# Dear CEO letter to Asset Managers & Alternatives

On 1 March 2024 the FCA released an interim Dear CEO letter to firms in the asset management and alternatives sectors. The FCA's engagement with firms in these sectors is increasing and firms need to ensure they are prepared for any interactions with the FCA. This could be part of a multi-firm review or a Section 165 exercise.

Their priorities include:

- **Reviewing firms' Assessments of Value (AoV) and Consumer Duty implementation:** The FCA will be reviewing how firms are implementing their AoV and Consumer Duty. They will take action where a firm's assessment is deficient or where a firm appears to be an outlier. The FCA also plans to carry out multi-firm reviews into the price and value assessments under Consumer Duty.
- **Valuation of private assets:** Given the current economic environment, the FCA understands there is pressure on the valuations of some private assets. They will be conducting a multi-firm review examining valuation practices for private assets.
- **Market integrity:** Maintaining market integrity is a priority for the FCA.
- **Change Management and Good Governance:** The FCA will assess firms' readiness for regulatory change, such as SDR, by evaluating their governance and resourcing of change programmes. Firms are advised to assess their resources to ensure they can handle regulatory changes and challenges.
- **Promoting Competition and Positive Change:** The FCA plans several regulatory enhancements for the asset management and alternatives sectors. These include consulting on a replacement regime for PRIIPS, implementing the government's Smarter Regulatory Framework with a focus on the MiFID, AIFMD and UCITS regimes, and modernising the fund authorisation process.

Firms should understand these priorities and adjust their practices accordingly to ensure they are in line with the FCA's expectations. This includes not only compliance teams but also other relevant stakeholders within the firms who have deep product knowledge and can contribute to meaningful assessments of value and price.

**Next Steps for Firms:** Firms are instructed to discuss the contents of the letter with their governing body, identify any risks of harm, and adopt appropriate risk management strategies. Firms should document senior management's consideration of each item in the letter, identify gaps, and put in place remediation plans.

# Changes to Financial Promotions

https://www.fca.org.uk/news/statements/changes-financial-promotions-order

The FCA and industry confirmed it has implemented the changes to the high-net-worth exemption as required under the law, on the 31st January 2024.

The changes made by HMT can be summarised as:

Increased financial thresholds to be eligible for the high-net-worth individual exemption to:

- An income of at least £170,000 in the last financial year; or
- Net assets of at least £430,000 throughout the last financial year.

The criteria to be eligible for the self-certified sophisticated investor exemption has been amended by:

- Removing the criterion of having made more than one investment in an unlisted company in the previous two years; and
- Increasing the company turnover required to satisfy the 'company director' criterion to £1.6m

(i.e. directors of companies with at least £1.6m turnover will remain eligible for the self-certified sophisticated investor exemption)

---

# Dear CEO letter sent to Annex 1 firms regarding AML failings

https://www.fca.org.uk/news/news-stories/fca-warns-firms-over-anti-money-laundering-failings

Financial crime is a significant issue that requires ongoing attention and action.

The findings from the FCA's assessments of Annex 1 firms, highlight several areas of concern including:

- discrepancies between firms' registered and actual activities
- financial crime controls not keeping pace with business growth
- inadequate risk assessment of firms' and their customers' activities
- insufficient resourcing
- oversight of financial crime issues and requirements

It's crucial that all Annex 1 firms understand the seriousness of these findings and assess their financial crime controls against the common weaknesses that have been identified. Firms that do not take suitable steps in response to the CEO letter could face regulatory action, including possible enforcement action.

A statement by Emad Aladhal, Director of a team of specialists at the FCA, highlights the importance of robust financial crime controls in maintaining the integrity of UK markets. The progress made in fighting financial crime at the halfway point in the FCA's 3-year strategy is hopeful, however, the report still points out basic failures among Annex 1 firms that need to be addressed.

## FCA requests information from financial advice firms on Consumer Duty

https://www.fca.org.uk/news/statements/requests-information-firms-delivery-ongoing-advice-services-consumer-duty

The FCA has announced it taking significant steps to ensure that financial advice firms are providing suitable and valuable ongoing services to their clients. The key points are as follows:

- The FCA is surveying a number of firms about their ongoing services, particularly those for which clients continue to be charged after receiving advice.
- The survey includes questions about whether firms have assessed and made changes to their ongoing services in response to the introduction of the Consumer Duty.
- The FCA is also gathering data on the number of clients due for a review of the ongoing suitability of the advice they received, how many actually received that review, and how many had their fees refunded because the suitability review did not occur.
- The information collected will help the FCA determine if further regulatory work is needed in this area.
- The FCA has previously expressed concerns that advice firms may not be adequately considering the relevance, nature, and costs of these ongoing services for all their clients.

## Looking ahead on what to expect from the Consumer Duty

https://www.fca.org.uk/news/speeches/consumer-duty-art-possible-year

A speech by Sheldon Mills, Executive Director, Consumers and Competition, summarised the progress firms have made to implement the Consumer Duty thus far. It also identified the number of challenges and what firms can expect, ahead of the deadline for closed products which is, 31st July 2024.

The positive steps being taken by firms, such as offering suitable products and services, simplifying language and providing better value, are all detailed in the FCA's published findings, of good and bad practice.

Despite these achievements, there are areas that need improvement. Firms need to proactively address issues, rather than waiting for intervention. They should also leverage their data effectively and ensure the Consumer Duty is ingrained in their culture and operations at all levels.

The good and bad practice guide aims to help firms on their Consumer Duty journey and firms caught in scope should have Board Reports ready, which will assess and evidence how they have

# FCA stops misleading ads and promotions

https://www.fca.org.uk/news/press-releases/financial-watchdog-stops-thousands-misleading-ads-promotions

The FCA continue to focus on protecting consumers from financial scams and misleading promotions. Recent action taken by the FCA includes an increase in interventions and alerts, the focus on illegal cryptoasset promotions and the new requirement for authorised firms to get permission for approving promotions for unregulated persons.

The FCA acknowledges the challenge posed by influencers promoting financial products. Lucy Castledine, Director of Consumer Investments at the FCA, noted the importance of clear, fair, and accurate information for informed financial decisions.

The Consumer Duty, which came into force in July 2023, further strengthens these protections, by requiring firms to provide consumers with information that helps them make effective and informed decisions about financial products and services.

# Transparency around FCA enforcement cases

https://www.fca.org.uk/news/press-releases/fca-improve-pace-and-transparency-around-enforcement-cases

The FCA have announced their intention to change the enforcement process:

1. The FCA is committed to carrying out enforcement cases more quickly to increase the deterrent impact of its enforcement actions.
2. The FCA will focus on a streamlined portfolio of cases aligned to its strategic priorities where it can deliver the greatest impact.

3. The FCA will close cases where no outcome is achievable more quickly.
4. The FCA has begun a consultation on plans to be more transparent when an enforcement investigation is opened.
5. The FCA will publish updates on investigations as appropriate and be open about when cases have been closed with no enforcement outcome.
6. The FCA will make greater use of its intervention powers to stop harm in real time.
7. Any decision to announce an investigation will be taken on a case-by-case basis and depend on a variety of factors which will indicate whether to do so is in the public interest.

This is a step change from the current process, where investigations are only announced in very limited circumstances. The aim is to enhance public confidence, amplify the deterrent impact of the FCA's work and drive greater accountability for the FCA as an enforcement agency.

However, announcing an investigation does not mean that the FCA has decided whether there has been misconduct or breaches of its requirements. Investigations into individuals will be different and the FCA will not usually announce these types of investigations.

# Mohammed Zina sentenced to 22 months for insider dealing and fraud

On 15th February Mohamed Zina was found guilty of six counts of insider dealing and three counts of fraud in a trial brought by the FCA.

Between 2014 and December 2017, Mr Zina worked as an analyst at Goldman Sachs International. His position in the Conflicts Resolution Group allowed him access to inside information related to mergers and acquisitions advised by his employer.

From 15th July 2016 to 4th December 2017, Mr Zina engaged in insider trading involving six stocks: Arm Holdings plc, Alternative Networks plc, Punch Taverns plc, Shawbrook plc, HSN Inc, and Snyder's Lance Inc. The total profit from these trades amounted to approximately £140,486.

The trading was partially funded by three loans, fraudulently obtained from Tesco Bank, totalling £95,000.

Steve Smart, Joint Executive Director of Enforcement and Market Oversight, emphasized that this conviction underscores the seriousness of economic crime and the commitment to maintaining the integrity of UK markets.

Following a hearing at Southwark Crown Court, Mr Zina, received a 22-month prison sentence for insider dealing and fraud.

NEWGATE COMPLIANCE

# FCA Fines and Bans Former LCF Director for Misleading Financial Promotions

On 13th February, Floris Jakobus Huisamen, a former director of London Capital & Finance (LCF) was fined £31,800 and banned him from working in financial services. Mr. Huisamen was responsible for compliance at LCF and recklessly signed off hundreds of financial promotions, contributing to misleading thousands of investors.

LCF marketed minibonds to retail investors. Financial promotions approved by Mr. Huisamen painted a more attractive picture of the minibonds than reality. Investors were not informed about risks, including hidden charges and unsustainable lending practices. Despite concerns about LCF's strategy, he failed to scrutinize properly, challenge senior management, and obtain evidence for claims.

The promotions also falsely implied minibonds were regulated by the FCA and thousands of retail investors suffered significant losses due to misleading statements.

Therese Chambers, Joint Executive Director of Enforcement and Market Oversight at the FCA, said:

'Mr Huisamen should have ensured LCF's financial promotions were 'fair, clear, and not misleading'. However, under him, the approval process became an ineffective tick-box exercise – as a result, thousands of investors were persuaded to invest since highly misleading statements.

'His failings contributed to thousands of retail investors losing significant amounts of money. It is right that he can no longer work in financial services.'


+44 (0)20 3696 8750

info@newgatecompliance.com

newgatecompliance.com

Follow Us


## 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©.

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.