

## September 2021

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### Impact Assessment Key

 Low

 Medium

 High

## **Firms reminded about potential financial crime risks linked to Afghanistan**

The FCA have released a statement underlining the financial crime risks linked to Afghanistan and emphasising the need for robust systems and controls that respond to changing risk landscapes.

The FCA reiterated its expectation for firms to have in place systems and controls to counter the risk they might be used to further financial crime. Although Afghanistan is not currently listed as a high-risk jurisdiction under Schedule 3ZA of the Money Laundering Regulations, it is on the EU high-risk third countries list. Firms are reminded to apply risk sensitive enhanced due diligence measures where there is a high risk of money laundering or terrorist financing.

The FCA also note that sanctions are already in place in respect of Afghanistan, and firms should continue to screen against the **UK Sanctions List**.

Further information is set out in Newgate's Special Edition Financial Crime **newsletter**.

**Newgate advice:** Newgate's Financial Crime Division can assist firms with implementing robust and adaptable AML systems and controls. Particular care and attention should be given to money flows and Enhanced Due Diligence carried out in this region. Please contact a Newgate Consultant to learn more on how we can assist with updating your business wide risk assessments along with procedures on customer due diligence, enhanced due diligence and transaction monitoring.

 [Read more](#)

## **Third consultation on new prudential regime for UK investment firms**

On 6 August, the FCA published its third and final consultation paper in relation to the new UK Investment Firms Prudential Regime (IFPR), which will come into force on 1 January 2022. The FCA's final policy statement will be released in Q4 2021.

Newgate have published a summary of the paper which you can read **here**.

Newgate advice: Please get in touch with a Newgate Consultant to complete an IFPR readiness assessment if you haven't already done so. The IFPR readiness assessment provides a gap analysis of the rules against the firm's existing framework. Contact us to book a IFPR readiness assessment.

[Read more](#)

## ! **FCA commits to being a more innovative, assertive and adaptive regulator**

In July, the FCA released its Business Plan for 2021/22, in which it signalled its intention to become more assertive and test the limits of its own powers in its role as the UK regulator. Alongside this, the FCA will be investing £120m into its data strategy over the next 3 years, which will include modernising its use of data and technology to identify and react to harm more quickly.

A copy of the FCA Business Plan is accessible [here](#).

[Read more](#)

## ✓ **FCA proposing changes to streamline decision-making**

The FCA is proposing changes to its decision-making process with the aim of improving how it tackles firms and individuals who do not meet required standards. The FCA is consulting on proposals which intend to give greater responsibility for decisions to senior members of FCA staff, away from the Regulatory Decisions Committee (RDC), with the aim of streamlining decision-making and

This consultation closes on 17 September 2021 with the aim of publishing a Policy Statement in November 2021.

[Read more](#)

## FCA consults on post-Brexit divergence for PRIIPS regulation

On 20 July, the FCA announced proposals to change disclosure documents provided to retail investors under the Packaged Retail and Insurance-based Investment Products (PRIIPs) regulation. Under the current legislation, those who produce, advise on, or sell PRIIPs are required to provide a Key Information Document (KID) about the product they are selling.

The FCA note however, that there has been some confusion and misleading information produced in some KIDs due to methodologies used in producing performance scenarios and summary risk indicators. The FCA also highlighted a lack of clarity within the PRIIPs regime over the corporate bond market. Consequently, HM Treasury has confirmed that the UK will diverge from EU PRIIPs regulation to better protect its consumers.

The Financial Services Act 2021 allows the FCA to specify whether a product can be classified as a PRIIP under the PRIIPs Regulation as well as allowing the FCA to define what is meant by 'performance information'. The FCA say its proposed changes will provide more clarity to consumers about what the products are, the risk presented, and information to help understand likely future performance.

Sheldon Mills, Executive Director, Consumers and Competition said:

*"Exiting the EU has provided us an opportunity to quickly amend technical standards surrounding key information documents as we know that they are not fully achieving the intended aims. We want to ensure that consumers have what they need through transparent information and furthermore through the reduction of potentially misleading information being displayed."*

The FCA plans to amend the PRIIPs RTS by the end of 2021, with changes made coming into effect 1 January 2022.

**Newgate advice: Newgate will keep firms updated as to the impact of changes in the PRIIPs regulations.**

 [Read more](#)

## ! Guiding principles on design, delivery and disclosure of ESG and sustainable investment funds

On 19 July the FCA published a letter to the chairs of authorised fund managers setting out expectations on the design, delivery, and disclosure of environmental, social and governance (ESG) and sustainable investment funds. The FCA say they are receiving a high volume of applications for authorisation of funds with a sustainable focus, but many of these are poor-quality and fall below their expectations.

The FCA also note that where firms are providing an ESG service as part of a fund's offering, they expect them to be able to explain to us how they have considered the quality of this service in the context of the fees they are charging.

The FCA have developed some guiding principles the design, delivery, and disclosure of responsible and sustainable investment funds. These guiding principles can be found in the annex of the Dear Chair letter which you can read [here](#).

Newgate advice: The FCA have emphasised that they expect clear and accurate disclosures to consumers where funds make ESG-related claims. Please contact your Newgate Consultant for guidance on your regulatory obligation relating to ESG disclosures.

[Read more](#)

## ! ICO consults on how organisations can continue to protect people's personal data when it's transferred outside of the UK

The ICO has launched a public consultation on its draft international data transfer agreement (IDTA) which will replace the standard contractual clauses (SCCs) to consider the binding judgment of the European Court of Justice in a case commonly known as Schrems II. Schrems II requires organisations to carry out due diligence when making transfers of personal data outside of the UK to countries that do not have an adequacy decision.

The ICO have said the new IDTA will support the UK's digital economy by continuing to enable the global flow of people's information with the safeguards of high standards of data protection.

Steve Wood, ICO Executive Director of Regulatory Strategy, said:

*"The modern world involves increasing flows of personal data about citizens to deliver goods and services. Ensuring data is well-protected when transferred outside of the UK will be vital in maintaining people's trust in the system. Our new IDTA is developed to ensure such protections are in place."*

**Newgate advice: Newgate will update firms as to what this draft IDTA will mean for transferring data outside of the UK.**

[Read more](#)

## **FCA Consultation on UK's anti-money laundering framework**

In July 2021, UK Government published a consultation paper covering various proposed amendments to the UK's anti-money laundering framework.

A summary of the consultation is set out in Newgate's Special Edition Financial Crime **newsletter**.

### **SUSPICIOUS ACTIVITY REPORTS**

The consultation seeks views on the merits of amendments to the MLRs allowing AML/CTF supervisors to have rights to view the content of SARs submitted by their supervised population(s) request. Stakeholders have raised concerns whether supervisors (such as the FCA and HMRC) are allowed to access and view the contents of SARs. According to the UK government, this has led to an inconsistent approach being taken across AML/CTF supervisors, with each taking their own view on whether they can access and view the content of SARs.

This consultation also seeks views on whether it is useful or necessary for supervisors, for the purpose of fulfilling their functions, to collect and view the content of SARs.

**Newgate advice: The FCA is seeking more flexible information and intelligence gathering powers to use across its supervised population. Access and use of SAR information will help inform the FCA's risk-based approach to supervision. This is further evidence of the far more**

focused tougher approach the FCA is adopting to towards AML in particular those subject to supervision under the Money Laundering Regulations.

## ONGOING REQUIREMENT TO REPORT DISCREPANCIES TO COMPANIES HOUSE

Firms are currently required to report beneficial ownership discrepancies to Companies House at the onboarding stage of a client relationship. Since the updated MLRs came into force in January 2020, over 35,000 beneficial ownership discrepancies have been reported to Companies House. This highlights the valuable role firms are carrying out in ensuring that the UK's companies register is accurate and up to date. Moving forward it is proposed that firms will be required to report discrepancies on an ongoing basis throughout the business relationship.

**Newgate advice: When undertaking mandatory periodic monitoring of clients for AML purposes, additional procedures may now be required to report identified discrepancies. Further clarification and guidance are also required as to whether discrepancies should be addressed with clients in the first instance or whether this itself presents confidentiality or tipping off concerns.**

[Read more](#)

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### 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.

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SEPTEMBER 2021

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