

Regulatory Update

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1. FCA UPDATES & DEVELOPMENTS

1.1 FCA Publishes Webpage on MIFIDPRU Remuneration Code

The FCA has [published a webpage](#) regarding the MIFIDPRU remuneration code (SYSC 19G) that applies to MIFIDPRU investment firms. The webpage sets out the code's application to performance periods starting on or after 1 January 2022. The code sets out the minimum regulatory requirements that a MIFIDPRU firm must comply with. The core requirements of the remuneration code apply to all small and non-interconnected (SNI) firms and more detailed requirements apply to non-SNI firms.

The requirement of proportionality is set out in relation to a firm's remuneration policy. The policy must be appropriate and proportionate to the nature, scale and complexity of the risks that exist in the business model and activities of the firm. Guidance has been provided in SYSC 19G.2.5G.

The information page further comments on the following areas:

- Performance adjustment. This refers to the process and mechanisms by which a firm adjusts an individual's remuneration. Guidance has been published in FG21/5 providing the FCA's expectation on malus and clawback.
- Self-assessment template and tables. Templates have been published which may be used to record how a firm's remuneration policy complies with the remuneration code. The templates can be found within the webpage.
- Reporting requirements regarding MIF008 for all firms in scope of the remuneration code.
- Disclosure. All MIFIDPRU firms should disclose qualitative and quantitative information about their remuneration practices, policies and outcomes.

Waystone can offer assistance to firms under the MIFIDPRU remuneration codes, where we can help you to understand and comply with the new requirements. Please [contact us](#) for more information.

1.2 FCA Webpage on TPR Firms

The FCA has [published a webpage](#) regarding the temporary permissions regime (TPR) and setting out the actions it would take if firms do not meet their expectations. The TPR is only applicable to firms who want to operate in the UK in the long term and are getting ready for full UK authorisation whilst also meeting the required standards.

The FCA webpage focuses on four scenarios where the FCA will take action against a firm:

- FSMA firms that miss their landing slot
- Firms that fail to respond to mandatory information requests
- Firms that do not intend to apply for full authorisation
- Firms whose authorisation application is refused

The actions taken against these firms may involve:

- taking steps to remove the firm from the TPR
- asking the firm to confirm that they have voluntarily stopped undertaking new business or the FCA enforcing its powers to prevent firms from undertaking new business
- directing a FSMA firm to apply in a landing slot sooner than the existing landing slot
- for payments and e-money firms, requesting the firm to specify a date when they will cease to engage in new business – if they fail to do so, the FCA may specify the date

Waystone Compliance Solutions (UK) Limited can offer assistance to firms under the TPR regime. Please [contact us](#) for more information.

1.3 FCA Consultation Paper on Strengthening its Financial Promotion Rules

The FCA has [published a consultation paper](#) CP22/2 on strengthening the financial promotion rules for high risk investments including crypto assets.

The paper seeks to make changes to protect consumers from harm and builds on previous papers on how the FCA could strengthen its financial promotion rules. The proposed changes include the following:

- classification of high-risk investments
- the consumer journey into high-risk investments
- strengthen the role of firms approving and communicating financial promotions
- application of the financial promotion rules to qualifying crypto assets

Comments are invited to the consultation by 23 March 2022. To discuss compliance with the FCA's financial promotion rules please [contact us](#). If you would like to understand how our RegTech solution, CORE, can help you manage financial promotions and your wider compliance requirements, please [contact us](#) for a demo.

1.4 Government to Strengthen Rules on Misleading Cryptocurrency Adverts

The HM Treasury has [published a consultation response](#) setting out the government's plan to bring the promotion of crypto assets within the scope of financial promotion legislation. This means the promotion of relevant crypto assets will be subject to the FCA rules on financial promotions.

The response will be done via secondary legislation amending the Financial Promotion Order. The FCA will also be consulting on its proposed financial promotion rules that will apply to the crypto assets (see above for more details).

1.5 FCA Consultation Paper on Consumer Duty

The FCA has [published a consultation paper](#) on its proposals to set a higher standard of consumer protection in the retail financial markets. The FCA has seen a range of firms following good practice but also other firms who are not prioritising good consumer outcomes. It has therefore set out high level proposals in its first consultation paper and is now responding to feedback with more relevant details on the proposals.

The new consumer duty aims to bring about a fairer and consumer focused market in which:

- consumer interests are placed at the centre of businesses and extending their focus beyond ensuring narrow compliance with specific rules, to focus on delivering good outcomes for consumers
- competition is effective in driving market-wide benefits, with firms competing to attract and retain customers based on high standards and innovate in pursuit of good consumer outcomes
- consumers get products and services which are fit for purpose

The first consultation paper published [CP21/13](#) outlined high level proposals and included:

- new Consumer Principle providing a standard of conduct
- set of crosscutting rules
- outcomes that support the Consumer Principle by setting expectations for firms' cultures and behaviours

The second consultation paper [CP21/36](#) sets out the following in detail:

- key feedback and analysis of the responses received for the first consultation
- revised proposals for a new Consumer Duty, which include proposed draft Handbook rules and guidance, and
- cost benefit analysis

To discuss how we can help you prepare for the new consumer duty, please [contact us](#).

2. PRA UPDATES & DEVELOPMENTS

2.1 PRA Published Letters Addressed to CEOs Setting Out its Supervisory Priorities in 2022

The PRA has published a [Dear CEO letter](#) to international banks within the UK setting out the regulator's priorities in 2022. The topics provided are non-exhaustive and aims to provide a helpful overview of the PRA's priorities in the new year.

The following topics are set out within the letter:

- Financial resilience

- Operational risk and resilience
- Financial risks arising from climate change
- Diversity & inclusion
- Risk-free rate transition
- Data and data strategy

3. EU REGULATORY UPDATES

3.1 EBA Press Release Confirms COVID Guidelines to be Continued

The EBA has [published a press release](#) to confirm the application of the COVID-19 related reporting and disclosure requirement, adopted in June 2020, will continue until further notice.

The guidelines established a quarterly reporting frequency and semi-annual disclosure of exposures under payment moratoria as well as exposures under COVID-19 related public guarantee schemes.

The EBA continues to monitor developments and reassess the application of the guidelines on an annual basis.

3.2 ESMA Consultation on Review of MiFID II Suitability Guidelines

The European Securities and Markets Authority (ESMA) has issued a [consultation paper](#) on the review of the Markets in Financial Instruments Directive (MiFID II) suitability guidelines. The main amendments reflected in the guidelines are:

- Collection of information from clients on suitability preferences
- Assessment of sustainability preferences
- Organisational requirements

The consultation closes on 27 April 2022 and ESMA expects to publish a final report in Q3 2022.

4. FINANCIAL CRIME

During January 2022, there were no material regulatory developments or news in relation to financial crime.

5. ENFORCEMENT ACTIONS

5.1 FCA Commences Criminal Proceedings Against Collateral (UK) Ltd

The FCA has [commenced criminal proceedings](#) against two former directors of Collateral (UK) Ltd. The individuals, Peter and Andrew Currie, face two charges under the Fraud Act 2006 and one charge under the Proceeds of Crime Act 2002.

The brothers, Peter and Andrew Currie, are alleged to have dishonestly represented to investors that the firm was authorised and regulated by the FCA to operate as a peer to peer lender. The FCA had asked Collateral to cease conduct of all regulated activities in January 2018 and shortly before the company ceased trading, the former directors transferred funds to a separate company dishonestly and transferred funds into Andrew Currie's account, of which they knew or suspected were from the proceeds of crime.

The individuals are due to appear in court in January 2022 and the firm is now in liquidation.

CCL Compliance is now Waystone Compliance Solutions

Titan Regulation, Argus Global, CCL Compliance and ISAS are now Waystone Compliance Solutions who offer a new and unique approach to compliance services at a corporate level.

Formed by merging four specialist compliance companies – we have the capabilities to help you manage regulatory risk right across your organisation.

We can provide key services from initial registration and licensing to compliance programme integration. Our compliance solutions span business strategies, market activities, operational and technology infrastructure not to mention sales and marketing procedures. And we can do so anywhere in the world.

Our aim at Waystone is simple: to enable our clients to navigate the complex regulatory environment with confidence.

At Waystone, we have brought together the experience, the expertise and the global reach to give you the certainty you need to address the ever-changing regulatory world. And by doing so, provide you with a secure route on the road to success.

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- Hot Topics
 - COVID-19
 - Senior Managers & Certification Regime (SM&CR)
 - Fifth Anti-money Laundering Directive (5MLD)

If you wish to discuss how Waystone can assist you with any of the issues raised in this regulatory update, please contact us the details below:

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This Regulatory Update provides information about the consultative documents and publications issued by various regulators which are still current, proposed changes to the Rules and Guidance set out in Handbooks, actual changes to Rules and Guidance that have occurred in the months leading up to the update and other matters of relevance to regulated firms. This Regulatory Update is intended to provide general summarised guidance only, and no action should be taken in reliance on it without specific reference to the regulators' document referred to therein.