NEWGATE COMPLIANCE

Regulator Enforcement Action

# Newgate News

## November 2022

# FCA seek to replace Financial Resilience Survey with a regulatory return

On Monday 3rd October, the FCA published a **Consultation Paper** introducing a new financial resilience return, to replace the Financial Resilience Survey. Although the benefits cannot be quantified, the return is estimated to cost firms £2.5m in ongoing costs, which is also inclusive of a one-off implementation cost. The return is called ***'FIN073'*** and will require firms to submit data every quarter and is estimated to cost firms a one-off cost amounting to £14.9m. However, the FCA do foresee that firms will still incur further costs to prepare and report under ***'FIN073'***.

The key elements the return will require firms to review are:

1. Familiarisation
2. Methodology changes
3. IT Systems
4. Training
5. Collating & reporting data

Their view is that current ad hoc survey, places a huge financial and administrative burden on firms and aims to remove this burden by, increasing the quality and consistency of financial resilience data from solo regulated firms.

The proposals in the Consultation Paper will be of interest to all FCA regulated firms ***except:***

- **credit brokers**
- **MIFIDPRU investment firms**
- **not-for-profit debt advice bodies**
- **PRA-authorised persons**
- **supervised run-off firms**
- **Temporary Permission firms**

The proposals also apply to:

- **authorised electronic money institutions**
- **authorised payment institutions**
- **registered account information service providers**
- **small electronic money institutions**
- **small payment institutions**

- **UK recognised investment exchanges**

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

Feedback will be considered and published in policy statement, detailing the final rules, in the Spring of 2023.

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

# FCA steps in to impose conditions surrounding the acquisition of Link Group by D&D

Further to announcements made on the 12th and 21st September by Link Group to the Australian Securities Exchange, 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.

The regulator's continued focus is protected consumers and maintain integrity of the UK financial system and in doing so, want to ensure that the affected consumers have access to as much redress as possible.

**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, regardless of if the scheme works.

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.

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

# 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 5th October, Easylife Limited were served with a £1.48 million fine for deficiencies in they way they collected and processed the data of 145,400 people which resulted in 25 complaints made to the Commissioner. They were responsible for making over 1 million unsolicited direct marketing calls to subscribers that had to opted to be contacted by EasyLife. The Information Commissioners Office

found that Easylife were in breach of **Article 5(1)(a)**.
https://ico.org.uk/action-weve-taken/enforcement/easylife-limited-en/

# Chairman of Harlequin resorts jailed for 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 3rd 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/

+44 (0)20 3696 8750
info@newgatecompliance.com
newgatecompliance.com
Follow Us

## 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.