Newgate Compliance Limited
7 Princes Street
London. EC2R 8AQ
Phone: +44 (0)20 3696 8750
Email: info@newgatecompliance.com
www.newgatecompliance.com
www.gatewayncl.com

NEWGATE NEWS

UP TO DATE COMPLIANCE NEWS FOR FINANCIAL ADVISORS, ASSET MANAGERS AND ALTERNATIVE INVESTMENT FIRMS

30th January 2020

Dear CEO Letter: Portfolio Strategy Letter for Financial Advisers

The Financial Conduct Authority (FCA) has published a Dear CEO Letter to financial advisers. The letter outlines 4 ways in which consumers of financial advice may be harmed. It also highlights the FCA's focus areas in conducting future supervision visits:

1. Receiving unsuitable advice for their needs and objectives
2. Falling victim to pension investment scams
3. Not receiving redress as a result of the non-payment of FOS awards and/or failing firms being unable to compensate consumers
4. Paying excessive fees or charges for products and services

Suitability and disclosure: In line with the 'Assessing Suitability Review' (2017), the FCA continues to focus on suitability of advice and associated disclosure. Firms should ensure any advice it provides is suitable, costs and charges are disclosed clearly, and that firms act in the best interests of the client.

DB pension schemes: The FCA is concerned firms are recommending large numbers of consumers transfer out of their Defined Benefit (DB) pension schemes despite the FCA's view that transfers are likely to be unsuitable for most clients. Firms should start from the assumption that a pension transfer is not likely to be suitable. Firms should ensure all the necessary information is gathered to carry out appropriate pension transfer analysis and make a suitable recommendation.

Scams: The FCA highlights recent risks regarding pension and investment scams and advises firms to ensure advice processes and systems are sufficiently robust to avoid such risks. Firms should update their processes and policies appropriately.

Financial resources and PII: Some financial advisers are holding inadequate financial resources and/or professional indemnity insurance (PII). Firms should ensure that they meet the financial resources requirements set out in Chapter 13 of Interim Prudential sourcebook, and that valid PII is maintained for past and current business.

Ban on mini bonds: Firms are reminded that from 1st January 2020 for a twelve-month period, the FCA has banned the mass marketing of speculative mini bonds to retail customers. Firms should ensure that the steps taken previously to approve financial promotions are enough to ensure they satisfy FCA requirements.

Newgate Compliance Limited
7 Princes Street
London. EC2R 8AQ
Phone: +44 (0)20 3696 8750
Email: info@newgatecompliance.com
www.newgatecompliance.com
www.gatewayncl.com

SM&CR: The FCA will assess firms' compliance with the new SM&CR requirements as part of its ongoing supervisory work. Firms should ensure Senior Managers have a clear understanding of their roles and responsibilities and consider how the regime might affect the firm's people processes and governance.

Brexit: The UK Brexit withdrawal agreement means that, as of the 31st January 2020, the UK will enter an implementation period during which it will negotiate its future relationship with the EU. Firms should consider how the end of the implementation period will affect the firm and its customers.

Impact for firms: Firms should consider the contents of the letter and remediate any shortfalls. In particular, firms should review / consider its:

- Financial promotions and disclosures to ensure it meets regulatory requirements
- Processes so that the firm remains vigilant against pension and investment scams. This should be reflected in the firm's risk management matrix and procedures.
- Governance arrangements including SMCR requirements. We have an SMCR assessment covering governance requirements. Contact us for a copy
- Financial resources and PII arrangements. Contact us on advice on the application of Chapter 13 of the Interim Prudential sourcebook
- Impact of Brexit on the firm's operations, clients and product/service offerings

Access the Dear CEO letter here: https://www.fca.org.uk/publication/correspondence/portfolio-strategy-letter-for-financial-advisers.pdf

Dear CEO Letter: Asset Management Supervision Strategy

On 20th January 2020, the FCA issued a Dear CEO letter outlining the key risks of harm Asset Managers pose to their customers and the markets in which they operate.

Risks highlighted by the FCA:

- Standards of governance falling behind FCA requirements
- Funds being offered to retail investors in the UK when they do not deliver good value or manage conflicting interests
- Low levels of investment in research, development and operational resilience leading thus damaging market integrity and sensitive data

The FCA have developed their 'supervision strategy' to direct appropriate action for asset managers:

Newgate Compliance Limited
7 Princes Street
London. EC2R 8AQ
Phone: +44 (0)20 3696 8750
Email: info@newgatecompliance.com
www.newgatecompliance.com
www.gatewayncl.com

- Liquidity management: Authorised Fund Managers (AFM) must ensure effective liquidity management in funds remains a central responsibility.
- Firms' governance: effective governance is critical in delivering long-term returns for investors. Boards must engage in robust discussion around business decisions without undue reliance on Group structures. Firms must mitigate harm arising from any conflicts of interest between affiliates, including between an AFM and delegate investment management entity.
- SM&CR: Firms to must refresh its approach to governance and take steps to improve it in line with SM&CR requirements. Lines of accountability and responsibility for senior management functions (SMFs) must be clear.
- Asset Management Market Study (AMMS) remedies: The AMMS Final Report (2017), introduced a series of rule changes. Firms should conduct value assessments on its authorised funds. Governing bodies of AFMs must have at least one quarter of their members as independent (and no fewer than two independent directors). Funds' objectives should be clear, fair, not misleading and comply with relevant disclosure requirements.
- Product governance: MiFID II ushered in a new set of requirements on firms to ensure customer interests remain central throughout the product lifecycle. Firms must ensure products are being designed in the best interest of the customer.
- Libor transition: LIBOR will cease from the start of 2022. Firms should recognise its responsibilities to facilitate the transition to new, more appropriate rates, such as SONIA. Dual-regulated firms are encouraged to review the Dear CEO letter on LIBOR (2018).
- Operational resilience: Firms should manage its technology and cyber-risk, including through appropriate oversight of third-party firms and intra-group service providers. The FCA's Consultation Paper on Operation Resilience outlines a proposed approach to strengthen firm's operational resilience. Firms with a greater risk of causing harm are subject to proactive technology reviews.

Brexit: Firms should consider how the end of the implementation period Brexit on the 31st January 2020 will affect the firm and its customers.

Impact for firms: Firms should consider the Letter and address any shortfalls within the firm's arrangements. In particular, firms should review its:

- ICAAP, ILAS and any other documents covering liquidity arrangements plus stress testing
- Product governance procedures. Contact Newgate for a product governance checklist
- Operational resilience covering technology and cyber risks and ensuring this is reflected in appropriate policies. Contact us for template policies
- Governance arrangements including SMCR requirements. We have an SMCR assessment covering governance requirements. Contact us for a copy

Read the full Letter here: https://www.fca.org.uk/publication/correspondence/asset-management-portfolio-letter.pdf

Newgate Compliance Limited
7 Princes Street
London. EC2R 8AQ
Phone: +44 (0)20 3696 8750
Email: info@newgatecompliance.com
www.newgatecompliance.com
www.gatewayncl.com

Dear CEO Letter: Alternatives Supervision Strategy

On 20 January 2019, the FCA published a Dear CEO Letter outlining the key risks of harm that Alternative Investment Firms (e.g., AIFMs) pose to their customers.

The key risks the FCA highlights:

- High risk alternative investments being made available to 'less-sophisticated investors'
- Poor conduct of CASS regulations leading to loss of client money and custody assets
- Weak systems that can lead to risks of market abuse, other types of financial crime and harm or disruption to market integrity not being effectively mitigated

To mitigate these risks firms are advised to:

- Firms should consider the appropriateness or suitability of investments for their target investors
- Identifying the client type and investment need
- Complying with relevant restrictions on marketing to retail investors when communicating or approving financial promotions for alternative products
- Adequately assessing the appropriateness (for non-advised suitability) or suitability (for advised or discretionary services) of alternative investments for retail investors
- Assess a client's knowledge and experience of the relevant market, alongside meeting the relevant qualitative tests, and refrain from re-categorising a retail client if they do not meet the threshold

Advice and warnings from the FCA to ensure compliance with Alternatives Supervision Strategy:

- Ensure investors understand the risks they are exposed to through their investments appropriate to their risk profiles.
- Ensure market abuse controls enable firms to discharge obligations under MAR and that these policies are shaped to the needs of the firm.
- Operate robust risk management controls to avoid excessive risk-taking and ensure that the potential for harm or disruption to financial markets is appropriately mitigated.
- Implement systems and controls to mitigate the risk of financial crime including operating due diligence on third parties and Know Your Client (KYC) checks on investors.

Brexit: Firms should consider how the end of the implementation period Brexit on the 31st January 2020 will affect the firm and its customers.

Impact for firms: Firms should consider the contents of the letter and remediate any shortfalls. In particular, firms should review / consider its:

- Product governance procedures relating to the product approval, target market identification and approval of distribution strategies

Newgate Compliance Limited
7 Princes Street
London. EC2R 8AQ
Phone: +44 (0)20 3696 8750
Email: info@newgatecompliance.com
www.newgatecompliance.com
www.gatewayncl.com

- Risk management policies for the firm and its products, ensuring any risk limits and thresholds for funds are set and monitored
- Market Abuse policies and risk assessments
- Financial Crime policies and procedures including KYC checks

View the full Dear CEO Letter here: https://www.fca.org.uk/publication/correspondence/portfolio-letter-alternatives.pdf