

Residents' Association of Canary Riverside  
c/o Berkeley Tower  
Canary Riverside  
48 Westferry Circus  
London E14 8RP

Nikhil Rathi  
Chief Executive  
Financial Conduct Authority  
12 Endeavour Square  
London E20 1JN

15 March 2023

**By email:** [nikhil.rathi@fca.org.uk](mailto:nikhil.rathi@fca.org.uk) and [firm.queries@fca.org.uk](mailto:firm.queries@fca.org.uk)

Dear Mr Rathi

**Re: FCA report on the buildings insurance market for multiple-occupancy residential buildings**

You may be aware of our recent case at the FTT (First Tier Tribunal – Property Chamber) concerning the reasonableness of commissions included within insurance premiums paid in respect of Canary Riverside, a leasehold multi-occupancy (mixed-use) residential estate. The FTT determined that **£1.6M** of commissions (incl. £121k in IPT) paid to WMS, a Landlord-related company, was not payable<sup>1</sup>.

The £1.6M equates to £345 per flat per year paid in commission to the Landlord – in addition to the broker's commission of c.£110 per flat per year. Our FTT case covered the period 2010 to 2019<sup>2</sup>: over those ten years Canary Riverside residents each paid a total of c.£3,450 in commissions to the Landlord, hidden in the insurance premium forming part of the service charge.

The sums involved may be why it proved so difficult to obtain any information on the commissions/remuneration within the insurance premiums, eg:

- When directed by the FTT to provide information on commissions the Landlord claimed to be 'unaware' of any insurance-related income other than a broker's fee of c.£6k paid to Reich, their broker (Exhibit 1).
- When we applied to the FTT for a disclosure order to compel Reich to provide information regarding commissions the Landlord's legal counsel successfully persuaded the FTT that it was a 'fishing expedition' - and the FTT dismissed our application (E2).
- The FTT subsequently realised they should have granted a disclosure order. Unfortunately the FTT misunderstood the way commissions were paid and ordered Reich to disclose commissions and remuneration *received from the Landlord* – unaware that it is the insurer who rebates back the commissions. This effectively enabled Reich to side-step the FTT's Order (E3).
- The Leaseholders had to make a second disclosure application to the FTT. The Landlord strongly opposed any disclosure, and Reich insisted the FTT hold an oral hearing – at which they instructed a KC and the Landlord a barrister. The Leaseholders were represented by me – a lay person with no legal training. The FTT ordered disclosure of *"a copy of [Reich's] electronic spreadsheet(s) which sets out and breaks down, by annual insurance period... included within the gross insurance premiums collected by Reich in respect of the Canary Riverside estate"* (E4).

---

<sup>1</sup> The Landlord has been granted permission to appeal the FTT decision at the Upper Tribunal

<sup>2</sup> Our application was made in 2019. For subsequent years the FTT has said a separate application must be made.

The pdf document at E5 was all that Reich provided. Instead of the electronic spreadsheet per the Order they produced a pdf table with minimal information relating to a Yianis Group<sup>3</sup> block policy covering Canary Riverside and three other properties<sup>4</sup>. The FTT's Order had directed Reich to provide information in support of their earlier statement (E6) that their earnings from Canary Riverside totalled £201,077.65, an average of £28,725.38 p.a. The information in E5 showed they had earned closer to £50,000 p.a. Notably, neither E5 nor E6 appeared to satisfy the remuneration disclosure requirements of ICOBS rule 4.3.

Rather than returning to the FTT we sought to use the limited information Reich had provided to estimate the likely level of commissions hidden within the Canary Riverside insurance premiums. We calculated that c.£2M in commissions was included in the premiums paid by leaseholders between 2010 and 2019 (E7). Of this, c.£1.5M had been paid to WMS, a Landlord-related company, and c.£500k to Reich. WMS, which is not FCA-registered, earned three times the level of commissions paid to Reich. The Reich disclosure (E5) showed that **WMS earned more than £3M in total commissions over seven years** from the block policy.

The services allegedly provided by WMS in return for these commissions are listed in E8 and include:

- Liaising generally with the broker
- Recharging insurance premiums once agreed
- Administering claims with broker/insurer/tenant
- Reviewing insurance premium financing
- Preparing loan agreements with managing agents
- Negotiating with banks to minimise banking demands from insurers
- Arranging and attending insurance survey reports.

None of these services appear to fall within HMRC's definition of 'insurance related services' – yet the commissions paid to WMS were subject to IPS, not VAT. It's the Leaseholders' view that this is because the commissions paid to WMS were a discount relating to their placing their business with the insurer, and not for the provision of services.

This is implied in the attached emails from insurer Tokio Marine (E8). In this correspondence relating to the renewal of the existing insurance policy at Canary Riverside Tokio Marine confirmed the existing (2016) policy was at 50% brokerage and asked the (new) broker to "*let me know what [brokerage] you will require*". The second email referred to "*the required brokerage*". There is no reference to any services being provided or the allocation of tasks/responsibilities between insurer/broker/customer in return for 50% of the premium. It appears to be an invitation from the insurer to the broker and their customer to confirm how much of the insurance premium they required to be remitted back to them as brokerage, with the existing rate being 50%.

At the FTT hearing in September 2022 the Landlord's financial controller told the FTT that although WMS was not part of the Yianis Group of companies it employed all their staff and directors, and that the Yianis Group companies did not directly employ any staff. The FTT was also told there was no contractual documentation in place between the Landlord, WMS and Reich concerning the commissions and that the money was sent to WMS [by Reich] once the premiums were agreed. WMS's sole director and person with significant control is the 74-year old hotel manager, Sandra Doris Peters. Payments by Reich to Ms Peter's company in respect of the Yianis Group policy totalled over £3M between 2013-2019.

---

<sup>3</sup> Canary Riverside is part of the Yianis Group of companies, owned by John Christodoulou.

<sup>4</sup> Increasing to four properties in 2019.

## The FCA's role in the lack of transparency faced by leaseholders

It had taken us over two years to obtain information on the commissions paid by Canary Riverside leaseholders through their service charges - and only because we were eventually able to obtain an Order from the FTT compelling Reich to disclose it. This is what can happen when:

- A landlord refuses to provide any information to leaseholders on the insurance commissions.
- The broker and/or insurer quote the FCA's ICOBS rules re 'customer' when directly approached by leaseholders.
- The landlord instructs the broker/insurer not to cooperate with requests from leaseholders.

Leasehold property insurance is unique because the customer<sup>5</sup> (generally) is not ultimately paying the insurance premium: the premium is recovered from leaseholders through the service charge demands. Neither the broker nor the insurer has any contractual relationship with the leaseholder and will not disclose any details of commissions **unless the landlord gives them permission to do so**. The leaseholder will only see documents like invoices and premium certificates that, at best, state the total premium paid and IPT. This is currently all leasehold law requires<sup>6</sup>. This enables landlords to hide the substantial sums they are receiving and provides no transparency regarding brokers' remuneration.

## Examples of (voluntary) transparency by landlords and their brokers

Not all landlords are obstructive when it comes to providing details of the insurance commissions they are receiving. Below are examples of three neighbouring estates who obtained information from the broker without a FTT order: they simply asked the broker, who obtained permission from the landlord.

1. **New Providence Wharf.** E10 is some of the extensive documentation provided by brokers Marsh to NPW leaseholders. Marsh provided a table setting out the Ballymore and broker commissions together with electronic copies of spreadsheets spanning several years containing the underlying information for each of the buildings/areas within the NPW Estate.  
NPW is part of a block policy that covers the extensive Ballymore Group property portfolio. Marsh's disclosure to leaseholders at other BG estates confirmed that the NPW commission percentages were the same as those at other estates within the portfolio. Compare this with the Reich disclosure at E5 and E6. Our Landlord claimed it was impossible to provide information on commissions when estates are insured as part of a block policy. Marsh/Ballymore have proved this not to be the case.
2. **The Landmark.** E11 was provided by brokers Gallagher to the leaseholder, following a simple written request. Adriatic Land is the landlord/ freeholder.
3. **New Atlas Wharf.** E12 details broker Marsh's remuneration, received following a written request. NAW is enfranchised: the leaseholders own the freehold and there is no 'third-party landlord' earning commissions. Notably Marsh declared *all* remuneration, as required per ICOBS 4.3.

Compare this with what Reich provided at E5 and E6. The information NPW, The Landmark and NAW leaseholders requested was provided in a matter of weeks - without fuss or confusion as

---

<sup>5</sup> The insurance customer might be a landlord, a freeholder, a management company, a managing agent or a combination. For simplicity I use 'landlord' to represent the 'customer' and Landlord for the CR landlord.

<sup>6</sup> The Rt Hon Lord Kennedy of Southwark is seeking to change legislation to improve transparency

to what the leaseholders wanted or claims that documents did not exist/were not easily available/required substantial work to obtain. This is what Reich/the Canary Riverside Landlord claimed at the FTT when opposing disclosure. It simply required the broker to be given permission by 'the customer', aka the landlord, to liaise directly with the *real* customers – leaseholders. Marsh and Gallagher responded to follow-up questions from leaseholders and provided additional documents, eg, revaluation assessment reports.

This supports the case that **changing the ICOBS rules to include leaseholders does not result in an additional burden (or cost) being placed on brokers.**

### Changing the FCA rules

A change in the FCA ICOBS rules is essential. The rules should **compel brokers to provide information to all parties** with an interest in an insurance policy, including leaseholders, instead of just to the landlord because only they meet the FCA's definition of 'the customer'. Without this it is impossible for an insurer or broker to demonstrate they are providing/obtaining 'fair value' in the policies covering 'multi-occupancy buildings'. It also condemns leaseholders to years of legal action at the Tribunal.

It required a huge effort over several years just to obtain Exhibit 5, which confirmed leaseholders at Canary Riverside had been paying an average commission of £345 per flat per year to the Landlord. The majority of leaseholders are unable to put in the time and energy required to challenge unreasonable costs. I have been working to get transparency and justice on insurance commissions for my fellow leaseholders for nearly four years - and it is absolutely exhausting. Had we engaged lawyers to fight for us it would have cost tens of thousands of pounds – most probably exceeding any monies we might (eventually) recover.

Our original FTT application challenging the reasonableness of the insurance premiums was submitted in July 2019. This week the Landlord submitted an appeal challenging the FTT's decision (E13) that £1.6M of commissions were not payable. The appeal will be heard at the Upper Tribunal (Lands Chamber), where the Landlord will be represented by a KC in addition to the barrister who represented the Landlord at the FTT hearing last September (at which I represented the Leaseholders). Canary Riverside's Landlord is a multi-billionaire: our situation epitomises the Law Commission's description of the 'inequity of arms' inherent in the leasehold system.

A change in 'ICOBS 4.3 Remuneration disclosure' that recognises leaseholders in the definition of 'customers' would have saved me over two years' effort - and a considerable amount of FTT time. And Canary Riverside's Leaseholders might by now have got back some of the c.£3,450 they each had (unwittingly) paid to the Landlord in commissions between 2010 and 2019.

Yours sincerely

On behalf of the Residents' Association of Canary Riverside

Cc:

The Rt Hon. Michael Gove MP, Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations

The Competition and Markets Authority

The Rt Hon. The Lord Kennedy of Southwark