Code of Conduct for ESG data and ratings providers

https://www.fca.org.uk/news/news-stories/code-conduct-esg-data-and-ratings-providers

On 22 November, in support of its ESG strategy, the FCA announced its plan to introduce regulatory oversight of ESG data and ratings providers, in the form of a voluntary Code of Conduct (the Code). The Code will be developed by an independent group, the International Capital Market Association (ICMA) and the International Regulatory Strategy Group (IRSG).

The Code aims to promote rapid development of best practice, as more firms are becoming increasingly reliant on the use of third party ESG data and services and this poses a great risk of greenwashing.

The FCA states that the Code could also apply to ESG data and ratings providers that fall outside the scope of potential future regulation.

Suitable for: All firms

FCA urges firms to make financial advice more accessible

https://www.fca.org.uk/news/press-releases/fca-proposes-ways-make-financial-advice-more-accessible

In keeping with their consumer investment strategy, the FCA has set out new proposals to enhance people's access to financial advice so that they invest with confidence. The FCA's goal is to make financial advice more straightforward, accessible, and to lower the costs to providers and investors.

The objective of the new regime seeks to encourage more people to invest their money, instead of leaving it in cash accounts that pay little interest. A study has shown that 4.2 million people in the UK have more than £10,000 in cash accounts and are open to investing their money. Holding onto too much cash can be damaging for the financial market, with inflation increases.

A **Consultation Paper – CP22/24** published in November, that seeks to propose a new regime that would make it cheaper to access financial advice and provide support for mass-market investors with simpler needs, highlights some key areas:

- Proportionate qualification requirements, such that delivering basic advice is less costly to firms
- Providing payment plans for customers allowing advice fees to be paid in instalments
- Making advice more straightforward and streamlined
- Restricting the range of investments so advice is easier to deliver and understand

The consultation opens on the 28 February 2023. The FCA believes the new regime could be implemented before the end of the 2023/24 financial year for firms to start offering core investment advice from the beginning of April 2024.

Suitable for: Firms that provide investment advice and advice to retail clients

FCA recaps on the achievements of 2022

https://www.fca.org.uk/news/press-releases/highlights-fcas-approach-2022

The FCA published a press release in December recapping their achievements following on from their three-year strategy which launched in April 2022. The **strategy** designed to improve outcomes for consumers and markets and focuses on three key areas: reducing and preventing serious harm, setting and testing higher standards, and promoting competition and positive change. Since the launch of new strategy, the FCA has cancelled the authorisation of 201 firms for failing to meet basic required standards and removed or amended over 8,000 potentially misleading adverts, which is 14 times more than 2021. This action reflects the FCA's increasingly data-led and assertive approach, which enables the regulator to find and deal with problem firms swiftly.

Below is a summary of outcomes and actions that the FCA has taken to address the three areas within the strategy:

1. Reducing and preventing serious harm

    - Over £30m returned to people from businesses operating without authorisation
    - Over 1,800 warnings issued about potential scam firms in 2022
    - Consumer hub has prevented £7m being lost to fraudsters
    - FCA has reached out to 32 lenders for them to make changes to the way they treat customers, with a further 7 firms paying out £12m in compensation

2. Setting higher standards

- To support improvements in the authorisations process, the FCA has added 133 new colleagues to this area over the course of 2022
- FCA backlog of applications has reduced by 50% since last December
- Introduction of new practical measures in response to the Russian invasion of Ukraine has seen a collaborative approach, with support from the UK government including testing firm sanctions controls and writing to 10,000 firms

3. Promoting competition and positive change

- Introduction of rules to enhance transparency for investors on the diversity of boards and executive committees of listed companies.
- 56 firms supported through the FCA's innovation services e.g., Sandbox
- Providing up to 300 newly authorised or high growth firms with greater oversight and support, helping to raise standards and promote competition
- The FCA brought together 184 participants from across the industry together to explore what cryptoasset regulation could look like in the future. So far, 39 cryptoasset firms have received registration under anti-money laundering rules

Suitable for: All firms

FCA seek to improve compensation framework of protection provided by FSCS

https://www.fca.org.uk/news/press-releases/fca-announces-next-steps-improving-compensation-framework

On the 14th December, the FCA published feedback from its call for input, from last December on the issue of increasing costs of compensation liabilities. The FCA warns that the rise in these costs could have a huge impact on firms wishing to enter or stay in the market and later limit the availability of some financial services. The FSCS (Financial Services Compensation Scheme) plays a vital role in helping struggling firms who are not able to meet claims against them with support, thus providing protection for consumers and confidence in financial services.

The feedback highlighted the importance of firms improving their conduct so there is less of a burden on the FSCS. There was also a focus for firms to be more financially resilient and address the causes of high redress liabilities as part of its consumer investments strategy.

In the next phase of the improvement to the compensation framework, the FCA aim to:

- Review compensation limits to see if they remain applicable to different types of claims
- Review funding class thresholds to consider whether the class thresholds remain at an appropriate level
- Conduct consumer and firm research, in conjunction with the FSCS, to improve the FCA's understanding of the impact of FSCS protection on consumer decision making, confidence and behaviour, and on firm behaviour and incentives

The FCA are looking to take further action to tackle the root causes of high redress liabilities, as such, firms should expect:

- authorisation applications being rejected if the FCA detects potential harm to consumers or the market
- FCA to use emergency powers to stop financial advice firms, who advised members of the British Steel Pension Scheme (BSPS), from disposing of assets to avoid paying compensation
- Restrictions placed on twice as many firms from promoting or selling certain products and services

Suitable for: Firms with retail permissions

FCA adds ESG advisory committee

https://www.fca.org.uk/news/news-stories/fca-announces-esg-advisory-committee-its-board

At the beginning of the year, the FCA established a new ESG Advisory Committee to help implement ESG-related responsibilities to accomplish the government's commitment to achieving a net-zero economy by 2050.

In line with the FCA's priorities, much work has been done to set out their ESG strategy. This includes proposals to clamp down on greenwashing, by developing a voluntary code of conduct for ESG data and ratings providers, monitoring of ESG-related products and businesses.

The ESG Advisory Committee will include academics, ESG experts, the FCA's Chair, other Non-Executive Directors and the Director of ESG. The Committee will provide guidance to the Board on relevant emerging ESG topics or issues and views on how the FCA should develop its ESG strategy in keeping with the organisation's statutory objectives and regulatory principles.

Suitable for: All firms

FCA publishes Quarterly Consultation Paper No.38 – CP22/26

https://www.fca.org.uk/publications/consultation-papers/cp22-26-quarterly-consultation-paper-no-38

The latest Quarterly Consultation Paper (CP22/26) published in December 2022, discusses the proposed changes the FCA intends to make to the FCA Handbook. The FCA encourages firm to consider providing comments, if any, to chapters 2, 3, 4, 5, 6, 7 and 8 by the 9th January 2023.

The FCA proposes to make changes to the following:

- The training and competence (TC) sourcebook
- To make changes to the derivatives trading obligation: removal of USD LIBOR derivative products from the scope of the DTO
- To move the Finalised Guidance on the FCA's registration function under the Co-operative and Community Benefit Societies Act 2014 from its position as a static document on the website into the FCA Handbook
- To make changes to the Glossary of definitions, SYSC, COND, MIFIDPRU, IPRU-INV and SUP
- To make consequential changes to EG 19 which reflect the Money Laundering and Terrorist Financing (Amendment) (No. 2) Regulations 2022
- To make changes to the PROD rules to disapply certain requirements where products are available for distribution to customers resident outside the UK (where the state in which the risk is situated is outside the UK)
- To make changes to the Consumer Duty rules to deliver its policy

Suitable for: All firms

FCA Consultation Paper – CP22/27 proposing tougher checks for financial promotion approvals

https://www.fca.org.uk/news/press-releases/fca-outlines-stronger-rules-protect-consumers-rogue-financial-promotions

On the 6th December, the FCA published a press release outlining new checks for firms that wish to approve financial promotions. The new rules as set out in Consultation Paper **CP22/27**, will cause to demonstrate whether they have the right expertise to sign off on financial promotion material. The current legislative position is that any FCA authorised firm can approve financial promotions on behalf of other firms that are not authorised by the regulator. The new changes will mean that authorised firms will now under-go screening checks on all approved financial promotion material and have to regularly report to the FCA giving them oversight and the ability to step in before risk of harm occurs.

The purpose of these reforms is to prevent harmful, misleading and unfair financial promotions being circulated in the market by unauthorised firms. This includes areas such as high-risk investments and Buy Now Pay Later (BNPL).

The paper will impact authorised persons who approve, or intend to approve, financial promotions for unauthorised persons. However, based on the Treasury's consultation response document, the FCA confirmed this will not be relevant to authorised persons approving the financial promotions, or their appointed representatives (ARs) or unauthorised persons within their own corporate group.

Sarah Pritchard, executive director, at the FCA, stated: *"Social media and online advertising mean consumers are taking less time between seeing a promotion and making a financial decision. It is, therefore, essential that they are equipped with the right information at the right time so that they can make those decisions. This is especially important as we face rising cost of living"*.

This is a key element of the FCA's Consumer Investment Strategy, which aims to give consumers the confidence to invest and reduce the number of people who are investing in high-risk products that are not aligned to their needs.

The consultation is open until 7 February 2023.

Suitable for: All firms

FCA seek to replace PRIIPs and UCITS

https://www.fca.org.uk/news/press-releases/fca-sets-out-ideas-improve-information-provided-retail-investors

The FCA are seeking views on how retail investors can obtain clear and helpful information through a Discussion Paper (**DP22/6**) published in December. The standards of information that should be disclosed to potential investors is included in the rules which are the Packaged Retail Investments and Insurance Products (PRIIPs) and the undertaking of collective investment in transferable securities rules (UCITS). The regulator is working alongside the UK government to make changes to retail disclosure rules by launching a **Consultation** led by HMT that closes on the 3rd March 2023.

Firms should submit comments to the FCA Discussion Paper by the 7th March 2023.

What are the proposed changes?

- Previous changes were made to PRIIPs rules post-BREXIT to tackle the areas of harm that caused the greatest risk to consumers. As a result, the FCA seeks to review the information that can be delivered to consumers
- The suggestion of 'layering', in that firms provide some information upfront and follow up later on with further details later on in the investment process
- FCA are seeking the industry's view on how best to decide when a product is suitable for the retail market or not
- Considerations are being made on who should have responsibility for producing disclosure
- The suggestion of including more interactive disclosures to engage the consumer, with information presented clearly

At present, firms are still required to follow PRIIPs and UCTIS disclosure requirements until the new regime comes into effect.

Suitable for: AIFMs and investment firms managing UCIT funds

+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.