

***"We are not here to curse the darkness, but to light the candle that can guide us thru that darkness to a safe and sane future."***

**John F. Kennedy**

As firms and people start to adjust to the "new normal" enforced by the outbreak of Covid-19 the world seems a strange place. However financial services industry continues to operate and must ensure it continues to adhere to the required standards and treats its customers fairly.

### FCA COVID-19 Statement – 29/3/2020

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Each firm's designated Senior Manager or equivalent person is responsible for identifying which of their employees are unable to perform their jobs from home, and have to travel to the office or business continuity site. We expect the total number of roles requiring an ongoing physical presence in the office or business continuity site to be far smaller than the number of workers needed to ensure all of a firm's business activities continue to function on a business as usual basis.

The UK Government has made clear that employers and employees should discuss their working arrangements, and employers should take every possible step to facilitate their employees working from home, including providing suitable IT and equipment to enable remote working. For example we would not expect the following to go into work or meet face to face:

- financial advisers, as they can offer their services online or by phone
- staff who can safely and securely trade shares and financial instruments from home
- business support staff, such as those in IT where they can triage issues from home, unless they are looking after specific equipment or technology
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We expect the number of exceptions to this to be low."

### Covid-19 (coronavirus) and FCA

The FCA is closely monitoring the Coronavirus (Covid-19) pandemic and taking precautions to make sure customers are protected and that markets continue to function. They have significant resource dealing with the Coronavirus, both for the firms that they regulate and for their own staff. Dedicated teams have been set-up and their Executive Committee is overseeing the situation.

The Regulator is working closely with the Government, the Bank of England, the Payment Systems Regulator and firms as the situation continues to develop.

They have stated that they are in regular contact with firms to assess their current position and expect them to be taking reasonable steps to ensure they are prepared to meet the challenges coronavirus could pose to customers and staff, particularly through their business continuity plans.

Firms are expected to provide strong support and service to customers during this period. Firms should be clear and transparent and provide support to consumers and small businesses who face challenges at this time. Also they expect firms to manage their financial resilience and actively manage their liquidity.

Firms should report to the FCA immediately if they believe they will be in difficulty.

### Covid-19 (coronavirus) – FCA key workers

The FCA have also reminded firms that their staff may be considered Key workers and have access to school places. People that might fit the criteria include: The types of roles that may be considered as providing essential services could be:

1. Individuals essential in the overall management of the firm, e.g. SMFs.
2. Individuals essential in the running of online services and processing.
3. Individuals essential in the running of branches and providing essential customer services, such as those dealing with consumer queries (including via call centres), client money and client assets and those maintaining access to cash and other payment services.
4. Individuals essential to the functioning of payments processing and of cash distribution services.
5. Individuals essential in facilitating corporate and retail lending and administering the repayment of debt.
6. Individuals essential in the processing of claims and renewal of insurance.
7. Individuals essential in the operation of trading venues and other critical elements of market infrastructure.
8. Risk management, compliance, audit and other functions necessary to ensure the firm meets its customers' needs and its obligations under the regulatory system.
9. Any individual that provides essential support to allow the functioning of the above roles, such as finance and IT staff

### FCA announces proposals to improve climate-related disclosures by listed companies

The new rule will require all commercial companies with a premium listing to either make climate related disclosures consistent with the approach set out by the Taskforce on Climate-related Financial Disclosures (TCFD) or explain why not. The FCA will consider consulting on extending this rule to a wider scope of issuers.

The proposals set out in the Consultation Paper build upon the recommendations of the TCFD, an existing global standard.

The FCA recognises that standards for disclosure and companies understanding of the financial impacts of climate change are evolving. For this reason, where companies are not yet able to make full disclosures, they should provide an explanation of the reasons why.

Andrew Bailey, FCA Chief Executive, said:

*'Climate change presents a serious and wide-ranging threat to global economic prospects, society more broadly and our natural environment.'* *'The changes we propose will help to provide the transparency the market needs to be able to assess how well companies are adjusting to the risks of climate change. Improved disclosures will support better asset pricing and enable investors to make more informed choices about where to allocate their capital – which will ultimately support the transition to a low carbon economy.'*

## FCA commentary on STORs

Since 2016, the FCA have seen an annual increase in the number of STORs from market participants, however figures for 2019 show the first decrease in the total number of reports.

There may be several reasons for the decrease, including the fact that the FCA have observed some firms taking more robust steps to tackle financial crime risks following the publication of chapter 8 of the Financial Crime Guide in December 2018. The FCA highlighted firms' obligations to counter the risk of being used to further financial crime, including the criminal offences of insider dealing and market manipulation.

The steps taken by some firms include reviewing the suitability of clients whose trading may otherwise have been subject of a STOR and restricting their access to financial markets where appropriate. The FCA believe these restrictions have resulted in less suspicious activity being facilitated by these firms, and consequently a reduction in STORs.

The 2019 figures also show that the number of commodity and fixed income STORs have continued to rise. This reflects steps taken by firms to improve their detection capabilities and Firms are encouraged to continue developing surveillance capabilities in this area. The overall quality of STORs continues to improve every year.

There has also been an increase in the number of market observations received. A Market Observation form was launched in 2019, having recognised that firms often want to submit information about market activity they have observed which is not necessarily appropriate as a STOR. Market observations provide valuable intelligence and the FCA have encouraged their submission where a STOR is not appropriate.

## Senior Managers and Certification Regime (SM&CR)

The SM&CR is a catalyst for driving cultural transformation and sets a new standard of personal conduct in financial services.

By 9 December 2020 solo-regulated firms will need to ensure:

- all relevant staff are trained on the 5 Conduct Rules and understand how these rules apply to their roles
- all staff in certified roles are fit and proper to perform that role and are issued with a certificate
- you submit data to us for directory persons working in financial services

This will take time so you should start preparing now if you have not already started.

## FCA issue discussion paper encouraging firms to develop purposeful cultures

The paper makes the case for healthy purposeful cultures in firms, leading to good outcomes for their customers, employees and investors. The FCA describes "purposeful" as what a firm and its employees is trying to achieve - the definition of what constitutes success.

The FCA is tackling this issue in a multiple of ways, including making diversity and inclusion the norm and eliminating sexual harassment and other unhealthy practices from the workplace. But they recognise that there are barriers to creating and maintaining healthy, purposeful cultures including fear of shareholders' short-term profit expectations and fear of the regulator itself. The contributors to the paper set out how leaders in financial service might go about overcoming these barriers and embedding purpose in their organisation.

Jonathan Davidson, FCA Executive Director of Supervision - Retail and Authorisations, said: *'The purpose of a firm sits at the heart of its business model, strategy and culture. Unhealthy cultures and purpose have been at the root cause of too many mis-selling and other conduct scandals in financial services. I want to see strong leadership creating purposeful cultures where it is safe to speak up and diversity is encouraged and listened to.'*

*'However, culture transformation is difficult; even with strong leadership it takes time and consistency, but small changes can make a big difference. I hope that everyone who reads these essays will be inspired to take at least one idea back to their organisation to try for themselves and take a step towards creating more purposeful cultures in financial services.'*

A firm's individual purpose is their own responsibility and, as with culture, the FCA does not prescribe what this should be. However, there are common elements of a healthy culture:

- a meaningful purpose
- an inclusive environment where it is safe to speak up
- effective leadership and governance employees that have the necessary capabilities and are motivated by appropriate incentives.

## Adjusting Financial Ombudsman Service award limit

On 1 April 2019, The FCA increased the Financial Ombudsman Service's award limit from £150,000 to £350,000. This applies to complaints referred to the Ombudsman service on or after 1 April 2019 about firms' acts or omission on or after that date. The FCA increased the award limit for complaints referred to the service on or after 1 April 2019 about pre-1 April acts or omissions, to £160,000. In the accompanying policy statement (PS19/8) it stated that, from 1 April 2020, each award limits each year would be adjusted to ensure they keep pace with inflation. In line with DISP 3.7.4R, they will do this by applying the percentage increase in the Consumer Prices Index (CPI) between January 2019 and January of that year, and rounding the adjusted figure down to the nearest £5,000. Following the publication of the CPI figures for January 2020, the regulator has increased the award limit for complaints referred to the Ombudsman service on or after 1 April 2020 to £355,000 for complaints about acts or omissions on or after 1 April 2019.

There will be no changes to the other limits.

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### Exchanging crypto assets as a business in the UK?

Since 10 Jan this year, any firm carrying out certain crypto-asset activities must comply with the MLRs 2017 and have the required anti-money laundering and counter-terrorist financing controls in place.

Firms already operating before 10 January this year need to register with the FCA by 10 January 2021. Businesses which were not carrying on crypto asset activity before 10 January, but now want to do so, must be registered with the FCA before starting this activity.

The FCA have urged firms not to delay as they need applications by 30 June 2020 in order that firms will be ready in time for the January deadline.

### Speech by Nisha Arora, Director, Consumer and Retail Policy at the FCA, delivered at the TISA Vulnerability Conference.

In a speech to TISA vulnerability conference outlined, the FCA referred to Guidance, which seeks to give firms greater clarity and explain what, under their Principles for Businesses, firms need to do to ensure that vulnerable consumers are treated fairly and consistently across financial services sectors.

The FCA want to see the Guidance embedded in firms' culture, processes and practices. Supervisors will be supporting firms to do this and will want to see them demonstrating how they are complying with the FCA's Principles in respect of the treatment of vulnerable consumers.

The aim of the Guidance is to change the discourse from whether the right boxes have been ticked to achieve compliance, to firms stepping back to ask what their vulnerable customer's needs are, and how they are then responding to deliver good outcomes.

There will be further consultation on revised Guidance in Spring this year with a view to finalising it later in the year.

### COVID Relief for firms

There are a number of reliefs available to financial services firms offered by the government including:

1. **Managing Staff Costs:** Many businesses are facing the dilemma of whether to lay staff off without pay, operate short time working or make staff redundant and re-recruit if they can when the current crisis has passed. The UK Government has therefore made available a non-refundable grant for businesses of up to 80% of the wages of those staff who are sent home without pay and not made redundant, subject to a cap of £2,500 a month. The grant will be backdated to 1 March 2020.
2. The UK Government has introduced new legislation that employees to claim SSP from day 1 of a period of illness or self-isolation. There is an entitlement to a reimbursement (rather than an upfront payment) for up to two weeks' SSP for each employee absent from work because they are ill or self-isolating as a result of Covid-19.
3. PAYE due to be paid for month 11 (March 2020) can be deferred for two months, subject to specific agreement with HMRC via the COVID-19 helpline.
4. Ability to agree specific tax payment arrangements (deferrals/instalments) with HMRC, enables businesses to avoid penalties for failure to pay tax.
5. Income Tax Self-Assessment: payments for the self-employed due on 31 July 2020 have been deferred to 31 January 2021.
6. Accounting for VAT for the first quarter of 2020 has been deferred. Businesses have to account for the VAT for this quarter by the end of the financial year.

### Latest advice from the FCA re office working

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### FMConsult Services

#### All offices

- Compliance monitoring services
- Company authorisation services
- Fund authorisation services
- Outsourced MLRO services
- Outsourced compliance solutions
- Regulatory project assistance (e.g. Investment Restrictions, Money Laundering, Client Money, ICAAPs)
- Compliance 'Health' checks
- Policy and procedures
- Systems and Controls
- GDPR assistance
- SMCR assistance
- Related training
- Financial Crime

#### UK and Ireland

- Consumer Credit Authorisation, whether you have an interim authorisation or not
- Investment & Operational Risk management services
- Fund restructuring services
- ICAAP review and development
- ACD / Management Company structuring and governance review
- Fund and firm re-domiciliation advice
- AIFM Authorisation
- AIFM monitoring (including risk services)
- Dublin also provides Fund UCITS IV Reporting, MLRO and Company Secretarial Services.
- Related Training

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