



SME Alliance
c/o Barhams
Bakers lane
Linton
Cambridge CB21 4NF
e-mail: smealliance2014@gmail.com

John Griffith-Jones Chairman &
Martin Wheatley, CEO
The Financial Conduct Authority
25, The North Colonnade,
Canary Wharf, London E14 5HS

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By e-mail: john.griffith-jones@fca.org.uk ; martin.wheatley@fca.org.uk

Dear John Griffith-Jones and Martin Wheatley,

We are writing to introduce you to SME Alliance. While we suspect this letter will be redirected to less senior officers of the FCA, we were unable to find the most appropriate officer(s) on your site as there is no obvious contact for SMEs. Therefore and as we feel it is very important we communicate on behalf of the SMEs we represent, we felt it best to start at the top. We would be grateful if you would take the time to read this letter.

SME Alliance is a relatively new organisation set up by SME owners to address SME issues. It was formed as a direct result of Twitter communications in which the founder members recognised there is, presently, a glaring gap which needs to be filled by an organisation that fully understands the needs and concerns of SMEs, simply because SME owners experience them on a daily basis. In short, we are on the front line or the coal face of the SME world, so it is logical we should be actively involved in resolving SME issues.

We are in no way competing with or challenging the work done by the FSB and, unlike other organisations, we do not focus exclusively on banking and financial issues. Nor do we profess SME Alliance can resolve individual financial disputes for members, although it is an unavoidable fact the majority of our members have been adversely affected by misconduct in the financial sector. We do however, encourage members to share information and evidence and to assist each other with individual cases - "a problem shared is a problem halved".

An example of how successfully this works is evidenced in Clive May's case, as he has been actively working with other SME Alliance members in proving his allegations against RBS and the mis-selling of EFG loans.

All our members are fully aware the FCA always advises it has no remit to deal with individual cases – although many of us do have letters from the FCA (and previously from the FSA), which do exactly that. However, we are not contacting you to bring any individual case to your attention. Rather, we are writing to ask that you open a specific line of communication with us so we can bring to your attention the bigger picture with regard to SMEs and their dealings with the financial sector.

It is unfortunate and, quite frankly, bizarre that, the way the regulatory system is currently set up, the 4 million+ SMEs in the UK have no representation on these issues. As individual companies we fall into an

area of 'no man's land', between the FCA and the FOS. The FOS do not have the ability to compensate SMEs, some of whom have lost millions of pounds thanks to bank misconduct, while the FCA, in dealing only with systemic issues, often arrives at blanket resolutions which take no account of individual circumstances or consequences. In many cases this gap in regulatory remit causing a lack of oversight, is catastrophic.

Many of us and especially those members who were or still are in the financial sector, are well acquainted with FSMA 2000 and the restrictions it imposes on the FCA and especially with regard to transparency. Leaving aside the question of whether the time has come to reconsider the application of FSMA 2000 in 2015, this should not stop you receiving and considering information from a collective source. And in some instances you do exactly that. For example, we are aware the FCA now has open lines of communication with Whistleblowers UK and, as we can see from your website, this has resulted in some positive progress – or at least an acknowledgement the voice of whistle-blowers should be considered. However, there is no department specifically for SMEs despite the acknowledged, significant contribution to the UK economy SMEs make. We're concerned that, while SME Alliance members have many legitimate and pressing issues the FCA should be made aware of, they have no specific and direct channel of communication.

Despite perceptions on both sides, we do not want to interact with the FCA on a 'them and us' basis - that is exactly the kind of barrier we want to break down.

Recently we met very successfully with the Corporate Governance team of the SRA to discuss SME concerns with regard to the legal sector. As a result of that meeting, we will be attending roundtable discussions with the SRA so they are fully aware of our concerns and also so we can keep them informed of issues they were previously unaware of. We have not nor do we intend to ask the SRA to resolve individual issues (save where they ask for case specific information) but this communication has already allowed us to supply information and evidence that is complimentary to their remit and, therefore, also beneficial to SMEs.

Similarly we would like the opportunity to have frank and open discussions with the FCA. Despite Section 348 of FSMA 2000 and its opaqueness with regard to issues of transparency, we would, for example, still like to bring to your attention how banks seem able to disregard the FCA Principles for Business. We're not trying to be contentious, we are genuinely confused and can only conclude, in many instances, you are not getting input from both sides of the coin and may be receiving very biased or inadequate information.

We're also not sure exactly how the FCA differs from the FSA? The principles and remit appear the same but if you do have advanced or superior powers, we would like to know exactly what benefit these might have for SMEs alleging misconduct. This will enable us to ensure we keep you abreast of any information we collectively have and may enhance your ability to take timely action against miscreant banks.

All in all over the last 13+ years since the FSA and 'light touch regulation' were introduced, SMEs have had a pretty dire time. They have been repeatedly abused by banks and that abuse has gone repeatedly unchallenged and therefore not penalised, except for massive fines to banks' shareholders. And of particular concern is the timescales for resolution even where the wrong doing has been recognised by the FCA.

For example, in the redress scheme for IRHP cases there are no timescales and, even when the culprit bank has agreed redress, some SMEs wait months to receive it while others are paid within weeks.

And in cases of Section 168 investigations into allegations of systemic fraud - for example, HBOS Reading - there has been no conclusions from the FCA even although Hector Sants confirmed the FSA started their investigation some four months prior to the Parliamentary Debate of 2nd June 2009 on the subject. Mr Sants also confirmed the redacted paragraphs in the BoS Censure report (March 2012) were specifically about HBOS Reading – but, since just after he left, no more has been mentioned about that Section 168 Investigation. We would suggest no one, outside of the Bank and the FCA, even knows if it is still ongoing. Similarly, while the RBS' GRG division has been closed down, little appears to have been done to put those SMEs damaged by GRG (or other so called 'business recovery departments'), back in an equitable position.

Despite Section 348, we would like to think this total lack of transparency might change in 2015. Which isn't to say we wish to meet to go through a litany of complaints. But we feel it would be enormously beneficial if, in future, we were able to bring serious and systemic issues of misconduct or examples of banks ignoring FCA directives, to the attention of the FCA via a specific contact. And, where the FCA can give updates and answers, it would mitigate further frustration if we could pass such information directly to all our members.

We have recently written to Andrea Leadsom MP following on from her comments at the Back Bench Business Debate of 4th December 2014. We have asked if the Government will consider a specific regulator/mediator to deal with SME issues. We have pointed out: This might save banks (or rather their shareholders) a fortune in legal fees dealing with civil litigation; it would save the FCA time and money responding to individual complainants they cannot deal with and; it would give SMEs access to some form of mediation outside of expensive civil litigation. In our opinion this would be the best of all possible worlds.

However and until such a scenario is considered by any Government and especially as no one knows what Government will be in power post the May 2015 election, we feel our request to meet and open a dialogue with the existing regulator, is both timely and entirely reasonable.

It is undoubtedly a fact some of our members do have a history of dissatisfaction with the FSA/FCA and we believe this is in part caused by a total lack of a direct line of communication between the FCA and SMEs.

There is, not surprisingly, a perception the FCA is heavily biased towards banking interests and not open to giving their critics a fair hearing. Market Confidence now seems to override all other FCA Principles and especially Consumer Protection. Even where banks have been repeatedly found guilty of misconduct towards SMEs, there seems little appetite to stop this or even to curb it.

We think it is fair to say many people feel the FCA exists to protect the major banks from SMEs and the general public, as opposed to regulating them. Recently even Andrew Tyrie has made comments on behalf of the Treasury Select Committee (TSC) confirming he finds the FCA conduct "obstructive." And we are aware this frustration dates back to 2008.

Better communication seems the most obvious solution and, as the majority of the 4M+ SMEs in this country are directly affected by FCA regulation of banks, we would also like to have the opportunity to share our experiences and views.

Finally, we are aware the anger and frustration some of our members feel towards some banks and also the regulators, is very evident on our twitter stream. We would like to make the point – we do not censor any tweets to SME Alliance – nor would we want to unless they are abusive or malicious. We fully understand some SME owners feel devastated by the conduct of banks and by the lack of support or redress from any authority. It is not our remit to moderate the reactions of members.

However, as an organisation we are determined to open doors and improve relationships between SMEs and those organisations and authorities sometimes perceived as obstructive to the success of our huge sector. Any meeting we request or attend is always with the intention of improving relations in a professional, positive and constructive manner.

Please let us know as soon as possible, who we should contact to schedule a meeting.

Yours sincerely

Nikki Turner, Nick Gould and Jon Welsby
On behalf of SME Alliance

www.smealliance.org