



Newgate News

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FCA sets out fees proposals for 2022/23

On the 30th November 2021, the FCA released a consultation paper proposing changes to the way to the FCA will raise fees from 2022/23. The FCA propose that the minimum fee would increase from £1,151 to £2,200, better reflecting the costs associated with the authorisation and supervision of firms.

Read the consultation [here](#). Comments on the consultation paper closes on 31 January 2022.

[Read more](#)

New structure for authorisation fees

On the 10th January the FCA released a policy statement setting out a simplified structure for authorisation fees, including new 'standard pricing' categories.

The changes will come into effect from 24 January 2022. You can read the policy statement [here](#).

Also noted in this policy statement was prospect of a stand-alone charge of £250, for both long Form A applications for Senior Manager Functions and Controlled Functions for Appointed Representatives. In the policy statement, the FCA confirmed it will be introducing this fee, but further work is required before doing so.

Newgate's advice: Contact Newgate if you have any questions on the FCA's updated fee structure and what it means for your firm.

[Read more](#)

Update for firms on PRIIPs RTS Article 18 and related rules

As part of the Financial Services Act 2021, Parliament legislated to extend an exemption in the PRIIPS legislation which allowed UCITS funds offered to UK retail investors a choice in providing either PRIIPs key information document or a UCITS key investor information document, thereby

avoiding the burden in providing both. The exemption, as enacted in EU law, was extended by 5 years from 31 December 2021 to 31 December 2026.

[Read more](#)

10% depreciation notifications: further extension of temporary measures for firms

In March 2020 the FCA adopted temporary measures on the requirement for firms to issue 10% depreciation notifications to investors, in order to support consumers during heightened market volatility linked to Covid-19 and the Brexit transitional period.

On the 21st December, the FCA announced it would maintain these temporary measures until the 31st December 2022, while the FCA and Her Majesty's Treasury (HMT) carried out policy work on the future of the requirement as part of its Wholesale Markets Review (WMR).

However, the FCA have noted that in some exceptions it won't take action for a breach of **COBS 16A.4.3**, for services provided to retail investors if the firm has:

- issued at least one notification in the current reporting period, indicating to retail clients that their portfolio or position has decreased in value by at least 10%;
- informed these clients that they may not receive similar notifications should their portfolio or position values further decrease by 10% in the current reporting period;
- reminded clients how to check their portfolio value, and how to get in touch with the firm.

The FCA also noted it will not take action for a breach COBS 16A.4.3, for services provided to professional investors, provided firms have allowed professional clients to opt-in to receiving notifications.

[Read more](#)

FCA's new rules on climate-related disclosures to help investors, clients and consumers

In December 2021, the FCA published two Policy Statements confirming the final rules and

guidance to promote climate-related financial disclosures.

In its **policy statement on listed companies**, the FCA considers that firms must now include a statement in their annual financial reports setting out whether their disclosures meet the recommendations of the Taskforce on Climate-related Financial Disclosures (TCFD), and if not explaining why.

In its **policy statement on asset managers, life insurers and FCA-regulated pension providers**, the FCA consider that firms will have to disclose how they take climate-related risks and opportunities into account when managing investments and make disclosures about the climate-related attributes of their products.

The rules are set out in the FCA Handbook under the **Environmental, Social and Governance Sourcebook** (“ESG”). From the 1st January 2022, asset managers with assets under management (AUM) of more than £50 billion and asset owners with £25 billion or more in AUM will be caught under the disclosure requirements, with the deadline for publishing the 30th June 2023. From the 1st January 2023 remaining firms in scope of the ESG sourcebook will be caught.

For asset managers, the following products and portfolios are within scope of ESG and are known as “TCFD products”:

- Authorised funds (excluding feeder fund and sub-funds in the process of winding up or termination);
- Unauthorised alternative investment funds (AIFs), managed by a UK AIFM;
- Portfolio management services.

There are two reports contained within the disclosure requirements:

- **TCFD entity report** - an annual TCFD entity report published in a prominent place on the main website of the firm’s business setting out how they take climate-related matters into account in managing or administering investments on behalf of clients and consumers.
- **TCFD product report** - disclosures (including a core set of climate-related metrics) on the firm’s products and portfolios made publicly in a prominent place on the main website of the firm’s business and included or cross-referenced in an appropriate client communication, or made upon request to certain eligible institutional clients

Firms are exempt from the disclosure requirements under ESG if its assets under administration or management in relation to its TCFD in scope business amount to less than £5bn.

Newgate's advice: Contact your Newgate Consultant who can provide assistance on the disclosure requirements for firms caught under the regime.

[Read more](#)

FCA to introduce new Consumer Duty to drive a fundamental shift in industry mindset

The FCA is consulting for a second time on introducing a new 'Consumer Duty', comprising of a new Consumer Principle, cross-cutting rules, and four outcomes, which together would set clearer, higher expectations of firms providing retail financial services.

This follows an earlier consultation paper released in May 2021, which set out high-level proposals on how the Consumer Duty would work. This second consultation sets out more developed proposals and gives firms a clearer idea of what to expect from the regulator.

Included first in these proposals is a new 'Consumer Principle' stating 'A firm must act to deliver good outcomes for retail clients'. The FCA considers that this Consumer Principle sets a higher standard than Principles 6 and 7, and has proposed that where the Consumer Principle applies, Principles 6 and 7 will no longer apply.

The FCA is also proposing a set of four outcomes and associated rules under the Consumer Duty, relating to:

- **Products and services** - this outcome involves extending product governance requirements across all retail products, with different rules for manufacturers and distributors.
- **Price and value** - the FCA has noted it does not propose to set out detailed requirements in how firms assess fair value, but emphasises that value needs to be considered in design and distribution stages of a product, and that low prices do not always mean fair value.
- **Consumer understanding** - the FCA expects firms to focus much more on consumer outcomes and understanding throughout the customer journey.
- **Consumer support** - firms must provide an appropriate standard of support to customers, so that customers can use products as reasonably anticipated, and do not face unreasonable barriers.

The FCA note that the Consumer Duty may capture some firms that do not have a direct relationship with retail clients. Firms that have a material influence over the design or operation of retail products or services, including their price and value, their distribution, and preparation and approval of communications will need to consider the Consumer Duty.

The FCA note that it will make the Consumer Duty a key part of its approach throughout its authorisation, supervision, and enforcement, and the 'Consumer Duty' will not be a stand-alone regime.

Comments on this consultation paper are requested by the 15th February 2022, and the FCA plans to publish a Policy Statement with final rules by the end of July 2022. You can read the consultation paper [here](#).

Newgate's advice: The new Consumer Duty forms part of the FCA's recent emphasis on Treating Customers Fairly. Contact your Newgate consultant who can advise how these changes are likely to impact your firm, and how you can prepare for them.

[Read more](#)

FCA proposes stronger requirements on oversight of appointed representatives

An appointed representative firm ("AR") carries on a regulated activity on behalf of a 'principal' firm which is authorised by the FCA. In appointing an AR, the principal firm assumes responsibility for the regulated activities the AR carries out.

The FCA have noted that in recent years, there have been increased issues from principal firms undertaking poor due diligence and oversight of their ARs, which is leading to a risk of harm. The FCA also note that principals and AR firms should be competent, financially stable and ensure fair outcomes for consumers. Consequently, the FCA is consulting on proposed changes to the AR regime which aims to remedy some of the issues seen.

According to the FCA, the proposed changes to the AR regime will aim to address the harm arising in the market while maintaining the cost, competition and innovation benefits the AR model can provide. In particular, the FCA's proposals will require more effective oversight of ARs by principal firms.

The FCA propose to do this by requiring principal firms to provide additional details on the business their ARs will conduct, both when an AR is appointed and on an ongoing basis. Some of the proposed information principal firms will have to provide include:

- The primary reason for the principal's intention to appoint the AR;
- The nature of the regulated activities the principal will permit the AR to undertake;
- Any non-regulated business of the AR;
- Whether the AR was previously an AR of a different principal, and if so, why the AR is now intending to operate under a new principal.

The consultation closes on 3 March 2022. Read the Consultation Paper **CP21/34: Improving the Appointed Representatives regime**.

Newgate's advice: If you are an Appointed Representative, or principal firm, contact your Newgate your Newgate Consultant for more information on what these changes are likely to mean for your business model.

Read more

About Newgate Compliance

Newgate Compliance is a compliance consultancy offering a modern solution to implement your compliance function using an innovative compliance software solution called **The GATEway**.

Newgate has an unrivalled combination of experienced professionals, many of whom are ex-regulators.

Our customer focused approach seeks to provide appropriate, pragmatic and flexible solutions to our clients helping them to meet both the regulator's rules but also the spirit, principles and culture of the regulatory regime.

We look to build long-term relationships with our customers helping to encourage business growth, productivity and innovation. Our proactive approach is tailored to each customer's needs changing to meet those needs as the customer progresses and develops.