



BRIEFING PAPER

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Financial Conduct Authority

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Summary

A broad ranging debate on the Financial Conduct Authority (FCA) is to be held on 1 February 2016. This note provides some background to potential issues which may be raised. Further information can be found in another [Library Note](#).

Background

Section 6 of the [Financial Services Act 2012](#) established three new regulatory bodies as a response to the financial crisis of 2008. One was the [Financial Conduct Authority](#) (FCA), which assumed most of the functions of its predecessor the Financial Services Authority (FSA). The FSA had been heavily criticised for its supervisory failings pre-crisis.¹

The FCA is responsible for overseeing what firms do, their conduct, and how they carry out their business. It regulates both the very largest and the smallest financial service firms. Some firms (deposit takers) are regulated by the PRA for their soundness and by the FCA for their conduct.

It has a **strategic objective**: ensuring that the relevant markets function well and three **operational objectives**:²

- Securing an appropriate degree of protection for consumers
- Promoting effective competition in the interests of consumers
- Protecting and enhancing the UK financial system

The FCA is operationally independent, [funded entirely by regulated firms](#). It is accountable to the Treasury and to Parliament, notably through regular appearances before the [Treasury Select Committee](#). How the FCA attempts to meet its objectives can be found in [The FCA's approach to advancing its objectives 2015](#).

In line with the objectives the FCA's work can be broken down into four broad headings

- Assessing whether there are problems in the market.
- Approving those who work in the industry – authorised persons
- Producing/implementing [the rules](#) they have to follow
- Investigating if the rules are broken, and if so punishing offenders

On the first of these, notable retail-consumer related work includes the [Mortgage Market Review](#), the [Retail Distribution Review](#); [redress for PPI mis-selling](#) and the new rules surrounding [pay day loans](#).

It is the last of these points where the FCA finds itself being criticised the most often, when problems arise and it finds itself unable to sort out 'scandals'.

Current issues

Failure to 'sort things out' can be due to a variety of reasons.

The scope of the financial regulator's responsibilities has widened significantly since it was introduced by the Financial Services and Markets Act 2000. Often the expansion is due to the emergence of a new scandal (equity release for example). The regulator has less leverage to put things right if the activity was outside its scope when the problems began.

Contributing Authors:

Author, Subject, Section of document

3 Financial Conduct Authority

Financial transactions can be very complicated and slow to mature (pensions, endowment mortgages). Determining fault can be much harder than identifying victims.

The FCA has struggled, for different reasons, to find a solution which meets the demands of all complainants to least two rather intractable issues.

Interest rate swaps (Interest Rate Hedging Products (IRHP))

This 'scandal' is complex, indeed it is the very complexity that is at the heart of the claims for compensation. In short:

- A complex financial product was taken out by a large number of small businesses. The purpose of the product was to protect borrowers from rising interest rates. The fall in interest rates to historic low levels during the financial crisis meant the 'swap' protection became unnecessary.
- The banks claimed that their customers knew what they were buying and that they were under no pressure to take out the cover. Customers said that they had no idea what they had bought and that the cover had been a condition of being granted the loan (or overdraft) they had gone to their bank for in the first place.
- Customers were now on loans at very high (relative) interest rates which they could not escape from unless they paid huge release fees.

More detailed information can be found in another [Library Brief](#).

Significant redress has been achieved (£2.1 billion has been paid in compensation) but many businesses face existential threats in the absence of a resolution of their situation.

A [Backbench Business debate](#) in December 2014 summarised many of the constituency issues Members had come across.³

Connaught income fund

- Connaught was a collective investment scheme which became insolvent.
- There are allegations of fraud against the fund managers and of misrepresentation by financial advisers of the true level of risk which investors in such funds faced.
- The Fund had a complex structure, involving a variety of firms in different countries, many of which were not regulated by the FCA or, previously, the Financial Services Authority (FSA). The FCA attempted to work with the insolvency officials to produce a settlement but announced in March 2015

The Financial Conduct Authority today confirmed that it has withdrawn from the negotiations between Connaught Income Series 1 Fund (acting by its Liquidators) and its former operators, Capita Financial Managers Limited and Blue Gate Capital Limited. The FCA has now decided to formally investigate the activities of both operators.⁴

- Changes made since 2014 should better protect ordinary retail investors in the future.

There was an adjournment debate on this on 12 January 2016, [see here](#).

Treasury Select Committee hearing

The Committee held an evidence session on 20 January 2016 which proved an opportunity to discuss additional, broader, issues such as the [resignation](#) of the previous head of the FCA; the cancellation of a [review into banking culture](#); and issues arising from the Bank of England Bill about changes to the [Senior Managers Regime](#).

³ HC Deb 4 December 2014 c477

⁴ [FCA press release 10 March 2015](#)

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