contracts for the supply of goods and services that are triggered upon an insolvency event (**Prohibition of Termination Clauses**);
- c) a new restructuring procedure which enables a company in financial difficulty to propose a compromise or arrangement to its creditors to restructure the company's debts similar to a scheme of arrangement (**Restructuring Plan**);
- d) temporary suspension of wrongful trading provisions;
- e) temporary suspension of statutory demands and winding up petitions; and

- f) temporary measures for companies to hold meetings and vote in compliance with social distancing rules (**Hybrid AGM changes**).

261. Following various discussions with HMT, BEIS, the FRC and the IS between 2 and 16 April 2020, and an initial indication of its position to HMT on 8 April 2020, on 17 April 2020 the FCA provided HMT with its position on the reform proposals. In summary, this was that:

- a) FCA supervised firms should not be permitted to file for the Moratorium if the firm (i) was on the list of firms that HMT proposed be excluded (**Excluded List**) or (ii) safeguarded client funds/assets. The exclusion requested in (ii) regarding firms that safeguard client funds/assets was to apply only during the pandemic period.
- b) The FCA should have full use of its powers in relation to FCA supervised firms that enter the Moratorium.
- c) Any FCA supervised firms filing for the Moratorium must obtain the FCA's consent before the Moratorium takes effect.
- d) With limited exceptions, FCA supervised firms should not be permitted to bring out-of-court legal action against another company in the Moratorium.
- e) With limited exceptions, FCA supervised firms as creditors should not be excluded from the Prohibition of Termination Clauses proposal (i.e. they should not be able to terminate contracts by which they provided services to companies that were in 'rescue procedures' which enable them to return to trading).
- f) FCA supervised firms as debtors should be excluded from the Prohibition of Termination Clauses proposal if on the Excluded List (i.e. suppliers to those firms should be able to terminate supply contracts to the firm).
- g) The suspension of the wrongful trading provisions should not apply to categories of firms on the Excluded List and that FCA supervised firms safeguarding client funds/assets should be added to that list.
- h) Any trust assets held by a FCA supervised firm, or liabilities in respect of those trust assets, should not be included in a Restructuring Plan.
- i) The FCA should be given notice of a firm applying for a Restructuring Plan and the opportunity to make representations in court.

262. Over the period 20 April 2020 to 20 May 2020 (when the CIG Bill was introduced in Parliament) the FCA was a party to various discussions with HMT, BEIS and the IS in which technical aspects of the reform proposals were discussed. As the CIG Bill was

debated in Parliament, the FCA responded to technical queries from HMT arising from industry feedback to help it decide whether it should introduce amendments to the CIG Bill.

263. On 14 May 2020, and in response to the proposals being shared with industry representatives by HMT, the FCA published a statement about the forthcoming changes to the insolvency rules (EA/066 INQ000652858). This statement summarised the proposals and indicated which financial services firms were likely to be excluded from their scope.

264. The CIG Bill received Royal Assent on 25 June 2020, and came into force (as the CIGA 2020) on 26 June 2020. At a high level, CIGA 2020 reflected the FCA's broad aims set out at paragraph 261 above, save that:

- a) CIGA 2020 included a blanket exemption for financial services firms (both as creditor and debtor) from the Prohibition of Termination Clauses, consistent with a recommendation from HMT.
- b) BEIS considered that the provisions at paragraphs 261.h) to 261.i) were already addressed by existing case law and FCA rules, and so did not include specific provisions on these points in the CIG Bill/CIGA 2020.

265. In July 2020 the FCA notified HMT that some general insurance intermediaries and other firms that deal in investments as agent or principal were inadvertently excluded from being able to use the Moratorium. This was due to a broadly drafted exclusion that was originally intended to only exclude firms subject to the investment bank special administration regime.

266. On 4 August 2020 HMT engaged the FCA and the Bank on minor and technical amendments to CIGA 2020 relating to floating charges and the Moratorium. The amendment on floating charges was about whether there should be explicit carve out for securities under a floating charge. The amendment on the Moratorium was about the FCA's ability to apply to court to replace the 'monitor' (an insolvency practitioner overseeing the Moratorium) or challenge the actions of the monitor or directors of the company, and whether the drafting of the legislation needed to reflect this explicitly or whether it was covered in existing provisions.

267. In September 2020 BEIS proposed to extend the period in which Moratoriums were available from 30 September 2020 to 31 March 2021. BEIS asked the FCA (through HMT) whether the exclusion for safeguarding firms should be retained. On 13 October 2020 the FCA recommended to BEIS (via HMT) that the exclusion should be removed; this was

because the risks that had previously been considered by the FCA to exist in respect of client assets had been mitigated by a tightening of the Moratorium eligibility criteria. Removing the exclusion would mean that the Moratorium would be available to small investment firms, peer-to-peer platforms, debt management firms and claims management companies; however, larger and higher risk firms (such as investment banks) would continue to be excluded from the Moratorium under other exclusions.

268. On 8 December 2020 HMT agreed with the FCA's recommendation at paragraph 265 above relating to general insurance intermediaries. On 16 February 2021 HMT sought technical input from FCA on the steps it proposed to take, and on 23 March 2021 HMT agreed to take forward the legislative changes with BEIS.

*What worked well and where might improvements be made*

269. Despite the short timeframes, the engagement between the FCA and the other governmental and regulatory bodies above was positive and constructive. Without detracting from that, there is a question as to whether more direct engagement between the FCA and BEIS/the IS might have enhanced the process (the FCA having liaised primarily with HMT). However, in preparing this statement we have not identified any specific issues that arose on which direct engagement might have been beneficial, and from discussions with colleagues I understand that HMT did put the FCA in direct contact with BEIS on one occasion to ensure our suggestion was fully explored with BEIS.

## **H. LESSONS LEARNED AND REFLECTIONS**

270. In this section of my witness statement, I summarise the reviews/lessons learned that were produced or commissioned by the FCA relating to any of the matters in the Provisional Outline of Scope for Module 9. I then conclude by responding to the Inquiry Chair's invitation that the FCA set out any recommendations it might have with a view to improving the economic response to a future pandemic.

### **Lessons learned/review exercises**

271. The Inquiry has asked for a list of reviews, lessons learned exercises or similar, produced or commissioned by the FCA relating to any of the matters in the Provisional Outline of Scope for Module 9 (broadly, on how economic decision making was structured and undertaken (and information was shared) by the UK Government).

272. Based on the enquiries that we have carried out for the purpose of preparing this witness statement, we have identified the following:

- a) a lessons learned exercise conducted by the Forum participants in June 2020;

- b) a lessons learned exercise conducted by the Rubix ARF participants in November 2020 and following its closure; and
- c) a report prepared by the FCA's Internal Audit function dated 21 November 2021 on whether the FCA's Rubix programme and delivery groups achieved their objectives.

273. I have discussed each of the lessons learned exercises/reviews in the previous paragraph in turn below, including the steps the FCA has taken in response to their findings/recommendations. Outside of those steps, in preparing this statement we have not identified additional changes concerning the matters in the Provisional Outline of Scope for Module 9 that should be made to the FCA's systems and processes.

274. For completeness, the FCA understands that the Inquiry is focussed on lessons learned exercises/reviews that have a bearing on the Government's economic response to the pandemic. For that reason, we have not considered any reviews conducted by the FCA in respect of its own response to the challenges posed by the pandemic.

#### *The ARF and Forum*

275. As I have explained in paragraphs 54 onwards above, the FCA was party to formal structures that were used during the course of the pandemic to facilitate cooperation and information sharing between HMT, the Bank and the FCA – namely the ARF and the Forum. The parties to those structures have each conducted a 'lessons learned' exercise.

276. As regards the ARF, the lessons learned exercise is exhibited at **EA/016** **INQ000652809** and I have summarised its findings and recommendations at paragraph 82 above (noting the more detailed/granular list of recommendations in the document itself).

277. In addition, the lessons implemented following closure of the Rubix ARF included improved ARF processes to provide for post closure monitoring of any remaining risks to appropriate functions within the authorities. This would permit ARF to close earlier while helping to make sure residual risks are addressed, with clear re-escalation triggers.

278. As regards the Forum, the lessons learned exercise is exhibited at **EA/017-** **INQ000652810** and I have summarised its findings and recommendations at paragraph 84 above (noting the document again sets out the specific recommendations in more granularity).

279. In both cases, the FCA agrees with the recommendations identified in the lessons learned exercises and, to the extent applicable to it, the FCA has taken appropriate steps to implement them.

#### *Internal Audit report on the FCA's Rubix programme*

280. Internal Audit's report (EA/067 INQ000652859) identified a number of positive benefits of its Rubix programme, including that:

- a) the governance arrangements put in place enabled the FCA to respond in a prompt and co-ordinated way to the risks arising as a result of the pandemic; and
- b) the Delivery Group structure reduced the risk of duplication of effort in the identification and management of risks of harm as the various divisional representatives in each delivery group are also sighted on ongoing activities across the FCA in relation to their respective sectors and portfolios.

281. However, Internal Audit found two ways in which the FCA's programme could have been improved, namely: ensuring that success measures were defined for the FCA's programme and Delivery Groups from the outset; and improving the handover of actions from the Delivery Groups to relevant FCA divisions so as to mitigate risks as the Rubix programme was dismantled.

282. The FCA has taken steps to address both findings, including embedding within the control framework an approach to help ensure success measures are identified in strategic initiatives and making sure that open risks from the Rubix programme were transitioned appropriately into the relevant business-as-usual processes and recorded in the enterprise risk register.

### Reflections for the future

283. The FCA is grateful to the Inquiry for inviting it to offer any recommendations it might wish to make on how to improve the Government's economic response to a future pandemic. We believe that such recommendations involve expertise and a balancing of factors that go beyond the FCA's specific remit, and will be something on which other bodies (such as the Core Participants in Module 9 of the Inquiry) are better placed to offer a view.

### Statement of Truth

I believe that the contents of this witness statement are true and accurate to the best of my knowledge and belief.

**Signed:**

Personal Data

**Name:** Emad Aladhhal

**Date:** 5 September 2025

## EXHIBIT SCHEDULE

Exhibit	Paragraph number	Description	Inquiry reference
EA/001	25	FCA webpage entitled 'Stress testing for human beings' a speech by Charles Randell, Chair of the FCA – 27 September 2019' (accessed on 1 April 2025)	INQ000652794
EA/002	32	Letter from HMT to the FCA dated 23 March 2021 with subject line 'Recommendations for the Financial Conduct Authority'	INQ000652795
EA/003	32	Letter from HMT to the FCA dated 7 April 2022 with the subject line 'Recommendations for the Financial Conduct Authority'	INQ000652796
EA/004	49	Letter from the FCA to Members of the Scottish Parliament dated 8 April 2020, with no subject line	INQ000652797
EA/005	53.a)	High Court judgment: FCA v Arch Insurance Limited & Others [2020] EWHC 2448 (Comm)	INQ000652798
EA/006	53.a)	UK Supreme Court judgment: FCA v Arch Insurance Limited & Others [2021] UKSC 1	INQ000652799

EA/007	53.a)	FCA webpage entitled 'Business interruption insurance' (accessed on 1 April 2025)	INQ000652800
EA/008	53.c)	Document entitled 'Guidance Consultation. Cancellations and refunds: helping consumers with rights and routes to refunds' dated July 2020	INQ000652801
EA/009	53.d)	FCA webpage entitled 'Statement of policy listed companies and recapitalisation issuances during the coronavirus crisis' (accessed on 1 April 2025)	INQ000652802
EA/010	53.f)	FCA webpage entitled 'Statement on UK markets' (accessed on 1 April 2025)	INQ000652803
EA/011	56	Bank of England webpage entitled 'Co-ordinating the response to disruption of financial services' (accessed on 1 April 2025)	INQ000652804
EA/012	71.a)	Document entitled 'Regulatory Initiatives Grid Version 2' dated 7 May 2020	INQ000652805
EA/013	71.b)	Document entitled 'Regulatory Initiatives	INQ000652806

		Grid' dated September 2020	
EA/014	71.b)	Document entitled 'Regulatory Initiatives Grid' dated May 2021	INQ000652807
EA/015	72	Document entitled 'CMORG's Cross Market Operational Resilience Group Sector Response Framework Summary' dated September 2024	INQ000652808
EA/016	82 & 276	Document entitled 'ARF Incident – Project Rubix/Covid-19: Lessons Learned & Feedback Capture' undated	INQ000652809
EA/017	84 & 278	Document entitled 'Regulatory Initiatives Grid & Forum Project – Lessons Learned session' dated 11 June 2020	INQ000652810
EA/018	84	Document entitled 'Financial Services Regulatory Initiatives Forum Minutes: September' dated 7 September 2020	INQ000652811
EA/019	96	Document entitled 'Financial Lives 2020 survey (Wave 2) – Technical Report' dated 11 February 2021	INQ000652812
EA/020	103	Document entitled 'Financial Lives 2022 survey – Technical	INQ000652813

		Report' dated 26 July 2023	
EA/021	107.a)	Document entitled 'Financial Lives 2020 survey: the impact of coronavirus'	<b>INQ000652814</b>
EA/022	107.a) & 107.b)	Document entitled 'Key findings from the FCA's Financial Lives May 2022 survey'	<b>INQ000652815</b>
EA/023	107.b)	Document entitled 'Financial Lives 2020 survey'	<b>INQ000652816</b>
EA/024	107.c)	Document entitled 'Financial Lives 2020 survey – Crib Sheets'	<b>INQ000652817</b>
EA/025	107.c)	Document entitled 'Financial Lives 2022 survey 2022 – Crib Sheets'	<b>INQ000652818</b>
EA/026	107.e)	Document entitled 'Financial Lives 2022 survey – Retail Banking, savings, and payments' Sector Slide Deck	<b>INQ000652819</b>
EA/027	107.e)	Document entitled 'Financial Lives 2022 survey – Consumer investments and financial advice' Sector Slide Deck	<b>INQ000652820</b>
EA/028	107.e)	Document entitled 'Financial Lives 2022 survey– Pensions (accumulation and	<b>INQ000652821</b>

		decumulation)' Sector Slide Deck'	
EA/029	107.e)	Document entitled 'Financial Lives 2022 survey – Credit and loans' Sector Slide Deck'	<b>INQ000652822</b>
EA/030	107.e)	Document entitled 'Financial Lives 2022 survey – Mortgages' Sector Slide Deck	<b>INQ000652823</b>
EA/031	107.e)	Document entitled 'Financial Lives 2022 survey – General insurance and protection' Sector Slide Deck	<b>INQ000652824</b>
EA/032	128	FCA webpage entitled 'The coronavirus (COVID-19) financial resilience survey data – January 2021' (accessed on 1 April 2025)	<b>INQ000652825</b>
EA/033	128	FCA webpage entitled 'The Financial Resilience Survey data – April 2024' (accessed on 1 April 2025)	<b>INQ000652826</b>
EA/034	145	Document entitled 'List of FCA's Consumer Credit Guidance During the Period March 2020 to April 2021'	<b>INQ000652827</b>
EA/035	156	FCA webpage entitled 'Call for Input: Ongoing	<b>INQ000652828</b>

		support for consumers affected by coronavirus: mortgages and consumer credit' (accessed on 1 April 2025)	
EA/036	162	FCA webpage entitled 'FCA to announce further support for mortgage borrowers impacted by coronavirus' (accessed on 1 April 2025)	<b>INQ000652829</b>
EA/037	171.a)i)	Document entitled Guidance consultation. Guidance for firms on the fair treatment of vulnerable customers'	<b>INQ000652830</b>
EA/038	171.a)ii)	Document entitled 'Guidance consultation and feedback statement. Guidance for firms on the fair treatment of vulnerable customers'	<b>INQ000652831</b>
EA/039	171.a)ii)	Document entitled 'Finalised guidance for firms on the fair treatment of vulnerable customers'	<b>INQ000652832</b>
EA/040	171.c)	FCA webpage entitled 'Firm handling of complaints during coronavirus' (accessed on 1 April 2025)	<b>INQ000652833</b>
EA/041	171.e)	Document entitled 'Business Plan 2020/21'	<b>INQ000652834</b>

EA/042	177.b)	Document entitled 'Fair4all Finance: 'Banking response to Covid-19' dated January 2023	<b>INQ000652835</b>
EA/043	179.a)	FCA webpage entitled 'Coronavirus linked forbearance: key findings' (accessed on 1 April 2025)	<b>INQ000652836</b>
EA/044	179.c)	'Dear CEO' letter issued by the FCA dated 16 June 2022 with subject line 'The rising cost of living – acting now to support consumers'	<b>INQ000652837</b>
EA/045	179.d)	FCA webpage entitled 'Borrowers in financial difficulty following the coronavirus pandemic – key findings' (accessed on 1 April 2025)	<b>INQ000652838</b>
EA/046	183	FCA webpage entitled 'Statement on the Recovery Loan Scheme (RLS)' (accessed on 1 April 2025)	<b>INQ000652839</b>
EA/047	184	British Business Bank webpage entitled 'Coronavirus Business Interruption Loan Scheme (CBILS)' (accessed on 1 April 2025)	<b>INQ000652840</b>

EA/048	187.a)	FCA webpage entitled 'Business loans to which the Coronavirus Business Interruption Loan Scheme applies' (accessed on 1 April 2025)	INQ000652841
EA/049	187.b)	'Dear CEO' letter issued by the FCA dated 15 April 2020 with subject line 'Lending to small businesses'	INQ000652842
EA/050	187.c), 199,	FCA webpage entitled 'Statement on the UK Coronavirus Business Interruption Loan Scheme (CBILS) and the new Bounce Bank Loan Scheme (BBLs) - April 2020' (accessed on 1 April 2025)	INQ000652843
EA/051	187.d) & 200	FCA webpage entitled 'Statement on the UK Coronavirus Business Interruption Loan Scheme (CBILS) and the new Bounce Bank Loan Scheme (BBLs) - May 2020' (accessed on 1 April 2025)	INQ000652844
EA/052	190	FCA webpage entitled 'Business loans to which the Coronavirus Business Interruption Loan Scheme applies'	INQ000652845

		(accessed on 1 April 2025)	
EA/053	191	Letter from HMT, the FCA and the PRA dated 25 March 2020 with subject line 'COVID-19 and Bank Lending'	INQ000652846
EA/054	193	'Dear CEO' letter issued by the FCA dated 15 April 2020 with subject line 'Lending to small businesses'	INQ000652847
EA/055	198, 217	GOV.UK webpage entitled 'Small businesses boosted by bounce back loans - 27 April 2020' (accessed on 1 April 2025)	INQ000652848
EA/056	201	Letter from the FCA to the FOS dated 4 May 2020 with subject line 'The Government's Coronavirus Business Interruption Loan Scheme and the Bounce Back Loan Scheme'	INQ000652849
EA/057	201	Letter from the FOS to the FCA dated 4 May 2020 with subject line 'Re the Government's Coronavirus Business Interruption Loan	INQ000652850

		Scheme and the Bounce Back Loan Scheme.	
EA/058	206	British Business Bank webpage entitled 'Bounce Back Loan Scheme (BBLs)' (accessed on 1 April 2025)	<b>INQ000652851</b>
EA/059	218	Letter from the FCA to HMT dated 2 May 2020 with subject line 'Bounce Back Loan Scheme (BBLs)'	<b>INQ000652852</b>
EA/060	218	Letter in Response from EST to the FCA dated 15 May 2020 with subject line 'Bounce Back Loan Scheme (BBLs)'	<b>INQ000652853</b>
EA/061	223	FCA webpage entitled 'Statement on the UK Coronavirus Business Interruption Loan Scheme (CBILS) and the new Bounce Bank Loan Scheme (BBLs) – 10 November 2020' (accessed on 1 April 2025)	<b>INQ000652854</b>
EA/062	230	'Dear CEO' letter issued by the FCA dated 28 July 2021 with subject line 'SME Lending – our expectations of firms in	<b>INQ000652855</b>

		reporting BBLs fraudulent activity'	
EA/063a	231	'Dear Chair' letter issued by the FCA dated 12 July 2022 With subject line 'Action needed to ensure fair treatment of SME customers during Collections and Recoveries'	<b>INQ000652860</b>
EA/063b	223	FCA file note of a call dated 6 November 2020 between the FCA and HMT	<b>INQ000652861</b>
EA/064	244	FCA webpage entitled 'A financial system to support the recovery' a speech by Charles Randell, Chair of the FCA - 16 June 2020' (accessed on 1 April 2025)	<b>INQ000652856</b>
EA/065	249	Letter from the FCA to HMT dated 4 September 2020	<b>INQ000652857</b>
EA/066	263	FCA webpage entitled 'Financial services exemptions in forthcoming Corporate Insolvency and Governance Bill - 14 May 2020' (accessed on 1 April 2025)	<b>INQ000652858</b>

EA/067	280	Document entitled 'Financial Conduct Authority - Internal Audit Final Report - Rubix' dated 2 November 2021	<b>INQ000652859</b>

**TABLE IDENTIFYING RESPONSES TO EACH QUESTION  
IN ANNEX A OF THE REQUEST**

<b>Question Number (from Annex A)</b>	<b>Has this question been answered in this statement?</b>	<b>If yes, what is the paragraph reference in the statement?</b>	<b>If not, why not?</b>
1.	Yes	8 to 17	N/A
2.	Yes	13 to 24	N/A
3.	Yes	25 to 29	N/A
4.	Yes	30 to 75	N/A
5.	Yes	30 to 86	N/A
6.	Yes	47 to 50, 85 to 86	N/A
7.	No	N/A	This paragraph provides context to the questions in Part C, and does not itself ask a question.
8.	Yes	47, 52, 54 to 75, 88 to 89	N/A
9.	Yes	89, 90 to 119 (exc. 100 to 102), 142 to 143	N/A
10.	Yes	100 to 102, 107 to 119, 142 to 143	N/A
11.	Yes	120 to 129	N/A
12.	Yes	129.b)	N/A
13.	Yes	130 to 133	N/A
14.	Yes	134 to 141	N/A
15.	Yes	134 to 141	N/A
16.	Yes	145	N/A
17.	Yes	147 to 165	N/A
18.	Yes	166 to 169	N/A
19.	Yes	170 to 173	N/A
20.	Yes	171 to 173	N/A
21.	Yes	174 to 181	N/A
22.	No	N/A	This paragraph provides

			context to the questions in Part E, and does not itself ask a question.
23.	Yes	183 to 187, 206 to 208	N/A
24.	Yes	188 to 205, 209 to 233	N/A
25.	Yes	234 to 237	N/A
26.	Yes	188 to 202, 209 to 219	N/A
27.	Yes	238 to 243	N/A
28.	Yes	244 to 245	N/A
29.	Yes	224, 246 to 253	N/A
30.	No	N/A	This paragraph provides context to the questions in Part F, and does not itself ask a question.
31.	No	N/A	This paragraph provides context to the questions in Part F, and does not itself ask a question.
32.	Yes	254 to 259	N/A
33.	Yes	260 to 269	N/A
34.	Yes	271 to 282	N/A
35.	Yes	283	N/A