It was very good to speak to you on Friday. During the conversation I said I would provide you with an update on the FCA’s review of Royal Bank of Scotland’s (RBS) treatment of small and medium enterprise (SME) customers in financial difficulty, and the FCA’s investigation into the collapse of the Connaught Income Fund Series 1 (the Fund), which I set out below.

In January 2014, the FCA appointed Promontory as a skilled person under section 166 of the Financial Services and Markets Act 2000 to review RBS’s treatment of SME customers transferred to GRG between 2008 and 2013. The background to our review follows serious allegations about RBS’s treatment of SME customers set out in Dr Lawrence Tomlinson’s report on banks’ lending practices and referenced in Sir Andrew Large’s review of RBS’s SME business. Whilst commercial lending does not fall within the FCA’s remit, we considered that some of the allegations, if substantiated, could indicate wider concerns in relation to the bank’s conduct.

The skilled person, Promontory, with the assistance of its sub-contractor Mazars, provided its final report to the FCA in September 2016 (the Report). This was a complex and lengthy review. As part of their work, Promontory examined 207 cases and covered a six-year period. RBS provided Promontory during the course of the review with 323 gigabytes of data (approximately 1.5 million physical pages and 270,000 emails). The Report is a very comprehensive document and provides a detailed description of the work undertaken, the contextual background of the market and the way that GRG operated at the time.

Shortly after receiving the skilled person’s report we published (November 2016) the FCA’s high level summary of the main findings and some key conclusions in the Report. While some isolated examples of poor practice were identified, the most serious allegations were not proven. However the skilled person reported that it found other areas of inappropriate customer treatment, some of which it considered to be systematic. It also reported that most of the potentially viable SME customers transferred to GRG experienced some form of inappropriate action, although in a significant majority of cases it was likely that inappropriate actions did not result in material financial distress to these customers.

We expect to publish an extensive summary of that report by the end of the year. The summary is being reviewed by external Counsel to provide independent confirmation that it is
a fair and balanced precis of the skilled person’s findings. In the meantime, we are continuing to undertake an investigation on issues contained in the report. Once that investigation is completed, we expect to be in a position where we can publish our findings.

Regarding our investigation into the collapse of the Connaught Income Fund Series 1, we believe we are in the final stages of what has been a very complex enforcement investigation. The events under investigation date back as early as April 2008 and are complex in nature. A number of different entities were involved with the Fund, some of which were regulated by the FCA and some of which were not. These include Tiuta plc, a specialist partner to the Fund, and Capita and Blue Gate, the operators of the Fund.

The Fund itself was an Unregulated Collective Investment Scheme (UCIS). These types of schemes are, by their very nature, not subject to direct regulation by the FCA (and previously, the FSA) although there are some rules mainly in relation to their promotion and distribution.

For a limited period following the Fund’s entry into liquidation, we supported negotiated settlement discussions with some interested parties (including the Fund’s liquidators) with the aim of securing an agreement between the parties to address the losses for investors in the Fund. We considered this process more likely to return better and speedier outcomes for consumers when compared to other routes.

The period for the negotiations was extended more than once as it was considered to be in the interests of investors to do so. However, it became clear in March 2015 that the sums under negotiation were too low and in order to ensure the most appropriate outcome for consumers, a full and formal investigation into the actions of the former operators (Capita Financial Managers Limited and Blue Gate Capital Limited) of the fund was necessary. We withdrew from the negotiations and announced our investigation on 10 March 2015. While we formally withdrew from the negotiations we continued to facilitate the talks between the liquidators and Capita. As a result of the talks facilitated by the FCA, a settlement between was reached in January 2016 meaning that a significant cost of the civil litigation has now been stemmed.

To date, the FSA and FCA have used a number of powers in relation to this investigation, including:

- Placing a requirement on Tiuta plc’s permission so that it could no longer carry out any new regulated mortgage lending and later on, a requirement that all monies received by Tiuta plc be returned to the Fund;
- Requiring Tiuta plc to instruct Connaught Asset Management Limited (the unregulated entity that promoted the Fund) to change its marketing materials so they no longer described the Fund as ‘low risk’ and ‘guaranteed’ as the FSA took the view that these descriptions were misleading; and,
- Commencing an investigation into the operators of the Fund (Capita and Blue Gate).

We will bring a conclusion to the case as soon as we can. I cannot say when this may be. It is difficult to make public any further information regarding the progress or the potential outcome of the investigations as we are legally bound to act fairly and to accord due process to those under investigation. Although we recognise that this is frustrating for investors awaiting a conclusion to the investigations we can assure you that the investigations are of the highest priority.

Once the current enforcement investigation has ended the FCA Board will appoint an external third party to conduct a review into the regulation of firms connected with the Connaught
Series 1 Income Fund. The FCA intends to publish the outcome of the review, to the extent that we can.

In the last Parliament, we engaged with the All Party Parliamentary Group on Connaught. In March this year, Mark Steward, Executive Director of Enforcement and Market Oversight met with the APPG to provide further details on how we conduct enforcement investigations and to update the group on our progress, as far as we were able to. In that meeting, Mark Steward reiterated the FCA's unreserved apology to Mr Patellis for the FSA's mishandling of his original complaint regarding the Fund.

On both of these areas of work, we will continue to work closely with your Committee and other interested Members of Parliament. We are committed to remaining as transparent as the legislative framework permits us to be.

I hope that this is helpful.

Yours sincerely,

Andrew Bailey
Chief Executive