Bank of England
Prudential Regulation Authority

FINAL NOTICE

To: **Wyelands Bank Plc (FRN 139209)**

Date: **4 April 2023**

1. Action

1.1. For the reasons set out in this Notice, the PRA hereby publishes a statement pursuant to section 205 of the Financial Services and Markets Act 2000 ("**FSMA**" or the "**Act**") censuring Wyelands Bank Plc ("**Wyelands**" or the "**Firm**") for contravening:

a) PRA Fundamental Rule 3 (a firm must act in a prudent manner);
b) PRA Fundamental Rule 5 (a firm must have effective risk strategies and risk management systems);
c) PRA Fundamental Rule 6 (a firm must organise and control its affairs responsibly and effectively);
d) Articles 393, 394 and 395 of Part IV of the EU Capital Requirements Regulation (No 575/2013) ("**CRR**");
e) General Organisational Requirements Rules 2.1 and 5.1 of the PRA Rulebook;
f) Record Keeping Rule 2.1 of the PRA Rulebook;
g) Risk Control Rule 3.4 of the PRA Rulebook;
h) Related Party Transaction Risk Rule 2.3 of the PRA Rulebook; and
i) Own Initiative Requirements ("**OIREQ**") imposed by the PRA under s 55M of FSMA,

between 21 December 2016 and 28 May 2020 (the "**Relevant Period**"). These rules are set out fully at **Appendix 2**.

1.2. The serious failings in this case warrant a substantial financial penalty. However, the

Firm is in wind down and has provided evidence to the PRA that payment of a penalty would cause the Firm serious financial hardship. The PRA considers that imposing a financial penalty on the Firm would not advance its general objective to promote the safety and soundness of the firms which it regulates, and therefore it is appropriate to reduce the financial penalty to nil and to impose a public censure. Were it not for these considerations, the PRA would have imposed a financial penalty of **£8,515,000** for the breaches.

1.3. The PRA and the Firm agreed to settle during the Discount Stage of the PRA's investigation, but given that the PRA has not imposed a financial penalty on the Firm, the application of a settlement discount is not relevant.

2. Summary of reasons for the PRA's action

Background

2.1. During the Relevant Period, Wyelands was a Category 4 UK deposit-taker authorised and regulated by the PRA and the FCA. Its Regulatory Business Plan presented in 2016 said that it would offer short-term trade, receivable and supply chain financing options to small and medium-sized businesses with a focus on UK and global trade.

2.2. In December 2016 a new shareholder (the "**Shareholder**"), the owner (together with a family member) of the Gupta Family Group alliance of global businesses ("**GFG**" or the "**GFG Alliance**"), purchased Tungsten Bank (at that stage operating in a limited capacity) and renamed it Wyelands Bank, to form the finance pillar of the GFG Alliance, an international grouping of businesses operating in a number of industries including steel, mining, energy and commodities trading.

2.3. Under its original Regulatory Business Plan, Wyelands' business would initially originate from entities introduced by GFG (but would not include financing for GFG entities themselves), with a view to developing an independent origination function to expand into third party business. However, in practice, Wyelands' business was heavily reliant on GFG and entities originally introduced by GFG throughout the Relevant Period. As envisaged in its Regulatory Business Plan, Wyelands was also reliant on its Shareholder or members of the GFG Alliance for the supply of capital, and capital injections were often provided in response to specific transactions introduced by GFG.

2.4. In the early stages, the Firm had a very small number of employees and its policies and procedures were in the process of being developed. Wyelands was classified as a ‘New Bank’ by the PRA.

Transactions

2.5. Between May 2017 and December 2018, the Firm entered into four sets of structured finance transactions, aspects of which were complex and details of which are set out in Annex A (each a “**Structured Transaction**”, and together, the “**Structured Transactions**”). These were entered into at an early stage in the Firm’s development. Each set of Structured Transactions had a value representing a significant proportion of the Firm’s capital and material exposures to counterparties who were connected to GFG (but which the Firm did not identify as such). These Structured Transactions constituted a material portion of the Firm’s loan book. As a result of deficiencies in its policies and procedures in relation to the identification of connected parties, the Firm did not identify that these were significantly in excess of the Firm’s regulatory limits on large exposures (“**Large Exposures**” or “**LE**”), which resulted in an unacceptable concentration of risk to GFG or counterparties connected to GFG.

Large Exposures reporting

2.6. The Large Exposures regime under the CRR seeks to avoid risks to a firm’s financial stability by preventing concentration of a firm’s exposures to an individual party or group of connected parties. As part of the regime, firms are required to monitor and control their Large Exposures and report such exposures to the PRA. The regime also requires firms to avoid having a total exposure to a group, third party or connected parties equal to or greater than 25% of their capital.

2.7. In late 2018, the PRA identified issues in Wyelands’ Large Exposures reporting in relation to one set of the Structured Transactions. The PRA was concerned that Wyelands had not correctly identified counterparties which were connected to GFG entities and consequently had not aggregated them appropriately. As a result, the PRA was concerned that Wyelands may have exceeded the 25% Large Exposures limit in relation to that set of Structured Transactions and may have inaccurately reported its Large Exposures to the PRA.

2.8. The PRA therefore required Wyelands to undertake a skilled person's review into that set of Structured Transactions, pursuant to section 166 of FSMA. The PRA also subsequently reviewed three other sets of Structured Transactions which the Firm had entered into. These reviews identified that Wyelands was likely to have breached the 25% Large Exposures limit in relation to three sets of the Structured Transactions, and that the Firm may also have breached the limit in relation to the fourth set of Structured Transactions. The PRA also found that Wyelands may have conducted inadequate due diligence on, inadequately operated and inadequately monitored the performance of the Structured Transactions which were the subject of its reviews for the purposes of ensuring compliance with Article 395 as required by Article 393 of Part IV of the CRR.

Capital

2.9. Capital injections were often provided to the Firm in response to specific transactions introduced by GFG entities rather than on a regular periodic basis. The PRA has identified that on two occasions the Firm received amounts as capital which it had indirectly funded (and which therefore did not qualify as capital for regulatory purposes). As a result of inadequate policies and procedures around capital management, the Firm inaccurately reported these amounts to the PRA as Common Equity Tier 1 ("**CET1**") capital.

Relationship with the GFG Alliance

2.10. Wyelands introduced a policy in April 2017 to manage potential risks of conflicts of interest between the Firm and the wider GFG business (the "**Engagement Policy**"). The Engagement Policy was the only policy adopted by the Board which specifically addressed interactions between the Firm and GFG members and executives until November 2019, when the Firm entered into a shareholder relationship agreement with the Shareholder. The Engagement Policy required requests by GFG for the Firm to enter into new business to go to the Board, along with an outline of the rationale for the proposed transaction, so that the Firm could assess its merits. It also required the Firm to satisfy itself that it had the necessary skills, expertise and time to undertake the relevant transaction. The Firm failed to take sufficient care to ensure that the Engagement Policy was complied with, and, in practice, throughout the Relevant Period most GFG requests did not reach the Board.

Record keeping

2.11. The Firm did not adopt or implement policies and procedures in relation to the retention of business related correspondence and records during the Relevant Period. Its senior executives and directors conducted business communications through formal and informal means of communications. Some of the Firm's senior executives and directors and external parties regularly exchanged messages in respect of the Firm's actual or potential transactions, its business and its strategy using the instant messaging application, WhatsApp, on both Firm-issued and personal mobile phones. However, the Firm had no formal record keeping policies or procedures in place to manage or retain WhatsApp messages.

2.12. The Firm sought to arrange its records of actual and potential transactions according to designated electronic client files. However, in relation to the Structured Transactions, the PRA has identified that these client files did not always contain all the conditions to the availability of the facilities entered into, or all of the relevant correspondence relating to, the transactions.

Imposition of the OIREQ

2.13. As a result of the section 166 FSMA review and Firm and PRA reviews, the PRA had material concerns about Wyelands, in relation to its Large Exposures reporting and also in relation to its capital management, credit risk, risk management and controls, and governance. In September and October 2019, the PRA imposed Own Initiative Requirements (together, the "**OIREQ**") on Wyelands under section 55M of FSMA to prevent it from: (i) transacting with and making further payments to GFG and certain GFG-introduced parties ("**Relevant Persons**"); and (ii) restricting its ability to accept deposits from third parties.

2.14. Despite the Firm making efforts to clarify the scope of the OIREQ, in the initial period following its imposition (i.e. between October 2019 and April 2020) Wyelands entered into transactions with, or made payments to, Relevant Persons on multiple occasions, which were subsequently identified to be contrary to the terms of the OIREQ. The PRA accepts that this was not intentional. By March 2020, the PRA had issued a number of variations to the original OIREQ which clarified its scope and effectively stopped Wyelands from entering into new transactions.

Solvent wind down

2.15. In March 2020 the Board resolved that the Firm should commence a solvent wind down of its business with a view to repaying all amounts owing to its depositors, which repayment the Firm has successfully completed. A number of the Firm's counterparties which had originally been introduced by GFG failed to make payment to the Firm of the amounts owing by them within the projected timescales. This led the Shareholder to provide subordinated funding to the Firm to maintain the viability of the wind down process. On 17 March 2021, Wyelands closed its deposit accounts and repaid nearly all of its depositors. The Firm subsequently established an independent trust for the benefit of the few remaining depositors not connected to GFG which it had not repaid (because either (i) it was unable to trace them or (ii) their accounts were subject to probate).

2.16. The Firm is in an 'inactive bank' phase and is not generating any new business.

3. Breaches and failings

3.1. For the reasons detailed at Annex A and Annex B to this Notice, the PRA considers that Wyelands breached Fundamental Rules 3, 5 and 6 and General Organisational Rules 2.1 and 5.1, Record Keeping Rule 2.1, Risk Control Rule 3.4 and Related Party Transaction Risk Rule 2.3 of the PRA Rulebook and the OIREQ imposed by the PRA under s 55M FSMA.

3.2. During the Relevant Period, as a result of deficiencies in its policies and procedures in relation to connected parties, Wyelands also breached Articles 393, 394 and 395 of

Part IV of the CRR because it (a) breached the 25% Large Exposures limit in relation to at least three of the four sets of Structured Transactions it entered into, (b) inaccurately reported to the PRA its Large Exposures in relation to those three sets of Structured Transactions and (c) did not have sound administrative and accounting procedures and adequate internal control mechanisms for the purposes of identifying, managing, monitoring, reporting and recording all its Large Exposures. In relation to the fourth set of Structured Transactions Wyelands entered into, its failures in due diligence, monitoring and record keeping were such that it was unable, and the PRA is unable, to conclude definitively whether or not it was in compliance with the Large Exposures limit.

Fundamental Rule 3

3.3. During the Relevant Period, Wyelands breached PRA Fundamental Rule 3 because it failed to act in a prudent manner in relation to the Structured Transactions, which were introduced to it by GFG. The Firm did not demonstrate sound judgement and exercise sufficient caution or take due account of all risks and possible consequences for the Firm before entering into the Structured Transactions. In particular, the Firm failed to ensure that it had appropriate resources to identify, monitor, measure and take action to remove or appropriately reduce risks in relation to the Structured Transactions and to value its assets and liabilities.

3.4. In particular, in relation to the Structured Transactions, Wyelands failed:

(a) as a result of deficiencies in its policies and procedures relating to connected parties, to:

i. carry out adequate connected parties and related parties assessments in relation to the entities it proposed to transact with and their relationships with or reliance upon each other or with or upon GFG entities;

ii. sufficiently consider whether the implications of new developments in relation to the Structured Transactions resulted in the Firm’s counterparties becoming connected parties of each other or of GFG for Large Exposures purposes or cast doubt on the application of advice previously relied upon; and

iii. report the Structured Transactions as Large Exposures (aggregated with the Firm's direct exposures to GFG) in the Firm's submissions to the PRA during the Relevant Period as required by Article 394 of Part IV of the CRR;

(b) to carry out adequate credit assessments in relation to the entities it proposed to transact with, including failing to adequately consider or understand the commercial rationale for certain entities entering into each Structured Transaction;

(c) to execute the Structured Transactions in accordance with the terms of the credit approvals that had been provided; and

(d) to adequately monitor and address the implications of new developments in relation to the Structured Transactions.

Fundamental Rule 5

3.5. During the Relevant Period, Wyelands breached Fundamental Rule 5, as well as the PRA's Risk Control Rule 3.4 and Related Party Transaction Risk Rule 2.3, because there were deficiencies in its approach to risk management, including that:

a) it did not put in place adequate risk management strategies and systems to identify, assess and manage the risks presented by its business model, in particular connected parties and related parties risks in relation to Large Exposures. The Firm therefore did not identify that certain counterparties were connected, and as a result breached its obligations under the Large Exposures regime under Articles 393 and 395 of Part IV of the CRR in relation to the Structured Transactions;

b) the Firm's 'three lines of defence' risk management model was not sufficiently developed so as to be commensurate to the complexity of certain aspects of the Structured Transactions at the time these were entered into, or as new developments occurred in relation to them. In practice, in part due to the small size of the Firm (particularly in the early stages), key personnel were operating between the First Line and the Second Line, thereby compromising the independence of its risk management function from its operational functions; and

c) until late 2019, the role of Firm's Compliance function was unduly narrow. It had no substantive involvement in the assessment of connected parties or related parties risks until March 2019, or in the management and monitoring of regulatory risk in order to strengthen the Firm’s governance and oversight of transactions until late 2019.

Fundamental Rule 6

3.6. During the Relevant Period, Wyelands breached Fundamental Rule 6 because it failed to organise and control its affairs responsibly and effectively. These failings related to Wyelands’ (i) governance and oversight; (ii) capital; (iii) failure to comply with its Engagement Policy; (iv) record keeping; and (v) remuneration payments.

Governance and oversight

3.7. Wyelands failed to establish adequate governance and oversight arrangements related to its lending and provision of credit. As a result of deficiencies in its policies and procedures in relation to connected parties, it failed to sufficiently monitor and scrutinise the risk of breaching the Large Exposures regime. It did not identify that counterparties introduced by GFG members or executives were economically dependent upon GFG or each other, or that exposures which the Firm regarded as upon GFG’s counterparties were in fact upon GFG entities themselves.

3.8. In particular, the Board’s delegation of authority to the Firm’s executive management to enter into transactions up to increasingly high capital limits meant there was insufficient Board interrogation and challenge around how the Firm’s transactions would operate within the Large Exposures requirements.

Capital

3.9. CET1 capital is the highest quality of capital because it has the best loss-absorbing properties. For banks, CET1 capital consists mostly of ordinary shares and retained earnings/ reserves. Under Article 28(1)(b) of the CRR, in order to qualify as such, CET1 capital cannot be directly or indirectly funded by the issuer. The PRA has identified two instances where, as a result of deficiencies in the policies and procedures around the injection of capital, Wyelands failed to identify that amounts it had received as capital had been indirectly funded by the Firm and consequently did not qualify as CET1 capital. It consequently misreported those amounts to the PRA as CET1 capital, both at the time of issue and in its subsequent quarterly returns to the PRA.

3.10. The above was as a result of Wyelands' failure to ensure that its systems and controls supporting its capital were designed, implemented and operating effectively. This was a serious failing, given that Wyelands' business model was based both on GFG and GFG-introduced business and the receipt of capital from the Shareholder or members of the GFG Alliance.

3.11. Even where a firm is reliant for capital on a wider group of which it is a member, the firm remains responsible for complying with applicable regulatory requirements, which Wyelands failed to do.

Relationship with the GFG Alliance

3.12. The Firm failed to take sufficient care to ensure that the Engagement Policy was complied with. The Engagement Policy had been introduced to mitigate the risks of conflicts of interest arising from the Firm's membership of the GFG Alliance and GFG's business interests. The Firm had shared the policy with the PRA to demonstrate its management of such risks. The Firm's failure to comply with the policy, together with weaknesses in its wider systems and controls, undermined its ability to adequately demonstrate that it acted independently from GFG and that it managed any potential conflicts of interest appropriately.

3.13. In addition, aside from confidentiality/disclosure provisions in agreements with certain clients, the Firm failed to put in place any policies or procedures regarding the disclosure of customer information, or to take appropriate steps to ensure that it was not in breach of any legal and/or confidentiality restrictions by which the Firm was bound.

Record keeping

3.14. Wyelands failed to adopt and implement adequate policies and procedures in relation to the retention of business-related correspondence and records.

3.15. As a result, the Board and the Firm's Risk function were hindered in their ability to exercise effective scrutiny and oversight of the Firm's business proposals and transactions. The Firm also breached PRA Record Keeping Rule 2.1 in failing to keep sufficient records to enable the PRA to both effectively supervise the Firm, and to carry out its investigation into the Firm.

Remuneration payments

3.16. The Firm failed to ensure that all remuneration payments were clearly documented or approved by the RemCo and the Board. It also failed to adequately consider whether external payments from GFG entities could give rise to any potential conflicts of interest.

OIREQ imposed by the PRA under s 55M FSMA

3.17. Despite the Firm making efforts to clarify the scope of the OIREQ, in the initial period after its imposition Wyelands failed to comply with the terms of the OIREQ imposed on it by the PRA in September 2019. Between October 2019 and April 2020, the Firm breached the OIREQ on multiple occasions by entering into transactions with, and/or making payments to or on behalf of, various GFG and GFG-introduced entities, which were subsequently identified to be contrary to the terms of the OIREQ, without the prior written consent of the PRA. The PRA accepts that the Firm's breaches of the OIREQ were not intentional.

3.18. Further PRA rule breaches are set out in more detail in Annex B of this Notice.

4. Reasons why the PRA has taken action

4.1 The PRA is responsible for the prudential regulation and supervision of banks, building societies, credit unions, insurers and major investment firms. The PRA's general objective is to promote the safety and soundness of those firms.

4.2 The PRA is required to advance its general objective primarily by seeking to ensure that the business of PRA-authorised firms is carried on in a way which avoids any adverse effect on the stability of the UK financial system. This requires firms to ensure that their control framework is commensurate with the nature, scale and complexity of its business and strategy. If a smaller deposit-taker seeks to enter into complex transactions, then the strength of its financial and operational controls and risk management environment will need to be increased commensurately, to account for the greater sophistication and checks and balances required to analyse and manage those transactions and the firm's overall risk profile. Competent, experienced and appropriately independent control functions should oversee these frameworks.

4.3 The PRA is particularly concerned that where a firm's business plan is highly dependent on introduced transactions, steps are taken to identify, evaluate and manage potential or actual Large Exposures to individual counterparties or groups of connected counterparties, as a failure in one entity or group of connected entities can result in the firm incurring disproportionately large losses, undermining its safety and soundness. It is therefore essential that a firm monitors and operates within prudent regulatory limits in respect of Large Exposures. This includes ensuring the nature of this risk is widely and fully understood by the firm's risk, governance and oversight functions and other relevant areas of the business and is reflected in the firm's compliance policies. It is particularly important that a firm which is part of a wider group, and which has a significant proportion of its business introduced by that wider group, has adequate connected parties controls, policies and procedures in respect of transactions, so that it is able to identify, evaluate and manage potential or actual connected party and related party risks in relation to those transactions.

4.4 The PRA considers that how a firm manages risk, including credit, regulatory compliance and operational risks, is an integral part of the PRA's assessment of a firm's safety and soundness. The PRA expects a firm to ensure that it has adequate skills and expertise, commensurate with the complexity of the transactions it is entering into, to apply sufficient scrutiny and due diligence to ensure that these risks are appropriately managed. Firms must also ensure that they respond adequately to concerns raised by the PRA, and comply with supervisory requirements that are introduced by the PRA to mitigate risk.

4.5 The PRA also expects firms to ensure that their internal risk management policies (including policies surrounding conflicts of interest, remuneration and the handling of confidential information) are fit for purpose and cater to the firm's specific risk profile. A firm must take reasonable steps to ensure that policies are followed and actual or potential conflicts of interest are identified and confidential information is handled appropriately. This is particularly important for a firm that is heavily dependent on a wider related group or entity for its business or capital.

4.6 Adequate record keeping is key to the management of risk. The maintenance of accurate, sufficiently detailed and complete records of a firm's business and client files, and particularly senior-management decision-making outside of the firm's regular governance fora, is necessary for a firm's own ability to identify and manage risks associated with its business prudently. Inadequate recordkeeping also hinders the PRA's ability to identify and manage risks associated with the firm's business, and may lead to serious issues being obfuscated or overlooked.

4.7 As explained in Annex A, the weaknesses in Wyelands' controls resulted in it incurring a number of material exposures to GFG entities or counterparties that were connected to GFG. These exposures, were significantly in excess of the Firm's regulatory limits on Large Exposures, constituted a material portion of the firm's loan book and resulted in an unacceptable concentration of risk to those counterparties.

4.8 As a result of the wide ranging breaches identified in this Notice and the seriousness of the failings that resulted in the Firm's wind down and threats to its safety and soundness, the PRA has considered that it is appropriate to take action.

5. Sanction

5.1. Taking into account the facts and matters in Annex A and the relevant factors set out in the PRA's Penalty Policy, the PRA considers that the Firm's breaches of PRA Fundamental Rules 3, 5 and 6 and the further breaches set out in paragraph 1.1 above justify the imposition of a financial penalty of **£8,515,000**.

5.2. However, the Firm is in wind down and has provided evidence to the PRA that payment of a penalty would cause the Firm serious financial hardship. As at 31 December 2022, its gross loan book, as provided to the PRA, was £190.9m, all of which the Firm had fully provided for. The Firm received no cash from asset collections in its financial year ended 30 April 2022, or thereafter prior to signing of its annual accounts for that financial year on 31 January 2023.

5.3. The PRA considers that imposing a financial penalty on the Firm would not advance its general objective to promote the safety and soundness of the firms which it regulates, and therefore it is appropriate to reduce the financial penalty to nil and to impose a public censure.

5.4. The basis and computation for this sanction is set out in Annex C.

6. Annexes/appendices and procedural matters

6.1. The full particulars of the facts and matters relied on by the PRA in its decision-making process regarding the Firm can be found in **Annex A**. The Firm's breaches and failings are detailed in **Annex B** and the basis for the sanction the PRA is imposing is set out in **Annex C**. Relevant procedural matters are set out in **Annex D**. The definitions used in this Notice are set out in **Appendix 1** and the relevant statutory, regulatory and policy provisions are set out in **Appendix 2**.

Oliver Dearie
Head of Legal, Enforcement and Litigation Division
for and on behalf of the PRA

Annex A – Facts And Matters Relied Upon

1. Background

Wyelands Bank

1.1. During the period from 21 December 2016 to 28 May 2020 (the "**Relevant Period**"), Wyelands was a Category 4 UK bank (meaning it has very little capacity individually to cause disruption to the UK financial system if it were to fail), engaged in the business of banking and related financial services.

1.2. The Firm's Regulatory Business Plan presented in 2016 included that it would source and support low risk lending opportunities introduced by GFG in the early years, but that over time the proportion of GFG-introduced transactions would reduce as the percentage of new third party transactions expanded. The Regulatory Business Plan said that the Firm did not intend to provide financing for GFG itself. The Firm would seek to finance its transactions through growing its retail and wholesale deposit base. During the Relevant Period, Wyelands also required continued capital injections in order to expand its loan book.

Overview

1.3. During the Relevant Period, the Firm provided a range of products, including trade finance, receivables finance, asset finance and inventory finance, largely to companies originally introduced by GFG and also to members of the GFG Alliance themselves.

1.4. The Firm's transactions were assessed and analysed by the Firm's Origination, Credit and Risk teams. These teams were responsible for conducting due diligence on new financing opportunities and preparing credit proposals in respect of potential transactions involving the Firm. The Origination team was responsible for submitting credit proposals, but they were often prepared by members of the Credit or Risk teams, with input from the Origination team.

1.5. Between May 2017 and December 2018, the Firm entered into four sets of structured finance transactions, (each a "**Structured Transaction**", and together the "**Structured Transactions**"). Each set of Structured Transactions had aspects which were complex and a value representing a significant proportion of the Firm's capital, as follows:

a. From May 2017 onwards the Firm purchased receivables from a GFG entity ("**GFG A Co**"). The facility limit was increased a number of times and was frequently significantly in excess of the Firm's capital as reported to the PRA, but the Firm determined that its credit risk was upon the debtors of the receivables and 'looked through' GFG A Co to those debtors.

b. From June 2017 onwards the Firm made, and subsequently increased, a set of separate loans to five companies in connection with their acquisition of generators from a GFG entity ("**GFG B Co**"). The aggregate amount of the loans significantly exceeded 25% of the Firm's capital as reported to the PRA.

c. In September 2018 the Firm made a set of separate loans to 12 companies which owned or operated power plants, in connection with their acquisition from GFG B Co. The aggregate amount of the loans exceeded the Firm's capital as reported to the PRA.

d. In December 2018 the Firm made loans to two companies to finance their purchases of commodities from a GFG entity ("**GFG D Co**"). The Firm was aware that the proceeds of the loans would ultimately be used to assist in financing the acquisition of an aluminium smelter by another GFG entity ("**GFG C Co**"). The aggregate amount of the loans represented nearly 25% of the Firm's capital as reported to the PRA.

Governance and oversight

1.6. During the Relevant Period, the Wyelands Board set and oversaw the Firm's business strategy, governance, systems and controls, capital structure and risk management. It also supervised the Firm's management and performance. Wyelands' executive leadership committees were responsible for implementing the strategy set by the Board, consistent with its risk appetite, and for carrying out the management of the conduct of the whole of the Firm's business.

1.7. Up to two of the non-executive directors on the Board were representatives of the Shareholder; they were known as "**Shareholder non-executive directors**", whereas the other non-executive directors were known as "**Independent non-executive directors**".

1.8. The following committees and governance fora had responsibilities for executing the Firm's business plan, and managing risk:

a. **The Board**: delegated authority to the Firm's executive management to enter into transactions on behalf of the Firm up to certain capital and transaction size limits. These limits were increased over time. Before February 2018 the Board delegated authority to enter into transactions on behalf of the Firm to certain senior executives. From February 2018 onwards the Credit Sanctioning Committee operated for this purpose, although certain individuals had delegated authority to commit limited amounts.

b. **The Audit Committee** (a Board committee): monitored the financial reporting process, the effectiveness of the firm's internal control and risk management systems and internal audit, and areas of key financial and regulatory reporting with respect to capital, liquidity and other regulatory financial ratios.

c. **The Risk Committee** (a Board committee): was responsible for the Firm's risk management framework, reviewing the risk profile of the Firm, setting a standard for the accurate and timely monitoring of Large Exposures and other critical financial, regulatory and operational risks; and overseeing areas of major financial risk and financial regulatory reporting with respect to capital, liquidity and other regulatory financial ratios.

d. **The Credit Sanctioning Committee** ("**CSC**") (an executive committee): from February 2018 the CSC was responsible for overseeing credit and counterparty risks arising from the Firm's potential and actual transactions. Credit risk reviews, oversights and inputs were key to maintaining credit and counterparty risk exposure within the parameters of the Firm's risk appetite. In particular, the CSC's main responsibility was to scrutinise and (if, within the limits of its delegated authority) approve the creditworthiness of each counterparty that the Firm transacted with, including the credit analysis performed.

1.9. These committees were supported by a number of other Board and executive management fora, including the Executive Committee, the Assets and Liabilities Committee, the Risk and Operations Committee and the Remuneration and Nominations Committee.

Risk management

1.10. Wyelands operated a three lines of defence model for risk management under the oversight of the Board:

a. The first line of defence ("**First Line**") was responsible for owning and managing risks, and executing transactions. The First Line set and recommended the detailed risk appetite to the Board for approval, and translated the Firm's risk appetite, risk policies and controls into day to day operational processes, and developed risk policies and operational procedures. The First Line consisted of certain senior Wyelands executives, the Origination team and, at the executive committee level (from February 2018), the CSC.

b. The second line of defence ("**Second Line**") was responsible for the design and ongoing improvement of the risk management framework, continuous monitoring and reporting on risks (including maintaining a detailed risk register), providing challenge and oversight to the First Line's implementation of the risk management framework, and developing risk policies and operational procedures. The Second Line consisted of the Risk function and the Compliance function. At the executive committee level, the Executive Committee, Assets and Liabilities Committee and Risk and Operations Committee all sat within the Second Line.

c. The third line of defence ("**Third Line**") was responsible for providing the Board with independent assurance of the effectiveness of the risk management framework and processes, and regularly conducting an independent review and assessment of all aspects of the work of the First Line and Second Line. It reported directly to the Board. The Third Line consisted of the Internal Audit function and external auditors and reviewers. At the Board committee level, the Audit Committee sat within the Third Line.

1.11. In practice, however, and in part due to the small size of the Firm at the time at which the Structured Transactions were entered into, there was a lack of appropriate independence between the First Line and the Second Line. In April 2018 the PRA identified a lack of clarity regarding whether certain roles sat within the First Line or the Second Line (because, due to the Firm's size, certain members of staff had dual reporting lines to different managers with First Line and Second Line responsibility). The PRA required the Firm to produce an analysis of its three lines of defence model and the steps the Firm proposed to take to address any identified gaps, which the Firm provided to the PRA in November 2018. The Firm's paper confirmed that the issues regarding blurred boundaries between the First Line and the Second Line and dual reporting lines had been resolved and set out various further improvements which the Firm committed to implement by different target dates up to October 2020. However, following the PRA identifying issues in Wyelands' Large Exposures reporting in relation to one set of the Structured Transactions in December 2018, the PRA placed the Firm on the PRA's Watchlist in April 2019 and required the Firm's internal audit function to undertake a full review of the Firm's risk management and controls. Various internal audit reports commissioned by the Firm and received by it in mid-2019 referred to the Second Line performing roles on behalf of the First Line or the First Line reporting into the Second Line, or the Firm's governance structure not reflecting how it operated in practice, with the consequent lack of independence and segregation of duties between the First Line and Second Line and risk of confusion and loss of clarity of ultimate responsibility between the First Line and Second Line.

Systems and controls for exposures and connected parties

Large Exposures

1.12. Under the EU Capital Requirements Regulation (No 575/2013) ("**CRR**") and in accordance with the PRA Rulebook, firms are required to submit periodic information to the PRA, including the requirement that each firm appropriately assesses the Large Exposures it is subject to and reports them to the PRA. Article 392 of Part IV of the CRR defines a Large Exposure as a firm's exposure to a client or group of connected clients where the value of the exposure is equal to or exceeds 10% of the firm's eligible capital. Identifying Large Exposures is crucial in ensuring that a firm is adequately capitalised and complies with relevant rules and regulations.

1.13. Under Article 395(1) of Part IV of the CRR, the Firm was required to ensure that its Large Exposures to one party, or a group of connected parties, did not exceed 25% of its eligible capital. The applicable definition of 'connected parties' is contained in Article 4(1)(39) of the CRR, which provides that a connected party means any of the following:

a. two or more natural or legal persons who, unless it is shown otherwise, constitute a single risk because one of them, directly or indirectly, has control over the other or others (the "**Control Test**"); and/or

b. two or more natural or legal persons between whom there is no relationship of control as described in point (a) but who are to be regarded as constituting a single risk because they are so interconnected that if one of them were to experience financial problems, in particular funding or repayment difficulties, the other or all of the others would also be likely to encounter funding of repayment difficulties (the "**Economic Test**").

1.14. Article 393 of Part IV of the CRR required the Firm to have sound administrative and accounting procedures and adequate internal control mechanisms for the purposes of identifying, managing, monitoring, reporting and recording all Large Exposures and subsequent changes to them. Under Article 394 of Part IV of the CRR, the Firm was required to report information to the PRA in relation to its Large Exposures, including information on the client or group of connected clients, the exposure value and the type of credit protection. Articles 393 and 394 are now incorporated into the Large Exposures section of the PRA Rulebook.

1.15. In addition, guidelines issued by the European Banking Authority (and its predecessor body), with which the Firm was expected to comply:

a. required the Firm's Board and senior management to ensure that adequate processes for the identification of connections among clients were documented and implemented, both before making credit available and when monitoring the debtor thereafter; and
b. required the Firm to increase the intensity of its investigation of possible economic connections where an individual exposure exceeded a specified (small) proportion of the Firm's capital.

Risk controls for exposures

1.16. Prior to March 2019, i.e., during the period the Structured Transactions referred to in paragraph 1.5 above and described later in this Notice were entered into, the Firm did not have formal systems, controls, policies or procedures for assessing whether clients or potential clients of the Firm were connected with each other for the purposes of Article 4(1)(39) of CRR. Consequently, responsibilities for connected parties assessments were not explicitly allocated within the Firm.

1.17. In practice, before March 2019 the Firm's Credit, Risk and Origination teams assessed whether clients or potential clients were connected by reason of the Control Test through the Firm's AML/KYC assessments and its credit due diligence work. Whilst the credit due diligence processes may have revealed whether clients were economically connected for the purposes of the Economic Test, the Firm did not have any formal systems or procedures in place to assess, by reference to the Economic Test, whether clients or potential clients were connected parties. Neither, before March 2019, did the Firm have any systems, controls, policies or procedures for assessing whether developments which occurred after the Firm's entry into a transaction caused clients which had previously not been connected parties to have become connected parties. The Firm's Compliance function was not involved in connected parties assessments before March 2019, when the Firm took steps to put in place formal connected party policies and procedures, and to strengthen its Compliance function.

1.18. Following the PRA raising queries with the Firm in December 2018 concerning possible connections between GFG and the respective borrowers in a certain set of Structured Transactions which the Firm had undertaken in September 2018 (described in more detail below), the Firm commissioned an external law firm to review the Firm's policies, procedures and practices pertaining to the assessment of connected parties. The Firm received that review at the end of February 2019. The Terms of Reference of the CSC were amended in March 2019 to place an additional responsibility upon the CSC: "*To assess the Bank's exposures to Connected Parties and advise the Board, as appropriate …*". At the same time the Firm introduced a connected parties policy and its credit approval process set out in its Procedures Manual was amended to require "*an assessment of connected parties should be undertaken (control and economic tests)*" (the credit approval process set out in the Firm's January 2018 Procedures Manual had not included such a requirement). The Firm also conducted connected parties reviews across its loan book in April 2019. However, as a result of weaknesses in the Firm's non-financial resources, the connected party tests it undertook in April 2019 did not identify the connections between the various parties to the Structured Transactions described in this Notice.

1.19. The Firm's Finance function had responsibility for submitting regulatory returns, including the Firm's Large Exposures, to the PRA. Although the Finance function was represented on the CSC, it was not directly involved in making the connected parties assessments themselves. Rather, the regulatory returns were prepared by Finance based on the credit due diligence work undertaken by the Credit, Risk and Origination teams. A January 2019 internal audit report into the Firm's June 2018 returns to the PRA referred to the governance, process and controls for regulatory reporting not being formally documented and that the key policy decisions in relation to the interpretation and application of the regulatory reporting requirements, including key judgements and assumptions made, were not documented and formally reviewed.

Governance and oversight of exposures

1.20 The Firm's Risk function prepared a report for each Board meeting (or, after the Risk

Committee was formed, Risk Committee meeting) setting out the Firm's risk portfolio. The reports initially included an overview of the Firm's transaction portfolio (including breakdowns by country, country rating and industry). These reports expanded over time to include breakdowns by transaction type, funding currency and sellers of receivables and information regarding the Firm's largest exposures and its overdue exposures. In addition, from at least December 2018 onwards, the Risk function sent a watchlist to the Board each week (subject to a few exceptions) which set out all of the Firm's debtors who were overdue in making payments to the Firm. From May 2019, each watchlist included a separate tab containing a 'special scrutiny' list of the Firm's exposures that its executive management were particularly focussed on.

1.21 From February 2018 onwards, the Risk function reported the level of the Firm's direct exposures to members of the GFG Alliance to the Firm's Board or Risk Committee in advance of each of their meetings. According to those reports, the direct exposures in aggregate had a value of between 14% and 20.4% of the Firm's capital during the periods the reports covered. On that basis, the Firm's 'headroom' before it breached the 25% Large Exposures limit in respect of its exposures to, and exposures which were connected to, members of the GFG Alliance was therefore between 11% and 4.6% of its capital during those periods. The effectiveness of the Firm's systems and controls in respect of identifying, analysing and monitoring connected party (and related party) issues in respect of the Structured Transactions referred to in paragraph 1.5 above and described below was therefore particularly important, given its limited scope for error before it would breach the LE limit.

1.22 However, during the Relevant Period the Firm entered into the Structured Transactions from GFG referrals with entities which were connected with GFG for LE purposes (but which the Firm had not identified as connected at the time due to deficiencies in its connected party policies and procedures). Each set of the Structured Transactions had a value equal to a significant proportion of the Firm's capital. Although, through the Firm's AML/KYC assessments and credit due diligence work, some steps were taken to assess whether clients or potential clients were connected, as a result of deficiencies in the Firm's policies and procedures relating to connected parties, the counterparties were not identified as connected for the purposes of the Large Exposures regime.

1.23 During the Relevant Period the Firm did not have any formal policies or procedures in place regarding steps it should take to manage defaults in relation to its exposures, or regarding the circumstances in which escalation of defaults to the Firm's various committees or to its Board was required. The absence of any such policies and procedures was pointed out to the Firm by the PRA in July 2018 and also in various internal audit reports in 2019.

2. TRANSACTIONS

The GFG A CO receivables purchase transactions

A. The receivables purchase facility

2.1 In May 2017 GFG purchased a steel business from an unrelated third party. The sale was effected by the business being transferred to a newly-incorporated English company ("**GFG A Co**"), which was then transferred to GFG.

2.2 The Firm entered into a receivables purchase agreement ("**RPA**") with GFG A Co the day after the acquisition was completed. The RPA established a structure for the Firm to purchase, at a discount to their face values, receivables from GFG A Co owing by a wide range of GFG A Co's trade debtors (referred to within the Firm as "**block buyers**").

2.3 Under the RPA the receivables sales by GFG A Co to the Firm were expressed to be on a non-recourse basis, except that the Firm would have recourse back to GFG A Co in certain specified limited *"Recourse Events"*, which included if GFG A Co cancelled an invoice it had sold to the Firm, or if GFG A Co failed to deliver the stock which was the subject of an invoice, or if the sales contract, and therefore the invoice, was unenforceable against the buyer.

2.4 The transaction was introduced to the Firm by GFG. The RPA was entered into under time pressure and financing was provided very shortly after GFG's acquisition of GFG A Co.

2.5 The facility provided working capital financing for GFG A Co, following its acquisition by GFG, in increasing amounts. The Firm sought to structure the financing in such a way that this objective was achieved, while at the same time the Firm's exposures under the facility would comply with the LE limit applicable to its aggregate exposure to GFG

Alliance companies.

2.6 Within a month the facility to GFG A Co was expanded to include a concept of "Retained Title Buyers" ("**RTBs**"), in respect of which a sub-limit was set within the overall facility limit. A key difference between the block buyers and the RTBs was that in the transactions with the RTBs, title to the stock which was the subject of the invoice was stated to be transferred only when the invoice had been paid in full. In comparison, in the transactions with the block buyers title to the stock the subject of the invoice was transferred at the point of sale (rather than when the invoice was settled).

2.7 The RTBs, and the amounts made available in respect of them, subsequently increased:

a. from three RTBs and an overall exposure limit to them of £10m on 22 May 2017;

b. to nine RTBs and an overall exposure limit of £43.6m on 27 March 2018 (reduced to £32.87m on 19 September 2018).

2.8 The facility limit under the RPA was initially set at £25m, but was increased several times (sometimes within days of the previous increase) up to £90.6m on 27 March 2018 (it was later reduced to £72.87m on 19 September 2018). The amendments to the facility amended the facility limit, increased the percentage of receivables owing by the block buyers which the Firm would finance, extended the lists of buyers whose invoices GFG A Co could sell to the Firm, introduced the RTB concept and set sub-limits for individual RTBs. The initial RPA was replaced by a new RPA between the Firm and GFG A Co in December 2018. Key increases in the size of the facility are set out below, including as a percentage of the capital of the Firm reported by it to the PRA at the time of the increase:

Date of agreement / amendment	**Firm capital reported to the PRA**	**Overall facility limit (including as % of Firm capital reported to the PRA)**	**Facility limit for RTBs (including as % of Firm capital reported to the PRA)**
3/5/17	£21.47m	£25m (116.4%)	£0 (0%)
22/5/17	£21.47m	£35m (163.0%)	£10m (46.5%)
8/6/17	£30.97m	£38m (122.7%)	£14m (45.2%)
16/6/17	£30.97m	£47m (151.7%)	£23m (74.3%)

20/7/17	£39.31m	£53m (134.8%)	£31.7m (80.6%)
18/10/17	£53.09m	£71.7m (135.0%)	£31.7m (59.7%)
21/3/18	£74.57m	£84.2m (112.9%)	£37.2m (49.8%)
27/3/18	£74.57m	£90.6m (121.5%)	£43.6m (58.4%)
19/9/18	£101.72m	£72.87m (71.6%)	£32.87m (32.3%)
13/12/18	£114.33m	£72.87m (63.7%)	£32.87m (28.75%)

2.9 As at 17 March 2020, the Firm was owed:

a. the GBP equivalent of £32.83m under the retained title element of the facility; and

b. the GBP equivalent of £10.1m under the block buyer element of the facility.

B. Negotiation and entry into the RPA in early 2017

2.10 The Firm did not, as part of its due diligence, assess what economic rationale the RTBs had for being involved in the transaction. The finance charges levied by the Firm in respect of the facility were for the account of GFG A Co.

2.11 As noted in paragraph 1.13 above, the 25% Large Exposures limit in the CRR applies to exposures to the same person or to a group of connected persons. For LE purposes GFG A Co was connected to other members of the GFG Alliance because financial difficulties elsewhere in the GFG Alliance were likely to have an adverse effect on GFG A Co. As a result of the Firm's direct exposures to members of the GFG Alliance (referred to in paragraph 1.21 above) having already utilised most of the LE limit, if the Firm's exposures under the facility were to GFG A Co itself (rather than to the block buyers and the RTBs) the LE limit did not permit the Firm to purchase a significant value of receivables under the facility.

2.12 For the same reasons, if the RTBs constituted a group of connected clients with GFG A Co, the Firm would be required to aggregate its exposures to the RTBs with its exposures to members of the GFG Alliance, in which case the Firm would be unable to purchase a significant value of receivables owing by the RTBs. This would be the case if the RTBs were so interconnected with GFG A Co that if GFG A Co was to experience financial problems, in particular funding or repayment difficulties, the RTBs would be likely to do so.

2.13 The Firm regarded its exposure as to the block buyers and the RTBs, rather than to GFG A Co itself, i.e., for LE purposes it 'looked through' GFG A Co to the underlying block buyers and RTBs. The initial facility and all amendments thereto were approved by senior Wyelands executives or, from February 2018, the Firm's CSC pursuant to their Board delegated authorities. Each individual exposure was below the limit on authority delegated by the Board. Therefore, because the Firm regarded its exposures as separate exposures on each of the underlying block buyers and RTBs, rather than on GFG A Co, and did not regard the block buyers or RTBs as economically dependent on GFG A Co, Board approval was not sought for any of the exposures. The Board was however informed of the facility both in advance and after it had been entered into. The June 2017 Risk report to the Board showed that the GFG A Co facility represented 25% of the Firm's portfolio and described it as a "'*block' exposure under which a diverse pool of insured receivables has been purchased, with … look through to the end receivables*".

2.14 The due diligence performed by the Firm before it entered into the RPA and commenced purchasing invoices under it did not identify the issues subsequently highlighted in the 2018 report by the Business Advisory Firm referred to in paragraph 2.33 below, as a result of which the Firm retained an exposure to GFG A Co.

2.15 Despite the Firm relying on the retention of title feature in respect of its exposure to the RTBs, before the Firm began purchasing receivables owing by the RTBs it did not confirm whether the stock which was subject to retention of title:

a. actually existed;
b. was (or could be) segregated from GFG A Co's remaining stock;
c. had been moved off GFG A Co's site; or
d. was being used in GFG A Co's manufacturing processes.

2.16 Further, before the Firm began purchasing receivables owing by the RTBs, it did not establish the practicalities of entering GFG A Co's site and removing the stock to enable the Firm to sell it to a third party (or the costs of doing so), if it needed to sell the stock.

C. The Firm's management and operation of the facility from May 2017 up to May 2019

C1. The block buyers

2.17 The Firm had the right under the RPA to require GFG A Co to give notice to the block buyers of the transfer to the Firm of the receivables owing by them, but did not exercise that right. The block buyers therefore continued to make payments to GFG A Co, which under the RPA acted as the collection agent of the Firm. As between GFG A Co and the block buyers, GFG A Co remained free to deal with them in relation to the receivables owing by them. The Firm purchased receivables owing by the block buyers under the facility up to, and including, May 2019.

2.18 The RPA required GFG A Co to transfer to the Firm, within a set period (until December 2018, one week, thereafter two business days) of GFG A Co's receipt of payment of a receivable from a block buyer, the proportion of the amount paid to which the Firm was entitled in accordance with the RPA; GFG A Co could retain the remaining amount of the payment for its own account. However, before August 2018 the Firm acquiesced in GFG A Co retaining for a considerably longer period at least some of the amounts it had collected which it was obliged to transfer to the Firm, and even after then the Firm acquiesced in it retaining them for up to seven days.

2.19 The RPA provided that GFG A Co held on trust for the Firm the amounts it had collected which it was required to transfer to the Firm. The Firm's April 2017 credit proposal in respect of the initial facility had said those amounts would be paid into a dedicated GFG A Co collection account with a third party bank over which the Firm would have a charge, so the Firm was aware of the importance of segregating the funds to which it was entitled. However, a separate collection account was not established. Instead, the amounts GFG A Co collected were, to the Firm's knowledge, commingled in GFG A Co's general bank accounts (which were not charged to the Firm and over which the Firm had no control) with the amounts GFG A Co was entitled to retain and GFG A Co's other credit (or debit) balances.

2.20 By making payment to GFG A Co, each block buyer discharged its obligation in respect of the relevant receivable which the Firm had purchased. From that point onwards, the

Firm's only claim in respect of the amount of that receivable due to the Firm was against GFG A Co, to forward to the Firm that amount. Because that amount was not held in a ringfenced account on trust for, or charged to, the Firm, the Firm therefore had an exposure to GFG A Co, at least from the date GFG A Co received payment from the block buyer. The Firm's application of the look-through analysis to amounts which GFG A Co had received from the block buyers, but not yet forwarded to the Firm, was therefore incorrect from the outset.

C2. The RTBs

2.21 The RTBs were ostensibly independent of GFG A Co. They were introduced to the Firm by members of the GFG Alliance and the Firm placed some reliance on the good relationships between the owners of the RTBs and GFG. The Firm has told the PRA that it entered into the transactions on the basis that the RTBs had the financial resources to complete their purchases. However, the Firm could only do limited financial due diligence on the RTBs, because most of the RTBs were recently incorporated companies with little financial information available on them. The Firm's credit proposals and CSC minutes did not evidence how the RTBs would be able to make the payments owing by them in respect of the invoices which the Firm purchased, and did place considerable weight on the retention of title feature as providing security to the Firm. The Firm did not have much contact with the RTBs or their owners, at least initially, and KYC information in respect of the RTBs was provided to the Firm by GFG, rather than by the RTBs themselves.

2.22 The Firm also had the right under the RPA to require GFG A Co to give notice to the RTBs of the transfer to the Firm of the receivables owing by them, but did not exercise that right. GFG A Co also acted as the collection agent of the Firm under the RPA in respect of the receivables owing by the RTBs. As between GFG A Co and the RTBs, GFG A Co therefore remained free to deal with them in relation to those receivables, including cancelling the invoices.

2.23 Although the terms of the RPA prohibited GFG A Co cancelling invoices it had sold to the Firm, in practice GFG A Co cancelled the invoices owing by the RTBs at the end of each month and issued new invoices for similar amounts on the first day of the following month (therefore leaving a gap between the invoices). Up to and including April 2019 the Firm's obligation to make payment to GFG A Co to acquire the new invoices was netted off against GFG A Co's payment obligation to the Firm in respect of the cancelled invoices (as a result of that cancellation being a *"Recourse Event"* under the RPA). The effect of this arrangement was that payment was never due from the RTBs and the amount owing to the Firm was effectively rolled over. The Firm continued to allow for the 'rollover' of invoices, as it believed that by doing so it was effectively 'refreshing' its security.

2.24 However, in reality the consequence for the Firm was that for a brief window at the end of each month it had no claim to stock, no claim against any RTB in respect of any receivable and had received no payment in respect thereof (other than its 'finance charge' in respect of the cancelled invoice, which was generally paid to the Firm by GFG A Co each month). The Firm may have had a claim against GFG A Co under the RPA for cancelling the invoices, but this would have likely involved a breach of the LE limit. There were occasions when GFG A Co failed to provide the new invoices on the first day of the following month, but GFG A Co's delay in producing them did not cause the Firm to reconsider whether the look-through treatment was correct. This practice in relation to the RTBs continued up to, and including, April 2019. Of itself, the practice of cancelling invoices at the end of one month and issuing replacement invoices on the first day of the following month meant that the Firm's application of the look-through analysis to the RTBs was not correct.

2.25 In practice, the RTBs do not appear to have completed any stock purchases.

2.26 The Firm has told the PRA it was not aware at the outset that the RTBs would not purchase the stock (and that it entered into the transactions on the basis that they would complete the purchases).

2.27 Consequently the Firm was not relying on the RTBs having any established independent source of financial strength to settle the amounts owing under the invoices, but rather on the good relationships between the owners of the RTBs and GFG and the retention of title arrangements.

a. Each RTB had no right to sell the stock the subject of an invoice in order to fund payment of the amount owing by it under the invoice (it could only sell the stock after the invoice had been paid in full). Therefore, to avoid defaulting on their obligations the RTBs were dependent on either:

i. obtaining possession of the stock the subject of the relevant invoice and selling the stock (possibly back to GFG A Co itself) to fund payment of the amounts owing; or

ii. GFG A Co cancelling the invoices at the end of each month and replacing the cancelled invoices with new ones.

b. The RTBs were therefore dependent upon GFG A Co taking actions it was not required to take, was not permitted to take (without the consent of the Firm), and was less likely to take (at least on a timely basis) if it became subject to insolvency proceedings.

c. The retention of title arrangements in favour of GFG A Co and the Firm did not prevent the RTBs from encountering funding or repayment difficulties. Rather, by giving the Firm the right to sell the stock if an event of default occurred under the applicable sale contract between GFG A Co and an RTB, those arrangements potentially reduced the impact upon the Firm of any funding or repayment difficulties suffered by the RTBs. For an event of default to occur, an RTB would have to become insolvent or fail to comply with the terms of its sale contract with GFG A Co. The Firm could therefore only exercise its right to sell the stock if the RTB had already experienced funding or repayment difficulties or breached its other obligations under its sale contract with GFG A Co. The Firm was not permitted to use collateral in the nature of the stock sold to the RTBs to reduce the Firm's exposure for LE purposes.

d. The ability of the Firm to exercise its right to sell the stock also depended on the relevant stock being identifiable and available to the Firm for it to sell. The stock which was the subject of the retention of title arrangements was at GFG A Co's facility (or at other locations agreed by the Firm) and under the control of GFG A Co. The Firm was therefore reliant on GFG A Co's control and management of the stock in order to mitigate its credit risk on the RTBs. Particularly if GFG A Co became subject to insolvency proceedings, the Firm would not be able to rely on GFG A Co maintaining a sufficient control environment to protect the Firm's claims upon the stock.

e. If GFG A Co became subject to insolvency proceedings, GFG A Co would be unlikely to deliver the stock to the RTBs, which would have resulted in the RTBs having no obligation to make payment in respect of the invoices GFG A Co had sold to the Firm. Failure by GFG A Co to deliver the stock to the RTBs would result in the Firm having recourse back to GFG A Co. Consequently in the event of the insolvency of GFG A Co the Firm's real exposure was likely to be on GFG

A Co and not on the RTBs.

f. The Firm was relying on the retention of title arrangements in respect of the stock to effectively secure its claims against the RTBs. However, the Firm has confirmed to the PRA that it has since appreciated that additional security documentation would have been required to ensure the effectiveness of the security contemplated by the RPA.

Therefore most, if not all, the RTBs were highly likely to experience funding or repayment difficulties if GFG A Co was to experience financial problems and consequently the RTBs constituted a group of connected clients with GFG A Co (and consequently with GFG). The Firm's application of the look-through treatment to the RTB element of the facility was consequently incorrect from the outset, and would have been incorrect even if the facility had operated as the Firm had intended. Despite the complexity of certain aspects of the retention of title arrangement and the size of the facility in relation to the Firm's capital, the Firm did not instruct independent external legal advisers to advise on, structure and document the RPA. From September 2018, the Firm relied on the GFG internal legal function, with which the Firm entered into an outsourcing agreement for the provision of legal services to the Firm, for advice in relation to the facility.

2.28 In September 2018 five of the RTBs entered into the transactions with the Firm described below at paragraphs 2.107 to 2.111, by separately purchasing companies which owned power plants, guaranteeing the loans the Firm made to those companies and pledging their shares in those companies to secure those guarantees. There is no record that the Firm considered at the time whether the relevant RTBs' entry into the power plant transactions posed additional risks to the Firm in respect of its existing exposures to them in connection with the GFG A Co facility.

D. Opportunities for the Firm to reconsider the look-through treatment before May 2019

2.29 There is no record of how the Firm initially concluded, or what advice it initially relied on, in applying the look-through treatment to its exposures under the facility.

2.30 Between August 2017 and the end of April 2019 there were at least five occasions when the Firm might have reconsidered the validity of its look-through treatment. These were as follows:

i) in August 2017;
ii) in January 2018;
iii) in April 2018;
iv) in June/July 2018; and
v) in January 2019.

Details of these five occasions are set out in paragraphs 2.31 to 2.36 below (there was a sixth occasion in May 2019 set out in paragraph 2.41 below).

2.31 The Firm became aware in August 2017 that GFG A Co had not forwarded to it within the agreed timescale payments due to the Firm which GFG A Co had received from block buyers. This prompted email exchanges among a number of the Firm's executives regarding the operation of the facility and whether the Firm should continue to provide it. A senior Wyelands executive responded that "*Regardless of the RPA, block discounting lines do not seek to collect and disperse as soon as they are received. One payment out, one payment back*". The email exchanges did not result in the Firm requiring changes to the operation of the facility.

2.32 From November 2017 onwards, the Firm's position that there would be look-through to the underlying buyers was based on advice from the Firm's Finance function in November and December 2017 and January 2018 and by an external accounting firm in January 2018. The Firm's Audit Committee considered a paper on the matter prepared by the Firm's Finance function at its January 2018 meeting. However, the advice in the paper was provided on the basis that the RPA was operating in accordance with its contractual terms which, to the knowledge of senior Wyelands executives at the time, it was not. In practice, the Firm was allowing GFG A Co more time to pay over to it amounts which GFG A Co had collected from the block buyers than was permitted under the RPA. Further, in August 2017 GFG A Co had failed to pay over to the Firm in accordance with the RPA amounts it had received from the block buyers, and the practice of cancelling and reissuing invoices to the RTBs had also started in August 2017. The advice from the Firm's Finance function and the external accounting firm was provided without the benefit of all the relevant information which was in the possession of senior Wyelands executives and a Board member (all of whom attended the Audit Committee meeting). The Firm has since accepted that it placed too much reliance on the applicability of this advice.

2.33 In March 2018 the Firm received a draft appraisal report in respect of the operation of the facility prepared by a business advisory firm ("**BAF**") it had instructed, following the BAF's site visit to GFG A Co. The report raised a number of significant issues in relation to various matters which indicated that the Firm's credit risk was on GFG A Co rather than on the block buyers or the RTBs, and also regarding whether the arrangements relating to selection, management, segregation and location of the stock, and conversion of the stock pursuant to GFG A Co's manufacturing processes, meant that the Firm did not effectively have title to or control of the stock to mitigate its risk.

2.34 Later in April 2018 the draft BAF report was discussed by the Firm's CSC, but not by the Firm's Board or Risk Committee. The report did not cause the Firm to reassess its credit analysis in respect of the facility, to improve the storage arrangements for the stock or the controls over the amounts collected by GFG A Co, or to reconsider whether the look-through analysis was correct or its LE submissions to the PRA should record its exposure under the facility as to GFG A Co rather than to the block buyers or the RTBs. The Firm has acknowledged that in hindsight it could have engaged a more thorough monitoring solution in respect of the stock and that it should have dealt more explicitly with the recommendations made in the BAF report.

2.35 The Firm carried out annual reviews of each of the RTBs in June and July 2018. The reviews referred to the Firm having no payment experience of the RTBs, due to the stock never leaving GFG A Co's warehouse, and that consequently none of the them had been required to make payment to the Firm. In some cases they also referred to the owners of the RTBs having a longstanding relationship with GFG. In each case they concluded that the Firm was "*protected at all times*", in part due to the retention of title arrangements and GFG A Co's possession of the goods, until the Firm received full payment. The annual reviews did not analyse, or refer to, the impact of the issues raised in the BAF report on the Firm's position or its LE reporting obligations to the PRA.

2.36 In January 2019 the Firm received a further appraisal report in respect of the operation of the facility from BAF following a further site visit by BAF to GFG A Co. The report, which had been commissioned by the Firm, was not seen by the Firm's Board or Risk Committee. The report did refer to certain improvements, but still referred to a number of significant issues in relation to the extent to which the Firm's credit risk was on GFG

A Co rather than on the block buyers or the RTBs. The Firm raised a number of these issues with GFG A Co, noting that its collateral had been compromised because of the issues identified by BAF, and that this was unacceptable. However, despite this the 2019 BAF report did not cause the Firm to reconsider whether the look-through analysis was correct or whether the Firm's LE submissions to the PRA should record its exposure under the facility as to GFG A Co rather than to the block buyers or the RTBs.

2.37 Under the RPA GFG A Co was required to deliver to the Firm its audited annual consolidated financial statements and quarterly unaudited consolidated management accounts within specified time periods. However, GFG A Co did not comply with these obligations on a consistent or timely basis and as a result the financial information the Firm had regarding GFG A Co was frequently out-of-date. The Firm did not receive any GFG A Co management accounts after 13 March 2019 (when it received the December 2018 management accounts), despite there being amounts owing under the facility at the end of the Relevant Period. The Firm did receive GFG A Co's audited annual financial statements for its financial year ended 31 March 2019 by 30 December 2019, so at the end of the Relevant Period the most recent financial statements of GFG A Co the Firm had were nearly 14 months old.

E. The Firm's management and operation of the facility from May 2019 onwards

2.38 In April 2019 GFG A Co executed a security agreement (the "**TPFP Security Agreement**") in favour of a third party finance provider ("**TPFP**") to GFG A Co. This secured all present and future monies owing to the TPFP and created security over all of GFG A Co's assets and undertakings, with the exception of certain assets which GFG A Co had already charged to certain other creditors (not including the Firm).

2.39 On 30 April 2019 GFG A Co cancelled all the invoices it had issued to the RTBs on 1 April 2019. It did not issue any further invoices to the RTBs until October 2019. At least between May and September 2019 the Firm's only claim in respect of the retained title element of the facility was therefore on GFG A Co (for cancelling the April 2019 invoices).

2.40 Also on 30 April 2019, the Firm sent a reservation of rights letter to GFG A Co in respect of the cancellation of invoices GFG A Co had sold to the Firm. While the letter reserved rights generally, the cover email appears to be a demand that the amounts owing by two named RTBs, totalling £8m, be repaid. On 7 May 2019 another GFG entity replied on behalf of GFG A Co acknowledging the Firm's right to request repayment, but continuing that GFG A Co was unable to make repayment due to its working capital constraints.

2.41 The TPFP Security Agreement purported to create security in favour of the TPFP over all GFG A Co's contracts, inventory, title documents, receivables and bank accounts (other than any assets transferred to the TPFP). It also contained a full negative pledge by GFG A Co, a prohibition on GFG A Co withdrawing any money from any of its accounts without the prior consent of the TPFP and an obligation on GFG A Co to realise its receivables and hold the proceeds on trust for the TPFP pending their payment into an account charged to the TPFP. It therefore effectively prevented GFG A Co selling further receivables to the Firm under the RPA. However, there is no record that GFG A Co's grant of security to the TPFP, or GFG A Co's cancellation of the April 2019 invoices owing by the RTBs without the Firm purchasing new invoices owing by the RTBs, caused the Firm to reconsider whether the look-through analysis it was applying in respect of its exposures under the facility was correct, or to reconsider whether its LE submissions to the PRA should record its exposure under the facility as to GFG A Co rather than to the block buyers or the RTBs. This was the sixth occasion when the Firm could have reconsidered the validity of its look-through treatment.

2.42 By late May 2019 the Firm was aware that GFG A Co had received funds from the block buyers (initially £2m, but by 23 October 2019 £7m), which the RPA provided that GFG A Co held on trust for the Firm, but which GFG A Co was failing to pass on to the Firm.

2.43 GFG A Co's execution of the TPFP Security Agreement and failure to pay over to the Firm amounts GFG A Co had received from the block buyers did not cause the Firm to terminate GFG A Co's appointment as the Firm's collection agent (which the Firm was entitled to do), so that the Firm could deal with the underlying buyers directly. Instead, from May 2019 onwards there was considerable correspondence and meetings between the Firm and GFG A Co and other GFG entities and GFG executives regarding repayment or refinancing of the facility. The RTBs and the block buyers did not have any significant involvement in these discussions. During these discussions GFG entities and GFG executives, on behalf of GFG A Co, on four occasions referenced cashflow issues affecting GFG A Co or GFG and requested the Firm to continue to make the facility available, notwithstanding the clear breaches of it which were outstanding. These exchanges suggest that the Firm appeared to be relying on GFG A Co, and indeed the wider GFG Alliance, for payment of the amounts the Firm had booked as exposures to the block buyers and the RTBs.

2.44 On 4 July 2019 the TPFP provided a comfort letter to the Firm in which it said (broadly) that it did not intend to enforce security over any receivables assigned to or financed by the Firm (and if it did so it would propose to turn over the proceeds to the Firm), and that it intended to refinance the Firm's financing within 90 days. However, the letter was not legally binding on the TPFP.

2.45 On 5 July 2019 GFG A Co entered into a security agreement (the "**Wyelands Security Agreement**") in favour of the Firm, notwithstanding that this was a breach of the TPFP Security Agreement without the consent of the TPFP. Under the terms of the Wyelands Security Agreement GFG A Co created security over the assets which were the subject of the RPA and over two bank accounts of GFG A Co with a third party bank into which proceeds of collections from the block buyers were intended to be paid. The Wyelands Security Agreement also contained a form of deed of release in respect of the TPFP Security Agreement, pursuant to which the inventory and receivables financed by the Firm pursuant to the RPA (and the bank accounts into which the proceeds of those receivables were paid) would be released from the security created by the TPFP Security Agreement. However, the TPFP did not execute the deed of release and did not consent to the Wyelands Security Agreement.

F. The Firm's Large Exposures assessments

2.46 As a result of deficiencies in its policies and procedures in relation to connected parties, the Firm (a) regarded its exposure as to the block buyers and the RTBs, rather than to GFG A Co itself (i.e., it 'looked through' GFG A Co to the underlying block buyers and RTBs) and (b) did not treat the RTBs as constituting a group of connected clients with GFG A Co. As a result, the Firm did not report its exposures under the facility as exposures to, or to entities who were connected parties of, GFG A Co in any of its LE submissions to the PRA during the Relevant Period.

2.47 Prior to April 2019, the Firm did not conduct a formal assessment regarding whether the RTBs were economically dependent upon GFG A Co. Consequently, it did not assess whether they were connected to GFG A Co (and therefore GFG) for LE purposes.

2.48 In April 2019, the Firm did undertake connected party reviews in respect of the RTBs. Those reviews identified the linkage with GFG A Co, but concluded that it was "*an element of the structured nature of the transaction with security by way of retention of title clauses in place to mitigate any concerns … as such, no economic dependencies exist*". The reviews did not identify any of the issues described in paragraph 2.27 above.

2.49 In June 2019 the Firm's Risk and Operations Committee (an executive committee) concluded that amounts GFG A Co had received from block buyers and was overdue in forwarding to the Firm would need to be aggregated with the Firm's GFG exposures, although the Committee did not consider whether this treatment should also be applied to amounts which were not yet overdue (on the basis that GFG A Co was presumably also likely to fail to forward those amounts). In fact, the overdue amounts were not included in the Firm's LE submissions to the PRA in the Relevant Period.

2.50 The Firm's September 2019 economic dependency connected party analysis in respect of one of the RTBs concluded that that RTB had an economic dependency on GFG entities through its trading relationships with them, and therefore that the Firm's exposure to that RTB should be aggregated with its GFG exposures. However, the Firm's exposure to that RTB was not aggregated with its GFG exposures in the Firm's LE submissions to the PRA in the Relevant Period.

2.51 As a result of deficiencies in its policies and procedures in relation to connected parties, the Firm did not consider during the Relevant Period whether the issues which arose affecting the Firm's exposures in respect of the block buyer book or to the RTBs altered the LE analysis such that the look-through treatment should not apply, and consequently did not identify that the Firm had an exposure to GFG A Co (which should be aggregated with its other GFG exposures).

2.52 The Firm acknowledged in its connected parties review conducted in August 2020 (after the end of the Relevant Period) that the practice of cancelling invoices owing by each RTB at the end of one month and issuing a replacement invoice to the RTB on the first day of the following month meant that the application of the look-through analysis to the RTBs was not correct. In its LE submissions to the PRA from December 2020 onwards, the Firm did aggregate its exposures in respect of the RTB transactions with its GFG exposures.

G. Outcome

2.53 The Firm's CSC met in August 2019 to consider its exposures in respect of the retained title element of the facility. The meeting was told that GFG A Co intended to refinance the facility with the TPFP at the beginning of October 2019 and agreed that the Firm should demand repayment by the end of November 2019 if the refinancing had not occurred before then. However, apart from a demand on one of the RTBs made in October 2019, the Firm did not make a formal demand for repayment of the facility in the Relevant Period. During the Relevant Period the Firm also did not obtain any legal advice or undertake any preparatory work in respect of taking enforcement action against GFG A Co, any block buyer or any RTB to recover the amounts owing to it.

2.54 Despite the Firm's application of the look-through treatment to the underlying buyers under the facility, from August 2017 onwards concerns were expressed within the Firm regarding GFG A Co's financial condition, its control environment, the quality of the financial information the Firm had regarding it and potential leakage from GFG A Co to other parts of the GFG Alliance. Notwithstanding these concerns, which the Firm categorised as 'operational risk', the Firm continued to purchase receivables from GFG A Co until May 2019.

2.55 Between October and December 2020 the Firm received four payments totalling £24.2m from GFG on behalf of GFG A Co. As at 31 December 2022, the block buyer element of the facility had been fully repaid and the Firm had fully provided for the amount owing to it in respect of the retained title element of the facility.

The Generator Loans

A. The loans

2.56 In June and July 2017 the Firm made five separate loans (the "**Generator Loans**") which together totalled £17.2m to five companies ("**Generator SPVs**"). The loans were originally structured as 12 month bridge loans and each loan was secured over the share capital, assets, property and undertaking of the corresponding Generator SPV borrower.

2.57 The purpose of the Generator Loans was the financing of the Generator SPVs' purchase of 13 biodiesel-fuel generators ("**Generators**") from a GFG entity ("**GFG B Co**"), payment of fees and costs in connection with the facilities and the provision of general corporate and working capital facilities for the Generator SPVs whilst they sought to enter into long term (up to 20 years) offtake contracts.

2.58 The business model underlying each of the Generator Loans was the same. It was based on the premise that the Generator SPVs would obtain full Ofgem accreditation for the Generators and enter into long term contracts for the generation of electricity in respect of them with off-takers. The underlying commercial proposition was that the Generators would produce electricity using a fuel oil that would qualify for Ofgem-issued Renewables Obligation Certificates ("**ROCs**"). The ROC regime was designed to incentivise large-scale renewable electricity generation in the UK, placing an obligation on UK electricity suppliers to source an increasing proportion of the electricity they supply from renewable sources. ROCs are issued to accredited renewable generating stations for the eligible renewable electricity they generate and are ultimately used by suppliers to demonstrate that they have met their obligation. Because ROCs are tradeable, the Generators were expected to produce two sources of revenue, with the Firm's original credit proposals stating that approximately half would come from each source: (i) income generated from the sale of electricity to off-takers in the wholesale market and (ii) income from the sale of ROCs to electricity suppliers who needed them to satisfy their renewables obligations. The ROCs, and the income which the Firm anticipated would be derived from them, therefore formed a very significant part of the Firm's consideration of the transactions.

2.59 In late 2017 and April 2018 the Firm twice increased the Generator Loans (so that, following those increases, the loans aggregated £39.9m) and in April 2018 it also extended their maturities to the end of July 2019. When it did this, the Firm was aware that the Generator SPVs had not signed any long term offtake contracts and that, even once such contracts were signed, there would be a material further period (while the Generators were deployed) before the Generator SPVs would begin to generate revenue.

2.60 The aggregate amount of the Generator Loans at each stage, together with the capital of the Firm reported by it to the PRA at the time of their initial advance or, as applicable, increase is set out in the table below:

	Generator Loans aggregate amount	**Firm capital reported to the PRA**	**Generator Loans aggregate amount as % of Firm capital reported to the PRA**
Initial Generator Loans (June/July 2017)	£17.2m	£39.31m	43.7%
Generator Loans after first increase (October/December 2017)	£29m	£53.09m	54.6%
Generator Loans after second increase (April 2018)	£39.9m	£91.13m	43.8%

2.61 As a result of issues affecting some of the key assumptions in the business model underlying the Generator Loans, in particular relating to the fuel for the Generators, the Generators have generally remained idle, no long term offtake contracts have been concluded and the long-term revenue streams projected by the Firm have not materialised.

2.62 As noted in paragraph 1.13 above, the 25% Large Exposures limit in the CRR applies to exposures to the same person or to a group of connected persons. Therefore if the Generator SPVs and GFG B Co were a group of connected persons, the LE limit did not permit the Firm to make the Generator Loans. Because of the Firm's direct exposures to members of the GFG Alliance referred to in paragraph 1.21 above, if even some of the Generator SPVs were 'connected' to GFG B Co, then the Firm could have been in breach of the LE limit.

B. Negotiation of and entry into the Generator Loans in June/July 2017

2.63 The Generator SPVs had separate owners ("**Generator UBOs**") and were apparently independent of each other and of GFG B Co. However, as set out below, from the outset the Firm was aware of a number of connections or commonalities between the Generator SPVs, the Generator UBOs and GFG B Co:

a. the lending opportunity was introduced to the Firm by GFG and the Firm was aware that the Generator UBOs were known to GFG;
b. GFG B Co negotiated the terms of the Generator Loans on behalf of all of the Generator SPVs. All the facility agreements for the Generator Loans and related documentation were structured in the same way and on the same terms. The Firm did not receive any comments or challenge from any of the Generator SPVs or Generator UBOs to the terms and conditions or price and size of the Generator Loans;
c. GFG B Co acted as the agent of all five Generator SPVs in respect of the Generator Loans, including collecting interest on the Generator Loans from the Generator SPVs and forwarding it to the Firm. The Firm did not have much, if any, contact with any of the Generator SPVs or the Generator UBOs in relation to the transaction;
d. GFG B Co was also responsible for the deployment, operation and maintenance of the Generators for all of the Generator SPVs;
e. the Firm's main contact point for communicating with the Generator SPVs was a director of GFG B Co;
f. the entire net proceeds of the original Generator Loans (and also each of the later increases) were credited to a bank account of a GFG entity;
g. all 13 Generators were stored on the grounds of a power station operated by GFG; and
h. the Generator SPVs all shared the same auditor, which also acted as the auditor for a number of companies in the GFG Alliance.

2.64 GFG B Co had a dual role as both the agent of the Generator SPVs in respect of the Generator Loans and as the entity responsible for the deployment, operation and maintenance of the Generators for them. However, the Firm did not receive or require copies of, or any details of, any agency agreement or operation and maintenance agreement between GFG B Co and any Generator SPV as part of its due diligence process before making, or as conditions precedent to the availability of, the first advances of the Generator Loans (or any of the later increases).

2.65 Before the initial Generator Loans were made (or any of the later increases), the Firm did not take steps to establish on what basis GFG B Co was acting on behalf of the Generator SPVs, what the extent of its authority and obligations were, what risks the Generator SPVs were taking on it, what its costs and charges for acting were, what recourse the Generator SPVs had to it if it failed to perform its obligations, or how feasible or costly it would be to replace GFG B Co in its roles. Although the Firm was aware that funds due to the Generator SPVs were to be paid into a GFG account (from which interest payments due to the Firm would also be paid), the Firm also did not take steps to assess the extent of any credit risk the Generator SPVs were taking on GFG B Co or the GFG entity whose account the Generator SPVs were using.

2.66 In the Firm's credit proposals for the initial Generator Loans an undated third party valuation report was referred to and described as a "*third party valuation done for the seller*". That valuation report was prepared for GFG B Co and did not relate to the Generator SPVs' 13 Generators, but instead to other generators to be installed and operated on GFG sites. The Board was informed of the initial Generator Loans before they were entered into, but was not told that the valuation did not relate to the Generators which the Firm was financing. The Board did not raise any challenge or questions in respect of either credit or LE issues relating to the initial Generator Loans.

2.67 The undated valuation referred to in the previous paragraph indicated that, without offtake contracts in place, the Generators were worth approximately £1m per MW of energy they could generate. Applying this formula, the initial amount of each Generator Loan was less than the value of the Generators owned by the applicable Generator SPV borrower (without offtake contracts).

2.68 However, the Firm's valuations for the purposes of its credit proposals for the Generator Loans were not based on the value of the Generators without offtake contracts, i.e., the assets the Firm was actually financing; rather, they were based on the cash flows that were projected to flow once the Generators were deployed under long term offtake contracts.

2.69 The credit proposals for the initial Generator Loans referred to two separate valuation models. Both valuation models were based on long-term offtake contracts being entered into (although no such contracts had been entered into), and the Firm structured the Generator Loans as 12 month bridge loans on the basis that they would be likely to be repaid once the Generator SPVs had agreed long term contracts related to the operation of the Generators.

2.70 Although the Generator acquisitions were entirely debt-financed by the Firm and the Generator SPVs had no other assets which formed part of the Firm's credit assessment, the Firm did not receive or require copies of, or summaries of the terms of, the agreements pursuant to which the Generator SPVs acquired the Generators from GFG B Co as part of its due diligence process before making, or as conditions precedent to the availability of, the first advances of the Generator Loans (or any of the increases). The Firm therefore did not know the purchase prices of the Generators, what the payment terms were or what recourse, if any, the Generator SPVs had to GFG B Co, e.g., if the Generators were defective. Further, before making the first advances of the Generator Loans, the Firm did not request confirmation that the insurance coverage for the Generators had been assigned to the Generator SPVs (the Firm did request this confirmation in August 2017, when it transpired that the insurance coverage had not been assigned).

2.71 Before it entered into the Generator Loans the Firm assumed, but did not take steps to verify, that GFG B Co had procured the transfer of the Ofgem registration of the Generators to the Generator SPVs. In fact, during (and after) the Relevant Period a GFG entity remained registered with Ofgem in respect of the Generators, a fact the Firm only became aware of in November 2020, after the end of the Relevant Period. The Firm therefore did not appreciate that any ROCs Ofgem issued in respect of the Generators would be credited to that GFG entity's account with Ofgem, not to Ofgem accounts in the names of the Generator SPVs themselves. Because the Firm was unaware that ROCs would be credited to that GFG entity's account, it also was unaware of what, if any, rights the Generator SPVs had to require that GFG entity to deliver the ROCs to them. As noted in paragraph 2.58 above, those credit proposals projected that approximately half the Generator SPVs' revenues would come the sale of ROCs to electricity suppliers. If the GFG entity in whose name the Generators were registered with Ofgem became subject to insolvency proceedings the Generator SPVs would be likely to encounter difficulties in claiming the ROCs from it. Consequently, from the outset the Generator SPVs were highly likely to experience funding or repayment difficulties if that GFG entity was to experience financial problems and therefore the Generator SPVs constituted a group of connected clients with GFG.

C. The first increases in the Generator Loans in October-December 2017

2.72 The Firm advanced the first increase of each of the Generator Loans in late 2017.

2.73 The first increases in the Generator Loans meant that the increased amount of each Generator Loan was approximately 1.4x the value (determined by reference to the £1m per MW of energy generation capability formula in the undated valuation referred to in paragraph 2.66 above) of the Generators owned by the applicable Generator SPV borrower (without offtake contracts). The Firm did this based on the cash flows it projected to flow once the Generators were deployed under long term offtake contracts, despite no such contracts having been entered into.

2.74 Shortly before the first increase in each Generator Loan, the Generator UBO of each Generator SPV wrote a letter to the Firm in substantially identical terms saying that "*you are aware that we continue to work with [GFG B Co] with a view to formalising our ongoing O&M (Operations and Maintenance) agreement, whereby [GFG B Co] will be contracted to provide ongoing and essential services to us regarding both the optimisation of the assets and the monetisation of future and long-term revenues*". The Firm was therefore aware at the time of advancing the first increases that no formal operation and maintenance contracts existed with GFG B Co and that all five Generator UBOs considered such contracts essential.

2.75 In the letter referred to in the previous paragraph, the Generator UBO of each Generator SPV also informed the Firm that the relevant Generator SPV owed deferred consideration to GFG B Co in respect of the Generators which would be financed from the proceeds of the first Generator Loan increase.

2.76 Because at the time the initial Generator Loans had been made the Firm did not know the terms on which the Generator SPVs were acquiring the Generators from GFG B Co, it did not know that deferred consideration was apparently payable to GFG B Co in respect of the Generators. There is no record of the Firm considering whether the existence of deferred consideration breached the restrictions on financial indebtedness contained in each facility agreement. The Firm did not conduct due diligence in relation to the deferred consideration element when it was informed of this and before (or after) the Generator Loans were first increased. As a result, it did not establish the quantum of such deferred consideration, whether it was variable or fixed, when it was payable, or the circumstances in which it was payable.

2.77 Further, the Firm did not consider whether the existence of GFG B Co as another creditor of the Generator SPVs in respect of the deferred consideration had any implications for the Firm's position as a creditor of the Generator SPVs, or for its LE analysis of the Generator Loans. The existence of GFG B Co as another material unsubordinated creditor of the Generator SPVs was potentially of significant importance to the Firm, as the Generator SPVs had no other resources to fund payment of the deferred consideration (other than from the proceeds of further advances by the Firm). Their failure to pay could have resulted in GFG B Co commencing proceedings against them to recover the amounts due to it, effectively forcing the Firm to accelerate the Generator Loans. If GFG B Co encountered financial difficulties it, or its insolvency practitioner, would have been likely to take steps to recover the deferred consideration.

2.78 Because the Firm did not establish the terms of the deferred consideration, it also did not consider whether it potentially impacted upon the security granted to the Firm in connection with the Generator Loans through, for example, retention of title rights over the Generators until GFG B Co had been paid in full.

D. The second increases in the Generator Loans in April 2018

2.79 The Firm advanced the second increase of each of the Generator Loans in April 2018.

2.80 The second increases meant that the increased amount of each Generator Loan was approximately twice (determined by reference to the formula in the undated valuation referred to in paragraph 2.66 above) the value of the Generators owned by the applicable Generator SPV borrower (without offtake contracts). No long term offtake contracts had been entered into, but the Firm approved the increases based on a proposal by GFG B Co (as agent of the Generator SPVs) to deploy the Generators on shorter term (three to five year) offtake contracts, whilst long term offtake contracts were negotiated.

2.81 The undated valuation referred to in paragraph 2.66 above was also referenced in the April 2018 CSC meeting which approved the second increases in the Generator Loans. The Firm was aware of the difference between the value of the Generators without offtake contracts in place and the amounts of the Generator Loans. In that meeting, a senior Wyelands executive noted that the disparity highlighted the importance of getting offtake contracts in place. There was no discussion or challenge at the CSC meeting as to the applicability of the undated valuation to the Generators, in particular the condition of the Generators and whether the Firm was entitled to rely on the valuation.

2.82 In the April 2018 CSC meeting, a senior Wyelands executive justified the second increases on the bases that the Firm had been "*very conservative with the [loan to value ratio] up to now*" and that, if the Generator SPVs did not enter into offtake contracts, the Firm would be able to make a full recovery in respect of the Generator Loans by taking possession of the Generators and appointing an agent to commission them and negotiate offtake contracts on its behalf. However, there is no evidence of any assessment, challenge or discussion within the Firm regarding how long this would take, how much it would cost, or how feasible it would be.

E. Interest payments

2.83 The facility agreements between the Firm and the Generator SPVs required interest to be paid by the Generator SPVs in cash at not more than three-monthly intervals (unless otherwise agreed by the Firm). Despite the Generator SPVs all being newly incorporated and possessing no other assets or sources of revenue, the June 2017 credit proposals for the initial Generator Loans did not explain how the Firm anticipated the Generator SPVs would pay cash interest before they had started to generate revenues from the deployment of the Generators. The Firm has been unable to confirm how the Generator SPVs funded interest payments.

2.84 The July 2017 credit proposals in respect of the first increases in the Generator Loans stated that the Firm had been asked to increase them to assist the Generator SPVs with their cashflow, although it appears that at least part of the first increases funded payment of the deferred consideration to GFG B Co referred to at paragraph 2.75 above. While the April 2018 credit proposals in respect of the second increases in the Generator Loans did not set out what the Generator SPVs would use the increases for, in the April 2018 CSC meeting which approved the second increase in one of the Generator Loans, a senior Wyelands executive said that it would be used partly for debt servicing.

2.85 Since the Firm provided additional funding above the valuation of the Generators, and proceeds of the Generator Loans were permitted to be used for the general corporate and working capital purposes of the Generator SPVs, the Generator SPVs were permitted to use at least part of the proceeds of that additional funding to pay interest. If this was the case, the Firm would have been advancing further monies to fund interest payments to itself.

2.86 From at least March 2019, there were a number of delays in the payment of interest by all five Generator SPVs, resulting in payment defaults under the facility agreements. At the time, the Firm was not aware of any other sources of funding which were available to the Generator SPVs. This did not prompt the Firm to make any enquiry of the Generator SPVs (or GFG B Co) as to how interest payments would be funded.

F. Non-delivery of required accounts

2.87 Under its facility agreements with each of the Generator SPVs, the Firm was entitled to receive their monthly management accounts within seven days of each month end, and their annual audited accounts within 180 days of each financial year end. However, the Firm did not receive any accounts for any of the Generator SPVs for over two years after making the initial Generator Loans, during which period it twice increased, and also twice extended the maturity of, the Generator Loans.

2.88 There is no record of the Firm requesting management accounts for the Generator SPVs during the Relevant Period, nor of the Firm receiving any management accounts before September 2019, when it received management accounts for three of the Generator SPVs for the months of June or July 2018 (i.e. when they were 14 months old) in connection with an extension of maturity of the Generator Loans. The Firm requested GFG B Co to provide the Generator SPVs' 2018 audited accounts a number of times from March 2019 onwards (when four of the five Generator SPVs were overdue under their respective facility agreements in delivering their accounts), and received them in October 2019 (by which time the 2018 audited accounts of four of the five Generator SPVs were more than eight months overdue under their respective facility agreements).

G. Delays and extensions; Generator SPVs' other business activities

2.89 At least at the outset, the business of each of the Generator SPVs was limited to the generation of power through the Generators. Under the facility agreements the Generator SPVs undertook that "*no substantial change*" would be made to the business of the Generator SPVs.

2.90 In September 2018 three of the Generator SPVs entered into the transactions with the Firm described below at paragraphs 2.107 to 2.111, by separately purchasing companies which owned power plants, guaranteeing the loans the Firm made to those companies and pledging their shares in those companies to secure those guarantees. There is no record that the Firm considered at the time whether the Generator SPVs' entry into the power plant transactions breached the terms of the facility agreements relating to the Generator Loans, nor of the Firm considering whether those Generator SPVs' entry into the power plant transactions posed additional risks to the Firm in respect of its existing Generator Loans to them.

2.91 The Generator SPVs also each entered into commodity trading transactions in their respective 2018 financial years, the scale of which significantly exceeded the values of the Generators (according to the undated valuation referred to in paragraph 2.66 above and the Generator values reflected in the Generator SPVs' respective 2018 audited accounts). The Firm was not aware of this until September 2019.

2.92 At a July 2019 CSC meeting, the CSC considered a further maturity extension for the Generator Loans. The committee noted the lengthy further period (after contract signature) required to deploy the Generators, during which time the Generator SPVs would not generate revenue. At that time the Firm was not aware that all the Generator SPVs were trading commodities. However, it had been aware of the fuel supply issue (the original proposed fuel was too abrasive and caused the Generators' emissions to be too high), which the July 2019 credit proposal described as "*key*" and made clear had not been resolved, since at least October 2018. The Firm understood that a solution to this was being worked on. The credit proposal also said that all interest payments had been met '*in a timely fashion*', but in fact the quarterly interest payments due from all five Generator SPVs at the end of March 2019 had been paid sufficiently late that there had been payment defaults under the facility agreements. These payment defaults were not discussed at the CSC meeting and there is no record that the committee members were aware of them.

2.93 In advance of the July 2019 CSC meeting referred to above, a number of questions regarding the Generator SPVs' accounts being overdue, their additional sources of liquidity, progress regarding resolving the fuel supply difficulties and regarding potential offtake contracts, the Firm's strategy for being repaid and the value of its security were raised to the Firm's Risk function and Origination team. There is no record of these concerns being resolved. The credit proposals relating to the proposed extensions referred to advice from GFG B Co that "*they expect all units to be deployed in the next 12 – 18 months*". Despite the repeated delays up to that point, there is no record of the Firm challenging GFG B Co's basis for providing this advice, or obtaining independent verification of it. The credit proposals also referenced the undated valuation referred to in paragraph 2.66 above (which was at least two years old by then), saying that "*These valuations have not been refreshed but the company do not expect these to have moved significantly*". The Firm did not obtain an independent third party assessment of the Generators at that time to verify their condition.

2.94 Following the July 2019 CSC meeting, the Firm extended the maturities of the Generator Loans to September 2019.

2.95 The Firm became aware in September 2019, when it received the June/July 2018 management accounts for three of the Generator SPVs, that at least those three Generator SPVs were, or had been, trading commodities. There is no record that at the time (or later) the Firm considered whether this breached its facility agreements with them, questioned why three apparently independent companies all commenced trading commodities at about the same time, or considered the possibility of additional risks to the Firm posed by the existence of trading counterparties as other material unsubordinated creditors of those Generator SPVs. Shortly after, the Firm extended the maturities of the Generator Loans to October 2019.

2.96 The Generator SPVs' 2018 annual audited accounts, which the Firm received from GFG B Co in October 2019, confirmed that they had all been trading commodities. Their accounts indicate that they only incurred minimal administrative expenses, and it is not clear who conducted the commodity trading on their behalf. There is no record that this was considered by the Firm or prompted any enquiry by it.

H. The Firm's Large Exposures assessments

2.97 Despite taking steps to assess through credit due diligence and AML/KYC processes whether clients were connected, as a result of deficiencies in the Firm's policies and procedures, the Firm did not identify that any of the Generator SPVs constituted a group of connected clients with GFG B Co, or with each other, during the Relevant Period. Consequently, it did not report its exposures to any of the Generator SPVs as connected to the GFG Alliance, or to any of the other Generator SPVs, in any of its LE submissions to the PRA in the Relevant Period.

2.98 Prior to April 2019, the Firm did not conduct a formal assessment regarding whether the Generator SPVs were reliant on GFG B Co to perform its roles on their behalf in respect of the Generator Loans and the Generators such that the Generator SPVs were economically dependent upon GFG B Co, and therefore connected to GFG B Co (and therefore the GFG Alliance) for LE purposes.

2.99 In April 2019, the Firm did undertake connected party reviews in respect of the Generator SPVs. Those reviews identified their potential economic dependence on GFG B Co, but concluded that "*there are multiple [outsourced service providers] in the renewables space which negates dependency*". The reviews did not consider whether there could be any adverse legal, financial or practical consequences for the Generator SPVs of switching to another outsourced service provider, nor (consequently) any potential adverse impact of those consequences on the Generator SPVs' ability to service and repay the Generator Loans. At the time of those reviews the Firm was not aware of the commodity trading activities undertaken by the Generator SPVs, so consequently did not consider any connections arising between the Generator SPVs as a result of those activities.

2.100 At the July 2019 CSC meeting which considered a further extension of maturity of the Generator Loans, a committee member queried the extent of the Generator SPVs' reliance on GFG B Co to deploy, manage and operate the Generators. As a result, the Firm asked GFG B Co whether it could be replaced in those roles. GFG B Co responded that it could be replaced, and referred to named alternative suppliers. The CSC did not scrutinise this response, and no further analysis was conducted regarding how feasible or costly it would be to replace GFG B Co, or any consequent impact on the Generator SPVs' ability to service and repay the Generator Loans.

2.101 Following Wyelands' receipt in October 2019 of the Generator SPVs' 2018 annual accounts, a senior Wyelands executive raised concerns regarding whether the commonalities and potential connections between the Generator SPVs' trade creditors, trade debtors and the wider GFG Alliance meant that the Generator SPVs were economically dependent on each other. However, as a result of deficiencies in its policies and procedures in relation to connected parties, the Firm did not identify that these created any economic dependencies, and should therefore be aggregated for LE purposes, during the Relevant Period.

2.102 The Firm accepted in its connected parties review conducted in August 2020 (after the end of the Relevant Period) that, as a result of their trading relationships, the Generator SPVs were economically dependent on GFG. Because the Firm did not enforce its rights under the facility agreements to receive accounts promptly it therefore did not receive information which ultimately led it to conclude that the Generator SPVs were economically dependent on GFG.

2.103 The Firm also accepted in that review that the Generator SPVs were economically dependent on the GFG Alliance because, as a result of the fuel problem with the Generators, the initial plan to deploy them had failed and the problem could only be overcome if they were combined with generators held by GFG B Co to achieve economies of scale on deployment. In its LE submissions to the PRA from June 2020 onwards, the Firm did aggregate its exposures to the Generator SPVs with its GFG exposures.

I. Outcome

2.104 The three Generator SPVs which entered into the power plant transactions did not generate any material additional income from those transactions, or any material return in July 2019 when they sold the companies they had purchased. While all the Generator SPVs did generate an operating profit from their commodity trading activities in their respective 2018 financial years, the profit was in each case less than the interest payable on the Generator Loans, resulting in the Generator SPVs all making a loss. All the Generator SPVs therefore remained dependent upon the Generators to generate sufficient funds to enable them to service and repay the Generator Loans.

2.105 The Firm considered it had been provided with credible information from the Generator SPVs to address the issues and until October 2019 continued to rely on the potential for the Generators to generate the projected future cash flows. The Firm did not obtain independent third party validation of the information it received which it could rely on. Neither did the Firm at any time request any equity contribution from the Generator UBOs to reduce the Firm's exposures. There is no record that during the Relevant Period the Firm obtained any legal advice regarding, or undertook any preparatory work in respect of, taking enforcement action to recover the amounts owing to it under the Generator Loans (although the Firm has told the PRA that it has since taken steps to do so). The Firm did not undertake an updated assessment of the value of its security until the end of April 2020, when it instructed an independent chartered surveyor to provide a valuation of the Generators (the valuer provided its report in July 2020, after the end of the Relevant Period).

2.106 On 7 October 2019 the Firm requested each Generator SPV to repay its Generator Loan by 28 February 2020. The Generator Loans were still outstanding as at 31 December 2022 and the Firm had fully provided for the amounts owing to it in respect of them.

The Power Plant Loans

A. The loans

2.107 In September 2018, the Firm made 12 separate loans ("**Power Plant Loans**") totalling approximately £104m to 12 companies ("**Power Plant SPVs**"). Eleven of the Power Plant SPVs owned power plants ("**Power Plants**"). The twelfth company ("**OpCo**") provided operation and maintenance ("**O&M**") services in respect of the Power Plants on behalf of the other eleven.

2.108 Before the transactions the Power Plant SPVs were all ultimately owned by GFG B Co (which had acquired them from an unconnected third party in March 2018), were within a consolidated group, had common sources of intercompany funding and a number of common directors. The Firm understood that although the Power Plant SPVs operated as a consolidated group, they were always individual vehicles with differing characteristics and separate cash flows.

2.109 Each Power Plant SPV used the proceeds of the Power Plant Loan made to it to finance the fees and costs payable by it in respect of that loan, to make an intercompany loan to the company acquiring it (a "**New Parent**", and the owner of each New Parent a "**Power Plant UBO**"), to enable that New Parent to fund the purchase price payable for that Power Plant SPV, and (other than OpCo) to repay amounts drawn under an existing facility agreement owing to a third party lender. Each Power Plant SPV was owned by a separate New Parent.

2.110 Each New Parent entered into a Share Purchase Agreement (an "**SPA**") in respect of the purchase of the relevant Power Plant SPV. The Power Plant UBOs did not make any investment in the New Parents in connection with the transactions.

2.111 In connection with the transactions, the Firm itself also acquired the shares in three other SPVs ("**Firm SPVs**") which were in the process of constructing Power Plants. The Firm also provided loan facilities to two of the Firm SPVs to finance the construction costs of the Power Plants (or for such other purposes as the Firm may have agreed). The Firm lent £250,000 to the Firm SPVs when it purchased them, and subsequently (in 2019) lent them a further £2.34m ("**Firm Loans**").

2.112 At completion in September 2018 all the existing directors of each Power Plant SPV and Firm SPV were replaced, with the Power Plant UBO of the relevant New Parent as sole director or, in the case of the Firm SPVs, senior Wyelands executives appointed as directors. Following the subsequent sale of the Power Plant SPVs and Firm SPVs in July 2019 (see paragraph 2.146 below) two of the previous directors, who had substantial experience of operating power plants, rejoined the board of each Power Plant SPV and Firm SPV.

2.113 Each Power Plant SPV charged all its assets to the Firm to secure the Power Plant Loan the Firm made to it (but not the Power Plant Loan made to any other Power Plant SPV). In addition, the New Parent of each Power Plant SPV guaranteed the obligations of that Power Plant SPV (but not the obligations of any other Power Plant SPV) and pledged the shares in that Power Plant SPV to secure its guarantee.

2.114 As noted in paragraph 1.13 above, the 25% Large Exposures limit in the CRR applies to exposures to the same person or to a group of connected persons. Financial difficulties elsewhere in the GFG Alliance would be likely to involve contagion to GFG B Co, and therefore for LE purposes GFG B Co was connected to other members of the GFG Alliance.

2.115 Consequently, if the Power Plant SPVs constituted a group of connected clients with GFG B Co, the Firm would be required to aggregate its Power Plant Loan exposures with its exposures to members of the GFG Alliance. This would be the case if the Power Plant SPVs were so interconnected with GFG B Co that if GFG B Co was to experience financial problems, in particular funding or repayment difficulties, the Power Plant SPVs would be likely to do so. The Firm's direct exposures to members of the GFG Alliance referred to in paragraph 1.21 above already utilised most of the LE limit. If the Power Plant SPVs constituted a group of connected clients with GFG B Co the Firm would therefore have been unable to make the Power Plant Loans or to maintain those exposures.

2.116 In order to provide the Power Plant Loans, Wyelands received a £10m capital injection, which increased the capital of the Firm reported by it to the PRA to £101.72m. The Power Plant Loans together had a value equal to c.102% of the Firm's capital reported by it to the PRA and 29% of the Firm's entire loan book in September 2018. Therefore, if the Power Plant SPVs constituted a group of connected clients with each other, the Firm would have been unable to make the Power Plant Loans or to maintain those exposures. The Power Plant SPVs would constitute a group of connected clients with each other if they were so interconnected that if one of them was to experience financial problems, in particular funding or repayment difficulties, the others would be likely to do so.

B. Negotiation of and entry into the Power Plant Loans in June-September 2018

2.117 The Power Plant UBOs were apparently independent of each other and of GFG B Co. However, as set out below, from the outset the Firm was aware of a number of connections or commonalities between the Power Plant UBOs, the New Parents, the Power Plant SPVs and the GFG Alliance:

a. A GFG entity introduced the transactions to the Firm and provided regulatory/structuring advice to the Firm regarding the transactions (in relation to the LE issue).

b. GFG proposed the New Parents and the Power Plant UBOs to the Firm as purchasers of the Power Plant SPVs.

c. The Firm was aware that a number of the Power Plant UBOs had pre-existing relationships with GFG, since three Power Plant Loans were to Power Plant SPVs being acquired by New Parents which were also Generator SPVs and five Power Plant Loans were to Power Plant SPVs being acquired by New Parents which were also RTBs in the GFG A Co receivables transactions. Some of the Power Plant UBOs had connections to each other and/or to GFG, including one Power Plant UBO who was listed as a director of a number of GFG entities, although the Firm did not realise this until January 2019.

d. Eight of the 12 New Parents had the same registered address, and three of the other four New Parents had the same registered address, which was also the address of an accounting firm which audited a number of GFG companies.

e. There was no contact between the Power Plant SPVs, the New Parents, the Power Plant UBOs and the Firm other than correspondence to verify the identities of the New Parents and the Power Plant UBOs. All other discussions by the Firm relating to the transactions were with representatives of the GFG Alliance. GFG negotiated the terms of the Power Plant Loans on behalf of the respective Power Plant SPVs, New Parents and Power Plant UBOs. The Firm did not receive any comments or challenge from any of the Power Plant SPVs, New Parents or Power Plant UBOs to the terms and conditions or price and size of the Power Plant Loans. All the SPAs, the facility agreements for the Power Plant Loans and related documentation were structured in the same way and on the same terms.

f. The SPAs, the facility agreements for the Power Plant Loans and related documentation were generally signed on behalf of the New Parents by an officer of GFG B Co (i.e. the ultimate seller), rather than an independent party, under a power of attorney, which also gave the attorney wide power to execute other documents the attorney considered desirable in connection with the acquisition.

g. The possibility of GFG B Co repurchasing the Power Plant SPVs in the future was discussed by the management of the Firm before it entered into the transactions and a number of the documents which were executed in relation to the transactions referred to call options between the New Parents and GFG

B Co in relation to the shares in the Power Plant SPVs. No documented or formal call options seem to have been granted. The Firm's management were aware of some discussion regarding GFG B Co having call options, but did not know whether it did in fact have them.

h. All of the Power Plant SPVs retained a GFG brand in their names following completion of the sales to the New Parents (a point which was noted by the Firm's Audit Committee in March 2019).

i. While an initial arrangement fee received by the Firm in respect of the Power Plant Loans was paid by OpCo (by deduction of the fee from the amount advanced by the Firm to OpCo), a subsequent, significantly larger, arrangement fee, which represented the majority of the return to the Firm in respect of the Power Plant Loans, was payable by GFG B Co (by instalments).

2.118 The Firm did not make further enquiries at the time regarding the above connections or commonalities with a view to establishing whether the relationships were such as to result in the Power Plant SPVs being connected to each other or to GFG for LE purposes.

2.119 The transactions were approved under time pressure. There is evidence that this compromised the structuring work the Firm did in relation to the transactions.

2.120 The Firm viewed the transactions as cashflow-based lending. It conducted a credit assessment of the cashflows which the individual Power Plant SPVs generated from energy production, of the risks associated with electricity production and of the ability of each Power Plant SPV to independently pay interest on and repay the Power Plant Loan which it had borrowed.

2.121 As part of its due diligence process, the Firm reviewed a November 2017 financial due diligence report by an accounting firm and a February 2017 operational due diligence report by a technical consulting firm. However, those reports had not been prepared for the purposes of the transactions which took place in September 2018, but for the use of GFG B Co in relation to its purchase of the Power Plant SPVs and the Firm SPVs in March 2018. GFG B Co was not entitled to share the reports with the Firm, and the Firm did not have any reliance rights in respect of the information they contained. The Firm's management was aware of these issues at the time. The reports were also quite dated by September 2018, so facts and circumstances could have changed (particularly because a number of the Power Plants were under development when the site visits for the operational due diligence report were made in April 2016), and assumptions which had been made in the reports could have been either validated or invalidated by actual events in the interim period. In addition, the reports were prepared in relation to a transaction in which GFG B Co acquired all of the Power Plant SPVs and the Firm SPVs as a consolidated group; the accounting and technical consulting firms may have wished to express additional comments in the context of a break-up of the group through separate acquisitions by different independent third parties. In the November 2019 Risk Committee meeting one of the Firm's Independent non-executive directors commented that "*any third party due diligence providers should report their duty of care to the Bank, not to the GFG Group for example (in reference to the various [Power Plant Loan] exposures discussed earlier), as GFG's advisers may have conflicts of interests*".

2.122 The Firm's CSC approved each of the Power Plant Loans. The amount of one of the Power Plant Loans was above the limit on authority delegated by the Board and so Board approval for that loan alone was sought by email sent to directors on a Saturday (although the email also referenced the proposed maximum amount of the Power Plant Loans). The Board raised certain questions by email and approved the relevant loan by individual email responses the same day or the following day. Despite the aggregate size of the Power Plant Loans relative to the Firm's capital base, no director requested a formal meeting of the Board to discuss the transactions or further time to consider them. In the November 2019 Risk Committee meeting one of the Firm's Independent non-executive directors commented that *"if a Board call had been held to assess the deal, there would have been an opportunity for the Board to look at the structure in more detail, and explore potential issues; and that a Board call should be held if complex or unusual deals arise again*."

2.123 The Firm's CSC and its Board approved the Power Plant Loans before the identities of the New Parents and the Power Plant UBOs had been confirmed.

2.124 The Firm did not know why the Power Plant UBOs were entering into the transactions and did not meet them as part of the credit approval process. The Power Plant UBOs were not required to make any investment in the New Parents to finance the transactions. While the terms of the Power Plant Loans contained a number of protective provisions (including borrowing restrictions and a prohibition on cash leakage to the Power Plant UBOs), because the Power Plant UBOs owned and controlled the

Power Plant SPVs, their motivation for entering into the transactions and an assessment of whether the Power Plant UBOs would be likely in practice to comply with the restrictions imposed by the loan terms were both relevant to the Firm's credit decisions. In fact, breaches of the borrowing restrictions in the Power Plant Loans did occur, as referred to in paragraph 2.129 below.

2.125 The Firm was aware that GFG B Co was 'match making' each New Parent to a specific Power Plant SPV with reference to the Firm's lending limit for that New Parent, which implied that each Power Plant UBO was not personally selecting the Power Plant SPV that Power Plant UBO wished to acquire.

2.126 As noted in paragraph 2.117c above, eight of the twelve New Parents owned by the Power Plant UBOs were already borrowers of the Generator Loans or participating in the GFG A Co receivables transactions. Consequently, to the Firm's knowledge, at least those eight New Parents were not newly-incorporated companies with no other liabilities created specifically for the purpose of the Power Plant transactions, because they already had liabilities as a result of the Firm's existing exposures to them. The Firm's management did not discuss at the time whether this posed any additional risks to the Firm in the context of its Power Plant Loans to the Power Plant SPVs owned by those New Parents.

2.127 The Firm did not analyse how the purchase prices for the Power Plant SPVs specified in the SPAs would be funded. The Firm's management has been unable to reconcile the flow of funds out to payment of the purchase prices, repayment of the Power Plant SPVs' intercompany balances and payment of acquisition costs. The residual Power Plant Loan proceeds available after payment of the amount owing to the third party lender were insufficient to satisfy the aggregate amount payable under the SPAs for the Power Plant SPVs, but the Firm's management has been unable to explain how the balance was settled.

2.128 The Firm was informed prior to lending that there were outstanding intercompany balances between the various Power Plant SPVs, and between them and GFG B Co, and the Firm's understanding was that the closing funds flow statement (which was prepared by OpCo) would eliminate all those intercompany balances. However, the Firm did not review the closing funds flow statement or any opening balance sheets or other financial information in respect of the Power Plant SPVs which should have disclosed intercompany balances and did not analyse how those balances would be unwound as part of the completion process. If the financial due diligence report had been up-to-date and prepared in the context of a break-up of the Power Plant SPV group through separate acquisitions by the New Parents (rather than being nine months old and prepared in respect of GFG B Co's previous acquisition of the Power Plant SPVs as a consolidated group) it should also have shown the intercompany balances. In the 26 November 2019 Risk Committee meeting one of the Firm's Independent non-executive directors commented that the Firm *"should have asked what the deals were, their rationale, and the use of the funding to pay down debts, in order to be sure that the funds were not being transferred to the wrong entities*."

2.129 In fact, following closing of the transactions four intercompany loans (in amounts of £31.8m, £726,000, £6.6m and £761,000) remained owing by separate Power Plant SPVs to other Power Plant SPVs or GFG entities, which breached the borrowing restrictions in the facility agreements for the Power Plant Loans.

2.130 As noted in paragraph 2.111 above, as part of the transactions the Firm itself purchased the shares in the Firm SPVs and also provided the Firm Loans to two of the Firm SPVs to finance construction of the plants or for such other purposes as the Firm may have agreed. The terms of reference of the Firm's Board of Directors required the Board to approve the acquisition of the Firm SPVs, but Board approval of their acquisition was not obtained (the Firm's Independent non-executive directors did not become aware of the Firm's acquisition of the Firm SPVs until March 2019). Several of the Firm's Independent non-executive directors have confirmed to the PRA that owning power plants in the course of development was not consistent with the Firm's risk appetite.

C. Drawdowns and closing in September 2018

2.131 The Power Plant Loan to OpCo was drawn down first, on 18 September 2018. This loan could be made before the others because OpCo was the only Power Plant SPV whose assets were not already charged to the third party lender referred to in the following paragraph. The Firm's credit approval did not address the possibility of the Firm financing the acquisition of OpCo without also financing the companies which owned the Power Plants. There is no record of any discussion within the Firm regarding whether making a loan to OpCo was consistent with the credit approval, or how that loan would be immediately repaid if for any reason the other Power Plant Loans were not subsequently made, and the Firm's facility agreement with OpCo did not contain any early repayment mechanics to cover that eventuality (even assuming OpCo could make repayment in those circumstances). The facility agreements between the Firm and the other Power Plant SPVs were all dated 24 September 2018, which was the same day the Firm advanced their respective loans to them. The Firm's loan to OpCo six days before it entered into the facility agreements with, and made loans to, the other Power Plant SPVs was therefore not in accordance with the terms of the credit approval which had been provided.

2.132 The Firm transferred most of the proceeds of the Power Plant Loans advanced on 24 September 2018 directly to an existing third party lender to the Power Plant SPVs, to discharge in full the amounts they owed it, and transferred the balance to accounts of two of the Power Plant SPVs.

D. Developments after closing

2.133 The Firm's Board Risk Committee became aware in October 2018, a month after drawdown of the Power Plant Loans, of a potential repurchase of the Power Plant SPVs by GFG B Co and sale of them to an AIM-listed company in which GFG had an interest. In November 2018 the AIM-listed company made an AIM announcement that it had conditionally agreed to buy the Power Plant SPVs from GFG B Co. Since at the time GFG B Co did not own the Power Plant SPVs and, to the Firm's knowledge, apparently had no right to repurchase them, it is unclear why or how GFG B Co agreed to sell them to the AIM-listed company.

2.134 There is no record that the Firm's management raised questions or concerns with GFG B Co, with other members of GFG or with GFG executives at the time regarding the circumstances surrounding or the terms of this potential repurchase, or whether GFG B Co did in fact have a call option or repurchase agreement or any other rights in respect of, or continuing connections with or controls over, the Power Plant SPVs. Nor is there any record that news of the potential repurchase caused the Firm to reconsider whether its understanding of the transactions which had taken place in September 2018 had been correct, and had been correctly reported to the PRA, or whether GFG B Co still had rights in respect of, or connections with or controls over, the Power Plant SPVs which were relevant to determining whether the Power Plant SPVs were connected to GFG B Co for LE purposes.

E. The Firm's Large Exposures assessments

2.135 The Firm's management was aware of the potential LE issue and that, if the Power Plant SPVs constituted a group of connected clients, the Firm would have been unable to make the Power Plant Loans. The Firm consequently sought to comply with the LE regime by structuring the Power Plant Loans in such a way that they would not be (as the Board described in correspondence between themselves at the time) "*aggregated*". Although, through the Firm's credit due diligence and AML/KYC work, steps were taken to assess whether the Power Plant SPVs were connected with GFG B Co or with each other, as a result of deficiencies in the Firm's connected parties policies and procedures, the Firm did not treat the Power Plant SPVs as constituting a group of connected clients with GFG B Co or with each other during the Relevant Period. Consequently it did not report any of its exposures in respect of the Power Plant SPVs as connected to the GFG Alliance or to the other Power Plant SPVs in any of its LE submissions to the PRA in the Relevant Period.

2.136 Prior to April 2019, the Firm did not conduct a formal assessment regarding whether any of the Power Plant SPVs were economically dependent upon GFG B Co or any of the other Power Plant SPVs, and therefore connected to them for LE purposes. However, before entering into the Power Plant Loans, the Firm's management concluded that each Power Plant was not dependent on any other Power Plant. In one of the email exchanges concerning approval of the Power Plant Loans one of the Independent non-executive directors asked if "*we are absolutely confident that the SPV structure does not risk creating large exposures ie that the SPVs would not be aggregated together, and that none of them would be deemed to be part of GFG or other parties with whom we have lending relationships*", to which he received a response from an officer of the Firm who had other roles with GFG that "*I have the customary conflict of interest in terms of the [GFG B Co] sales to the SPV. I have no conflict of interest regarding the SPV owners themselves and have been involved in ensuring that the structure would not be aggregated and meets the requirements for independence required to have them as a non group exposure*". This exchange was copied to the rest of the Board. The Firm relied on this confirmation, and did not instruct independent advisers to confirm whether this was correct.

2.137 As noted in paragraph 2.128 above, the Firm was informed prior to advancing the Power

Plant Loans that there were certain outstanding intercompany balances between the various Power Plant SPVs, and between them and GFG B Co. Its understanding (but without confirming mechanically how such would be achieved) was that those balances would be extinguished as part of the funds flows on closing of the transactions, Consequently, it did not assess whether the relevant Power Plant SPV debtors could repay or refinance them if and when required to do so, or whether a requirement to do so could cause financial difficulties for those debtors. Therefore it did not assess whether those intercompany loans caused the Power Plant SPV debtors to be economically dependent on the respective creditors for LE purposes. It would have been prudent for the Firm to view at least some of the Power Plant SPV debtors as connected parties of the respective creditors for LE purposes due to the relative size of the intercompany loans owing by those Power Plant SPV debtors.

2.138 In its credit assessment the Firm emphasised the experience of the management team in OpCo in providing O&M services in respect of the Power Plants to the other Power Plant SPVs. The individual Power Plant SPVs did not have any management, other than in each case the respective Power Plant UBO, and relied on OpCo to provide all the services required to manage and run the Power Plants. The Firm regarded the Power Plant UBOs as passive financial investors who would not be actively involved in the management of the Power Plants and consequently did not rely on them to run the Power Plants. Instead, the Firm relied on the capabilities of the Power Plant SPVs to operate effectively through the use of an external service provider, in this case OpCo, and the Firm's own ability to monitor the performance of the Power Plants through financial information it received pursuant to the facility agreements.

2.139 The Power Plants owned by the Power Plant SPVs had all been developed by OpCo and until completion of the transactions in September 2018 key management of OpCo had been directors of each Power Plant SPV. Although each Power Plant SPV could potentially have replaced OpCo as the operator of the relevant Power Plant, the comfort that the Firm's CSC took in having a strong management team to run the Power Plants referred only to OpCo (and specifically to key management of OpCo) and was relevant to the Firm's decision to extend the Power Plant Loans. Before advancing the Power Plant Loans, the Firm did not assess how feasible it would be in practice to replace OpCo as the operator, what the costs of doing so would be likely to be, how long it would be likely to take, what (if any) losses or other dislocation the Power Plant SPVs would be likely to suffer as a result, or any potential consequential adverse impact on the Power

Plant SPVs' ability to service and repay the Power Plant Loans. The Firm therefore did not adequately assess whether each Power Plant SPV was economically dependent on OpCo for LE purposes.

2.140 The credit proposal in respect of the Power Plant Loans referenced that, in addition to its contracts with the other eleven Power Plant SPVs, OpCo had a number of other contracts for the provision of O&M services. The Firm should have considered before advancing its loan to OpCo whether a loss of O&M revenue to OpCo resulting from a failure of one or more of the other Power Plant SPVs would cause financial difficulties for OpCo. If that was the case, then OpCo would have been economically dependent on the relevant other Power Plant SPVs for LE purposes. However, as a result of deficiencies in its policies and procedures relating to connected parties, the Firm did not consider this and therefore did not adequately assess, before advancing its loan to OpCo, whether OpCo was economically dependent on any other Power Plant SPVs for LE purposes.

2.141 Following its receipt and review of the Firm's regulatory return for Q3 2018, in December 2018 the PRA raised queries with the Firm regarding whether the Firm's exposures to the Power Plant SPVs were connected for LE purposes. The Firm responded to the PRA's queries by letter ("**the Firm's January 2019 Letter**") setting out why the Firm had concluded that the Power Plant SPVs were not a group of connected clients for LE purposes and that consequently the Firm was not in breach of its LE limit. The Firm's January 2019 Letter referred to meetings with the Firm's compliance advisers, but did not mention that the compliance advisers referred to were in fact engaged (and paid) by GFG rather than the Firm. There is no record of these meetings or of any written advice or opinion provided by the compliance advisers. The Firm's January 2019 Letter also referred to diligence work done by the technical consulting firm referred to in paragraph 2.121 above, without also mentioning that the work had been done for GFG B Co in the context of its previous acquisition of the Power Plant SPVs, rather than for the Firm in the context of the transactions, and that the Firm was not entitled to rely on it.

2.142 The Firm's Board did not review a draft of the Firm's January 2019 Letter before it was sent to the PRA, but the final form of it was included in the Board pack for the Board meeting later in January 2019. At that meeting the Board discussed the transactions (including noting "*that external (albeit not documented) advice had been obtained on the arrangements*") and the Firm's January 2019 Letter, and concluded that the connected party rules appeared to be outlined well within the Firm's January 2019 Letter.

2.143 Following its review of the Firm's January 2019 Letter and its own internal work, in February 2019 the PRA informed the Firm that it intended to commission a skilled person's review under s166 FSMA to gain an independent opinion on the Firm's compliance with the LE rules in respect of the Power Plant Loans. An independent accounting firm was instructed to act as the skilled person and report back.

2.144 In April 2019, the Firm did undertake connected party reviews in respect of the Power Plant SPVs. Those reviews mentioned the meetings with the compliance advisers referred to in the Firm's January 2019 Letter. In its review in respect of OpCo the Firm did assess whether OpCo was economically dependent on the other Power Plant SPVs for LE purposes, and concluded that it was not. However, in the Firm's reviews of the other Power Plant SPVs it did not assess the feasibility and potential cost, dislocation and losses to them of replacing OpCo as the operator of the Power Plants, merely concluding that it would be possible to source alternative service providers to OpCo. The Firm therefore did not adequately consider whether replacing OpCo as the operator of the Power Plants would be likely to have an adverse impact on those Power Plant SPVs' ability to service and repay their Power Plant Loans. Because at that point the Firm still assumed that the intercompany balances between various Power Plant SPVs, and between them and GFG entities, had all been extinguished, it also did not take those intercompany balances into account in its assessment (indeed, the reviews said that the Power Plant SPVs "*do not have receivables/payables between one another*"). The reviews all concluded that there was no economic dependency between the Power Plant SPVs, or between them and other transactions in the Firm's portfolio.

2.145 The skilled person referred to in paragraph 2.143 above delivered a draft report to the PRA at the end of August 2019 and, following discussions with the Firm and the PRA on the draft report, delivered the final report in early December 2019. The Firm took steps to implement the recommendations. The report's contents were one of the considerations which led to the PRA opening an investigation into the Firm under s.167 FSMA later in December 2019, at the commencement of which it conducted an unannounced visit to the Firm's head office in London. During the visit the Firm co-operated to facilitate the PRA accessing the Firm's relevant files and records.

F. Outcome

2.146 A further AIM announcement by the AIM listed company in June 2019 stated that GFG B Co had agreed to pay an amount to be released from its obligation to sell the Power Plant SPVs to the AIM listed company. In July 2019 each New Parent sold the Power Plant SPV it owned back to GFG B Co, and the Firm sold the Firm SPVs back to GFG B Co, enabling GFG B Co to reconstitute all the Power Plant SPVs and the Firm SPVs into a single consolidated group. The sale price each New Parent and the Firm received was £2,000 more than the purchase price it had paid in September 2018. Immediately after, GFG B Co sold the Power Plant SPVs and the Firm SPVs to a third party for c.£30m more than it had originally paid for them in March 2018. The sales to GFG B Co triggered change of control early repayment provisions in the facility agreements and the Power Plant Loans and the Firm Loans were refinanced in full through funds provided by the buyer and new borrowings from third party lenders.

2.147 Board approval of the sale of the Firm SPVs to GFG B Co was not obtained, despite being required by the Board's terms of reference.

2.148 There is no record that at the time of the sale the Firm's management considered why the Power Plant UBOs had all sold their respective Power Plant SPVs back to GFG B Co at the same time and for the same nominal uplift in the prices they respectively paid, or why the sale prices were substantially less than the amount GFG B Co received when it sold them straight afterwards (and neither have the Firm's management subsequently been able to cast further light on these matters). Nor is there any record that the circumstances of the repurchase and immediate resale of the Power Plant SPVs by GFG B Co caused the Firm to reconsider whether its understanding of the transactions which took place in September 2018 had been correct, and had been correctly reported to the PRA.

The loans to Aluminium SPV and Alumina SPV

A. The loans

2.149 In December 2018 a member of GFG completed the acquisition of a company which operated an aluminium smelter ("**GFG C Co**") from an unrelated third party. The acquisition was financed by a senior secured loan provided by a syndicate of third party lenders and subordinated shareholder funding and equity provided by GFG.

2.150 A significant part of the subordinated shareholder funding and equity provided by GFG was in fact indirectly funded from the proceeds of a distribution by GFG C Co. GFG C Co funded the distribution by selling alumina and aluminium (together "**Commodities**") to another GFG entity ("**GFG D Co**") immediately before closing.

2.151 GFG D Co in turn immediately on-sold the Commodities it purchased from GFG C Co to two companies which were apparently unconnected to GFG, one of which ("**Aluminium SPV**") purchased the aluminium, and the other of which ("**Alumina SPV**' and, together with Aluminium SPV, the "**Commodities SPVs**") purchased the alumina.

2.152 Each Commodities SPV funded its purchase of Commodities from GFG D Co in part by a secured loan from the Firm and in part by deferred consideration which remained outstanding to GFG D Co on an unsecured, but unsubordinated, basis. Each Commodities purchase was therefore entirely debt funded; neither Commodities SPV provided any funding for the purchase from its own resources.

2.153 As noted in paragraph 1.13 above, the 25% Large Exposures limit in the CRR applies to exposures to the same person or to a group of connected persons. Financial difficulties elsewhere in the GFG Alliance would be likely to involve contagion to GFG C Co and GFG D Co, and therefore for LE purposes GFG C Co and GFG D Co were connected to other members of the GFG Alliance.

2.154 Consequently, if Aluminium SPV and Alumina SPV constituted a group of connected clients with GFG C Co or GFG D Co, the Firm would be required to aggregate such exposures with its exposures to members of the GFG Alliance. This would be the case if Aluminium SPV and Alumina SPV were so interconnected with GFG C Co or GFG D Co that if GFG C Co or GFG D Co was to experience financial problems, in particular funding or repayment difficulties, Aluminium SPV and Alumina SPV would be likely to do so as well.

2.155 In order to provide the Commodities Loans, Wyelands received a £5m capital injection, which increased the capital of the Firm reported by it to the PRA to £114.33m. The US$16.4m (£13.0m) loan to Aluminium SPV and US$19.2m (£15.2m) loan to Alumina

SPV together represented c.24.7% of the Firm's capital reported by it to the PRA. The Firm's direct exposures to members of the GFG Alliance referred to in paragraph 1.21 above already utilised most of the LE limit. If Aluminium SPV and Alumina SPV constituted a group of connected clients with GFG C Co or GFG D Co the Firm would therefore have been unable to make the Commodities Loans or to maintain those exposures. The Firm was aware of this as an issue.

B. The transaction structure at closing in December 2018

2.156 At or shortly before closing of the acquisition of GFG C Co:

a. GFG D Co and GFG C Co entered into an inventory sale agreement ("**ISA**") under which GFG D Co agreed to buy from GFG C Co (a) a quantity of aluminium for US$19.8m and (b) a quantity of alumina for US$30.2m (i.e., a total of US$50m) for cash immediately before the closing of the sale of GFG C Co.

b. GFG D Co and GFG C Co entered into a master commodities supply agreement ("**MCSA**") under which GFG C Co had the right, but not the obligation, to repurchase the Commodities sold under the ISA for the price paid by GFG D Co plus interest and other costs incurred by GFG D Co.

c. GFG D Co and Aluminium SPV entered into a master commodities purchase agreement ("**Aluminium SPV MCPA**"). Under the Aluminium SPV MCPA:

   i. Aluminium SPV agreed to buy the same aluminium GFG D Co bought from GFG C Co for US$19.8m (i.e., the same price) on the same day. Aluminium SPV had to pay US$15.7m immediately and the balance (US$4.1m) was due to GFG D Co 60 days later.

   ii. GFG D Co had the right to repurchase the aluminium for the price paid by Aluminium SPV plus interest and other costs incurred by Aluminium SPV. GFG D Co was also obliged to repurchase the aluminium to the extent required to enable Aluminium SPV to comply with the Cover Ratio (see below) in the Aluminium SPV facility agreement.

d. Aluminium SPV and the Firm entered into a facility agreement ("**Aluminium SPV FA**") under which Aluminium SPV immediately drew US$16.4m (the "**Aluminium SPV Loan**"). After deduction of fees, etc., US$15.7m was used to finance the purchase of aluminium under the Aluminium SPV MCPA. Aluminium SPV was required to ensure a maximum "**Cover Ratio**" (i.e., the ratio of the outstanding loan it owed to the Firm to (i) the current value of the Commodities owned by it *plus* (ii) any amounts standing to the credit of its collection account with the Firm) of 85%, and also that the current value of the Commodities owned by it was not less than the value of those Commodities when it purchased them (described as a minimum "**Book Value Cover Ratio**" of 100%). The Aluminium SPV FA in fact referred to a *minimum* Cover Ratio of 75%, although this was an error (but one which was never corrected). It is clear from the credit proposal, CSC minutes and an internal Firm memorandum that credit approval was given for a *maximum* Cover Ratio requirement of 85%.

e. GFG D Co and Alumina SPV entered into a master commodities purchase agreement ("**Alumina SPV MCPA**"). The terms of the Alumina SPV MCPA were substantially identical to those of the Aluminium SPV MCPA. Under the Alumina SPV MCPA:

   i. Alumina SPV agreed to buy the same alumina GFG D Co bought from GFG C Co for US$30.2m (i.e., the same price) on the same day. Alumina SPV had to pay US$18.4m immediately and the balance (US$11.8m) was due to GFG D Co 60 days later.

   ii. GFG D Co had the right to repurchase the alumina for the price paid by Alumina SPV plus interest and other costs incurred by Alumina SPV. GFG D Co was also obliged to repurchase the alumina to the extent required to enable Alumina SPV to comply with the Cover Ratio in the Alumina SPV facility agreement.

f. Alumina SPV and the Firm entered into a facility agreement ("**Alumina SPV FA**") under which Alumina SPV immediately drew US$19.2m (the "**Alumina SPV Loan**"). After deduction of fees, etc, US$18.5m was used to finance the purchase of alumina under the Alumina SPV MCPA. Alumina SPV was required to ensure a maximum Cover Ratio of 75%, and also a minimum Book Value Cover Ratio of 100%. The Alumina SPV FA in fact referred to a minimum Cover Ratio of 75%, although this was an error (but one which was never corrected). It is clear from the credit proposal that approval was sought for a maximum Cover Ratio requirement of 75%.

2.157 The Firm received certain security in respect of its exposure under the Aluminium SPV FA, including over the shares in Aluminium SPV and GFG D Co, over Aluminium SPV's rights under the Aluminium SPV MCPA and in respect of certain bank accounts and over GFG D Co's rights under the ISA and the MCSA. GFG D Co also guaranteed Aluminium SPV's obligations to the Firm, although GFG D Co's resources appear to have been limited to its rights under the agreements it charged to the Firm. The Firm received a similar security and guarantee package in respect of its exposure under the Alumina SPV FA.

C. Negotiation and entry into the Commodities Loans

2.158 The transactions and each Commodities SPV were introduced to the Firm by GFG.

2.159 The Firm was aware that the net amounts of the Commodities Loans it advanced to the Commodities SPVs moved from them to GFG D Co and then on to GFG C Co, and also that they were ultimately reinjected into the capital structure as subordinated shareholder funding to enable GFG to acquire GFG C Co .

2.160 Credit approval for both the Aluminium SPV Loan and the Alumina SPV Loan was obtained under time pressure, and the Aluminium SPV Loan was drawn down four days after credit approval for it was obtained. There is evidence that this compromised the structuring and due diligence work the Firm did in relation to the Commodities Loans.

2.161 Each of the Commodities Loans was approved by the Firm's CSC. The amount of the Aluminium SPV Loan was below the limit on authority delegated by the Board. However, the amount of the Alumina SPV Loan was above the limit on Board delegated authority and so Board approval of that loan was sought by email, which referred to the Alumina SPV Loan being conditional upon GFG acquiring GFG C Co. The Board approved the Alumina SPV Loan by individual email responses.

2.162 The option each Commodities SPV provided over its Commodities in favour of GFG D Co meant that the Commodities SPV only had the ability to make a profit by trading the Commodities in very limited circumstances; this was consistent with the Commodities in practice being used as the inventory for GFG C Co's aluminium smelter. The commercial rationale for either Commodities SPV (or their respective owners) to take part in the transactions is therefore unclear (and they took no operational or tax risk in respect of the Commodities over the course of the transactions). The Firm has been unable to locate a record of a formal assessment by it at or before its entry into the transactions of the economic benefit to either Commodities SPV of entering into the transactions, and the Firm's management have been unable to subsequently explain why the Commodities SPVs did so. Their involvement in the transactions appears to have been with the intention that the Firm's debtors were entities which were unconnected to the GFG Alliance, such that restrictions on lending by the Firm to GFG under the Large Exposures regime would be complied with.

2.163 Security over the Commodities, the collateral coverage and the ability to sell the Commodities quickly were given significant prominence in the credit proposals prepared by the Firm and in the respective CSC meetings which approved the Commodities Loans. Whilst the Firm took security which provided it with a means to realise value in respect of the Commodities, it did not in fact take security over the Commodities themselves (although it believed at the time, and subsequently, that security over the Commodities themselves had been taken).

2.164 The Firm's credit analyses put weight on the Commodities SPVs being bankruptcy remote SPVs and the value of the Commodities as collateral, rather than on the provision of future financial support to them, or credit support provided to the Firm, by their owners. However, the Firm was aware that Aluminium SPV was obliged to pay GFG D Co the US$4.1m difference between the net proceeds of the Aluminium SPV Loan and the purchase price for the aluminium GFG D Co sold Aluminium SPV at the December 2018 closing, and that Alumina SPV was obliged to pay GFG D Co the US$11.8m difference between the net proceeds of the Alumina SPV Loan and the purchase price for the alumina GFG D Co sold Alumina SPV at that closing. These amounts were payable by each Commodities SPV to GFG D Co 60 days after the December 2018 closing and, while unsecured, were unsubordinated to the Firm's claims against each Commodities

SPV. If the transaction structure had operated as the Firm had intended, each Commodities SPV would likely have repaid those amounts from the proceeds of resales of Commodities to GFG D Co under the Aluminium SPV MCPA and the Alumina SPV MCPA, but GFG D Co had only limited obligations to repurchase Commodities under those agreements and neither Commodities SPV had any other apparent means of repaying the amount it owed GFG D Co. If GFG D Co demanded payment from either Commodities SPV, that Commodities SPV would likely have been forced into insolvency. The existence of GFG D Co as another material unsubordinated creditor therefore prevented the Commodities SPVs being bankruptcy remote special purpose vehicles and meant that they were economically dependent upon GFG D Co, and consequently a group of connected clients with GFG D Co, GFG C Co and the wider GFG Alliance.

2.165 The Commodities purchased by Alumina SPV and Aluminium SPV remained at GFG C Co's site, or at other sites under the control of GFG C Co. The Firm considered that if GFG C Co did not exercise its right to repurchase the Commodities from GFG D Co then the relevant Commodities SPV, or failing that the Firm, could sell the Commodities in the open market to unconnected third parties, thereby obtaining sufficient funds to repay the loan from the Firm. However:

2.165.1 Even if GFG C Co did not exercise its right to repurchase the Commodities from GFG D Co, GFG D Co still had the right to repurchase the Commodities at a fixed price from the Commodities SPVs, which effectively prevented the Commodities SPVs selling the Commodities to third parties without the consent of GFG D Co.

2.165.2 Before making the Commodities Loans, the Firm did not establish whether it would in practice be feasible to take possession of the Commodities and sell them to third parties, which would involve entering GFG C Co's site and physically removing them from it. It became apparent to the Firm after making the Commodities Loans that there would be likely to be a number of difficulties in doing this.

2.166 Because GFG C Co constantly manufactured new aluminium, it was possible for the overall amount of aluminium at GFG C Co's site to exceed the amount of aluminium to which Aluminium SPV was entitled, while at the same time GFG C Co was using or disposing of aluminium owned by Aluminium SPV. If this occurred, there was a risk that Aluminium SPV would not be able to identify 'its' aluminium with sufficient legal certainty to claim ownership of it. Segregation of the aluminium owned by Aluminium SPV from that retained by GFG C Co (i.e., that the specific aluminium, rather than just a generic amount of aluminium, owned by Aluminium SPV was identifiable) was therefore identified as an important security feature in the credit proposal for the Aluminium SPV Loan. The Firm received a survey report from a third party service provider (the "**TPSP**") dated November 2018 which said that stock monitoring services could be provided for the alumina at GFG C Co's site. However, because that report was only concerned with alumina, it was only relevant to the Alumina SPV Loan, not the Aluminium SPV Loan. The CSC which approved the Aluminium SPV Loan was aware that the TPSP had not inspected the aluminium on GFG C Co's site, which meant that the Firm was not able to assess in advance of entering into the Aluminium SPV Loan any stock monitoring or segregation issues in relation to the aluminium. The reason the TPSP had not inspected the aluminium was that when the TPSP visited GFG C Co's site in late November 2018 the Firm was not considering financing aluminium for Aluminium SPV, only alumina for Alumina SPV; and by the time the Firm was working on the aluminium financing for Aluminium SPV there was insufficient time before closing (according to the timetable the Firm was asked to work to) to get the TPSP back on site.

2.167 Therefore, whilst the Firm engaged the TPSP to conduct an assessment of the aluminium after it had advanced the Aluminium SPV Loan, before doing so the Firm had not received any independent assessment regarding the key issues of (1) how the aluminium sold to Aluminium SPV would be effectively segregated from GFG C Co's remaining aluminium and (2) whether the operational management of GFG C Co understood and were prepared to comply with the repurchase mechanics inherent in the MCSA and the Aluminium SPV MCPA. The Firm also did not approach GFG C Co before advancing the Aluminium SPV Loan to ask whether the segregation mechanic contained in the MCSA and the Aluminium SPV MCPA would work, but instead relied on assurances from GFG.

D. Developments after closing

D1. Use of commodities / repurchase of Commodities / breach of Cover Ratios

2.168 GFG C Co used alumina which Alumina SPV had purchased without first repurchasing it (via GFG D Co). As GFG C Co used alumina in its processes, the amount of alumina at GFG C Co's site or under its control was steadily reduced and by 26 December 2018 was less than the amount of alumina supposedly owned by Alumina SPV. Almost every day from 8 February 2019 up to 17 January 2020, and then from 10 February 2020 until 20 April 2020, the amount of alumina on GFG C Co's site was less than the amount Alumina SPV was supposed to own, despite GFG D Co making three alumina repurchases from Alumina SPV during 2019.

2.169 There were also instances of GFG C Co using aluminium which Aluminium SPV had purchased without first repurchasing it (via GFG D Co), resulting in the amount of aluminium on GFG C Co's site being less than the amount Aluminium SPV was supposed to own.

2.170 The 75% maximum Cover Ratio requirement under the Alumina SPV FA (which was required to be complied with at all times) was breached for long periods, due to a reduction in the open market price for alumina and GFG C Co using alumina without paying for it:

a. The ratio was failed on 27 December 2018 (i.e., less than two weeks after drawdown). That breach was cured on 3 January 2019 by GFG D Co repurchasing a quantity of alumina from Alumina SPV.
b. Almost every day from 20 February 2019 up to 1 May 2020 (the latest date the PRA has seen information in respect of) the ratio was breached. These breaches were frequently significant, such that the ratio was above 100%; when this was the case the amount of the Alumina SPV Loan owing to the Firm was more than the value of the alumina supposedly owned by Alumina SPV.

2.171 The 85% maximum Cover Ratio requirement under the Aluminium SPV FA (which was also required to be complied with at all times) was also breached for long periods, largely due to a reduction in the open market price for aluminium:

a. The ratio was failed on 29 January 2019. That breach was cured on 31 January 2019 by a US$711,000 transfer to Aluminium SPV's collection account representing a loan by GFG D Co to Aluminium SPV.
b. The ratio was subsequently failed on 10 April 2019 and was not thereafter complied with up to 22 May 2020 (the latest date the PRA has seen information in respect of). Until 28 January 2020 the ratio was however always less than 100%. At times thereafter it exceeded 100%; when this was the case the amount of the Aluminium SPV Loan owing to the Firm was more than the value of the aluminium supposedly owned by Aluminium SPV.

2.172 GFG D Co did make three repurchases of alumina from Alumina SPV. However, when it did so the price per ton GFG D Co paid to Alumina SPV was different from (and, after January 2019, less than) that specified in the Alumina SPV MCPA, which defined the repurchase price as the price paid by Alumina SPV plus interest and other costs incurred by Alumina SPV; this was despite the Alumina SPV FA prohibiting amendments to the Alumina SPV MCPA without the prior written consent of the Firm and the transaction structure depending on alumina being repurchased at not less than the price set out in the Alumina SPV MCPA in order for interest on the Alumina SPV Loan to be paid and the Alumina SPV Loan itself to be repaid. The Firm was aware of the price per ton paid by GFG D Co, but the Firm's team monitoring the Alumina SPV Loan does not appear to have fully understood the transaction mechanics and consequently the Firm took no steps to protect its position.

2.173 Under the Alumina SPV FA, the cash repurchase prices received by Alumina SPV into its collection account with the Firm from GFG D Co should have been applied to reduce the amount of the Alumina SPV Loan; however, they were not, because the Firm's operating system was not able to operate a revolving credit facility. The Alumina SPV FA was therefore not operated in accordance with its terms.

2.174 GFG D Co did not make any aluminium repurchases from Aluminium SPV under the Aluminium SPV MCPA. This appears to have been partly related to VAT issues related to Aluminium SPV making sales and resales of aluminium; the Firm did not obtain any tax advice relating to the transaction before entering into it.

D2. Non-measurement of the Book Value Cover Ratio

2.175 Although each of the Aluminium SPV FA and the Alumina SPV FA required the relevant Commodities SPV to comply at all times with a 100% Book Value Cover Ratio requirement, the Firm did not measure the Book Value Cover Ratio under either facility agreement at any time during the Relevant Period. Because it did not monitor the Book Value Cover Ratio, the Firm did not know when it had a right to call for additional collateral or prepayment of its loans.

D3. Non-delivery of required accounts

2.176 Under each of the Aluminium SPV FA and the Alumina SPV FA the relevant borrower was required to deliver to the Firm audited annual accounts and unaudited half year accounts within specified time periods. However, after making the loans to Aluminium SPV and Alumina SPV on 13 December 2018, the Firm did not receive any accounts in respect of Aluminium SPV for 15 months, and did not receive any accounts in respect of Alumina SPV in the 17 month period before the Alumina SPV Loan was repaid. The Firm did not make any request for accounts until October 2019 (in the case of Aluminium SPV) or November 2019 (in the case of Alumina SPV).

D4. Interest payments

2.177 The repurchase arrangements under the transaction documents would allow the use of the Commodities in GFG C Co's day-to-day business. The Firm was aware that an obligation on GFG C Co to repurchase Commodities from GFG D Co would create a linkage between the Commodities SPVs, GFG D Co and GFG C Co which would potentially result in the Commodities SPVs being connected parties with GFG D Co and GFG C Co. Although GFG C Co was not obliged to repurchase the Commodities from GFG D Co, it was anticipated that in practice GFG C Co would need the Commodities to continue to operate and trade and therefore would exercise its repurchase option against GFG D Co under the MCSA. GFG D Co would then exercise its repurchase options under the Alumina SPV MCPA and Aluminium SPV MCPA, as a result of which

Alumina SPV and Aluminium SPV would receive the amounts required to pay interest on and repay the Alumina SPV Loan and Aluminium SPV Loan.

2.178 However, under the Alumina SPV FA and the Aluminium SPV FA Alumina SPV and Aluminium SPV had to pay cash interest every month, whether or not GFG D Co exercised its repurchase options. Since, absent a breach of the relevant Cover Ratio, Alumina SPV and Aluminium SPV did not have a right to sell back the Commodities to GFG D Co before the termination date under the Alumina SPV FA or (as applicable) the Aluminium SPV FA, and they had no source of financial strength beyond the rights they had under the transaction documents, it is unclear how they could make these interest payments. There is no record that the Firm considered this issue.

2.179 From February 2019 until October 2019 Alumina SPV funded interest payments in respect of the Alumina SPV Loan from its collection account, into which GFG D Co had paid the purchase prices in respect of the three alumina repurchases GFG D Co had made (referred to in paragraph 2.172 above). Doing this therefore reduced the balance on Alumina SPV's collection account. GFG D Co also transferred over US$92,000 to Alumina SPV on 3 December 2019, which was used to fund the November interest payable on the Alumina SPV Loan.

2.180 Because the balance on Alumina SPV's collection account was included in the Cover Ratio calculation under the Alumina SPV FA, the effect of Alumina SPV funding interest payments on the Alumina SPV Loan from its collection account at a time when the Cover Ratio was already breached was to increase the breach of the Cover Ratio (and therefore reduce the Firm's security coverage) in respect of the Alumina SPV Loan. When the Cover Ratio under the Alumina SPV FA was over 100% the payment of interest from Alumina SPV's collection account effectively increased the shortfall in the Firm's security.

2.181 On 30 January 2019 Alumina SPV transferred US$1m to GFG D Co. This amount represented part of the proceeds Alumina SPV had received from GFG D Co in respect of the first alumina repurchase by GFG D Co referred to in paragraph 2.172 above. GFG D Co in turn transferred nearly all of this amount to Aluminium SPV's collection account between January and July 2019. In the absence of GFG D Co making any aluminium repurchases under the Aluminium SPV MCPA, Aluminium SPV used these funds to pay interest on the Aluminium SPV Loan between January and July 2019. However:

2.181.1 Under the terms of the Alumina SPV FA, amounts Alumina SPV received from alumina sales should have been applied to reduce the Alumina SPV Loan so, to the extent of its US$1m transfer to GFG D Co, Alumina SPV was effectively preferring GFG D Co over the Firm as a creditor.

2.181.2 The effect of these transfers was that funds which should have been used to repay part of the Alumina SPV Loan were instead ultimately used to service interest payments on the Aluminium SPV Loan (a point which was made to the Firm by another GFG entity in early August 2019).

2.181.3 It is not clear how Aluminium SPV could repay the amounts it received, and its borrowing of them was a breach of the restriction on financial indebtedness in the Aluminium SPV FA. The payments demonstrate that in practice the ability of Aluminium SPV to pay interest on the Aluminium SPV Loan was dependent on financial support from GFG D Co or other GFG members.

2.181.4 Because Aluminium SPV continued to fund interest payments from its collection account after April 2019, when the Cover Ratio in respect of the Aluminium SPV Loan was breached, each interest payment increased the size of the Cover Ratio breach (and therefore reduced the Firm's security coverage in respect of the Aluminium SPV Loan).

2.181.5 The Firm's staff did not question the US$1m transfer from Alumina SPV to GFG D Co or the transfers from GFG D Co to Aluminium SPV, despite the Firm holding the collection accounts for each of Alumina SPV, GFG D Co and Aluminium SPV and therefore having full visibility on the destination of the funds.

2.182 In addition, another GFG entity transferred US$64,000 to the Firm in July 2019 to cover the shortfall in the July interest payment on behalf of Aluminium SPV. The November 2019 interest payment owing by Aluminium SPV was also funded by a US$143,000 transfer from GFG D Co.

D5. Issues regarding Aluminium SPV's ownership of aluminium

2.183 As noted in paragraph 2.166 above, before closing in December 2018 the Firm had identified segregation of the specific aluminium owned by Aluminium SPV from that owned by GFG C Co as an important security feature. After closing, the Firm became aware of two issues which posed risks in respect of establishing Aluminium SPV's ownership of aluminium at GFG C Co's site (and consequently the Firm's security position):

2.183.1 The TPSP conducted a further survey of the GFG C Co site in January 2019. Their report disclosed a number of significant issues relating to the aluminium storage arrangements, which adversely impacted the ability to segregate the aluminium owned by Aluminium SPV from that owned by GFG C Co.

2.183.2 While the extent of Aluminium SPV's breaches of the Cover Ratio were not as significant as Alumina SPV's breaches, the mechanism for GFG C Co repurchasing aluminium from Aluminium SPV (via GFG D Co) for cash (or formally substituting it with replacement aluminium) before using or disposing of it was not in practice operated. As noted in paragraph 2.174 above, in practice GFG D Co did not make any aluminium repurchases from Aluminium SPV.

E. The Firm's attempts to resolve the issues

2.184 Meetings and calls to discuss the defaults concerning the Alumina SPV Loan and the Aluminium SPV Loan, in particular GFG C Co's unauthorised use of Alumina SPV's alumina and GFG C Co's failure to segregate Aluminium SPV's aluminium, and the breaches of the Cover Ratios in respect of both facilities, took place throughout 2019 between representatives of the Firm, GFG C Co and other members of the GFG Alliance. However, no resolution to the issues was found. In practice, communications between the Firm and Alumina SPV, Aluminium SPV and their respective owners were largely limited to formal reservation of rights letters and requests for repayment. The owners of Aluminium SPV and Alumina SPV each authorised the Firm to deal directly with GFG C Co and GFG D Co. There is no record of the Firm undertaking any assessment or due diligence as to adequacy or value of its security, or obtaining legal advice regarding, or conducting other preparatory work in respect of enforcing, its rights.

F. Large Exposures analysis

2.185 As described in more detail above and below, there were a range of ways in which Aluminium SPV and Alumina SPV were in practice dependent on GFG D Co and GFG C Co to meet their obligations to the Firm under the Aluminium SPV FA and the Alumina SPV FA:

a. Their only source of financial strength were the rights they had under the transaction documents and the Commodities they owned.

b. The Commodities they owned were stored on GFG C Co's site, or at other sites under GFG C Co's control. They would have been likely to have faced a number of difficulties in obtaining possession of their respective Commodities and removing them from their existing locations in order to sell them in the open market to unconnected third parties.

c. Their ability to realise value in respect of their respective Commodities depended on the Commodities being identifiable and available to sell. They were therefore reliant on GFG C Co's control and management of the Commodities. Particularly if GFG C Co became subject to insolvency proceedings, they would not be able to rely on GFG C Co maintaining a sufficient control environment to protect their interests in the Commodities. In practice, issues arose regarding the segregation of the aluminium owned by Aluminium SPV from that owned by GFG C Co, and from GFG C Co's use of the alumina owned by Alumina SPV without payment for it.

d. The repurchase options they gave GFG D Co effectively prevented them selling the Commodities to third parties to enable them to pay interest on or repay their respective loans, unless GFG D Co defaulted (or the Firm gave its consent). In practice, although the Cover Ratio in respect of both loans was breached for long periods, Alumina SPV did not exercise its right under the Alumina SPV MCPA to sell alumina back to GFG D Co to a sufficient extent to cure the Cover Ratio breaches under the Alumina SPV FA after January 2019 and before the Alumina SPV Loan was repaid in May 2020, and Aluminium SPV did not exercise its right under the Aluminium SPV MCPA to sell aluminium back to GFG D Co at all before the Aluminium SPV Loan was repaid in June 2020.

e. They had to meet monthly interest payments to the Firm without a right to sell back the Commodities to GFG D Co before the termination date under the respective facility agreements, absent a breach of the relevant Cover Ratio (as to which, see the previous sub-paragraph). In practice, in order to fund interest payments to the Firm, the Commodities SPVs received a number of cash transfers from GFG D Co and, in the case of Aluminium SPV, another GFG entity, resulting in the Commodities SPVs being reliant on them.

f. They each owed to GFG D Co a significant deferred element of the purchase price for the Commodities they had purchased at closing which they had no obvious means of paying unless GFG D Co repurchased the Commodities, and which would be likely to cause their insolvency if GFG D Co demanded payment (which it would be likely to do if it became subject to insolvency proceedings).

2.186 While (as noted above) the Firm did not take security over the Commodities themselves, the security it did take potentially provided it with a means to realise value in respect of the Commodities, through its security over the Aluminium SPV and Alumina SPV shares (although this may have been less straightforward, and may have taken longer, than enforcing security over the Commodities themselves). The ability of the Firm to realise value in respect of the Commodities was subject to the same, or greater, limitations as those affecting the Commodities SPVs (described above).

2.187 The security the Firm received in respect of the Alumina SPV Loan and the Aluminium SPV Loan did not prevent Alumina SPV and Aluminium SPV encountering funding or repayment difficulties. Rather, it potentially reduced the impact upon the Firm of any funding or repayment difficulties they suffered. The Firm was not permitted to use collateral in the nature of the security it received to reduce the Firm's exposure for LE purposes.

G. The Firm's Large Exposures assessments

2.188 Although, through the Firm's AML/KYC and credit due diligence work, steps were taken to assess whether clients or potential clients were connected, as a result of deficiencies in its policies and procedures in relation to connected parties, the Firm did not treat either of the Commodities SPVs as constituting a group of connected clients with GFG C Co or GFG D Co during the Relevant Period. Consequently it did not report its exposures in respect of the Commodities Loans as connected to the GFG Alliance in any of its LE submissions to the PRA in the Relevant Period.

2.189 Prior to April 2019 the Firm did not conduct a formal assessment regarding whether the Commodities SPVs were economically dependent upon each other, or upon GFG D Co or GFG C Co. Consequently it did not assess whether they were connected to each other, or to GFG D Co or GFG C Co (and therefore GFG), for LE purposes.

2.190 In April 2019, the Firm did undertake connected party reviews in respect of the Commodities SPVs. Those reviews identified the linkage with GFG D Co (but not with GFG C Co), but concluded that the Commodities secured the Commodities Loans at '*conservative advance rates*' and were '*highly marketable*' and that the linkage to GFG D Co was '*a function of a structured finance transaction, such that economic dependency does not exist between the named parties*'. The reviews did not identify any of the issues described in paragraphs 2.185 to 2.187 above.

2.191 The Firm did not consider during the Relevant Period whether the issues which arose affecting the Commodities Loans altered the LE analysis such that the Commodities SPVs had become connected to GFG D Co or GFG C Co (and therefore GFG).

2.192 The Firm's August 2020 connected parties review (after the end of the Relevant Period) accepted that, because the alumina was held at GFG C Co's site, Alumina SPV had no independent ability to sell it and therefore was economically dependent on GFG C Co and GFG D Co. By that time, however, the Alumina SPV Loan had already been repaid (see paragraph 2.194 below).

H. Outcome

2.193 The Aluminium SPV Loan and Alumina SPV Loan each fell due for repayment on 13 December 2019.

2.194 GFG C Co agreed to purchase the alumina inventory from Alumina SPV and consequently in May 2020 Alumina SPV repaid the Alumina SPV Loan in full. The Firm subsequently received repayment of the Aluminium SPV Loan in full in June 2020, representing the proceeds of purchases by GFG C Co of the aluminium held by Aluminium SPV.

3. CAPITAL

3.1 During the Relevant Period, the Firm received a number of capital injections (see table below). The Firm's capitalisation was conducted via the Wyelands Trust, the trustee of which was an independent professional trustee company ("**Trust Co**"), and two intermediate holding companies. Capital injections were often provided in response to specific transactions introduced by GFG entities, rather than on a regular periodic basis.

Date/period of allotment specified in SH01	**Amount of allotment**	**Date and corresponding amount received**
28-Mar-19	£5,000,000	20 Mar 2019: £5,000,000
14-Dec-18	£5,000,000	13 Dec 2018: £2,000,000 and £3,000,000
12-Oct-18	£20,000,000	11 Oct 2018: £7,500,000
03-Oct-18		2 Oct 2018: £2,500,000
20-Sep-18		19 Sep 2018: £10,000,000
25-Apr-18	£16,500,000	24 Apr 2018: £16,500,000
27-Feb-18	£11,500,000	21 Feb 2018: £11,500,000
10-Jan-18	£4,900,000	2 Jan 2018: £5,000,000
14-Dec-17	£5,000,000	4 Dec 2017: £5,000,000
09-Oct-17	£9,828,000	3 Oct 2017: £10,000,000
07-Aug-17	£4,800,000	26 Jul 2017: £5,000,000
26-Jun-17	£10,000,000	20 Jun 2017: £10,000,000
07-Jun-17	£5,000,000	6 Jun 2017: £5,000,000
25-May-17	£4,500,000	23 May 2017: £5,000,000

3.2 The Firm did not have its own systems or processes for conducting due diligence on the amounts it received as capital. The Firm has told the PRA that it understood this was being done through Trust Co. However, while the Firm provided Trust Co with some information about how the proceeds of each capital injection would be used, it had no formal arrangement with Trust Co, and Trust Co was not responsible for verifying whether the amounts it received would qualify as CET1 capital when downstreamed to the Firm. The process of injecting capital into the Firm was as follows:

a. The injection of an amount of capital into the Firm was approved;

b. The Firm's legal team, Trust Co and GFG documented the capital injection in whichever form it was provided (e.g. loan or gift to the Wyelands Trust);

c. Trust Co (as trustee of the Wyelands Trust), the intermediate holding companies and the Firm all approved the transaction and authorised the transfers of the capital injection amount to the Firm via their respective accounts with the Firm; and

d. Once the Firm received the amount, it issued new shares to its immediate holding company.

3.3 Chapter 2 of Part 2 (Own Funds) of the CRR sets out the eligibility requirements for CET1 capital for capital purposes. In essence, the CRR defines certain characteristics or qualities which capital must have (or not have) to be eligible CET1 capital (i.e., with good loss-absorbing properties). For the Firm's CET1 capital, Article 28(1)(b) of the CRR, as in force at the relevant times, stated that "Capital instruments shall qualify as Common Equity Tier 1 instruments only if all the following conditions are met … (b) the instruments are paid up *and their purchase is not funded directly or indirectly by the institution*".

3.4 CAP 10.8(11) of the Basel Standard similarly states: "For an instrument to be included in Common Equity Tier 1 capital it must meet all of the criteria that follow … (11) It is directly issued and paid-in *and the bank cannot directly or indirectly have funded the instrument or the purchase of the instrument*".

3.5 As described in paragraphs 2.107 to 2.111 above, in September 2018 the Firm made 12 separate loans totalling c.£104m ("**Power Plant Loans**") to 12 companies ("**Power Plant SPVs**") which either owned or operated power plants. On 18 September 2018 the

Firm advanced £15m (£14.2m net of fees deducted by the Firm) to one of the Power Plant SPVs, OpCo. At OpCo's instruction, the Firm transferred £10m of that drawdown directly to account X with a third party bank on 18 September 2018. The following day, in connection with the Power Plant Loans, a transfer was made from account X of the same amount to the Wyelands Trust's account with the Firm. Limited detail was provided to Trust Co as to the initial source of funds for the capital injection. In particular, Trust Co was not informed that the capital injection would be indirectly funded from the proceeds of a loan by the Firm. This amount was then down-streamed to the Firm as CET1 capital as described above. Between the 18 September 2018 £10m payment into account X, and the 19 September 2018 £10m payment out of it, the account X balance was just in excess of £10m.

3.6 The £10m capital injection was therefore indirectly funded by the Firm and consequently did not qualify under the CRR as CET1 capital. On 18 September 2018, the Firm provided the PRA with a Pre Issuance Notification (PIN) form confirming that the £10m injection met the criteria for inclusion in the Firm's CET1 capital. The loans to the remaining 11 Power Plant SPVs were made on 24 September 2018, after the Firm had reported to the PRA that its capital had been increased. The Firm also subsequently included the £10m injection as CET1 capital in its quarterly returns to the PRA.

3.7 As described in paragraphs 2.152, 2.156d and 2.156f above, in December 2018 the Firm made two separate loans totalling c.US$35.6m ("**Commodities Loans**") to two companies to finance their purchases of Commodities from GFG D Co. Shortly before, on 12 December 2018, the CSC approved a loan facility to GFG B Co and, on the same day, the Firm, on the instruction of GFG B Co, transferred £1.963m to an account of another member of GFG, GFG F Co, representing the net cash proceeds of that loan. On 13 December 2018 GFG F Co transferred £2m to account Y with a third party bank, which increased the balance on that account to just over £5m. On the same day, two transfers were made from account Y, of £3m and £2m respectively, to the Wyelands Trust's account with the Firm. Limited detail was provided to Trust Co as to the initial source of funds for the capital injection; in particular, Trust Co was not informed that £1.963m of the capital injection would be indirectly funded from the proceeds of a loan by the Firm. In connection with the Commodities Loans, these amounts were then downstreamed to the Firm as CET1 capital as described above. Between the £2m transfer into account Y and the £2m transfer out of it (and after deducting the £3m transfer out), the account Y balance was always just in excess of £2m. £1.963m of the

£2m capital injection was therefore indirectly funded by the Firm and consequently did not qualify under the CRR as CET1 capital. On 13 December 2018, the Firm provided the PRA with a Pre Issuance Notification (PIN) form confirming that the £2m injection met the criteria for inclusion in the Firm's CET1 capital. The Firm also subsequently included the £2m injection as CET1 capital in its quarterly returns to the PRA.

3.8 During the Relevant Period, the Firm did not commission any internal audit reports into the receipt of injections of capital.

4. RELATIONSHIP WITH THE GFG ALLIANCE

4.1. In April 2017, the Board introduced an engagement policy (the "**Engagement Policy**") to govern interaction between the Firm and the Shareholder. The Firm sent a copy of the Engagement Policy to the PRA for information immediately after adopting it and drew the PRA's attention to it in one of the Firm's regular update meetings with the PRA held later in April 2017. The Engagement Policy was the only policy the Board adopted which provided any specific guidance or contained any specific requirements regarding interactions between the Firm and members of the GFG Alliance until November 2019, when the Firm entered into a shareholder relationship agreement with the Shareholder.

4.2. The Engagement Policy acknowledged the potential for conflicts of interest between the Firm and GFG and GFG's business interests, the requirement for a robust policy and provided that:

a. The Board would be made aware of each request by the Shareholder and whether it was approved or not.

b. Any request from the Shareholder had to be in writing and to outline the rationale for such request from the Shareholder's perspective.

c. The Firm would consider each request on its own merits and when considering a transaction the Firm would assess the merits against: 1) the interests of depositors; 2) regulatory observance and prudent corporate governance; 3) the Firm's risk appetite; 4) the strategic development of the Firm; and 5) the strategic interests of GFG.

d. Although the Firm would consider the broader interests of the GFG Alliance, at no point would that be an overriding reason to undertake any transaction.

e. The Firm would satisfy itself that it had the necessary skills, expertise and time to undertake the relevant transaction.

f. The Firm would give consideration as to whether the PRA or FCA needed to be notified of any particular transaction. The Engagement Policy noted that the PRA were keen on ensuring the Board were aware of such transactions.

4.3. However, in practice the Firm failed to take sufficient care to ensure that the Engagement Policy was complied with. Throughout the Relevant Period, most requests from GFG were not forwarded to the Board.

4.4. The Firm's 2018 internal capital adequacy assessment sent to the PRA said that the existing split of GFG to non-GFG business was 75:25, with the aim of moving to 65:35 in 2019 and a more even split after that, and in an April 2018 letter to the PRA the Firm said that in the first year of the Firm's operations the level of external transactions had been between 20 and 25% of the Firm's business. However, the Firm did not implement a clear categorisation of transactions that were GFG introduced or comprised third-party business, with the result that the Firm did not have a clear record of how much third party business it was conducting. The Firm has since told the PRA that nearly all of its transactions involved either GFG entities or entities originally introduced by GFG; that transactions being categorised as 'third party' or 'non-related' during the Relevant Period did not mean that one of the parties had not been originally introduced by GFG; and that it had not been able to reference the criteria for categorising transactions as 'GFG introduced' or 'third party' transactions in materials provided to the Board or the PRA during the Relevant Period. The PRA has only identified two credit transactions the Firm entered into during the Relevant Period which did not involve either GFG entities or entities originally introduced by GFG.

4.5. During the Relevant Period, aside from confidentiality/disclosure provisions in agreements with certain clients, the Firm did not have any policies, procedures, systems or controls for preventing the disclosure of customer information in breach of legal and/or confidentiality restrictions by which the Firm was bound.

5. REMUNERATION PAYMENTS

5.1. The Firm's Remunerations and Nominations Committee ("**RemCo**") was responsible for reviewing and assessing the suitability of remuneration, compensation and bonus schemes for all employees and directors, and making recommendations to the Board. It was also responsible for ensuring that the remuneration policy and the regulatory remuneration code were complied with, and that practices and procedures were clear and documented.

5.2. In practice, however, not all remuneration decisions were clearly documented or approved by the RemCo and the Board. In particular, the Firm failed to adequately consider whether external payments from GFG entities could give rise to any potential conflicts of interest.

6. OIREQ IMPOSED BY THE PRA UNDER S 55M FSMA

6.1. In order to advance the PRA's objective of promoting safety and soundness of firms, and in light of the PRA's concerns regarding the adequacy of the Firm's systems, controls and processes and (at the time, suspected) Large Exposures limit breaches, the PRA imposed own initiative requirements on the Firm on 19 September 2019 and 18 October 2019 (together, the "**OIREQ**"). The PRA subsequently varied the OIREQ a number of times.

6.2. Under the OIREQ, the PRA imposed requirements on the Firm which, amongst other things, prevented it from taking any "Relevant Action" without the prior written consent of the PRA. "**Relevant Actions**" included creating, transferring or increasing any interest in any asset of the Firm in favour of, to, or for the benefit of, or incurring or increasing any liability to, or for the benefit of, any "**Relevant Person**", which included members of the GFG Alliance and their controllers, and also certain entities which GFG had introduced to the Firm. The purpose and effect of the OIREQ was to prevent the Firm entering into transactions with, and/or making payments to, Relevant Persons without the prior written consent of the PRA.

6.3. The OIREQ was presented to the Board at a Board meeting on 19 September 2019 and the Board discussed, amongst other things, the restrictions imposed on the Firm, who should be advised of the OIREQ and how the restrictions should be implemented with third parties. The Board also received legal advice on the requirements in the OIREQ.

6.4. On 23 September 2019, the Firm applied to the PRA, as required by the OIREQ, for written consent permitting the Firm to take certain 'Relevant Actions' in relation to a specified counterparty. The PRA granted consent on 30 September 2019. On the same day, the Firm had a meeting with the PRA, during which a potential 'class consent' for certain transactions was discussed. However, although the Firm was under the impression that such consent had been granted, it had in fact not been given by the PRA. The PRA did not provide any written consent in relation to any other transactions.

6.5. On multiple occasions between 7 October 2019 and 20 November 2019 the Firm entered into transactions with, and/or made payments to, Relevant Persons in respect of the financing of receivables in breach of the OIREQ. Such transactions and/or payments aggregated US$16.37m.

6.6. The PRA wrote to the Firm on 10 December 2019 confirming that the transactions had been entered into, and/or payments had been made, in breach of the OIREQ. The Firm's Attestation to the PRA of 10 December 2019 accepted that it had breached the OIREQ in respect of eight of the transactions and/or payments.

6.7. The Firm subsequently breached the OIREQ a further four times, including by way of: a payment of legal fees on behalf of a GFG entity; an operational error; a set-off with a Relevant Person; and an agreement to increase the amount payable for certain outsourcing services provided by a GFG entity.

6.8. The PRA accepts that the Firm did not intend to breach the OIREQ and that the Firm made efforts to clarify its scope. However, in the initial period following its imposition, the Firm did not ensure that it properly understood the extent of the OIREQ's application, did not take appropriate steps to check with the PRA whether its understanding of the OIREQ was correct and did not appreciate the importance of providing appropriately detailed written information to the PRA in order to seek the PRA's explicit approval in advance of making payments to, or entering into transactions with, Relevant Persons.

7. RECORD KEEPING

7.1. Wyelands did not have policies and procedures regarding the retention of business-related correspondence and records during the Relevant Period, other than in relation to GDPR.

7.2. During the Relevant Period, the Firm conducted its business partly through formal means of communication methods such as emails, telephone calls, meeting notes, and face-to-face communications. However, in addition, some of the Firm’s senior executives, directors and external parties regularly exchanged messages in respect of the Firm’s actual or potential transactions, its business and its strategy using the instant messaging application, WhatsApp, on both Firm issued and personal mobile phones. These WhatsApp messages were not stored centrally.

7.3. Although the Firm sought to arrange its records of transactions or potential transactions according to designated electronic client files, the PRA’s investigation identified that these client files did not always contain all the conditions to the availability of the facilities it entered into or all of the relevant email correspondence relating to certain transactions.

Annex B – Breaches and Failings

1. Breaches

1.1 During the Relevant Period, as a result of the facts and matters set out at Annex A to this Notice, Wyelands breached relevant requirements of the PRA Rulebook and related regulations. In particular, Wyelands breached:

a. Fundamental Rule 3 (a firm must act in a prudent manner);

b. Fundamental Rule 5 (a firm must have effective risk strategies and risk management systems);

c. Fundamental Rule 6 (a firm must organise its affairs responsibly and effectively);

d. Articles 393, 394 and 395 of Part IV of the Capital Requirements Regulation ("**CRR**");

e. General Organisational Requirements Rule 2.1 of the PRA Rulebook (A firm must have robust governance arrangements, which include a clear organisational structure with well defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks it is or might be exposed to, and internal control mechanisms, including sound administrative and accounting procedures and effective control and safeguard arrangements for information processing systems);

f. General Organisational Requirements Rule 5.1 of the PRA Rulebook (a firm must ensure that the management body defines, oversees and is accountable for the implementation of governance arrangements that ensure effective and prudent management of the firm, including the segregation of duties in the organisation and the prevention of conflicts of interest. The firm must ensure that the management body:

(1) has overall responsibility for the firm;

(2) approves and oversees implementation of the firm's strategic objectives,

risk strategy and internal governance;

(3) ensures the integrity of the firm's accounting and financial reporting systems, including financial and operational controls and compliance with the regulatory system;

(4) oversees the process of disclosure and communications;

(5) has responsibility for providing effective oversight of senior management; and

(6) monitors and periodically assesses:

(a) the adequacy and the implementation of the firm's strategic objectives in the provision of its regulated activities;

(b) the effectiveness of the firm's governance arrangements and adequacy of the policies relating to the provision of services to clients; and

(c) takes appropriate steps to address any deficiencies);

g. Record Keeping Rule 2.1 of the PRA Rulebook (a firm must arrange for orderly records to be kept of its business and internal organisation, including all services, activities and transactions undertaken by it, which must be sufficient to enable the PRA to fulfil its supervisory tasks and perform the enforcement actions under the regulatory system);

h. Risk Control Rule 3.4 of the PRA Rulebook (a firm must ensure … (1) the risk management function is independent from the operational functions … (2) the risk management function ensures that all material risks are identified, measured and properly reported … and is able to deliver a complete view of the whole range of risks of the firm);

i. Related Party Transaction Risk Rule 2.3 of the PRA Rulebook (a firm must establish, implement and maintain effective policies and procedures to identify, evaluate and manage risks arising out of transactions with its related parties); and

j. Own Initiative Requirements ("**OIREQ**") imposed by the PRA under s 55M FSMA.

1.2 These rules are included at **Appendix 2**

2. The PRA's expectations

The PRA expects a firm's control framework to be commensurate with the nature, scale and complexity of its business and strategy. A smaller deposit-taker's risk function may often not be as sophisticated as that of a larger firm, but it remains essential that this function, including its committees, can support the board by providing adequate oversight of the current and future risks the firm faces as well as promoting a risk awareness culture within the firm.

2.2 If a smaller deposit-taker seeks to enter into complex transactions, then the strength of its financial and operational controls and risk management environment will need to be increased commensurately, to account for the greater sophistication and checks and balances required to analyse and manage the transactions and the firm's overall risk profile. Competent, experienced and appropriately independent control functions should oversee these frameworks. The risk function should also ensure that it is provided with relevant information to ensure it is able to understand how the firm's loan book is performing and to ensure that senior management can take appropriate action to mitigate risks before they crystallise. In relation to a firm's overall risk management framework, there should be adequate delineation and independence between the risk function and the 'first line' of defence.

2.3 A key area of risk for firms can arise from Large Exposures to individual counterparties or groups of connected counterparties, as a failure in one entity or group of connected entities can result in the firm incurring disproportionately large losses, undermining its safety and soundness. Where a firm is part of a wider group, and has a significant proportion of its business introduced by that wider group, there are particular risks that it will be unable to identify, evaluate and manage potential or actual related party risks in respect of transactions unless it has adequate connected parties controls, policies and procedures.

2.4 It is therefore essential that each firm has adequate policies, systems and controls in place to ensure that Large Exposures risks are identified both before its entry into a transaction, and thereafter while it retains an exposure in respect of it, and that a firm operates within prudent regulatory limits in respect of Large Exposures. This includes ensuring the nature of this risk is widely and fully understood by the firm's risk, governance and oversight functions and other relevant areas of the business and is reflected in the firm's compliance policies, and that there are effective mechanisms for ensuring that Large Exposures are captured in the firm's reporting to the PRA. Where a firm enters into complex transactions, the PRA expects a prudently managed firm to apply heightened scrutiny and due diligence commensurate to the complexity of the transactions which it is entering into, in order to ensure that Large Exposures risks, along with other relevant transaction risks, are appropriately identified and managed and brought before the relevant oversight functions on a timely basis.

2.5 In addition, the PRA expects firms to ensure that capital injected into the firm, which it reports to the PRA as meeting relevant regulatory requirements, does in fact do so and is treated as such. In particular, the PRA considers that self-funded shares pose prudential risk, because they are not equity in any proper sense. Rather, they are recycled debt that offers no loss absorbing capacity and create the misleading appearance of the share issuer having a lower debt/equity ratio than is in reality the case. The PRA therefore expects firms to have adequate systems and processes in place to conduct due diligence on the capital it receives.

2.6 Boards and senior management of firms should take responsibility for ensuring that business is conducted in a prudent manner, including in circumstances where a regulated entity is heavily dependent on a wider related group or entity for its business or capital, and should form a complete and coherent view of the nature and risks of its loan book. Boards cannot delegate this responsibility. The PRA expects management to be open and transparent with the board to ensure that the board is adequately apprised of all significant matters about which it should be made aware.

2.7 How a firm manages credit, compliance and operational risks is an integral part of the PRA's assessment of a firm's safety and soundness. The PRA therefore expects firms to exercise due skill, care and diligence in implementing and operating its risk management systems and controls and in responding to concerns raised by the PRA.

2.8 The PRA also expects firms to ensure that their internal risk management policies (including policies surrounding conflicts of interest and the handling of confidential information) are fit for purpose and cater to the firm's specific risk profile. Each firm must take reasonable steps to ensure that policies are followed and actual or potential conflicts of interest and confidential information are handled appropriately. This is particularly important for a firm that is heavily dependent on a wider related group or entity for its business or capital.

2.9 Firms should also take reasonable care to organise and control their affairs responsibly and effectively, with adequate policies in place for record keeping and the retention and filing of all relevant correspondence and documents. Firms should also ensure that client and transaction files are adequately maintained and kept up to date. As technology changes and communication platforms proliferate, it is also critical that firms update their recordkeeping controls and policies to ensure that all of a firm's business communications are maintained and preserved so that they are auditable.

2.10 Firms must adopt and uphold remuneration policies, procedures and arrangements that are consistent with and promote sound risk management. In particular, firms are responsible for ensuring that potential conflicts of interest or perceptions of impropriety that surround staff remuneration arrangements with third parties or outside business interests are promptly escalated to a firm's remuneration committee and adequately managed.

3. Failings

3.1 The PRA considers that during the Relevant Period, Wyelands breached Fundamental Rule 3, Fundamental Rule 5, Fundamental Rule 6, General Organisational Requirement Rule 2.1 and 5.1, Record Keeping Rule 2.1, Risk Control Rule 3.4 and Related Party Transaction Risk Rule 2.3 of the PRA Rulebook.

3.2 The PRA also considers that deficiencies in the Firm's policies and procedures in relation to connected parties (i) caused Wyelands to breach the 25% Large Exposures limit under the CRR in relation to the GFG A Co receivables transactions, the Generator Loans and the Commodities Loans (for the reasons set out in Annex A); and (ii) are likely to also have caused the Firm to breach the 25% Large Exposures limit in relation to the Power Plant Loans (the Firm's due diligence, monitoring and record keeping failures were such that the Firm was unable, and the PRA is unable, to definitively conclude whether or not the Firm was in compliance with the 25% Large Exposures limit in relation to the Power Plant Loans). As a result, the Firm breached Articles 393 and 395 of Part IV of the CRR. The deficiencies in the Firm's policies and procedures in relation to connected parties also resulted in the Firm inaccurately reporting its Large Exposures to the PRA, in breach of Article 394 of Part IV of the CRR. The PRA acknowledges that in August 2020 (after the end of the Relevant Period) the Firm accepted that its exposures to the Generator SPVs and in respect of the RTB transactions should be aggregated with its GFG exposures and that, subsequent to the end of the Relevant Period, the Firm aggregated those exposures with its GFG exposures in its LE submissions to PRA.

Fundamental Rule 3 (A firm must act in a prudent manner)

3.3 Wyelands breached Fundamental Rule 3 because it failed to act in a prudent manner in relation to the Structured Transactions it entered into which were each introduced to the Firm by GFG. The Firm did not demonstrate sound judgement, exercise sufficient caution, or take due account of all risks and possible consequences for the Firm before entering into the Structured Transactions. In particular, the Firm failed to ensure that it had appropriate resources to identify, monitor, measure and take action to remove or appropriately reduce risks in relation to the Structured Transactions, which undermined the Firm's safety and soundness and its ability to accurately value its assets and liabilities.

3.4 During the Relevant Period, the Firm entered into the four sets of Structured Transactions which were unusual, in terms of their nature and scale, for a bank of the Firm's size and experience. Each set of the Structured Transactions represented a significant proportion of the Firm's overall loan book. The Firm did not, either before its entry into the Structured Transactions, or subsequently within the Relevant Period, identify all the connections between the Structured Transactions within each set, or between the Structured Transactions and the GFG Alliance, and therefore did not aggregate the Structured Transactions within each set with each other or with its exposures to the GFG Alliance. The Structured Transactions presented significant credit, compliance and operational risks to the Firm. It was therefore particularly important that the Firm had experienced Credit and Risk teams in place, with clearly demarcated functions and roles, who could exercise sufficient care and expertise in conducting due diligence on, and then managing and operating, the Structured Transactions and could comprehensively identify and respond to the risks that each of the Structured Transactions presented.

3.5 During the Relevant Period, the Firm did not have appropriate resources or sufficient experience and expertise to ensure the proper identification and management of transaction counterparty risks (including connected parties and related parties risks) and, as a result, the Firm relied on inadequate or incomplete information before entering into, and thereafter whilst managing and operating, the Structured Transactions. In particular:

(1) before entering into the Structured Transactions, the Firm failed to:

(i) carry out adequate connected parties, related parties and credit assessments in relation to the entities it proposed to transact with and their relationships with or reliance upon each other or with or upon GFG entities;

(ii) adequately consider or understand the commercial rationale for certain entities it proposed to transact with entering into each Structured Transaction;

(iii) source relevant due diligence information from the parties it proposed to transact with and appropriate independent third party sources (rather than GFG); and

(iv) carry out adequate due diligence as to the feasibility of enforcing the security granted to the Firm.

(2) when entering into and managing and operating the Structured Transactions, the Firm failed to:

(i) execute the Structured Transactions in accordance with the terms of the credit approvals that had been provided;

(ii) adequately monitor and address the implications of new developments in relation to the Structured Transactions;

(iii) sufficiently consider whether the implications of new developments in relation to the Structured Transactions resulted in the Firm's counterparties becoming connected parties of each other or of GFG for Large Exposures purposes or cast doubt on the application of advice previously relied upon;

(iv) when certain of the Structured Transactions failed to perform as the Firm had expected or went into default, take advice or conduct preparatory work with regard to establishing the extent of, and if necessary enforcing, its rights against its counterparties; and

(v) report the Structured Transactions as Large Exposures (aggregated with the Firm's direct exposures to GFG) in the Firm's submissions to the PRA as required by Article 394 of Part IV of the CRR.

Fundamental Rule 5 (a firm must have effective risk strategies and risk management systems)

Risk management strategies and controls for Large Exposures

3.6 Wyelands breached Fundamental Rule 5 because it did not have effective risk management strategies and systems to identify, assess and manage the risks presented by its business model, in particular connected parties risks in relation to Large Exposures and related parties risks. As a result of deficiencies in its policies and procedures in relation to connected parties, the Firm breached its obligations under the Large Exposures regime under Articles 393 and 395 of the CRR across the GFG A Co receivables transactions, the Generator Loans and the Commodities Loans and is likely to have breached its obligations under that regime in relation to the Power Plant Loans.

3.7 Throughout the Relevant Period, the Firm was aware that it had various direct exposures to GFG entities, such that it had limited 'headroom' before it breached the 25% Large Exposures limit in respect of exposures to, or connected to, members of the GFG Alliance. It was therefore particularly important that the Firm had effective risk management systems, strategies, processes and controls in place to ensure that it could identify and manage any Large Exposures risks in respect of the Structured Transactions it entered into, given its limited scope for error before it would breach the limit.

3.8 Prior to March 2019, the Firm had no formal controls, policies or procedures for assessing whether clients or potential clients of the Firm were connected with each other for the purposes of Article 4(1)(39) of CRR and consequently responsibilities for connected parties assessments were not explicitly allocated within the Firm. Although the Credit, Origination and Risk teams did in practice take steps to assess through the Firm's AML/KYC and credit due diligence work whether clients or potential clients were connected, those steps were insufficient to overcome the deficiencies in the Firm's policies and procedures in relation to connected parties and consequently were inadequate to fully assess and mitigate the risk that the Firm would breach its Large Exposures limit upon entering into the Structured Transactions. In particular, before March 2019 the Firm's credit due diligence lacked any formal or sufficiently detailed assessment of whether clients were economically connected for the purposes of the Economic Test. There were also no formal controls, policies or procedures for assessing whether developments which occurred after the Firm's entry into a transaction caused clients which were previously not connected parties to become connected parties. The Firm's lack of connected parties controls, policies and procedures also resulted in it failing to identify that it had exposures to related parties (namely GFG entities), in breach of Related Party Transaction Risk Rule 2.3 of the PRA Rulebook.

Blurring of First Line and Second Line functions

3.9 Although Wyelands sought to adopt the 'three lines of defence' risk management model, this model did not operate clearly in practice, in part due to the small size of the Firm (particularly in the early stages). In particular, key personnel operated between the First Line (e.g., on the CSC) and Second Line (e.g., on the Executive Committee, Assets and Liabilities Committee and Risk and Operations Committee), which compromised the independence of the Second Line, and it is unclear what substantive role, if any, these Second Line committees had in identifying and scrutinising transaction risk. For example, key personnel in the Second Line worked on the due diligence and structuring of the Structured Transactions. The Structured Transactions had certain complex aspects which required the Firm's Risk function (Second Line) to be more independent from its operational functions (First Line) than was the case. By failing to ensure such independence, the Firm breached Risk Control Rule 3.4(1) of the PRA Rulebook.

3.10 There was no formal structure for communication between the Firm's Risk function (which was responsible for identifying Large Exposures risks) and its Finance function (which was responsible for reporting them to the PRA), and consequently there was inadequate communication between them. Given the complexity of certain aspects of the transactions the Firm was entering into and the entities it was transacting with, the Finance function's representation on the Firm's committees in which transactions were discussed was not an adequate substitute for formal lines of communication from the

Risk function to the Finance function as new Large Exposures risks were identified. The Risk function failed to identify Large Exposures issues in new transactions; to reappraise Large Exposures risks as circumstances changed in relation to the Firm's existing transactions; and also to adequately inform Finance of new Large Exposures risks, to the extent that they were identified, on a timely basis. It therefore did not ensure that all material risks were identified, measured and properly reported to the PRA, and did not deliver a complete view of the whole range of risks which the Firm faced, in breach of Risk Control Rule 3.4(2) of the PRA Rulebook.

3.11 Further, the role of the Compliance function in the Firm's risk management model was unduly narrow until late 2019, and largely limited until March 2019 to assessing KYC/AML risks arising from the Firm's loan book. For example, up until March 2019, the Compliance function had no substantive involvement in the assessment of connected parties risk, despite it being a significant regulatory risk affecting the Firm. Also, until late 2019, the Compliance function did not play a sufficiently significant role in managing regulatory risk or monitoring risk in order to strengthen the Firm's governance and oversight of transactions. In addition, the Compliance function had insufficient oversight of the quality of capital arriving into the Firm, which on two occasions the Firm incorrectly reported to the PRA as meeting the requirement to qualify as CET1 capital.

Fundamental Rule 6 (A firm must organise and control its affairs responsibly and effectively)

3.12 Wyelands breached Fundamental Rule 6 because it failed to organise and control its affairs responsibly and effectively in relation to (i) its governance and oversight framework; (ii) the amounts it received as capital; (iii) its relationship with the GFG Alliance; (iv) record keeping; and (v) remuneration payments.

Governance and oversight

3.13 Wyelands' governance and oversight arrangements related to its lending and provision of credit were deficient, and the Firm's Board and executive committees did not fully appreciate the complexity of certain aspects of the Structured Transactions. The Firm's governance and oversight framework therefore did not enable sound and prudent management of the Firm's business.

3.14 In spite of the Firm's Regulatory Business Plan and dependence on GFG or GFG-introduced business, as a result of deficiencies in its policies and procedures relating to connected parties, the Board failed to sufficiently monitor and scrutinise the risk of the Firm breaching the Large Exposures regime. It did not identify that counterparties introduced by GFG were economically dependent upon GFG or each other, or that exposures which the Firm regarded as upon GFG's counterparties were in fact upon GFG entities. In particular, the Board's delegation of authority to the Firm's executive management to enter into transactions up to increasingly high capital limits meant there was insufficient Board interrogation and challenge around how the Structured Transactions would operate within the Large Exposures requirements. Further, although the Board did take some steps in early 2019 to commission internal audit reports into the Firm's regulatory reporting, it did not commission more detailed and forensic internal audit reports into the Firm's Large Exposures processes and controls. This limited the Firm's ability to assess whether it had adequate and effective systems, controls and procedures to mitigate risk in relation to its Large Exposures reporting.

Capital

3.15 Wyelands failed to ensure that its systems and controls supporting its capital were designed, implemented and operating effectively.

3.16 The Firm did not have adequate systems or processes in place to conduct due diligence on the funds it received or to ensure that those funds qualified as CET1 capital under the CRR. The Firm had no visibility over the source of the £10m September 2018 and £2m December 2018 capital injections it received, and therefore failed to identify that each of these capital injections was indirectly funded by the Firm. This meant that those amounts did not satisfy the conditions under Article 28(1)(b) of CRR, and consequently did not qualify as CET1 capital. The Firm submitted PIN forms to the PRA which incorrectly stated that it had complied with the eligibility requirements for the relevant amounts to qualify as CET1 capital, and subsequently incorrectly included those amounts as CET1 capital in its quarterly returns to the PRA.

3.17 The Firm also failed to commission any internal audit reports focused on the Firm's processes for receipt of injections of capital during the Relevant Period, which limited the Firm's ability to assess whether it had adequate and effective systems, controls and procedures in respect of capital raising.

Relationship with the GFG Alliance

3.18 Wyelands failed to take sufficient care to ensure compliance with its Engagement Policy, which had been introduced to mitigate the risks of conflicts of interest arising from the Firm's membership of the GFG Alliance and GFG's business interests (and which the Firm had shared with the PRA to demonstrate its management of such risks). The Firm's inability to comply with this policy, together with weaknesses in its wider systems and controls, undermined its ability to adequately demonstrate that it acted independently from GFG.

3.19 Shortly after the Firm's acquisition, the Board recognised that a formal governance process should be introduced so that the Board could be made aware of GFG requests. This was important in ensuring that the Board could consider each request on its own merits, and any potential conflicts of interest could be managed or avoided. Because the Firm's business model was very heavily based on transactions with either members of the GFG Alliance or with entities originally introduced by GFG, and the Engagement Policy was the only policy the Board adopted which specifically addressed interactions between the Firm and GFG members and executives, compliance with the Engagement Policy was particularly important. Compliance with the policy would also have assisted the Firm in meeting its obligations under the Related Party Transaction Risk part of the PRA Rulebook.

3.20 Although the Firm adopted the Engagement Policy to manage these risks in April 2017, it failed to take sufficient care to ensure that the policy was complied with, and in practice the policy was rarely followed. As a result, the Board did not have adequate oversight of how certain transactions or potential transactions were being introduced to the Firm and their rationale and volume, or why the Firm made certain requests for capital injections. The Firm's non-compliance with the Engagement Policy, combined with the complexity of certain aspects of the Structured Transactions and the speed at which they were analysed and then entered into, contributed to the Firm's operational failures in relation to those transactions.

3.21 Because the Engagement Policy was generally not complied with, the level of GFG related or introduced business the Firm was undertaking was less well documented, and therefore less clear to the Board, than would have been the case if it had been adhered to. The Firm also failed to properly implement a clear categorisation of transactions that were GFG introduced or comprising third-party business in its communications with the Board and the PRA, with the result that the Firm and the PRA did not have an accurate record of how much third party business it was conducting. If the Firm had complied with the Engagement Policy it would have been more likely to have developed clear criteria for 'third party' and 'GFG-introduced' business.

3.22 In addition, aside from confidentiality/disclosure provisions in agreements with certain clients, the Firm lacked any policies or procedures regarding both (a) information which could or could not be properly shared with persons outside the Firm, and (b) what formal processes were required to be undertaken before such information was shared, to prevent disclosure of customer information in breach of legal and/or confidentiality restrictions by which the Firm was bound.

Record keeping

3.23 Wyelands lacked formal document retention and record keeping policies or procedures for its business.

3.24 In particular, the Firm's designated client files did not contain all the conditions to the availability of the facilities it entered into or all relevant email correspondence. The Firm's staff did not systematically file all emails they sent or received relating to the Firm's transactions in the designated client files.

3.25 Whilst the Firm kept minutes of its Board and committee meeting discussions, there was no formal record keeping policy or procedure in place to manage the use of WhatsApp messages in respect of the Firm's actual or potential transactions, its business and strategy, or to retain those messages. These WhatsApp exchanges were important as they contained information about the Firm's actual or proposed transactions and business affairs that was not always available to, or shared with, the Board and Firm's relevant transaction committees. In addition to not having any policies and procedures regarding the retention of such business-related messages on mobile devices (whether Firm issued or personally owned), the Firm also did not have any policies and procedures regarding its ability to retrieve on a timely basis business-related messages held on such users' devices.

3.26 As a result of these deficiencies in record keeping, the Board and the Firm's Risk function were hindered in their ability to exercise effective scrutiny and oversight of the Firm's business proposals and transactions, as key details were in a number of cases only communicated between individual Board members or senior executives outside of scheduled meetings and formal email correspondence, and what email correspondence there was could not be relied upon as being on the designated client files.

3.27 In addition, as a result of the matters set out in 3.23-3.26 above, Wyelands failed to comply with Record Keeping Rule 2.1 because it failed to keep sufficient records to enable the PRA to both effectively supervise the Firm, and carry out its investigation into the Firm.

Remuneration payments

3.28 Wyelands failed to ensure that all remuneration payments were clearly documented or approved by the RemCo and the Board. It also failed to adequately consider whether external payments from GFG entities could give rise to any potential conflicts of interest.

OIREQ imposed by the PRA under s 55M FSMA

3.29 During the period from October 2019 to April 2020 (i.e. in the initial period following the imposition of the OIREQ), Wyelands on multiple occasions entered into transactions with, and/or made payments to or on behalf of, "Relevant Persons", namely various GFG and GFG-introduced entities, which were subsequently identified to be contrary to the terms of the OIREQ, without the prior written consent of the PRA.

3.30 In light of the Firm's past (at the time, suspected) Large Exposures breaches, and the PRA's concerns regarding the adequacy of the Firm's systems, controls and processes and its counterparty exposures, it was critical that the Firm adhered to the requirements of the OIREQ.

3.31 Whilst efforts were made by the Firm to clarify the scope of the OIREQ, the Firm did not exercise reasonable care to ensure that it properly understood the extent of the OIREQ's application. As a result, the Firm continued to deal with Relevant Persons on a significant number of occasions without having received prior PRA consent to do so, and thereby breached the requirements of the OIREQ.

Annex C – Sanction

1.1. The PRA's policy for imposing a financial penalty is set out in '*The PRA's approach to enforcement: statutory statements of policy and procedure September 2021'*, in particular *Statement of the PRA's policy on the imposition and amount of financial penalties under the Act* (the "**PRA Penalty Policy**") and *Statement of the PRA's settlement decision-making procedure and policy for the determination of the amount of penalties and the period of suspensions or restrictions in settled cases* (the "**PRA Settlement Policy**").

1.2. Pursuant to paragraphs 12 to 36 of the PRA Penalty Policy, the PRA applies a five-step framework to determine the appropriate level of financial penalty.

Step 1: Disgorgement

1.3. Pursuant to paragraph 17 of the PRA Penalty Policy, at Step 1 the PRA seeks to deprive a person of any economic benefits derived from or attributable to the breach of its regulatory requirements, where it is practicable to ascertain and quantify them.

1.4. The PRA has not identified any economic benefit that the Firm derived from the breaches, including any profit made or loss avoided, that it would be practicable to ascertain or quantify.

1.5. The Step 1 figure is therefore **£0**.

Step 2: The seriousness of the breach

1.6. Pursuant to paragraph 18 of the PRA Penalty Policy, at Step 2 the PRA determines a starting point figure for a financial penalty having regard to the seriousness of the breach by the firm – including any threat it posed or continues to pose to the advancement of the PRA's statutory objectives – and the size and financial position of the firm.

1.7. Paragraph 19(a) of the PRA Penalty Policy sets out that a suitable indicator of the size and financial position of the firm may include, but is not limited to, the firm’s revenue.

1.8. Paragraph 19(b) of the PRA Penalty Policy provides that, in those cases where the PRA considers that revenue is an appropriate indicator of the size and financial position of the firm, ordinarily it will calculate the firm’s revenue during its last business year, which is the financial year preceding the date when the breach ended.

1.9. The PRA considers that the Firm’s total business revenue for the financial year preceding the date when the breach ended is a suitable indicator of its size and financial position. The Firm’s revenue in the financial year ended 30 April 2020 (being the financial year preceding the date when the breaches ended) was approximately £34,060,000.

1.10. Therefore, the starting point for the penalty is **£34,060,000**.

Step 2 Factors

1.11. Pursuant to paragraph 19(c) of the PRA Penalty Policy, the PRA applies an appropriate percentage rate (the “**Seriousness Percentage**”) to the starting point figure to produce a figure that properly reflects the nature, extent, scale and gravity of the breaches.

1.12. Pursuant to paragraphs 21 to 23 of the PRA Penalty Policy, the PRA has taken the following factors into account to determine the Step 2 Seriousness Percentage:

a) The Firm’s failure to conduct itself in a prudent and competent manner, and to implement a risk and control framework that was commensurate with the nature, scale and complexity of its business and strategy, undermined the safety and soundness of the Firm. As a result, the Firm failed to comply with relevant regulatory requirements, its own internal policies and procedures and the PRA’s supervisory requirements.

b) The Firm breached the 25% Large Exposures limit under Article 395 of Part IV of the CRR in respect of three of the Structured Transactions, and during the Relevant Period it failed to identify these breaches as required by Article 393 of Part IV of the CRR and report them to the PRA as required by Article 394 of Part IV of the

CRR. Ensuring that risks arising from Large Exposures to individual clients or groups of connected clients are kept to an acceptable level is a key part of the PRA's approach to prudential supervision, as a failure in one entity or group of connected entities can result in the firm incurring disproportionately large losses, undermining its safety and soundness. The PRA considers that the Firm should have been well aware of the risks and potential implications of its reliance on GFG and GFG-introduced business, and should have implemented more effective due diligence, governance oversight, and systems and controls such that it could properly identify and manage its Large Exposures.

c) Were it not for the PRA's supervisory interventions, the Firm would have likely failed due to its ongoing and systemic risk management and due diligence weaknesses. The Firm's breaches therefore had the potential to affect the PRA's general objective to promote the safety and soundness of firms.

d) The Firm's breaches persisted for a number of years and effectively throughout all except the first five months of the life of the Firm in its current manifestation.

1.13. Taking these factors into account, the PRA considers the failings in this case were significant and has determined the appropriate Seriousness Percentage is 25%.

1.14. The Step 2 figure is therefore **£8,515,000**.

Step 3: Adjustment for any mitigating, aggravating or other relevant factors

1.15. Pursuant to paragraph 24 of the PRA Penalty Policy, the PRA may increase or decrease the Step 2 figure to take account of any factors which may aggravate or mitigate the breaches. Any such adjustment will normally be made by way of a percentage adjustment to the figure determined at Step 2.

1.16. In deciding whether any adjustment for aggravating or mitigating factors is warranted, the PRA has considered the following factors:

a) The Firm cooperated with the PRA's investigation.

b) However, due to the Firm's inadequate recordkeeping policies and practices, the Firm was unable to provide documents (particularly electronic messages) that were potentially relevant to the PRA's investigation. This, and the Firm's failure to maintain complete client files, hindered the PRA's ability to conduct its investigation into the Firm.

c) The PRA expressed its concerns about the Firms' business model and risk capability during the Relevant Period (and as early as April 2018), including via the imposition of the PRA's OIREQ, which the Firm breached on multiple occasions. Whilst the Firm acknowledged certain weaknesses to the PRA during the Relevant Period, it failed to self-identify, appropriately investigate and effectively resolve any of the weaknesses or potential weaknesses that the PRA had cautioned against.

d) The Firm's senior management were aware of and closely involved in the issues and weaknesses at the Firm that led to the breaches.

e) The Firm has no previous disciplinary record, however the Firm's failings began soon after it was acquired following a Change in Control process in December 2016.

f) The Firm has made significant and early admissions in relation to the breaches.

1.17. The PRA has considered aggravating and mitigating factors and on balance considers that no adjustment to the Step 2 figure is warranted.

1.18. The Step 3 figure is therefore **£8,515,000.**

Step 4: Adjustment for deterrence

1.19. Pursuant to paragraph 27 of the PRA Penalty Policy, if the PRA considers the figure arrived at after Step 3 is insufficient to effectively deter the firm that committed the breach, or others, from committing further or similar breaches, then the PRA may increase the penalty at Step 4 by making an appropriate adjustment to it.

1.20. Taking into account all the circumstances, the PRA does not consider an adjustment for deterrence is necessary in this matter.

1.21. The Step 4 figure is therefore **£8,515,000.**

Step 5: Application of any applicable reductions for early settlement or serious financial hardship

1.22. Pursuant to paragraph 30 of the PRA Penalty Policy, where the firm upon whom a financial penalty is to be imposed claims that payment of the penalty will cause it serious financial hardship, in exceptional circumstances the PRA may reduce the penalty.

1.23. The Firm is in wind down and has provided evidence to the PRA that payment of a penalty would cause the Firm serious financial hardship. As at 31 December 2022, its gross loan book, as provided to the PRA, was £190.9m, all of which the Firm had fully provided for. The Firm received no cash from asset collections in its financial year ended 30 April 2022, or thereafter prior to signing of its annual accounts for that financial year on 31 January 2023.

1.24. The PRA considers that imposing a financial penalty on the Firm would not advance its general objective to promote the safety and soundness of the firms which it regulates, and therefore it is appropriate to reduce the financial penalty to nil and to impose a public censure. Were it not for these considerations, the PRA would have imposed a financial penalty of **£8,515,000**.

1.25. Pursuant to paragraph 29 of the Penalty Policy, if the PRA and the firm upon whom a financial penalty is to be imposed agree the amount of the financial penalty and any other appropriate settlement terms, the PRA Settlement Policy provides that the amount of the penalty which would otherwise have been payable may, subject to the stage at which a binding settlement agreement is reached, be reduced by 30% (as set out at paragraph 28 of the PRA Settlement Policy). As the PRA is not imposing a financial penalty on the Firm due to the matters set out in paragraphs 1.22-1.24 above, a settlement discount is not relevant.

1.26. The Step 5 figure is therefore **£0**.

Annex D – Procedural Matters

Decision maker

1. The settlement decision makers made the decision which gave rise to the obligation to give this Notice.

2. This Notice is given under and in accordance with section 390 of the Act.

Publicity

3. Sections 391(4), 391(6A) and 391(7) of the Act apply to the publication of information about the matter to which this Notice relates. Under those provisions, the PRA must publish such information about the matter to which this Notice relates as the PRA considers appropriate. However, the PRA may not publish information if such publication would, in the opinion of the PRA, be unfair to the persons with respect to whom the action was taken or prejudicial to the safety and soundness of PRA-authorised persons or prejudicial to securing an appropriate degree of protection to policyholders.

PRA contacts

4. For more information concerning this matter generally, contact Press Office (press@bankofengland.co.uk).

Appendix 1: Definitions

The definitions below are used in this Notice:

1. the “Act” or “FSMA” means the Financial Services and Markets Act 2000 (as amended);

2. “Alumina SPV” means, in relation to the Commodities Loans, the company which purchased alumina from the GFG D Co;

3. “Alumina SPV FA” means the facility agreement between Alumina SPV and the Firm;

4. “Alumina SPV Loan” means the US$19.2m loan which Alumina SPV drew under the Alumina SPV FA;

5. “Alumina SPV MCPA” means, in relation to the Commodities Loans, the master commodities purchase agreement between Alumina SPV and GFG D Co;

6. “Aluminium SPV” means, in relation to the Commodities Loans, the company which purchased aluminium from GFG D Co;

7. “Aluminium SPV FA” means the facility agreement between Aluminium SPV and the Firm;

8. “Aluminium SPV Loan” means the US$16.4m loan which Aluminium SPV drew under the Aluminium SPV FA;

9. “Aluminium SPV MCPA” means, in relation to the Commodities Loans, the master commodities purchase agreement between Aluminium SPV and GFG D Co;

10. “BAF” means, in relation to the GFG A Co receivables purchase transactions described in this Notice, the business advisory firm instructed by the Firm;

11. “block buyers” means, in relation to the GFG A Co receivables purchase transactions described in this Notice, a wide range of GFG A Co’s trade debtors;

12. “Board” means the Board of Directors of the Firm;

13. “Book Value Cover Ratio” means, in relation to each Commodities Loan, the ratio of the current value of the Commodities owned by a Commodities SPV to the value of those Commodities when that Commodities SPV purchased them;

14. “CET1 capital” means Common Equity Tier 1 capital;

15. “Commodities” means, in relation to the Commodities Loans, the alumina and aluminium that were sold by GFG C Co to GFG D Co (and then on-sold to the Commodities SPVs), the proceeds of which were indirectly used to fund the acquisition of GFG C Co from an unrelated third party;

16. “Commodities Loans” means (together) the Alumina SPV Loan and the Aluminium SPV Loan;

17. “Commodities SPVs” means Alumina SPV and Aluminium SPV;

18. “Control Test” is defined in Article 4(1)(39) of the CRR, which provides that a connected party means two or more natural or legal persons who, unless it is shown otherwise, constitute a single risk because one of them, directly or indirectly, has control over the other/others;

19. “Cover Ratio” means, in relation to each Commodities Loan, the ratio of the outstanding loan the relevant Commodities SPV owed to the Firm to (i) the current value of the Commodities owned by that Commodities SPV plus (ii) any amounts standing to the credit of that Commodities SPV’s collection account with the Firm;

20. “CRR” means the EU Capital Requirements Regulation (No 575/2013);

21. “CSC” means the Firm’s Credit Sanctioning Committee, an executive committee established in February 2018 and responsible for overseeing credit and counterparty risks arising from potential and/or actual transactions;

22. “Economic Test” is defined in defined in Article 4(1)(39) of the CRR, which provides that a

connected party means two or more natural or legal persons between whom there is no relationship of control (Control Test) but who are to be regarded as constituting a single risk because they are so interconnected that if one of them were to experience financial problems, in particular funding or repayment difficulties, the other or all of the others would also be likely to encounter funding of repayment difficulties;

23. “Engagement Policy” means the policy that was introduced by the Firm in April 2017 to manage potential risks of conflicts of interest between the Firm and the wider GFG business;

24. “Firm Loans” means, in relation to the Power Plant Loans, the £250,000 loans that the Firm made to the Firm SPVs when it purchased them and the further £2.34m it lent them in 2019;

25. “Firm SPVs” mean the three companies which were in the process of constructing Power Plants and that were acquired by the Firm in September 2018;

26. the “Firm’s January 2019 Letter” means the letter sent by the Firm to the PRA in January 2019 in response to certain queries by the PRA;

27. “First Line” means the first line of defence in the Firm’s risk management framework, responsible for owning and managing risks, and executing transactions;

28. “Generators” means the 13 biodiesel-fuel generators purchased from GFG B Co;

29. “Generator Loans” mean the five separate loans the Firm made to the Generator SPVs, initially in June and July 2017, and increased in late 2017 and April 2018 so that they totalled £39.9m, in connection with the Generator SPVs’ respective purchases of the Generators;

30. “Generator SPVs” mean the five companies that acquired the Generators from GFG B Co using the proceeds of the Generator Loans from the Firm;

31. “Generator UBOs” means the separate owners of the Generator SPVs;

32. “GFG” or “GFG Alliance” means the Gupta Family Group alliance of global businesses;

33. “GFG A Co” means the newly incorporated GFG entity with which the Firm entered into the receivables purchase transactions described in this Notice;

34. “GFG B Co” means the GFG entity that, among other things, sold the Generators to the Generator SPVs and (indirectly) the Power Plants to the Power Plant SPVs;

35. “GFG C Co” means, in relation to the Commodities Loans, the GFG entity which operated an aluminium smelter and that was acquired from an unrelated third party;

36. “GFG D Co” means, in relation to the Commodities Loans, the GFG entity that bought the Commodities from GFG C Co and then sold them on to the Commodities SPVs;

37. “Independent non-executive directors” means the Board’s non-executive directors who were not Shareholder non-executive directors;

38. “ISA” means, in relation to the Commodities Loans, the inventory sale agreement between GFG D Co and GFG C Co;

39. “Large Exposures” or “LE” means a firm’s exposure to a client or group of connected clients where the value of the exposure is equal to or exceeds 10% of the firm’s eligible capital, as defined in Article 392 of Part IV of the CRR;

40. “MCSA” means, in relation to the Commodities Loans, the master commodities supply agreement between GFG D Co and GFG C Co;

41. “New Parent” means, in relation to each Power Plant Loan, the company that received an intercompany loan from the Power Plant SPV which it was acquiring in order to finance its acquisition of that Power Plant SPV;

42. “Notice” means this Final Notice and its Annexes and Appendices;

43. “OIREQ” means Own Initiative Requirements imposed on the Firm by the PRA on 19

September and 18 October 2019;

44. “O&M” means operation and maintenance;

45. “OpCo” means, in relation to the Power Plant Loans, the twelfth Power Plant SPV, which provided O&M services in respect of the Power Plants to the other eleven Power Plant SPVs;

46. “Power Plants” means, in relation to the Power Plant Loans, the power plants owned by eleven out of twelve Power Plant SPVs;

47. “Power Plant Loans” means the twelve separate loans made by the Firm in September 2018, totalling £104m, to the Power Plant SPVs;

48. “Power Plant SPVs” means the twelve companies which either purchased the Power Plants from GFG B Co in September 2018 or, in the case of the twelfth company, provided O&M services to the other eleven companies;

49. “Power Plant UBO” means, in relation to each Power Plant Loan, the owner of the relevant New Parent;

50. "PRA" means the Prudential Regulation Authority;

51. “PRA Penalty Policy” means the PRA’s approach to enforcement: statutory statements of policy and procedure September 2021 – Appendix 2 – Statement of the PRA’s policy on the imposition and amount of financial penalties under the Act;

52. "PRA's Settlement Policy" means the PRA's approach to enforcement: statutory statements of policy and procedure January 2016 - Appendix 4 -Statement of the PRA's settlement decision-making procedure and policy for the determination and amount of penalties and the period of suspensions or restrictions in settled cases;

53. “Relevant Actions” means the actions which the OIREQ prohibited the Firm from taking without the prior written consent of the PRA;

54. “Relevant Period” is the period between 21 December 2016 and 28 May 2020;

55. “Relevant Persons” means, in relation to the OIREQ, members of GFG and their controller and certain entities which GFG had introduced to the Firm;

56. “RemCo” means the Firm’s Remunerations and Nominations Committee;

57. “ROCs” means, in relation to the Generator Loans, Ofgem-issued Renewables Obligation Certificates;

58. “RPA” means, in relation to the GFG A Co receivables purchase transactions described in this Notice, the receivables purchase agreement between GFG A Co and the Firm;

59. “RTBs” means, in relation to the GFG A Co receivables purchase transactions described in this Notice, buyers of stock from GFG A Co who only acquired title to that stock upon payment in full of the purchase price for that stock;

60. “Second Line” means the second line of defence in the Firm’s risk management framework, responsible for the design and ongoing improvement of the risk management framework, continuous monitoring and reporting on risks (including maintaining a detailed risk register), providing challenge and oversight to the First Line’s implementation of the risk management framework, and developing risk policies and operational procedures;

61. “Shareholder” means the shareholder of the Firm;

62. “Shareholder non-executive directors” means the up to two non-executive directors on the Board who were representatives of the Shareholder;

63. “SPA” means, in relation to each Power Plant Loan, the share purchase agreement pursuant to which the Power Plant SPV which was the borrower of that Power Plant Loan was purchased by the relevant New Parent;

64. “Structured Transactions” means the GFG A Co receivables purchase transactions described in this Notice, the Generator Loans, the Power Plant Loans and the Commodities Loans;

65. “Third Line” means the third line of defence in the Firm’s risk management framework, responsible for providing the Board with independent assurance of the effectiveness of the risk management framework and processes, and regularly conducting an independent review and assessment of all aspects of the work of the First Line and Second Line;

66. “TPFP” means, in relation to the GFG A Co receivables purchase transactions described in this Notice, the third party finance provider to GFG A Co;

67. “TPFP Security Agreement” means the security agreement executed by GFG A Co in April 2019 in favour of the TPFP;

68. “TPSP” means, in relation to the Commodities Loans, the third party service provider instructed by the Firm;

69. “Trust Co” means the independent professional trustee company which was the trustee of the Wyelands Trust;

70. “Wyelands” or the “Firm” means Wyelands Bank Plc;

71. “Wyelands Security Agreement” means, in relation to the GFG A Co receivables purchase transactions described in this Notice, the security agreement entered into on 5 July 2019 between GFG A Co and the Firm; and

72. the “Wyelands Trust” means the trust which is the ultimate holding entity of the Firm.

Appendix 2: Relevant Statutory and Regulatory Provisions

1. Relevant Statutory Provisions

1.1. The PRA has a general objective, set out in section 2B of the Act, to promote the safety and soundness of PRA-authorised persons. The PRA seeks to advance this objective by seeking to ensure that the business of PRA-authorised firms is carried on in a way which avoids any adverse effect on the stability of the UK financial system.

1.2. Section 205 of the Act provides that: '*If the appropriate regulator considers that an authorised person has contravened a relevant requirement imposed on the person, it may publish a statement to that effect.*'

1.3. Section 206 of the Act provides that: '*If the appropriate regulator considers that an authorised person has contravened a relevant requirement imposed on the person, it may impose on him a penalty, in respect of the contravention, of such amount as it considers appropriate*.'

1.4. Wyelands Bank Plc is an authorised person for the purposes of section 206 of the Act. Relevant requirements imposed on an authorised person include rules made under the PRA Rulebook, including the PRA's Fundamental Rules, the Branch Return Rule and the Notifications Rules.

2. Relevant Regulatory Provisions

2.1. In addition to its Threshold Conditions, the PRA has a number of Fundamental Rules which apply to all PRA-authorised firms. These are high-level rules which collectively act as an expression of the PRA's general objective of promoting the safety and soundness of regulated firms.

2.2. Fundamental Rule 3 states that: *'A firm must act in a prudent manner.'*

2.3. Fundamental Rule 5 states that: *'A firm must have effective risk strategies and risk management systems.'*

2.4. Fundamental Rule 6 states that: *'A firm must organise and control its affairs responsibly and effectively.'*

2.5. PRA General Organisational Requirement 2.1 states: *'A firm must have robust governance arrangements, which include a clear organisational structure with well defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks it is or might be exposed to, and internal control mechanisms, including sound administrative and accounting procedures and effective control and safeguard arrangements for information processing systems.'*

2.6. PRA General Organisational Requirement 5.1 states: *'A firm must ensure that the management body defines, oversees and is accountable for the implementation of governance arrangements that ensure effective and prudent management of the firm, including the segregation of duties in the organisation and the prevention of conflicts of interest. The firm must ensure that the management body:*

(1) has overall responsibility for the firm;
(2) approves and oversees implementation of the firm's strategic objectives, risk strategy and internal governance;
(3) ensures the integrity of the firm's accounting and financial reporting systems, including financial and operational controls and compliance with the regulatory system;
(4) oversees the process of disclosure and communications;
(5) has responsibility for providing effective oversight of senior management; and
(6) monitors and periodically assesses:
(a) the adequacy and the implementation of the firm's strategic objectives in the provision of its regulated activities;
(b) the effectiveness of the firm's governance arrangements and adequacy of the policies relating to the provision of services to clients; and
(c) *takes appropriate steps to address any deficiencies).'*

2.7. PRA Record Keeping Rule 2.1 states: *'A firm must arrange for orderly records to be* *kept of its business and internal organisation, including all services, activities and transactions undertaken by it, which must be sufficient to enable the PRA to:*

(1) fulfil its supervisory tasks and perform the enforcement actions under the regulatory system; and

(2) in particular ascertain that the firm has complied with all obligations.'

2.8. PRA Risk Control Rule 3.4 states: *'A firm must ensure the following:*

(1) the risk management function is independent from the operational functions and has sufficient authority, stature, resources and access to the management body;

(2) the risk management function ensures that all material risks are identified, measured and properly reported, is actively involved in elaborating the firm's risk strategy and in all material risk management decisions and is able to deliver a complete view of the whole range of risks of the firm; and

(3) the risk management function is able to report directly to the management body in its supervisory function, independent from senior management and that it can raise concerns and warn the management body, where appropriate, where specific risk developments affect or may affect the firm, without prejudice to the responsibilities of the management body in its supervisory and/or managerial functions pursuant to the CRD and the CRR.'

2.9. PRA Related Party Transaction Risk Rule 2.3 states: '*A firm must establish, implement and maintain effective policies and procedures to identify, evaluate and manage risks arising out of transactions with its related parties.'*

2.10. Article 393 of Part IV of the EU Capital Requirements Regulation (No 575/2013) ("**CRR**") states: *'An institution shall have sound administrative and accounting procedures and adequate internal control mechanisms for the purposes of identifying, managing, monitoring, reporting and recording all large exposures and subsequent changes to them, in accordance with this Regulation'.'*

2.11. Article 394 of Part IV of the CRR states (so far as relevant): '*An institution shall report the following information about every large exposure to the competent authorities …: (a) the identification of the client or the group of connected clients to which an* *institution has a large exposure; (b) the exposure value …'.*

2.12. During the Relevant Period, Article 395 of Part IV of the CRR stated (so far as relevant): *'An institution shall not incur an exposure … to a client or group of connected clients the value of which exceeds 25 % of its eligible capital …'.*

2.13. Section 55M of the Financial Services and Markets Act 2000 states:

'Imposition of requirements by PRA

(1) Where—

(a) a person has applied for a Part 4A permission in relation to activities which consist of or include a PRA-regulated activity,

(b) a PRA-authorised person has applied for a Part 4A permission or the variation of a Part 4A permission, or

(c) an authorised person other than a PRA-authorised person has applied for a Part 4A permission to be varied by adding to the regulated activities to which it relates one or more regulated activities which include a PRA-regulated activity,

(d) the PRA may impose on that person such requirements, taking effect on or after the giving or variation of the permission, as the PRA considers appropriate.

(2) The PRA may exercise its power under subsection (3) in relation to a PRA-authorised person with a Part 4A permission ("P") if it appears to the PRA that—

(a) P is failing, or is likely to fail, to satisfy the threshold conditions for which the PRA is responsible,

(b) P has failed, during a period of at least 12 months, to carry on a regulated activity to which the Part 4A permission relates, or

(c) it is desirable to exercise the power in order to advance any of the PRA's objectives.

(3) The PRA's power under this subsection is a power—

(a) to impose a new requirement,

(b) to vary a requirement imposed by the PRA under this section, or

(c) to cancel such a requirement.

(4) The PRA's power under subsection (3) is referred to in this Part as its own-initiative requirement power.

(5) The PRA may, on the application of a PRA-authorised person with a Part 4A permission—

(a) impose a new requirement,

(b) vary a requirement imposed by the PRA under this section, or

(c) cancel such a requirement.

(6) The PRA may refuse an application under subsection (5) if it appears to it that it is desirable to do so in order to advance any of its objectives.'

3. Relevant Statutory Policy

Approach to the supervision of banks

3.1. *The Prudential Regulatory Authority's Approach to Banking Supervision, June 2014* (as updated in October 2018) sets out how the PRA carries out its role in respect of deposit-takers and designated investment firms. One of the purposes of the document is to communicate to regulated firms what the PRA expects of them, and what they can expect from the PRA in the course of supervision.

Approach to enforcement

3.2. *The Prudential Regulation Authority's approach to enforcement: statutory statements of policy and procedure*, *April* 2013 (as updated in September 2021) sets out the PRA's approach to exercising its main enforcement powers under the Act.

3.3. In particular, The PRA's approach to the imposition of a public censure and penalties and consideration of serious financial hardship is outlined at Annex 2 *Statement of the PRA's policy on the imposition and amount of financial penalties under the Act*; and the PRA's approach to settlement is outlined at Annex 4 - *Statement of* the *PRA's settlement decision-making procedure and policy for the determination of the amount of penalties and the period of suspensions or restrictions in settled cases*.