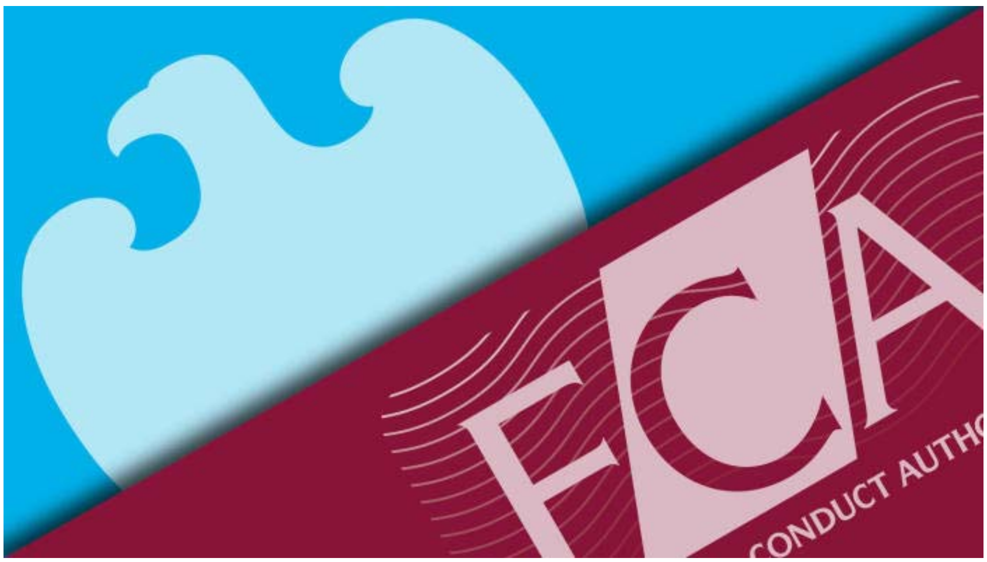
Barclays

City watchdog relaunches probe into Barclays' cash call

Financial Conduct Authority is re-examining £7.3bn fundraising bank undertook in 2008



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MARCH 23, 2017 by: **Caroline Binham**, Financial Regulation Correspondent

The City watchdog has reignited its investigation into Barclays (http://markets.ft.com/data/equities/tearsheet/summary?s=uk:BARC)' emergency cash call during the height of the financial crisis, opening up yet another line of inquiry (https://www.ft.com/content/18cc5926-d728-11e5-829b-8564e7528e54) that the UK bank must face as a consequence of the controversial deal.

The Financial Conduct Authority has launched a series of interviews in recent weeks, according to people familiar with the situation. It is re-examining the fundraising (https://www.ft.com/content/c540787e-a6c8-11dd-95be-000077b07658) of October 2008, when Barclays turned to Qatari and Abu Dhabi senior royal family members and sovereign wealth funds for a £7.3bn boost as a last-chance effort to stay out of UK government control.

The interviews come despite the fact that the FCA already came to an early determination in 2013 that the bank had failed to disclose arrangements and fees it paid to Qatari investors at the time. The watchdog said it would fine Barclays £50m, which the bank disclosed (https://www.ft.com/content/f89a1588-d75a-11e1-a378-00144feabdc0) that year, adding that it would contest the findings.

The reopening of the case file could prompt the regulator to alter its previous conclusions and change the amount of the fine.

The bank's side-arrangements with Qatar at the time of the cash call, totalling £2.4bn, have sparked a regulatory and criminal probe, a $1bn lawsuit and a whistleblowing claim.

Sheikh Hamad bin Jassim bin Jabr al-Thani, Qatar's former prime minister, known as HBJ (https://www.ft.com/content/98477922-0227-11e6-99cb-83242733f755), invested with Qatar Holding during the fundraising through his Challenger vehicle.

It was accounts connected to Sheikh Hamad and some of his relatives behind the 2011 £1.9bn "elephant" deal — so-called for its outsized nature — that landed Barclays with a separate £72m fine (https://www.ft.com/content/9d77d27c-9461-11e5-bd82-c1fb87bef7af) from the FCA in 2015, according to five senior people familiar with the details of the case.

The watchdog accused the bank in the elephant case — which is separate to its inquiry into the 2008 fundraising — of ignoring proper money-laundering procedures in its rush to secure the deal. The FCA did not accuse the clients, whom it did not name, of any wrongdoing.

The FCA and Barclays declined to comment, as did a lawyer for Sheikh Hamad.

The FCA halted its probe into the 2008 cash call in 2013, pending a parallel criminal investigation launched by the Serious Fraud Office, which received (https://www.ft.com/content/a8c015b6-f78a-11e2-a618-00144feabdc0) special government funding to pursue the inquiry.

After interviewing former chief executives John Varley and Bob Diamond, among other top brass, the SFO investigation is now coming to a head, with the agency previously pledging to reach a charging decision by the end of March.

It is the only UK criminal case where senior executives are potentially facing charges as a result of actions during the financial crisis. The stakes are high for the bank as well as the individuals because if any board member or senior executive is charged they could be construed as a "directing mind" of the company under UK corporate criminal liability laws, leaving the bank vulnerable to a criminal prosecution too.

The FCA's volte-face has been prompted by the release of 100,000 pieces of documentary evidence by the bank to the SFO. Barclays previously claimed the evidence was covered by legal professional privilege, which keeps confidential the advice between lawyers and clients, even during investigations.

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While the FCA has yet to come to conclusions over any failings by individuals, the fresh wave of interviews are part of the case against the bank, the people familiar with the case added.

(https://www.ft.com/content/dadda8fa-0d58-11e7-a88c-50ba212dce4d)

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It is rare for the regulator to open up a case after reaching the early determination stage, known as a warning notice, that it did in Barclays' case. It can do so if more facts or evidence are unearthed.

If the FCA wants to change its conclusions it must first argue its case in front of an internal panel known as the regulatory decisions committee.

As well as the SFO's investigation around the 2008 cash call, the bank is facing a $1bn lawsuit (https://www.ft.com/content/eaee34c4-ea32-11e6-893c-082c54a7f539) from PCP Capital Partners, the company set up by Amanda Staveley, who put together the Abu Dhabi side of the deal.

Her lawsuit treads on similar ground to the SFO probe: she alleges that advisory services agreements worth £322m that the bank made with Qatar at the time were "shams" designed to induce the Qataris to invest, while a $3bn loan the bank made to the Qatari Ministry of Finance had the effect of loaning the Qatari investors money to then reinvest in the ailing bank.

The bank vigorously denies her claims and says the agreements were for business development in the region, while the loan had an explicit clause prohibiting such reinvestment.

Barclays is also fighting a whistleblowing claim (https://www.ft.com/content/5819fac4-b32e-11e6-9c37-5787335499a0)from one of its most senior bankers at the time, Richard Boath. He has co-operated with the SFO inquiry and alleged that the bank fired him after seeing what he told the agency. The bank is contesting his claim.

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