

OPEN LETTER regarding the FCA's planned policy to delete emails.

By Email only to:

- Emma Reynolds MP, Economic Secretary to the Treasury.
- Dame Meg Hillier DBE MP, Chair of the Treasury Committee.
- Helen Charlton, Chair of the FCA's Financial Services Consumer Network.
- The Rt Hon. Lord Forsyth of Drumlean, Chair of the Lords Financial Services Regulations Committee.

And in Cc to:

- Nikhil Rathi, CEO of the FCA.
- Ashley Alder, Chair of the FCA.
- Plus the FCA's Non-Executive Directors.

Date: Thursday 20th March.

Dear Emma, Dame Meg, Helen and Lord Forsyth of Drumlean,

We the undersigned are writing to ask you to urgently seek an undertaking from the Financial Conduct Authority (FCA) to abandon a planned change that we believe would unnecessarily harm the rights of consumers, the efficacy of the regulator, and the reputational integrity of the UK's financial sector.

You will be aware that the FCA has told employees that, with effect from 1 April this year, it will reverse its policy on the retention of emails so that all such messages are automatically deleted after a year unless staff take specific steps to preserve them.

We are concerned that this policy would have the following, damaging effects:

- Consumers, campaigners and journalists would be frustrated in their attempts to hold the organisation to account by requesting disclosures under the Freedom of Information Act ('FoI');
- Whistleblowers and others who've interacted with the organisation would be unlikely to uncover the totality of the information the regulator has received about them, and what its employees have said about them, through Data Subject Access Requests ('DSARs');
- In cases where the FCA is suspected of having failed to secure a reasonable degree of protection for consumers, any attempts by the Treasury to initiate inquiries under

the [Financial Services Act 2012](#) would be undermined by the wholesale destruction of crucial evidence;

- Individuals and civil society groups tempted to litigate against the FCA or secure a judicial review of one of its decisions would be likely to find the process non-viable due to the paucity of relevant correspondence disclosures;
- And, perhaps most important of all, the regulator would be at severe risk of impeding its own efficacy as a result of the deletion of emails containing valuable information or evidence, the value of which might come to light only after the auto-delete date.

When challenged by the media, the FCA has claimed that only 'unnecessary' emails would be destroyed and that those subject to FoI requests would be preserved. However, the organisation and its staff cannot possibly anticipate with complete accuracy which emails may be needed in the future, whether for FoI or DSAR requests, Parliamentary Committee inquiries, HMT inquiries, litigation, judicial review - or its own supervisory and enforcement activities. Automatic deletion of emails therefore presents inevitable, avoidable and irrational risks to the performance and accountability of the organisation that you lead.

We cannot think of any other statutory body that employs such a draconian and opaque policy in respect of its email correspondence. With the cost of data storage falling precipitously in recent years, it is difficult to see a legitimate rationale for the proposed change. Indeed, in the announcement of the new policy to staff on its intranet, we note that the FCA was candid about its true intention, namely that it *'reduces the legal and reputational risk we face.'*

At a time when Government is putting pressure on regulators to deploy a 'lighter touch' where doing so might help boost economic growth, we believe it is important that consumer groups push back where citizens' rights and welfare are at risk, especially - as here - in cases where the only industry beneficiaries are likely to be the bad actors.

A transparent and accountable financial regulator is, it seems to us, an essential prerequisite for raising the standards of regulation and hence conduct and consumer outcomes; and it is only by improving consumer outcomes that confidence in the industry can be rebuilt and growth re-established.

With this in mind, I wonder if you would agree to issue a public statement at the earliest opportunity rescinding the proposed new policy and undertaking to retain all emails.

To help you consider the issues involved and the range of serious concerns being expressed, please see a sample of recent news articles on the issue:

- [Auto-deleting emails forces us to ask, what is the FCA trying to hide](#)
- [FCA could be 'destroying evidence' by deleting year-old emails](#)
- ['Imagine if a bank announced this': Lawyers hit back against FCA email deleting plan](#)
- [FCA's plan to delete staff emails after 12 months raises accountability concerns](#)
- [FCA to delete emails from staff inboxes after a year - report](#)
- [FCA staff emails to auto-delete after one year](#)
- [FCA to delete most emails after 12 months](#)

Furthermore, we urge you to see through the FCA's [defence](#) that it is not 'deleting evidence... hiding information... or reducing transparency', pointing to its admission made in a statement on its staff intranet, reported by [The Times](#) and others, that the intention is to reduce 'the legal and reputational risk we face'.

We look forward to hearing from you shortly.

Yours sincerely,

All co-signatories, as below; last updated on 19th March:

- [Jesse Griffiths](#), CEO, [The Finance Innovation Lab](#)
- [Paul Delaney](#), Co-Executive Director, [Positive Money](#)
- [Anthony Stansfeld](#), Former National Lead on Fraud, [The Police Commission](#)
- [Alex Cobham](#), Chief executive, [Tax Justice Network](#)
- [Nicholas Shaxson](#), author of *Treasure Islands* and *The Finance Curse*
- [Martin White](#), Director, on behalf of [UK Shareholders Association](#)
- [Phoebe Clay](#), Director, [Unchecked](#)
- [Mark Northway](#), Policy Director, [ShareSoc](#)
- [Aleksandra Maczynska](#), Managing Director, [Better Finance](#)
- [Christopher Brooks](#), Head of Policy, [Age UK](#)
- [Andy Agathangelou](#), Founder, [Transparency Task Force](#)