

Newgate News

Industry to begin testing the Financial Instruments Transparency System (FITRS)

As part of developing the post-exit MiFID regime, industry testing for FCA FITRS (Financial Instruments Transparency System) opened as of 5 October 2020.

The FCA have released a [technical guide](#) which explains how to access and download full and delta files in the FCA FITRS system.

Newgate's advice: *The FCA encourage third party data providers, venues and trading firms to engage with the parallel run of FITRS and to give feedback. This will ensure a smooth transition to the new regime in January 2021. To provide feedback please email: fcaftrs@fca.org.uk.*

<https://www.fca.org.uk/news/news-stories/industry-begin-testing-financial-instruments-transparency-system-fitr>

Impact:



September 2020

- Industry to begin testing the Financial Instruments Transparency System (FITRS)
- FCA and BoE encourage market participants in further switch to SONIA in interest rate swap markets
- FCA publishes annual report on the regulatory perimeter
- FCA launches consultation on the regulation of international firms
- Crypto CFDs
- First firms to begin move to new data collection platform "RegData"
- Listings of cannabis-related businesses

Impact assessment key:



FCA and BoE encourage market participants in further switch to SONIA in interest rate swap markets

Following close engagement with market participants, the FCA and Bank of England support and encourage liquidity providers in the sterling swaps market to adopt new quoting conventions for inter-dealer trading based on SONIA instead of LIBOR from 27 October 2020.

The Working Group on Sterling Risk-Free Reference Rates ('the Working Group') has recommended to cease initiation of new GBP LIBOR linked linear derivatives expiring after 2021 by end-Q1 2021, other than for risk management of existing positions. In support of this, the FCA has engaged with interest rate swap li-

quidity providers as well as interdealer brokers to determine support for a change in the quoting conventions of sterling interest rate swaps in the interdealer market.

Newgate's advice: *The FCA recommend that all participants in these interdealer markets to take the steps necessary to prepare for and implement these changes to market conventions. In the period leading up to 27 October 2020, the FCA and the Bank of England will engage with market participants to determine whether market conditions allow the switch to proceed smoothly in October.*

<https://www.fca.org.uk/news/statements/fca-and-bank-england-encourage-market-participants-further-switch-sonia-interest-rate-swap-markets>

Impact: 

FCA publishes annual report on the regulatory perimeter

The FCA has published its second annual perimeter report. The FCA perimeter determines which activities require authorisation and what level of protection consumers can expect for the financial services and products they purchase. The perimeter is decided by the Government and Parliament through legislation. In June 2019, the FCA published its first annual perimeter report, which sought to provide greater clarity to stakeholders on the FCA's role and set out specific issues that had arisen, most notably those facing consumers in the retail investment sector.

This year's report gives updates on the issues discussed in last year's report. This includes the issuing of a temporary product intervention in January 2020 to ban the mass-marketing of speculative illiquid debt

securities and preference shares to retail investors for 12 months. The report also identifies where others, such as big tech firms like Google, can do more to protect consumers in areas on the edge of the perimeter. The report also sets out other areas where progress has been made or where there is continued harm to consumers and market users around the perimeter, particularly in light of the coronavirus (Covid-19) pandemic.

Newgate's advice: *The report highlights the FCA's endeavours during an economically uncertain year. Chris Woolard notes that Covid-19 'may exacerbate existing perimeter issues and encourage unlawful activity.' At Newgate, we are reviewing our MAR offering to clients, please do get in contact with us for more information on our market abuse updates.*

<https://www.fca.org.uk/news/press-releases/fca->

Impact: 

FCA launches consultation on the regulation of international firms

Impact:

The FCA has launched a consultation on its approach to the authorisation and supervision of international firms operating in the UK. This is relevant to EEA firms that intend to seek authorisation in the UK in the future, including those entering the Temporary Permissions Regime (TPR), as well as firms from non-EEA countries that have applied or intend to apply for authorisation in the UK, or are already authorised in the UK. The FCA has requested feedback from firms on how risks can be mitigated by firms serving UK customers through branches. The deadline for consultation responses is the 27th November 2020. All feedback will form the basis for the FCA's final statement on their approach to international firms.

Newgate's advice: *With the Brexit transition period due to end on 31 December 2020, firms that have registered for temporary permission will need to consider plans for full authorisation. This consultation will give EEA and non-EEA firms a chance to provide feedback on our future approach to the regulation of international firms.' When the FCA decides whether to authorise an international firm, it applies the same minimum standards as it does for UK firms.*

Before seeking authorisation, any international firm needs to demonstrate it is ready, willing, organised and meets the relevant minimum standards. Once authorised, firms need to continue to meet those standards, which are designed to protect consumers and ensure the integrity of markets. The FCA expects a firm seeking authorisation to have an active place of business in the UK to enable the FCA to effectively supervise its UK activities.

<https://www.fca.org.uk/news/press-releases/fca-launches-consultation-regulation-international-firms>



Crypto CFDs

The FCA has published final rules banning the sale of derivatives and exchange traded notes (ETNs) that reference certain types of cryptoassets to retail consumers. The FCA considers these products to be ill-suited for retail consumers due to the harm they pose. These products cannot be reliably valued by retail consumers because of the:

- inherent nature of the underlying assets, which means they have no reliable basis for valuation;
- prevalence of market abuse and financial crime in the secondary market (eg cyber theft);
- extreme volatility in cryptoasset price movements;
- inadequate understanding of cryptoassets by retail consumers; and
- lack of legitimate investment need for retail consumers to invest in these products

To address these harms, the FCA has banned the sale, marketing and distribution to all retail consumers of any derivatives (i.e. contract for difference – CFDs, options and futures) and ETNs that reference unregulated transferable cryptoassets by firms acting in, or from, the UK.

Newgate's advice: *The ban will come into effect on 6 January 2021. Firms should note that as the sale of derivatives and ETNs that reference certain types of cryptoassets to retail consumers is now banned, any firm offering these services to retail consumers is likely to be a scam.*

<https://www.fca.org.uk/news/press-releases/fca-bans-sale-crypto-derivatives-retail-consumers>

Impact:



First firms to begin move to new data collection platform "RegData"

The first firms has been moved over from Gabriel to RegData over the weekend of the 17th and 18th of October 2020. Firms will continue to be moved to RegData from Gabriel in the coming months in stages, based on their reporting requirements. All 52,000 firms will receive direct emails from Gabriel advising them of their moving date. These 3 emails will be sent to firms 3 weeks, 5 days and 1 day before they move to RegData.

Newgate's advice: *Firms will not be able to access RegData until they and their users' data have been moved across from Gabriel. Until then, you should*

continue to report via Gabriel, using your existing Gabriel login details. Users can now access a series of explainer videos and step-by-step user guides to take them through each aspect of the RegData platform: <https://www.fca.org.uk/firms/regdata/resources>. RegData will be accessible from the FCA website.

<https://www.fca.org.uk/news/news-stories/first-firms-begin-move-new-data-collection-platform-regdata>

Impact:



Listings of cannabis-related businesses

The FCA has set out its approach to assessing the implications of cannabis-related companies interested in listing in the UK.

While medicinal cannabis was legalised in the UK in 2018, investment in overseas-licensed medicinal cannabis businesses remains a legally complex area. There remains a risk that the proceeds from overseas medicinal cannabis business may constitute 'criminal property' for the purpose of the Proceeds of Crime Act 2002 (PoCA). This includes where the company possesses a licence issued by an overseas medicines or pharmaceuticals licensing authority.

If a pharmaceutical company supplied cannabis in the UK without appropriate Home Office licences, they would be committing a criminal offence. Firms cannot assume that a person who has been licensed in an overseas country would receive a licence here in the UK as licensing regimes differ globally.

The proceeds from recreational cannabis companies, even when they are in those jurisdictions that have legalised it, are proceeds of crime under PoCA. The FCA would therefore not admit the securities of such a company to the Official List.

<https://www.fca.org.uk/news/statements/listings-cannabis-related-businesses>



Impact:



Newgate's advice: *UK-based medicinal cannabis companies can be admitted to the Official List if the company has the appropriate Home Office licences for their activities where they are required. Overseas-licensed medicinal cannabis companies and cannabis oil companies may be admitted to the Official List, provided that the FCA is satisfied the PoCA does not apply and they otherwise satisfy the criteria for listing. Before they are admitted, the FCA will carry out a review of their case where they will need to satisfy the PoCA risk. For medicinal cannabis and cannabis oil companies with overseas activities, the company will need to assure FCA requirements that their activities would be legal if carried out in the UK. The Regulator would also expect to understand the legal basis of the company's overseas activities, for example the nature of the local licensing and the licences the company holds. Please contact your Newgate consultant for more information if required.*

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