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FOR IMMEDIATE RELEASE

Transparency Task Force considers appealing Court decision ‘that deprives UK investors of FSMA statutory protections’

Transparency Task Force is considering an appeal against the High Court’s approval of the [Scheme of Arrangement](#) relating to the Woodford Equity Income Fund that has been proposed by Link Fund Solutions Limited and enthusiastically championed by the Financial Conduct Authority.

At stake is an important legal principle: whether an individual’s statutory rights to protection under the Financial Services and Markets Act 2000 (FSMA) can be taken away without their individual consent, long after they have purchased products that are described as benefiting from those rights.

The Woodford prospectus informed investors that they benefited from statutory rights to refer complaints to the Financial Ombudsman Service (FOS) to obtain ‘fair compensation’ should things go wrong, and to have the liability settled by the Financial Services Compensation Scheme (FSCS) (up to £85,000) should the firm then default in payment.

Leading counsel for the Financial Conduct Authority (FCA) argued in court that these protections could legally be extinguished by the proposed Scheme, and asked the court to sanction the Scheme which the FCA had negotiated with Link’s Australian parent over several months. ***‘There is no doubt that the scheme can remove such rights’*** he said.

The FCA actively promoted the deal struck as offering investors ***‘up to 77p in the pound’*** and ***‘the best way for most people to get money back’*** - claims disputed by Transparency Task Force and other objectors.

Justice Richards' judgement sets a precedent, namely that a scheme of arrangement sanctioned by the court can denude investors of their FSMA protections, many years after making their investment decisions in good faith. Any individual considering independent financial advice, personal pension provision, an ISA, bank or building society deposit and so on have the same FSMA protections of FOS and FSCS as Woodford investors; and are similarly adversely affected by the ground-breaking ruling.

Concerns over the potential adverse market impact and lack of appropriate risk assessments in reducing the statutory protections under FSMA were raised in an [open letter](#) sent by five academics to the judge. Leading counsel for the FCA submitted that the letter '*exaggerated*' the reasons for concern, but did not explain why the consequential red flag dangers the academics identified should be ignored.

'The Scheme offers an appalling outcome for those who were trapped in Woodford's flagship fund when it was suspended in June 2019,' claims Andy Agathangelou, Founder of Transparency Task Force. 'Most will get back between four and eight pence in the Pound of their outstanding capital losses, with nothing for the returns forfeit over the past four and a half years, let alone consequential losses, so much, much less than many have been led to believe by the FCA.'

'The removal of statutory rights against the wishes of those concerned means the outcome of this case matters to everybody that ever has, or might ever in the future, use UK financial services.'

Agathangelou is particularly critical of the role of the FCA in this debacle:

'Woodford investors who relied on the FCA's claims, and media reporting of them, backed the Scheme by a large majority. Many will have wrongly believed they'd be getting 77 pence back for each Pound outstanding. But the reality is that most won't achieve even a tenth of that. And as for the Parliament-given rights of consumers, which the FCA has an explicit, statutory remit to protect, they seem to have been cast aside, as if Parliament had never intended them.'

'Whatever the outcome, an appeal would clarify an important legal question, in the public interest - can a Scheme of Arrangement approved under the Companies Act 2006 by a minority of creditors nullify individuals' statutory rights to pursue claims with the FOS and FSCS under the Financial Services and Markets Act 2000?

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