



# Newgate News

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# FCA Seek to Replace Financial Resilience Survey With a Regulatory Return

On 3<sup>rd</sup> October, the FCA published a **Consultation Paper** introducing a new financial resilience return for solo-regulated firms. This will replace the Financial Resilience Survey, a brief survey launched in June 2020 to collect basic financial data from approximately 23,000 legal entities. The return is called '**FIN073**' and will require firms to submit data every quarter.

Firms have an opportunity to respond to the consultation by Friday 2<sup>nd</sup> December via the FCA's **CP22/19 response form**.

Final rules will be published in the Spring of 2023.

<https://www.fca.org.uk/publications/consultation-papers/cp22-19-creation-baseline-financial-resilience-regulatory-return>

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## FCA Steps in to Impose Conditions Surrounding the Acquisition of Link Group by D&D

The FCA is investigating Dye and Durham (D&D) for the acquisition of Link Group and Link Fund Solutions Ltd (LFS), which is authorised by the FCA.

LFS, who manage the Woodford Equity Income Fund (WEIF), are to pay a financial penalty and consumer redress, after failure to manage the liquidity of the WEIF. LFS could stand to pay up to £306 million which does not include money owed to members of the fund or third parties.

Although the above failings are a result of misconduct rather than losses caused by instabilities of the market, the FCA has decided to approve D&D's acquisition of LFS subject to a condition, that they meet any shortfall with funds available.

Following the FCA's on-going investigation of LFS, they have recently issued a warning notice, in which they have 14 days to resolve the case by agreement. The warning notice is accompanied by a proposed penalty, amounting £50million.

<https://www.fca.org.uk/news/press-releases/fca-decides-impose-conditions-takeover-link-group>

<https://www.fca.org.uk/news/statements/fca-statement-regarding-potential-enforcement-action-against-link-fund-solutions-ltd>

## Scammers Offer to 'write Off Debts' by Targeting UK Consumers

Amid the global economic crisis, unauthorised claims management services are using the vulnerability of some consumers, to offer them a chance to 'write off' their debts and in addition charging a fee. These scams are often prominent during economic hardship, with many people left vulnerable due to mounting debts.

Firms offering claims services within the UK need to be authorised by the FCA and if a consumer decides to use an unregulated firm for these services, then the FCA warns they will not have access to Financial Services Compensation Scheme.

The FCA has advised consumers to check the financial services register to make sure the firm is authorised and has permission for the service it is offering, and that if a consumer has been contacted unexpectedly by a business or individual, they should make sure to call them back using the contact details listed on the register, as it may be a fraudster impersonating the registered firm or individual.

<https://www.fca.org.uk/news/news-stories/scams-write-off-debts-target-consumers>

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## FCA Fines Sigma Broking Limited £530,000

Sigma Broking Limited and its directors, were hit with fines and bans by the FCA for failure to report numerous suspicious transactions. The firm received a penalty of £530,000 for a string of reporting failures, which can be broken down into 56,000 contracts for difference and 97 suspicious transactions, between December 2014 and August 2016.

Sigma, which is a privately owned brokerage firm, offers their customers access to worldwide trading products such as, derivatives, equities, and commodities.

A statement from the FCA read: *'Many of Sigma's failings had their origins in the inadequate governance and oversight provided by Sigma's board of directors'*.

The Directors of the firm have each received further separate penalties and bans, preventing them from holding SMF functions in firms that the FCA regulate, along with £69,600 and £67,900. The current director Matthew Kent has been given a fine of £83,600.

Firms are required as part of their obligations, to ensure the accuracy of transaction reporting and the effectiveness of their surveillance tools, so that they meet the reporting standard.

<https://www.fca.org.uk/news/press-releases/fca-fines-sigma-broking-limited-530000-and-bans-and-fines-its-former-directors>

## EasyLife Limited Given Enforcement Notice for Making Unsolicited Marketing Calls

On the 5<sup>th</sup> October, EasyLife Limited were served with a £1.48 million fine for deficiencies in the way they collected and processed the data of 145,400 people which resulted in 25 complaints made to the Commissioner, after The Information Commissioners Office (ICO) found that EasyLife were in breach of **Article 5(1)(a)**. They were also found to be in breach of Regulation 21 PECR due to making over 1 million unsolicited direct marketing calls to subscribers that had to opted to be contacted by EasyLife, which amounted to predatory nuisance calls

The ICO discovered that between August 2019 and August 2020, customers who purchased items from the EasyLife catalogue would then receive calls from third party marketing calls to the customers in relation to health conditions connected to the item purchased in the catalogue.

John Edwards from the ICO, said that:

*"EasyLife was making assumptions about people's medical condition based on their purchase history without their knowledge, and then peddled them a health product."*

<https://ico.org.uk/action-weve-taken/enforcement/easylife-limited-en/>

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## Chairman of Harlequin Resorts Jailed for 12 Years After Defrauding Thousands

Between 2010 and 2015, David Ames the owner of Harlequin resorts, exposed more than 8,000 investors to huge losses, by fraudulently scamming them through their pension and life savings of the amount totalling £226 million.

Mr Ames convinced investors that the money they invested, was being placed into holiday properties in the Caribbean, but in reality, the scheme was not backed by any external funding and did not deliver any returns. Many investors were forced delay their retirements, having lost all their pensions and savings, meanwhile Mr Ames paid his wife and £10,000 month of fraudulent money through Harlequin Group.

Mr Ames was convicted on the 3<sup>rd</sup> August following an on-going investigation led by the Serious Fraud Offence (SFO) and is to be jailed for 12 years.

<https://www.sfo.gov.uk/2022/09/30/harlequin-resorts-boss-jailed-for-12-years-following-sfo-investigation/>

## FCA Fines Gatehouse Bank £1.5m for Poor Anti-Money Laundering Checks

Gatehouse Bank has been fined £1,584,100 by the FCA for significant weakness in its financial crime systems and controls.

Over a three year period between 2014 and 2017, Gatehouse failed to conduct sufficient checks on its customers based in countries with a higher risk on money laundering and terrorist financing, and also failed to undertake the correct checks when some of the customers were classed as Political Exposed Persons.

Mark Steward, Executive Director of Enforcement and Market Oversight, commented:

*'Gatehouse Bank's failures exposed itself to the risk that it might be used as part of a laundering process for illegal funds. While not deliberate, there can be no excuse for failures as serious as this. The FCA will continue to hold firms to account for poor anti-money laundering systems and controls.'*

<https://www.fca.org.uk/news/press-releases/fca-fines-gatehouse-bank-1.5m-poor-anti-money-laundering-checks>

## FCA Places Restrictions on Twice As Many Consumer Investment Firms This Year

As part of their strategy to prevent harm in the consumer investment market, the FCA has placed restrictions on twice as many firms in the investment market in comparison with last year's figures. Restrictions such as preventing firms from promoting and selling certain products has seen the FCA stop 17 firms and seven individuals attempting to obtain a new FCA authorisation in the investment market where 'phoenixing' or 'lifeboating' had been suspected. Phoenixing or lifeboating involves directors of an existing firm setting up and seeking authorisation of a new firm in anticipation of the current business collapsing, to avoid future claims. The FCA also stopped the UK operations of 16 Contracts for Difference providers that entered the UK's temporary permissions regime in 2021, which with FCA interference, would have seen consumers losing around £100m a year.

Sarah Pritchard, Executive Director of Markets at the FCA, said: 'We want to see a consumer investment market where consumers can invest with confidence, understanding the level of risk they are taking, and where assertive action is taken when harm is identified. We know that it will take time to see the full impact of all our interventions, particularly given the worsening economic environment, but have committed to update each year on the progress that is being made.'

**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.**

<https://www.fca.org.uk/news/press-releases/fca-places-restrictions-twice-many-consumer-investment-firms-year>

## FCA Proposes New Rules to Tackle Greenwashing

The FCA is proposing new measures in a bid to clamp down on Greenwashing.

Sacha Sadan, the FCA's Director of Environment Social and Governance, said:

*'Greenwashing misleads consumers and erodes trust in all ESG products. Consumers must be confident when products claim to be sustainable that they actually are. Our proposed rules will help consumers and firms build trust in this sector. This supports investment in solutions to some of the world's biggest ESG challenges. This places the UK at the forefront of sustainable investment internationally. We are raising the bar by setting robust regulatory standards to protect consumers in line with our wider FCA strategy.'*

The FCA is proposing to introduce:

- Sustainable investment product labels to allow customers to select the right products for them.
- Restriction will be applied on certain sustainability-related terms can be used in products names and marketing for products which don't qualify for the sustainable investment labels.
- Consumer-facing disclosures that will help consumers understand the key sustainability, including disclosing investments that a consumer may not expect to be held in the product.
- More detailed disclosures, suitable for institutional investors or retail investors that want to know more.
- Requirements for distributors of products to ensure that the labels and consumer-facing disclosures are accessible and clear to consumers.

**For further information read [Consultation Paper CP 22/20](#).**

**The consultation is open until 25 January 2023. We intend to publish final rules by the end of the first half of 2023.**

**Newgate's advice: At Newgate, we provide up to date ESG and Sustainability training that will allow your company meet the FCA's regulatory standards regarding ESG.**

<https://www.fca.org.uk/news/press-releases/fca-proposes-new-rules-tackle-greenwashing>

## FCA Authorisations Update

The FCA have published their Authorisations Update for authorisation timelines. The update sets out its progress on service standards for authorisations case work and areas of improvement. The FCA noted that a range of factors meant it did not meet some of its timelines in 2021/22, including: increased scrutiny of applications; incomplete or poor-quality applications particularly for Money Laundering Registrations, Payments Services Regulations and Electronic Money Regulations applications; and increased volumes of applications in key areas like Approved Person Status as a result of the expansion of the Senior Managers and Certification Regime (SM&CR).

**Newgate's advice:** Our dedicated Consultants at Newgate, can equip your firm with the right information, guidance, and assistance on how to get your firm authorised.

**Newgate's advice:** Contact Newgate for advice regarding regulatory perimeters.

<https://www.fca.org.uk/news/statements/fca-authorisations-update>

## UK Information Commissioner Warns 'biggest Cyber Risk Is Complacency, Not Hackers'

The UK Information Commissioner has warned that companies are leaving themselves open to cyber-attacks by ignoring crucial measures like updating software and training staff. This warning comes on the back of the ICO's fine of Interserve Group Ltd £4,400,000 for failing to keep personal information of its staff secure.

John Edwards, from the ICO, said that companies can expect similar penalties if they *'regularly monitor for suspicious activity in its systems and fails to act on warnings, or doesn't update software and fails to provide training to staff'*.

**Newgate's advice:** Newgate provides Cybersecurity training that will provide the steps your company need to take to reduce the chances of falling victim to Cybercrime.

<https://ico.org.uk/about-the-ico/media-centre/news-and-blogs/2022/10/biggest-cyber-risk-is-complacency-not-hackers/>

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## About Us

Newgate Compliance is a compliance consultancy offering a modern solution to implement your compliance function using an innovative compliance software solution called the  **gateway**<sup>®</sup>.

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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