

Special Edition: FCA Regulatory Business Plan 18/19

The FCA has released its annual Business Plan setting out its priorities for the financial year. As well as setting out new **cross-sector priorities**, some of the key cross sector priorities from last year remain and/or have been updated. The primary cross-sector priorities for the FCA over the next 12 months are:

- Firms' culture and governance
- Financial crime and anti-money laundering (AML)
- Data security, resilience and outsourcing
- Innovation, big data, technology and competition
- Treatment of existing customers
- Long-term savings and pensions intergenerational differences
- High-cost credit

The following summarises the key areas of interest for our clients and provides some recommendations that firms may wish to consider in demonstrating that they are meeting FCA expectations.



Firms' culture and governance

Carried over from the 2017/18 Business Plan, the FCA will be finalising rules to extend the Senior Managers and Certification Regime ("SM&CR") to all FSMA firms, the implementation of which has been put back to late 2019. The FCA proposed that only the most senior individuals caught by the new regime would appear on the Financial Services Register. However, feedback received was in favour of maintaining a central public register of other employees currently approved to hold controlled functions, such as non-executive directors, investment managers/advisers and traders executing deals, who currently appear on the FCA Register. Further consultation will follow.

The FCA will also take a broader look at all firms' remuneration arrangements in 2018/19 to identify the potential or actual harm from the remuneration schemes of firms that are not subject to the various Remuneration Codes covered by the rules in the SYSC Handbook.

Regarding the SM&CR, as and when further information/consultation is published Newgate will be able to advise on the impact the SM&CR will have on your business. It is likely firms will be required to produce a 'responsibilities map' describing the firm's management and governance arrangements and how responsibilities have been allocated, corporate governance diagram and annual fitness and propriety assessments. Newgate will assist as the implementation as SMCR approaches.



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Financial crime and anti-money laundering

Carried over from the 2017/18 Business Plan. The recently published UK National Risk Assessment of Money Laundering and Terrorist Financing identified that the UK needs a more comprehensive picture of how capital markets are being used for money laundering. The FCA will undertake diagnostic work to gather this information and decide the best approach to prevent it. The FCA are working with the Government and industry on reforming the suspicious activity reporting regime and to establish a new National Economic Crime Centre. Raising consumer awareness of fraud and scams remains a priority. Consumers' increased use of data sharing and social media can also make them more susceptible to fraud.

With the introduction of the 4th Money Laundering Directive on 26th June 2017, MLRO's should consider the revisions necessary when completing their annual report and risk assessment, with which Newgate will be happy to assist.

Data security, resilience and outsourcing

Cyber-attacks in the financial services sector are becoming more frequent and widespread. The FCA's work will focus on ensuring that firms are more resilient to cyber-attacks and technology outages, so reducing the risk and frequency of disruption.

Over the next year, the FCA will strengthen its supervisory assessments of the highest impact firms to better understand their current and planned use of technology, resilience to cyber-attacks and staff expertise. The FCA will also review how governance, strategy, systems architecture, risk management and culture contribute to firms' data security. For lower impact firms, focused thematic work will be conducted based on the harms identified for the sector they operate in.

FCA will be assessing the risks of outsourcing critical services to unregulated third-party service providers and also where service providers support a number regulated firms, as the potential impact of any disruption is more widespread.

We recommend reviewing and testing your IT systems against the threat of cybercrime on a regular basis (at least annually). Firms should also complete our cyber-security arrangements assessment on the GATEway and ensure staff take our cyber-security training course.



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Innovation, big data, technology and competition

Key activities will be to continue to assist firms using innovation to improve consumer outcomes through the FCA's Innovate programme, allowing firms to test the commercial and regulatory viability of their innovative business through the regulatory sandbox (see attached link) <https://www.fca.org.uk/firms/regulatory-sandbox>.

The FCA will be taking forward work to deliver cost savings to firms in reporting regulatory returns and experimenting analytical tools designed to detect unauthorised business activity on the internet and automated evaluation and detection of misleading advertising.

FCA will review the use of data by firms including algo trading and artificial intelligence to assess potential and actual harm and where FCA intervention may be needed. Proposed new rules to address areas of concern in the crowdfunding market will be published this year. The FCA will publish a Discussion Paper later this year outlining its policy on cryptocurrencies where these are packaged into regulated products (e.g. CFDs).

On the 5th March 2018, Newgate issued a special news bulletin to all of its clients concerning the introduction of the GDPR. Please contact us if you require assistance in meeting your obligations under this new legislation.

Treatment of existing customers

Carried over from the 2017/18 Business Plan. The message remains that existing customers should receive the same benefits of increased competition and innovation that new customers receive, and all customers should be well informed about the financial products they buy or are invested in, including performance and charges. Of most significant to Newgate clients is the proposal to wide access to the Financial Ombudsman Service to include Small and Medium-sized Enterprises.

Long-term savings and pensions intergenerational differences

A new priority for the FCA is to publish its final report and consultation paper from its Retirement Outcomes Review. The FCA will be collecting data from all firms that have pension transfer permission to assess practices and will take action where it finds unsuitable advice has been given.

High-cost credit

As part of its ongoing review of high-cost credit, the FCA will look at solutions designed to increase the choice and availability of alternatives to high-cost credit.

Sector Specific Priorities: Investment Management

The FCA considers that the key issues in the Investment Management sector include poor quality and value for money of products, inadequate disclosure and lack of transparency, susceptibility to financial crime, and cyber and technological resilience risks.

The FCA will be;

- Finalising rule changes following the Asset Management Market Study;
- Working with European Supervisory Authorities in the implementation and review of the Packaged Retail and Insurance-Based Investments Products Regulation (PRIIPS);
- Consulting on new rules and guidance on liquidity management;
- Considering the extension of governance remedies to with-profits and unit-linked funds;
- Assisting the Treasury in the development of a new prudential regime for investment firms authorised under MiFID II; and
- Publishing research that explores the rise of passive investments.

Brexit

Understandably, a significant proportion of the FCA's resources are focused on the UK's withdrawal from the EU. Over the next year the focus of its work is expected to be as follows;

- Technical assistance to the Government in its negotiations with the EU and member states regarding free trade agreements;
- Technical advice on the EU (Withdrawal) Bill which will convert existing EU legislation into UK law;
- Review the FCA Handbook in light of legislative changes and amend as necessary.
- Advise the Treasury and other areas of the Government on how the UK's future relationship with the EU may affect the financial services industry and its users and assess the impact of transitional arrangements on UK regulated firms;
- Appropriate transition to a future model for authorisation and supervision of EEA firms;



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- Working with regulated firms to understand their future plans post Brexit and the impact on markets and consumers; and
- Work with regulatory authorities across the EU and globally to ensure continued cooperation and information sharing in respect of firms and markets, policies and future regulatory regimes.

Firms should be aware that existing financial regulation, much of which derives from EU legislation, remains in place until the Government and Parliament make any changes. The FCA will also continue to implement any EU legislation that will come into force before the UK leaves the EU. Newgate will be in contact as required.