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To: Lord Sikka
Cc: Lord Davies of Brixton and
Lord Moylan and
Baroness Bennett and
Baroness Kramer and
Lord Tunnicliffe

18 November 2021

Dear Lord Sikka,

Compensation (London Capital & Finance plc and Fraud Compensation Fund) Bill 2021

I am writing to you following the Second Reading debate on the Compensation (London Capital & Finance plc and Fraud Compensation Fund) Bill 2021 on 19 October. The Government has acted swiftly to progress this extremely important Bill which will allow both LCF bondholders and the victims of pension liberation fraud to receive the compensation they deserve. I committed to write to you in response to the questions you raised and I would like to thank you for your thoughtful contributions during the debate.

Bondholder Compensation

First, you raised some questions about the level of compensation offered under the scheme. The government's Scheme seeks to balance the interests of both bondholders and the taxpayer and will ensure that all LCF bondholders receive a fair level of compensation in respect of the financial loss they have suffered. However, it is imperative to avoid creating the misconception that government will stand behind bad investments in future, even where FSCS protection does not apply. That would create a moral hazard for investors and potentially lead individuals to choose unsuitable investments, thinking the government will provide compensation if things go wrong.

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To avoid creating this misconception, and to take into account the wide range of factors that contributed to the losses that government would not ordinarily compensate for, the government Scheme provides 80% of LCF bondholders' initial investment up to a maximum of £68k. I would note that previous government compensation schemes, established for Barlow Clowes and Equitable Life, were also based on a percentage of investors losses.

It is also worth noting that it would not be right or fair for investors of non-regulated products to receive fuller compensation than those who have invested in regulated products, for which the maximum amount of compensation is capped at £85k under the FSCS.

Audit - Fines

Regarding your specific questions about auditors, you noted that fines issued by the Financial Reporting Council (FRC) go to the Treasury and asked why the Treasury should benefit from the collapse of LCF.

The role of the FRC includes taking action to promote the accuracy and reliability of financial reporting so that investors, businesses and individuals can understand, and trust, what companies are telling us. Enforcement action helps to drive improvement by taking robust and proportionate action to hold those responsible to account when behaviour falls short of what is required.

Creditors already have a number of well-known mechanisms to recoup money from the estate as set out in the Insolvency Act. It is also possible for creditors to sue the auditors for damages, for example where they have been negligent. The case of KPMG and Carillion provides a recent high-profile example.

FCA Funds

You asked if I would give an undertaking that, as and when the fines are levied against LCF that the proceeds will be given to investors. Where a firm is insolvent or in administration it is unlikely that the FCA will consider it appropriate to impose a financial penalty. An insolvent firm, by definition would be unable to meet a demand to pay a financial penalty and, in the case of a firm in administration, the FCA will consider whether any financial penalty would remove monies which would otherwise be available to repay creditor investors.

Director disqualification

You asked if there was any action pending against the London Capital & Finance directors from the Insolvency Service. The Insolvency Service is the lead regulator for director disqualification, however there are other agencies involved with investigatory powers, with the Serious Fraud Office (SFO) also investigating London Capital & Finance Limited. As in

previous similar cases the SFO can obtain director disqualification following any successful criminal prosecution. Insolvency Service officials remain in touch with the SFO about progress on their investigation, which as you know is ongoing.

Insolvency Practitioners

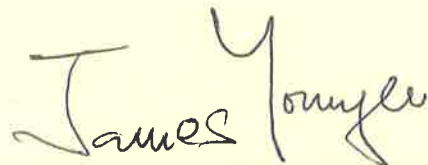
You also expressed concern over the cost of insolvency practitioners. I fully agree that the cost of insolvency practitioners should be kept to a minimum, to ensure as much money as possible remains for the creditors. LCF is a complex case, and inevitably will involve a great deal of time and effort to make the recoveries.

Under insolvency legislation, the remuneration and expenses of insolvency practitioners are subject to the approval of creditors, and to the overall control of the court. Creditors have the power to challenge remuneration by application to court. Statutory objectives introduced in 2015 also require insolvency regulators to ensure that Insolvency Practitioners provide high quality services, at a cost to the recipient which is fair and reasonable. The Government is reviewing the arrangements for regulation of the insolvency profession and will shortly publish proposals for consultation.

I hope that you find the information provided in this letter helpful. I trust you will agree with the importance of this legislation which will enable LCF bondholders and the victims of pension liberation fraud to receive the compensation they deserve.

I am copying this letter to all Peers who took part in the Second Reading debate; Lord Davies of Brixton, Lord Moylan, Baroness Bennett, Baroness Kramer and Lord Tunncliffe, and I am placing a copy in the Library.

Yours sincerely,

A handwritten signature in black ink that reads "James Younger". The signature is written in a cursive style with a large, prominent 'Y' at the end.

Viscount Younger of Leckie