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Dear CEO to Investment Management firms

The Financial Conduct Authority (FCA) have set out their findings from their supervisory work looking at how principal firms in the investment management sector understood and complied with their regulatory responsibilities in respect of their appointed representatives (ARs).

Most principal firms that were reviewed by the FCA had weak or under-developed governance arrangements in place, including a lack of effective risk frameworks, internal controls and resources. Though principals are responsible for the activities of their ARs, most principals were not assessing the risks these activities posed to their firms. Consequently, some principals may not be holding adequate financial resources for both liquidity and capital.

There is a clear indication from the FCA that they will conduct further supervisory work in this area. Boards should have considered this letter and its findings. FMConsult can assist firms in assessing your system and control environment.

FCA confirms extension of the Temporary Permission Regime deadline

The FCA has confirmed the deadline for notifications for the temporary permissions regime (TPR) will be extended to the end of 30 October 2019. TPR would allow EEA-based firms passporting into the UK to continue new and existing regulated business within the scope of their current permissions in the UK for a limited period, while they seek full FCA authorisation.

The deadline for applying to the Trade Repository and Credit Ratings Agencies has also been extended to the same date. For EEA payment services and e-money firms, the notification window for temporary permission is closed, but it will open again under the relevant HM Treasury Regulations on 31 July and end on 30 October.

Parliament has also legislated to give the UK financial regulators powers to make transitional directions connected to changes in financial services legislation made under the EU (Withdrawal) Act 2018. The FCA have stated that it intends to make use of the temporary transitional power to ensure that firms and other regulated persons can generally continue to comply with their regulatory obligations as they did before exit. This will enable firms to adjust to post-exit requirements in an orderly way.

The FCA has explained previously that, in the event that the UK leaves the EU without an implementation period, it will not take a strict liability approach and do not intend to take enforcement action against firms and other regulated entities for not meeting all requirements straight away, where there is evidence they have taken reasonable steps to prepare to meet the new obligations by exit day.

FCA publishes Decision Notices against three firms and five individuals for acting without integrity in relation to their pension advice business and misleading the FCA

The FCA considers that three firms had little meaningful oversight and involvement in the advice provided to customers in their name. They adopted a pension review and advice process which involved outsourcing important functions to unauthorised third parties. No allegation of wrongdoing is made against the third parties or their directors in any of the Decision Notices related to the above actions.

The three firms held themselves out to customers as providing bespoke independent investment advice based on a comprehensive and fair analysis of the whole market, but that did not reflect the reality of the service that was provided. In reality customers were recommended pension switches and pension transfers to products that invested in high risk, illiquid assets which were unlikely to be suitable for them.

In total, 2,004 customers invested approximately £76 million of their pension assets. As at 29 January 2019, the Financial Services Compensation Scheme has paid compensation of £26.8 million to 1,106 customers of the three firms in relation to the above matter and is investigating further claims.

FCA Chief Executive sets out his vision for future in first 'Inside FCA' podcast

FCA Chief Executive discussed key areas of the recently released Business Plan and his thoughts on the future of financial regulation.

He called for a 'thorough debate' on the type of regulation the UK wants in a post-Brexit world, including the future relationship between the UK and the EU.

'I am not advocating lighter regulation. I'm not advocating heavier regulation either', he says, explaining that there are choices to be made on the different ways to regulate.

While he describes Brexit as a 'pressing priority', he explains that the FCA is balancing its big priorities in an ongoing way, and highlights proposed new guidance to protect the most vulnerable consumers in society.

'We're a public interest regulator, so we have public interest at the heart of what we do', he says.

Over £27 million reported lost to crypto and forex investment scams

The FCA and Action Fraud are warning the public to be wary of investment scams carried out via bogus online trading platforms. This warning comes as crypto assets and forex investment scams reports more than tripled last year to over 1,800. Fraudsters promise high returns from investments in crypto and forex, with victims losing over £27 million in total in 2018/19.

Fraudsters often use social media to promote their 'get rich quick' online trading platforms. Investors will be led to believe that their first investment has successfully made a profit. The fraudster will then contact the victim to invest more money with the false promise of greater profits. However, eventually the returns stop, the customer account is closed and the scammer disappears with no further contact.

As part of the FCA's ScamSmart campaign the FCA will be running advertising to raise awareness of online trading scams. The ScamSmart is run on social media.

The FCA has introduced 4 steps to 'Stay safe when scrolling'. 'Don't assume it's real', 'Stay in control', 'Make the right checks' and 'Every report matters'.

FCA bans broker from performing any function in relation to any regulated financial activity, on the basis that he acted dishonestly and lacked integrity.

The FCA has prohibited a former broker from performing any function in relation to any regulated financial activity, on the basis that he acted dishonestly and lacked integrity, and as a result is not fit and proper to perform any function in relation to any regulated activity.

The FCA found that between 19 September 2008 and 25 August 2009, the broker arranged nine wash trades. The purpose of the wash trades was to obtain unwarranted brokerage payments for their company. Wash trades are risk-free trades, with the same party, in pairs that cancel each other out and for which there is no legitimate commercial purpose.

Mark Steward, Executive Director of Enforcement and Market Oversight at the FCA, said: *'There was no legitimate reason for' the broker 'to make these trades and his actions were motivated by greed. His actions mean he has no place in financial services.'* *'Today's ban reflects our commitment to making sure that people working in financial services act with integrity.'*

The Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) have fined a UK-based independent bank for failing to manage its outsourcing arrangements properly between April 2014 and December 2016.

A UK-based independent bank has received separate fines of £775,100 from the FCA and £1,112,152 from the PRA in respect of these breaches (resulting in a combined fine of £1,887,252).

Mark Steward, FCA Executive Director of Enforcement and Market Oversight said that the bank's *'systems and controls supporting the oversight and governance of its outsourcing arrangements were inadequate and exposed customers to unnecessary and avoidable harm and inconvenience. There is no lower standard for outsourced systems and controls and firms are accountable for failures by outsourcing providers.'*

Sam Woods, Deputy Governor for Prudential Regulation and Chief Executive Officer of the PRA, said the bank's *'ability to manage outsourcing of any critical activities is a vital part of maintaining their safety and soundness. Such outsourcing is an important part of a firm's operational resilience, and particularly so in this case given the level of reliance on outsourcing in its business model.'* *'In addition, this was a repeat failing which demonstrates a lack of adequate and timely remediation. This is a significant aggravating factor in this case, leading to an uplift in the penalty.'*

The UK-based independent bank failed to have adequate processes to enable it to understand and assess the business continuity and disaster recovery arrangements of its outsourced service providers - particularly how they would support the continued operation of its card programmes during a disruptive event. The absence of such processes posed a risk to operational resilience and exposed customers to a serious risk of harm. These risks crystallised on the 24 December 2015 when a technology incident occurred at a card processor.

The incident caused the complete failure of the authorisation and processing services it provided to the bank and lasted over eight hours. During this period, 3,367 customers were unable to use their prepaid cards and charge cards. In total, the card processor could not authorise 5,356 customer card transactions attempted at point of sale terminals, ATM machines and online. The timing of the incident, on Christmas Eve, is likely to have exacerbated the impact of the outage.

The UK-based independent bank agreed to resolve this matter and therefore qualified for a 30% reduction in the fines imposed by both regulators. Without this discount, the combined fine imposed by the FCA and PRA would have been £2,709,574.

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- Dublin also provides Fund UCITS IV Reporting, MLRO and Company Secretarial Services.
- Related Training

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