

Annex C: The FCA's response to Which?'s Freedom of Information request

Thank you for your request of 6 August 2025, in which you asked as follows:

- 1. Please provide a current update on the number of open FCA enforcement investigations across the general insurance sector, with reference to the type of enforcement as identified in the FCA enforcement information guide.*
- 2. Please also specify how many proposed or open enforcement investigations are regarding home and travel insurance for consumers in particular, broken down by those categories.*

The FCA's 22 July review of home and travel claims handling arrangements identified several issues that may require action by the regulator, for example whether firms 'use of cash settlements is controlled and monitored appropriately'.

- 3. Where the report suggests non-compliance by firms may be occurring, please confirm whether or not the FCA is, or is considering, escalating any intervention beyond asking firms to consider whether they are complying with rules.*
- 4. If so, what specific actions will the FCA take, or is considering taking, with firms it believes are not following the rules, and when will or would they be taken?*

The aforementioned review cites potential non-compliance with FCA rules but not wider law. Separately, the FCA's unfair contract terms library shows that the FCA has agreed just one undertaking with an insurance firm to address an unfair contract term in the last six years and just four in the last 12 years.

- 5. Is the FCA investigating home and travel firms' compliance with other laws, such as on unfair contract terms, the unfair commercial practices legal requirements, and the implied term to provide services with reasonable care and skill (Consumer Rights Act 2015)?*
- 6. If so, how many firms are currently under investigation?*

The same report notes that the FCA has requested trade bodies to consider the need for further action in response to the report's findings on storm claims.

- 7. How is the FCA working with trade bodies to address unfair claims decisions on storms?*
- 8. Has the FCA requested a wider take-up of the ABI's definition of a storm and/or changes to this definition?*
- 9. Is the FCA directly taking, or considering taking, action to address unfair claims decisions on storms? If so, what specific actions are being taken, or are under consideration?*

We have processed your email in line with the provisions of the Freedom of Information Act 2000 (FOIA) and our response is below.

Questions 1 and 2

We hold information relevant to your request, but we are unable to disclose it to you as we are of the view that making this information public at this stage would be likely to prejudice the exercise by the FCA of its regulatory functions under FSMA, and therefore, the requested information is exempt from disclosure under Section 31 (Law enforcement) of FOIA.

The FCA has a policy of not commenting publicly on whether or not it is investigating a particular firm/individual, unless there are exceptional circumstances. This policy is set out in the FCA's Enforcement Guide (EG); see in particular chapter ENFG4.1 on Publicity. In this instance, because of the low numbers involved, we are of the view that disclosing the requested information would be likely to lead to the identification of the firm/s in question.

In the event that the FCA is investigating a particular individual/entity and formal enforcement action is subsequently taken, details of the action will generally be published on the FCA's website in the form of a Final Notice and associated press announcement. This serves to inform the public of the action taken and the reasons for that action. For a detailed explanation of why this exemption applies, please see Annex A.

Question 3

We have analysed individual firm findings and are interacting with firms in relation to these, including considering any actions and interventions that may be required. We will be providing individual feedback to the firms involved in our review which will include setting out specific actions they need to take, where necessary. In line with our usual process, we are assessing whether the use of any of our regulatory tools would be appropriate where we are concerned that some firms are not meeting our requirements to deliver good outcomes for customers.

Question 4

We are working on firm specific interventions and actions. As part of this process we are considering whether the use of any of our regulatory tools would be appropriate where we are concerned that some firms are not meeting our requirements to deliver good outcomes for customers.

Questions 5 and 6

Our review focused on firms' compliance with the rules contained within our handbook. These rules include requirements relating to firms' conduct and their systems and controls to support the delivery of good outcomes for customers.

Within these rules there are requirements around how firms interact with and treat customers. Specifically:

- The Principles for Business 2 A firm must conduct its business with due skill, care and diligence.
- ICOBS 2.5.-1R which requires firms to act honestly, fairly and professionally in the customer's best interests. Reasonable care and skill are inherent in that.
- Systems and Controls ('SYSC') SYSC 5 and 28 – firms must ensure their employees have the skills, knowledge and expertise necessary to perform their roles.

Our Consumer Duty rules sets the standard of care that firms should give to customers in retail financial markets. Under our consumer understanding outcome these rules require firms to:

- Support their customers' understanding by ensuring that their communications meet the information needs of customers, are likely to be understood by customers intended to receive the communication, and equip them to make decisions that are effective, timely and properly informed.
- Tailor communications taking into account the characteristics off the customers intended to receive the communication – including any characteristics of vulnerability, the complexity of products, the communication channel used, and the role of the firm.
- Test, monitor and adapt communications to support understanding and good outcomes for customers.

Our findings in relation to storm damage claims and cash settlements suggested widespread issues around consumer understanding and specific issues around claims handling in a smaller number of firms. Given these findings and the context provided by our rules, we believe these issues are best addressed through a combination of wider industry recommendations and actions allied to individual firm feedback and actions, as set out in our report.

Question 7

We asked relevant trade bodies to work with their members and act promptly to address our broader findings on storm damage claims and the lack of consumer understanding. We are engaging directly with these bodies and their members on an ongoing basis as this work develops.

Question 8

We haven't specifically asked for a wider take up of the ABI's definition of storm as part of our recommendations. As set out in our report, we have asked that the market (including relevant trade bodies and their members) consider our findings and act promptly to address the range of issues identified to ensure the delivery of good customer outcomes.

Question 9

As set out above, and in our report, we are considering our next steps and assessing what actions are appropriate, including the need for firm specific interventions. We will provide individual feedback to the firms involved in our review, including setting out actions we

expect them to take where appropriate. We are assessing whether the use of any of our regulatory tools is appropriate and necessary where we have concerns that firms are not meeting our requirements to deliver good outcomes for customers.

Your right to complain under the FOI Act

If you are unhappy with this response, you have the right to request an internal review. To do so, please contact us within 40 working days of the date of this response at FreedomofInformationAppeals@fca.org.uk.

If you are not content with the outcome of the internal review, you also have a right of appeal to the Information Commissioner by phone or on their website at:

- Telephone: 0303 123 1113
- Website: www.ico.org.uk

Annex A

General right of access to information held by public authorities

Anyone making a request for information to a public authority is entitled to be told in writing by the public authority whether it holds the information the request describes. If the public authority does hold this information, the person requesting it has the right to have the information communicated to them. These rights, in section 1(1)(a) and (b) of FOIA, have some exclusions and exemptions.

• Section 31 (Law enforcement)

The qualified exemption in section 31(1)(g) of FOIA applies to this request because disclosure of the information requested would, or would be likely to, prejudice the exercise by the FCA of its functions for the following purposes:

- the purpose of ascertaining whether any person has failed to comply with the law,
- the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise.

This exemption applies because if we disclosed the information now, it would, or would be likely to, prejudice any such investigations or actions. It would also be likely to compromise our ability to obtain information from other agencies, which would be likely to prejudice to our ability to carry out investigations.

Since section 31 is a 'qualified exemption', we have considered relevant factors in favour and against disclosing the information, as required by FOIA.

For disclosure

- There is a strong public interest in favour of transparency and in the public being reassured about the effectiveness of the FCA's approach.
- Disclosing the information would demonstrate how we respond to matters arising in the markets we regulate.

Against disclosure

- Disclosure would be likely to adversely affect the brand and reputation of the relevant markets and/or entities without due process having been followed – ie without any formal public announcement and without the relevant markets and/or entities having had the opportunity to comment.
- Disclosure would likely affect our interaction with third parties, making them less willing to voluntarily share information with us.

On the facts of this particular request we have concluded that the balance of the public interest is in favour of applying the exemption under section 31 of FOIA for these reasons.