

**BY EMAIL (nbeale@hausfeld.com;
sbishop@hausfeld.com; rbaillie@hausfeld.com)**

Attention: Ned Beale, Simon Bishop and Rachael
Baillie
Hausfeld
12 Gough Square
London
EC4A3DW

Our ref: AMBL/KH/016731.00076
Your ref: L5082.0001

10 March 2022

Dear Hausfeld

Your client: the All-Party Parliamentary Group on Fair Business Banking
Our client: the Financial Conduct Authority

- 1 We refer to your letter of 8 March 2022 and our prior correspondence on this matter. This letter adopts the defined terms in our previous letters.
- 2 Our client does not agree with any of the assertions made in your most recent letter. Its position remains as clearly stated in the FCA's letter of 31 January 2022, the response to the Letter before Claim (dated 22 February 2022) and our letter of 4 March 2022. Consistent with your previous letters, the APPG's latest response is based on a misstatement of the FCA's position which has been set out at length.
- 3 Given the clarity of the FCA's position as set out in our earlier letters, we do not propose to address each of the issues raised in your letter of 8 March. We do have some observations in respect of the following:
 - (a) **Potential loss to Sophisticated Customers (paragraphs 9 – 12):** we reiterate what we say at paragraph 6.21 of our letter of 22 February and paragraphs 2.7 – 2.9 of our 4 March letter.
 - (b) **COBS (paragraph 13):** if permission is granted (which the FCA would oppose) the FCA will await proper particularisation of this point before commenting further on your interpretation.
 - (c) **The Documents and the duty of candour (paragraphs 14 – 18):** as repeatedly stated,¹ the FCA has in all respects complied with the duty of candour owed at pre-action stage.²

¹ See the 22 February letter at paragraphs 10.1 and 10.3 – 10.4, and 4 March letter at paragraph 3.1.

² The comments made by the Court of Appeal in the case you cite at paragraph 15 (*National Association of Health Stores and another v Department of Health*) do not have the relevance you are suggesting because [Fernanda Lopes & Associados](#) ► [Guevara & Gutierrez](#) ► [Paz Horowitz Abogados](#) ► [Sirote](#) ► [Adepetun Caxton-Martins Agbor & Segun](#) ► [Davis Brown](#) ► [East African Law Chambers](#) ► [Eric Silwamba, Jalasi and Linyama](#) ► [Durham Jones & Pinegar](#) ► [LEAD Advogados](#) ► [Rattagan Macchiavello Arocena](#) ► [Jiménez de Aréchaga, Viana & Brause](#) ► [Lee International](#) ► [Kensington Swan](#) ► [Bingham Greenebaum](#) ► [Cohen & Grigsby](#) ► [Sayarh & Menjra](#) ► [For more information on the firms that have come together to form Dentons, go to \[dentons.com/legacyfirms\]\(https://www.dentons.com/legacyfirms\)](#)

Your conclusion at paragraph 16 that the FCA's decision not to provide certain documents at this stage is due to the underlying documents being "*sensitive and damaging to the FCA's position*" is unfounded and unwarranted. That is not the case. Likewise there is no basis for your conclusion at paragraphs 16 – 17 that the FCA is in any way attempting to hinder your client's ability to plead its case.

- (d) **Funding (paragraphs 19 – 21):** you have mischaracterised our client's comments on standing and costs. We refer you again to the FCA's position as clearly set out in the 22 February letter at paragraphs 3.2 and 12.1 and the 4 March letter at paragraphs 5.1 – 5.3.
- (e) **Service (paragraph 26):** in respect of the application for permission and any subsequent substantive proceeding we are instructed to accept service on behalf of the FCA in this matter, provided that you are also instructed to accept service on behalf of the APPG by email. Service can be made by email to Christopher.Brennan@dentons.com and Katharine.Harle@dentons.com. Please confirm that the relevant email addresses for service are as set out in paragraph 12 of the Letter before Claim.

4 We note that you have again failed to respond to our questions around funding for the claim.³

5 We trust you will put our correspondence to date before the Court on any application for permission to bring a claim.

Yours faithfully



Dentons UK and Middle East LLP

they were made in the context of a pleaded claim; whereas here there has been a pre-action request for documents.

³ See the 22 February letter at paragraph 3.2, and 4 March letter at paragraph 5.3.