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During the debate on the mistreatment of small and medium-sized enterprises, you asked if the government would support both a major change in the culture of the FCA and significantly expand its remit and powers when it came to protecting whistle-blowers. You also asked about the removal of the regulatory perimeter and the FCA's approach to Peer to Peer (P2P) lending. I committed to writing to you in response.

The Government remains committed to ensuring that whistle-blowers are protected and feel able to come forward to highlight misconduct without the fear of repercussions from their firms. The PRA and the FCA introduced new rules to support whistleblowers in 2016, and reviewed their effectiveness last year. Under these rules, firms must put in place clear mechanisms that allow employees to raise concerns internally, explain these policies to employees, and make sure employees are aware of their legal rights. Firms have to appoint a senior individual to be responsible for the firm's policies on whistleblowing under the Senior Managers Regime. In the case of a failure of these policies, the regulators can take action against both the firm and the senior individual responsible if they did not take 'reasonable steps' to prevent the breach. This ensures buy-in at a senior level for the importance of the firm's whistleblowing policies.

When a whistleblower has requested confidentiality, this must be honoured by the firm and the reportable concerns handled effectively. It is important that individuals can also make disclosures confidentially to the FCA. The Public Interest Disclosure Act 1998 provides protections for someone harmed from whistleblowing.

You mentioned the additional incentives that the Commodity Futures Trading Commission in the USA offers to whistleblowers, The FCA and PRA undertook research considering an incentive scheme for whistle-blowers, and published their conclusions in July 2014. They concluded that providing financial incentives to whistle-blowers would not encourage whistleblowing or significantly increase integrity and transparency in financial markets. A second study in 2018 reached the same conclusions.

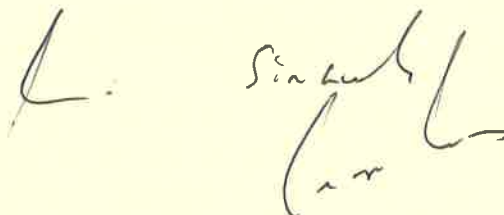
As was mentioned during the debate, the FCA and the PRA are independent organisations. It is not appropriate for the government to enforce a radical change in the FCA's structure or organisational culture as such matters are for the FCA to determine internally.

On the concerns you raise relating to the regulatory perimeter, whether an activity is regulated is set out in legislation, and is rightly a matter for Government and Parliament. It is important that the FCA can make a distinction between regulated and unregulated activities in the way that it regulates. The costs and benefits of bringing activities into the regulatory perimeter can be finely balanced, which is why the Government is committed to regulating only where there is a clear case for doing so.

On SME lending specifically; the Government does not believe that there is a clear case for bringing SME lending into regulation, as there would be several direct and indirect costs associated with such a move. Direct costs would include annual FCA fees, product reviews and increased compliance and monitoring costs; while indirect costs would include stifled product innovation, narrower product choice for SMEs, and higher barriers to entry leading to reduced competition in the SME lending market. These changes could in turn impact on the price and availability of credit for small businesses, which is not a desirable outcome.

Turning to Peer to Peer (P2P) lending, the government has implemented proportionate, principles based regimes for P2P and investment-based crowdfunding that balance the need for consumer protection with allowing the sectors to grow and evolve. It is important that the FCA rules for P2P lending remain relevant for this evolving sector, and the new rules announced by the FCA on 4 June reflect this. These will help to ensure that investors have the information they need to make effective decisions about P2P investments, without imposing additional costs on borrowers.

I hope this helps to assuage your concerns. I am also copying this letter to Baroness Bowles and placing a copy in the House library.

A handwritten signature in black ink, appearing to read 'L. Singh' with a flourish underneath.

LORD YOUNG OF COOKHAM

Baroness Kramer
House of Lords