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Dear Sir

The Royal Bank of Scotland and the Global Restructuring Group – “Dash for Cash”

We are solicitors specialising in the resolution of financial services disputes. We currently act for numerous clients who, in one way or another, are victims of the activities of the Global Restructuring Group (**‘GRG’**) at the Royal Bank of Scotland (**‘RBS’**).

RBS took the decision to close the GRG down around the middle of 2014, but there are thousands of businesses and individuals who claim to have suffered severe financial loss and hardship at the hands of the GRG, long before it closed.

This letter is written on behalf of this firm, our clients, and the wider pool of GRG victims generally. Its purpose is to encourage each recipient to use the powers conveyed by their respective offices to facilitate appropriate affirmative action. Given that so many GRG victims are now considering their legal position and, ultimately, litigation, we would suggest it is imperative that you take action without delay.

Background

The GRG has received significant attention in the national media recently, following a leak of RBS internal documents made public on 10 October 2016. Since their release the documents have been reviewed by GRG victims, journalists, lawyers, and commentators up and down the country. They confirm, among other things, that:

- (i) the GRG was a profit centre encouraging a “*Dash for Cash*” that contributed £1.19bn to RBS’ bottom line in one year alone (contrary to repeated statements made by Derek Sach and Chris Sullivan to the Treasury Select Committee on behalf of RBS in June 2014); and
- (ii) RBS employees were encouraged to “*provoke a default*” by its customers to pave the way for a transfer to the GRG.

The unanimous conclusion is that RBS has some serious problems to address. On the basis of the further analysis below, it is this firm’s view that responsibility for those problems, and the resulting impact on consumers, does not rest at the door of RBS alone.

Duties of the FCA and Perceived Inaction

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Whilst shocking, the leaked documents are not a revelation. We, along with countless other advisors and GRG victims, have been investigating the relevant issues and campaigning for proper regulatory intervention since 2013. The leaked documents only corroborate our clients' experiences. The position as we see it (which is based on extensive investigation and involvement in our clients' cases) is unacceptable, unjust and calls into question the extent to which the FCA is fulfilling its statutory duties as the industry regulator. We have set out a brief chronology below, along with reference to the top level obligations of the FCA, in the hope that a simple summary of the position might assist in prompting senior executives to take appropriate action:

- On 25 November 2013, the activities of the GRG were brought to the attention of the national media, RBS, the FCA and the wider public upon the release of Lawrence Tomlinson's report (**the Tomlinson Report**).
- In January 2014, the FCA announced that it would be exercising its powers under Section 166 of the Financial Services and Markets Act 2000 ('**FSMA**') by appointing a "Skilled Person" to investigate the issues set out in the Tomlinson Report, stating that they expected the findings to be reported back to the FCA by the end of 2015. Promontory Financial Group Limited and Mazars LLP were duly appointed to carry out the investigation. Our experience suggests that many victims of the GRG have suspended the pursuit of recourse through the courts in the hope that the FCA would take affirmative action against RBS following the investigation.
- On 11 April 2014, RBS instructed Clifford Chance to conduct an internal review into the activities of the GRG (which it described as "*Independent*"). The law firm says that it reviewed 130 of RBS' files and concluded that it was unable to substantiate the allegations made in the Tomlinson Report.
- On 17 June 2014, Derek Sach and Chris Sullivan, executives in charge of the GRG, were questioned by the Treasury Select Committee, and repeatedly denied that the GRG was a profit making centre for RBS.
- In December 2015 (two years after the publication of the Tomlinson Report) the FCA announced that the report on the 'Skilled Person' findings would be delayed. No update as to the substance of the report was provided.
- In April 2016 the FCA announced that the draft 'Skilled Person' report had been delivered but that the final stages of the process (including RBS being given the opportunity to review the report) must be completed before the findings and proposed remedial action (if any) are published. Again, no update as to the substance of the report was provided at this time.
- On 4 October 2016, the FCA announced that the final 'Skilled Person' report had been received, but stated that there are "*a number of steps...to complete before [the FCA is] in a position to share [the FCA's] final findings*".
- On 10 October 2016, leaked documents, referred to as the "RBS Files", were reported by the BBC and BuzzFeed and the issue was featured on the BBC's "*Newsnight*" programme.
- On 24 October 2016, RBS' share price fell amid speculation that the actions of the GRG are likely to cost RBS £500m in this financial year alone.
- As at 26 October 2016, the public, and most importantly the victims of the GRG, are still unaware of the content of the 'Skilled Person' report and therefore what the FCA's approach to providing redress might be. In the intervening period, between the publication of the Tomlinson Report and today (which amounts to nearly 3 years), it is likely that the legal rights of many of the victims of the GRG (particularly in relation to statutory limitation and the preservation of relevant evidence) may have been compromised.

Section 1B of FSMA states that - in discharging its general functions - the FCA must, so far as is reasonably possible, act in a way which is compatible with ensuring that the markets function well whilst pursuing the objectives of (among others): (i) the protection of consumers; and (ii) the protection and enhancement of the integrity of the UK financial system. In light of the manner in which the FCA has addressed the issues relating to GRG so far, as set out above, it must be asked whether the FCA is in fact complying with its obligations and statutory objectives.

As a wider point, it is also worth noting that, on the basis of our experience acting for victims of bank misfeasance, RBS is not the only bank and the GRG is not the only "restructuring division" whose practices have caused loss to its customers. It is to be hoped that the FCA is investigating the wider position.

The Recipients of this Letter

This is an open letter and has been sent to the following recipients:

- **Ross McEwan at RBS** because its purpose is to reiterate to each recipient the ongoing damage that the actions of the GRG have caused, and the exacerbation of that damage caused by the bank's failure to properly accept its wrongdoings and treat its customers' complaints fairly. The inevitable corollary of the continued delay is further damage to the reputation and public perception of a bank that, in the most part, the public owns.
- **Andrew Bailey at the FCA** because it is arguable that it has failed to address the GRG problem in a manner consistent with a competent regulator that is fit for purpose. The FCA's inertia is likely to have exacerbated the losses suffered by GRG victims, and threatened the prospects of any private legal action, and has eroded public confidence in the FCA. That is a worrying state of affairs for a regulator whose core functions include consumer protection and the protection of industry/market integrity. Unless the FCA is in fact a captive regulator, as many fear, it is to be hoped that it will release its findings, and announce how redress will be achieved for the victims of the GRG, without any further delay. Given (i) that the FCA appears to have allowed significant input from RBS; and (ii) the parallels between the FCA's management of this issue and its management of the Mis-sold Interest Rate Hedging Product scandal (which resulted in a largely flawed redress scheme), GRG victims and their advisors will be scrutinising the FCA's response intently as soon as it is available.
- **Andrew Tyrrie MP of the Treasury Select Committee** because, on behalf of the Government and the electorate, it has a duty to hold the FCA to account. The Treasury Department's apparent conflict of interest between preserving the value of taxpayers' shares in RBS, on the one hand, and pursuing its obligation to properly hold the FCA to account, on the other, could be seen to be contributing to (if not causing) obstacles to the just investigation and resolution of this scandal. The media have reported murmurings of a £500m reserve in the next RBS accounts, in light of the amount of compensation that could be payable to GRG victims, and a resulting slide in RBS' share price. The victims of the GRG, and the wider public, deserve to know how this issue is being tackled.
- **Various Media Outlets** because it is incumbent upon them to continue to investigate and report on the GRG scandal, and to keep it at the forefront of public consciousness, until affirmative action by the relevant institutions is taken.

We look forward to each of your responses in due course.

Yours faithfully



BOLT BURDON