



Mr Mark Lewis
Enforcement Division
Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

By email

17 June 2013

Dear Mr Lewis,

Consultation Paper (CP 13/8): Publishing information about enforcement warning notices

The GC100 welcomes the opportunity to respond to this consultation. As you may be aware, the GC100 is the association for the general counsel and company secretaries of companies in the UK FTSE 100. There are currently over 126 members of the group, representing some 82 companies. Please note, as a matter of formality, that the views expressed in this letter do not necessarily reflect those of each and every individual member of the GC100 or their employing companies.

The Consultation Paper touches upon a number of issues. The GC100 has concentrated on a number of specific aspects which are particularly relevant to its members.

The GC100 still considers that the policy position the FCA has adopted in relation to the publication of information relating to warning notices has many potential pitfalls. The reason for the policy appears to be driven by a desire for transparency and to communicate with stakeholders regarding behaviours in the financial services arena which the FCA considers to be detrimental at an earlier stage.

The large majority of listed issuers are not regulated, other than under the listing regime, by the FCA. As a general observation we would therefore hope the UKLA/FCA would often see the benefit of delaying publication of any material relating to enforcement action for listed companies until it has established and verified the information with more certainty and rigour than may be the case at the warning notice stage. It is certainly possible to envisage scenarios where the publication of information relating to a warning notice could potentially lead to concerns around the trading of securities in the listed issuer. In particular, the publication of such information may also give rise to concerns as to whether there is complete and accurate information available to allow the market to operate fairly.

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GC100 Group

The Association of General Counsel and Company Secretaries of the FTSE 100

The GC100 Group is an unincorporated members' association administered by the Practical Law Company Limited

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Section 391(6) of FSMA provides that the FCA must not publish information if it considers, among other things, that publication would be unfair to the person with respect to whom the action was proposed to be taken. Although the overview of when the FCA would propose to consider the publication to be unfair included in paragraphs 2.15 to 2.26 of the Consultation Paper is useful, we would welcome further clear guidance on how the FCA will apply the fairness test.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Mary Mullally', with a long horizontal flourish extending to the right.

Mary Mullally
Secretary, GC100
020 7202 1245