

## May 2020 - Issue Highlights

- Statement on how firms should handle post and paper documents
- FCA's national and international response to coronavirus (Covid-19) and Brexit (All Firms)
- Period to cover absent Senior Managers extended due to Covid-19
- Allowing individuals to carry over Continuing Professional Development (CPD) because of Covid-19
- FCA Covid-19 Financial Resilience Survey
- The FCA's response to Covid-19 and expectations for 2020



## Important for all firms: Statement on how firms should handle post and paper documents

**13/05/2020**

Firms should comply with the requirements for post and paper-process and where this is not possible currently firms should notify the FCA as soon as possible at: [firm.queries@fca.org.uk](mailto:firm.queries@fca.org.uk). Firms are expected to demonstrate to the FCA that they have taken steps to mitigate the impact of non-compliance with postal and paper processes and return to full compliance as soon as possible. Firms should provide general updates on how it intends to treat incoming and outgoing posts, and cheques, through its website and other public channels. These communications should update customers on market conditions, explain how customers can contact the firm if they wish.

The FCA expect firms to use other methods to conduct a suitability assessment, such as phone calls and online due diligence checks. Firms should ask those who have sent instructions or cheques which have not been processed to contact the firm urgently by telephone or electronic means. Where the uncashed cheque represents client money under the Client Assets Sourcebook (CASS) regime and the firm provides the service/cover without cashing the cheque, firms must consider whether proceeding in this way might breach CASS and expose other clients to the risk of a client money shortfall.

**Advice for firms:** Please ensure you have reviewed your current postal arrangements and adjusted where necessary. Newgate can assist you with any FCA notifications and further guidance needed around any potential CASS issues you may be facing.

<https://www.fca.org.uk/news/statements/how-firms-should-handle-post-and-paper-documents>

## Important information for all firms: FCA's national and international response to Covid-19

06/05/2020

Nausicaa Delfas, Executive Director of International, delivered a speech to the Deloitte Annual Conduct Risk Conference on the 6<sup>th</sup> May 2020. Delfas's speech concerned the national and international response to the Covid-19 pandemic, direction for future regulatory issues, and preparation for the end of the transition period. She reassured firms that the FCA's 2020/21 Business Plan and market stability remain at the forefront of the Regulator's priorities to date despite the current Covid-19 uncertainty. She adds that market monitoring and firm and trade body outreach have been increased in response to the pandemic.

The FCA has begun to assess the medium to longer-term implications of the Covid-19 pandemic on markets, noting the following areas:

- Firms will face growing funding and lending challenges as the economic impact of the current health crisis develops over time.
- Firms will need to enhance their operational resilience and address any increased vulnerability to disruption from unexpected events; and
- To remain flexible in the workplace and ensure the continuation of business activity.

She also provided an update on the FCA's plans regarding Brexit and their plan to prepare for all scenarios after the 31st December 2020. Delfas also assured firms of the FCA's ongoing attempts to ensure collaboration with the EU from 2021 and beyond.

There are, however, some Brexit related risks which need multilateral or reciprocal action. Broadly, these fall into two categories:

- Issues that could be resolved through reciprocal equivalence (such as the overlapping UK and EU share and derivatives trading obligations)
- Issues that cannot be resolved through equivalence, including broader contract continuity issues and the continued provision of retail financial services by UK firms to EU consumers.

**Advice for firms:** Whilst the FCA has put in place transitional regimes for EEA firms, the situation for UK firms in the EU is not the same. Continued operations after the transition period will depend on the regulatory regimes of individual EU member states. Whilst many of these member states had put in place temporary transitional regimes in the event of a 'no-deal' exit, the majority of these have now lapsed. Please speak to your Newgate Consultants if you have concerns about preparations for the end of the transition period.

<https://www.fca.org.uk/news/speeches/fca-national-international-response-coronavirus-brexit>

## Important information for all firms: Period to cover absent Senior Managers extended due to Covid-19

**06/05/2020**

The FCA has extended the maximum period firms can arrange cover for a Senior Manager without being approved, from 12 weeks to 36 weeks, in a consecutive 12-month period. This is available to all solo regulated firms. Firms can use the modification by consent if, for example, a Senior Manager is absent because of Covid-19, or recruitment to replace a Senior Manager is delayed due to the Covid-19 pandemic. Firms can also prudently apply for the modification by consent in advance of needing it.

The modification by consent will take effect from the date the firm applies for it and will end of the 30<sup>th</sup> April 2021.

**Advice for firms:** Please contact Newgate if you would like to apply for the modification by consent either because there is an immediate need to do so, or because you would like to do so proactively.

<https://www.fca.org.uk/news/news-stories/period-cover-absent-senior-managers-extended-due-coronavirus-covid-19>

## Important information for firms carrying out investment services for retail clients: Allowing individuals to carry over Continuing Professional Development (CPD) because of Covid-19

**27/05/2020**

During the current pandemic, firms are still required to demonstrate that relevant individuals remain competent to carry out their work. Due to the impact of Covid-19, the FCA will temporarily allow firms to let individuals in **exceptional circumstances** carry over any uncompleted CPD hours to the next CPD year, i.e. the next 12-month period in which to complete the relevant CPD. This applies to CPD years ending before the 1<sup>st</sup> April 2021.

**'Exceptional circumstances' apply to those whom:**

- Are needed to carry out extra duties to manage risks and/or provide support to consumers and businesses during the current situation.
- Have caring responsibilities, such as caring for a partner, child, parents, grandparent, or sibling.
- Have difficulties accessing CPD material such as technical difficulties or unavailable material; and
- Where it is not realistic to expect the individual also to fulfil the CPD requirements.

To get independent verification for the adviser, the firm will need to confirm to the accredited body that the adviser is and remains competent.

**Advice for firms:** Firms should ensure that their decision and reasons when making use of the exceptional circumstances are valid and recorded, including the number of CPD hours the individual is carrying over to the next CPD year. Please speak to your Newgate Consultant for further clarity and assistance on this.

<https://www.fca.org.uk/firms/training-and-competence/allowing-individuals-carry-over-continuing-professional-development-cpd-because-coronavirus>

## Important information for all firms: Covid-19 Financial Resilience Survey

**04/06/2020**

The FCA has approached approximately 13,000 firms to complete a short survey to assist them in obtaining a more accurate view of firms' financial resilience because of Covid-19. The survey will be sent to firms between the 4-8th June 2020. The FCA Contact Centre is available for firms with requests for further information: 0300 500 0597 from the UK, or +44 207 066 1000 from abroad.

**Advice for firms:** Please check that, if you receive a survey request from the FCA it is from the following addresses: [FCA@fcaneletters.org.uk](mailto:FCA@fcaneletters.org.uk) or [fca.org.uk](http://fca.org.uk). Take caution if you receive emails from addresses other than these stated as could be spam/phishing emails. If in doubt, please reach out to your Newgate Consultant.

<https://www.fca.org.uk/news/statements/coronavirus-covid-19-financial-resilience-survey>

## Important information for all firms: The FCA's response to Covid-19 and expectations for 2020

04/06/2020

Megan Butler, Executive Director of Supervision (Investment, Wholesale and Specialists at the FCA), delivered a speech on the 4<sup>th</sup> June 2020 detailing the FCA's priorities and longer-term expectations for the wealth management and advice industry. The key areas of focus include operational resilience (particularly in the context of a global pandemic), financial resilience and acting with integrity. Where firm's do not display integrity, the FCA will continue to act against firms.

Butler highlighted that firms have remained resilient despite the impact of Covid-19 and that there has been no significant erosion of clients' access to services. The FCA have begun to transition from the immediate 'incident response' towards focusing on longer-term impacts and the necessary strategy for tackling this. The five key drivers of the FCA's response to Covid-19 include:

- There is a good level of **operational resilience**.
- The FCA understand firms' **financial resilience** so that they can fail in an orderly manner.
- Markets can function enabling **price formation and orderly trading** activity.
- Customers are **treated fairly**; and
- Customers are **aware of the risk of, and protected from, scams**.

### Operation Resilience

Butler highlighted that the FCA expects firms to have contingency plans in place to deal with major events and that these plans have been thoroughly tested. Key FCA expectations around operational resilience are included in the following FCA consultation paper from 2019: <https://www.fca.org.uk/publications/consultation-papers/cp-19-32-building-operational-resilience-impact-tolerances-important-business-services>. She added that the FCA are actively reviewing the contingency plans of a wide range of firms. This includes firms' assessments of operational risks, their ability to continue to operate effectively and the steps taken to serve and support their customers.

Alongside the importance of operational resilience, Butler highlighted that firms should not overlook the importance of financial resilience. To make sure that the FCA is best able to evaluate the impact of firms' financial resilience, firms will be sent a short simple Covid-19 impact survey between the 4<sup>th</sup> and the 8<sup>th</sup> June 2020. In particular, the preservation of client assets and money is central to the focus of the wealth management sector. Butler highlighted that the FCA wish to pursue the following areas in the wealth management sector:

- Firms must maintain adequate arrangements to protect client money and custody assets according to FCA requirements.
- The FCA will assess how the wealth and advice market has reacted to Covid-19, including how service propositions and customer behaviours have changed. Firms should thus provide suitable advice and discretionary investment decisions.

- Firms should act with integrity and charge appropriate fees for services delivered and preventing fraud; and
- Firms should prevent financial crime and market abuse via adequate controls and governance.

Butler ended her speech by reminding firms that behaviour such as ‘phoenixing’ (closing down companies and setting up new ones) and ‘life-boating’ (firms pre-emptively setting up new entities and applying for authorisation before complaints and liabilities at their existing entities have crystallised) are not tolerated by the FCA.

**Advice for firms: Firms should identify and document the resources that support their important business services (“mapping”). Firms should keep their focus on operational resilience as circumstances change, government guidance is updated and how a post-Covid-19 ‘normal’ will affect their resilience and services. Please reach out to us for assistance in the completion of the Covid-19 impact survey you should be/have received from the FCA as well as any mapping and financial resilience testing being carried out.**

<https://www.fca.org.uk/news/speeches/fca-response-covid-19-and-expectations-2020>