

Bank of England, PRA and FCA set out measures to oversee Critical Third Parties in a push to increase resilience within the Financial Sector

<https://www.fca.org.uk/news/press-releases/bank-england-pra-critical-third-parties-resilience-financial-sector>

In a **Policy Statement** published by the HM Treasury, proposals were set out to regulate and mitigate risks from Critical Third Parties (CTPs) to financial firms. This was supplemented with a joint **Discussion Paper**, by the PRA, Bank of England (BoE) and FCA in July, discussing what the supervisory authorities intend to do covering three areas:

- Framework for identifying potential CTPs
- Framework for testing the resilience of material services that CTPs provide to Firms
- Resilience standards which apply to the services that designated CTPs provide to firms

A key risk that the above authorities are looking to tackle is, the outsourcing of monitoring services and platforms by third parties that also offer the same function and tools to firms, which is a form of concentrated risk.

As mentioned by Jon Cunliffe, the Deputy Governor for Financial Stability:

'Financial market infrastructure firms are becoming increasingly dependent on third-party technology providers for services that could impact the financial stability of the UK if they were to fail or experience disruption. The potential measures examined in this DP provide an initial, but important step for the Bank of England to manage these systemic risks (in coordination with the FCA)'

Discussion on this will close on the 23rd December 2022, where comments and responses are to be forwarded to DP3_22@bankofengland.co.uk

Suitable update for: All firms that use third party platforms and outsourced monitoring services and functions.

FCA's Consumer Duty to have a major impact within the Financial Services

🔗 <https://www.fca.org.uk/news/press-releases/fca-consumer-duty-major-shift-financial-services>

The FCA will introduce a new Consumer Duty regime which was confirmed via the **Policy Statement (PS22/9)** published on 27th July. The new Consumer Duty aims to provide clearer and higher standard in protecting consumers across all the financial services.

Firms have until July 31st, 2023, to implement the proposed Consumer Duty rules, for new and existing services and products. The FCA are giving firms a further 12 months, until July 2024, to allow for their older products and services to be up to par with the new standards.

The new Duty will require firms to “*act to deliver good outcomes for retail customers*” under a new ‘Consumer Principle, Principle 12’. Firms will need to deliver good outcomes, acting in good faith towards retail customers, avoid anticipated harm to customers and support for retail customers to pursue their financial objectives

There are four key outcomes which relate to the rules under the new Duty:

1. Services and Products are fit for purpose
2. Services and Products are at a fair value
3. Customers are able to make good financial decisions have a clear understanding of products and services
4. Customers have access to support to meet their needs

The obligation for firms within the given time period is to review and update their internal governance processes that will have an impact on customer outcomes and product lifecycle, improve on staff training and awareness, create robust implementation projects to meet the proposed deadlines and appoint a Consumer Duty champion to the Board, who will capture and raise the appropriate discussions.

PS 22/9 requires that firms’ boards (or the equivalent management body) should agree on implementation plans and maintain oversight of their delivery, to ensure the implementation work is sufficient to meet the Duty standards, **by the end of October 2022**.

Suitable update for: All firms that offer products and services to Retail Customers and also third-party Manufacturers and Distributors.

Impact for firms: Newgate will be offering a Readiness Assessment for firms to assist with the impact of the new Consumer Duty. We can assist you with formulating your action plan by October 2022. Contact us to see how we can support you with the changes.

New rules to improve oversight of Appointed Representatives

<https://www.fca.org.uk/news/press-releases/fca-confirms-new-rules-improve-oversight-appointed-representatives>

The FCA has published a **Policy Statement (PS)** to improve oversight over Appointed Representatives (ARs). The rules will take effect from 8th December 2022.

ARs are not authorised by the FCA but are allowed to carry out designated activities under their responsible Principal firm who is directly authorised by the FCA. It is the duty of Principal firms to ensure that their ARs comply with the rules set out by the regulator. However, a recent review has seen poor oversight and control after an AR has been appointed and also not enough due diligence before being appointed as an AR.

Under the new regime, there will also be more scrutiny on businesses that plan on entering into an AR relationship and a requirement to explain in detail, the activities they will undertake. Firms should prepare for enhanced supervision to be the new normal and have in turn a dedicated AR department to monitor the progress of this, which was announced to be launched in spring of this year.

Since the harder approach of the FCA on Principal firms and their ARs, there has been an 80% increase in voluntary withdrawals and refusal of applications during the period of 2021/2022, according to the FCA's annual report published in July.

The key changes to the AR regime under the new rules are:

- Pre-notification period of 30 days to include primary reason for the appointment, nature of the regulated activities the AR is permitted to carry on, reason for termination of the relationship if the AR was previously with another principle, estimated revenue from regulated and non-regulated activity in the first year (in bands), and the nature of the financial arrangement between principal and the AR.
- Principals to provide more information on ARs, including financial non-regulated activities, revenue bands for ARs, and financial arrangements between the AR. Principals must also report significant changes to the 'new information' on ARs within 10 business days.

Changes to the types of regulated activities the Principal allows the AR to carry out should be notified 10 calendar days before the change takes effect.

- Principals to provide complaints and revenue info for ARs annually (within 60 business days after principal firm's accounting reference date).
- Annual review and self-assessment requirement – Principals have 1 year from 8th Dec 2022 to complete first review.
- Principals will be required to verify the details of all of its ARs as appears on the FS register are correct - first verification will be 12 months after the rules come into force, being 8th Dec 2023.

Please review a copy of Newgate's summary of the new AR regime [here](#).

There will be a s165 request for data on existing ARs to come later in 2022 with 60 days to respond.

Suitable update for: Appointed Representatives /All Principal Firms with Appointed Representatives.

Impact on firms: Principal firms should review and understand the new rule on ARs taking into account implementation measures by 8th December 2022. Principal firms should enhance its compliance policies, procedures, reporting processes, and oversight and monitoring framework of ARs. Principal firms should work closely with their ARs to clarify what is expected of them under the new rules.

Combatting Financial Crime

[🔗 https://www.fca.org.uk/news/speeches/fighting-financial-crime-force-multiplier-effect](https://www.fca.org.uk/news/speeches/fighting-financial-crime-force-multiplier-effect)

Sarah Pritchard, Executive Director, Markets presented a Speech in September at the Financial Crime Summit, calling on the financial industry to 'embed' the use technology and data to fight financial crime. She likened the move to a virus and labelled it the '*Force multiplier effect*', that once tackled immediately, can result in its limitation and defeat.

Ms Pritchard discussed the need for an effective defence through:

- The FCA working collaboratively with firms and agencies, sharing intelligence, and quickly responding to threats.
- The protection of customers who may be exploited through scams amidst the cost-of-living crisis.
- Financial crime campaigns that will seek to improve money laundering controls, sanction-busting regimes and raising awareness.

Further comments on combatting financial crime are summarised in the below points:

- 1. First Responders:** The financial sector and industry professionals are the “First Line of Defence” in fighting financial crime and limiting its spread. Pritchard highlighted the FCA’s recent review of challenger banks and their exposure to system weaknesses.
- 2. Force multiplier effect:** Firms should assess red flags and take necessary precautions, use human instinct, and interpret patterns of customer behaviour and unusual activity.
- 3. The FCA’s role:** The FCA will play their part in driving improvements in firms’ controls, adequate and rapid enforcement, campaigns like ScamSmart and evidence best practice with examples of good and bad controls.
- 4. Robust defence and actions:** After reviewing the Crypto space as a weak link in regulation, the FCA closed Crypto ATMs that were operating without regulatory permission. The FCA fined NatWest a total of £665m for their money laundering and control failures and an additional 10 firms were fined for money laundering weaknesses.
- 5. Forward thinking:** Following the invasion of Ukraine by Russia, the priority of sanctions screening has been an ongoing priority of the FCA. Data and Intelligence has played a pivotal role in identifying weak systems and controls. The FCA reached out to over 10,000 firms within the payments, wholesale banking, retail banking, wealth management, crypto assets, insurance, and asset management space, urging them to strengthen their screening process and update their monitoring tools to suit the customer and business profile.
- 6. Cost of living:** In light of the recent cost-of-living crisis, firms are advised to plan and respond to the increased risks and be more vigilant of the vulnerability of customers to may be prone to scammers.

Suitable update for: All firms

FCA seeks external experts to help with work on ESG issues

[🔗 https://www.fca.org.uk/news/news-stories/fca-looks-external-experts-help-shape-work-esg-issues](https://www.fca.org.uk/news/news-stories/fca-looks-external-experts-help-shape-work-esg-issues)

The FCA are seeking external experts to join their new Advisory Committee in Environmental, Social, and corporate Governance. At the beginning of the year the FCA decided to launch an ESG Advisory Committee with the aim of carrying out its ESG-related responsibilities. The Committee’s role will be

to advise the board on how it will oversee ESG issues within the industry and develop a plan to meet their objectives. The appointed individuals will be industry experts with insight and knowledge on ESG.

The Advisory Committee will meet in Q4 of 2022 and quarterly from then on to keep up to date on the ever-changing environment and social concerns. The Government has placed an expectation on not just firms, but the UK as a whole, to be a net zero economy by 2050.

Any expressions of interest should be submitted to the FCA by 16th September.

FCA Removes and Renames Definition of ‘Significant IFPRU firm’

<https://www.fca.org.uk/news/statements/ifpr-and-eligibility-enhanced-smcr-status-significant-sysc-firm>

The FCA will undertake a consultation to amend the definition of ‘*Significant IFPRU firm*’ under the Investment Firm Prudential Regime (IFPR) which is used as one of the criteria for identifying Enhanced Firms under the Senior Managers & Certification Regime (SM&CR). The definition under IFPR has potentially widened the scope of firms brought into Enhanced scope.

The FCA states that if your firm has inadvertently fallen into the category of Enhanced Scope SM&CR Regime under the new version of Significant SYSC, no action should be taken.

Strengthening Financial Promotions rules on High-Risk Investments

<https://www.fca.org.uk/publications/policy-statements/ps22-10-strengthening-our-financial-promotion-rules-high-risk-investments-firms-approving-financial-promotions>

In a Policy Statement published by the FCA on the 1st August, the regulator stated its focus to strengthen financial promotion rules on High-Risk investments. This came as part of a Consumer Investment Strategy, that embedded the Policy Statements’ final rules, after the consultation paper, which came out in Jan 2022. This agenda is very important in the FCA’s effort to protect consumers and reduce harm that arises from investments that do not meet the consumer’s risk appetite.

The changes to the Financial Promotion Rules are:

- The introduction of further categories Non-Mass Market Investments (NMMI) and Restricted Mass Market Investments (RMMI).
- The introduction of risk warnings for Restricted Mass Market Investments (RMMI) and Non-Mass Market Investments (NMMI).
- A ban on inducements to invest such as Refer a Friend Bonus Schemes for NMMIs & RMMIs.
- The monitoring of the consumer journey through record keeping requirements in relation to RMMIs and NMMIs.
- A package of measures will be introduced to strengthen the role of a section 21 approver.

Although the rules are not yet applicable to cryptoasset promotions, the Treasury has stated its intent to apply to digital assets in the scope of the Financial Promotion regime.

The rules relating to main risk warnings for financial promotions will take effect from December 2022. All other rules will come into force by 1st February 2023.

Suitable update for: Financial advisors, firms operating in cryptoasset sector, firms authorised in the consumer investments sector, investment companies, issuers of other types of investments.

Impact for firms: Newgate will be offering a Readiness Assessment for firms to assist with the impact of the new rules. Contact us to see how the new rules will affect you and what we can do to help.

 +44 (0)20 3696 8750

 info@newgatecompliance.com

 newgatecompliance.com

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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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