

Regulatory Update

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Table of Contents

| | |
|---|-----------|
| 1. FCA UPDATES & DEVELOPMENTS | 3 |
| 1.1 FCA releases podcasts on Consumer Duty | 3 |
| 1.2 FCA findings on Consumer Duty implementation review | 4 |
| 1.3 FCA experiences delays in Change in Control notifications | 4 |
| 1.4 FCA’s latest Skilled Person data | 4 |
| 1.5 FCA’s latest whistleblowing data | 5 |
| 1.6 New alliance for Digital Currencies | 5 |
| 1.7 Payment Services Regulations 2017 – Review and Call for Evidence | 5 |
| 1.8 FCA update on Temporary Permission Regime | 6 |
| 1.9 FCA Regulation Round Up - January 2023 | 6 |
| 1.10 FCA updates definition of ‘significant SYSC firm’ for Enhanced scope SM&CR regime | 6 |
| 2. EU REGULATORY UPDATES | 7 |
| 2.1 European Commission tentative agenda for forthcoming meetings | 7 |
| 3. FINANCIAL CRIME | 7 |
| 3.1 Money Laundering threshold increased to £1,000 | 7 |
| 3.2 FCA good practice for Cryptoasset applications in relation to AML and CTF | 7 |
| 3.3 Five individuals face conspiracy to commit insider dealing and money laundering charges | 8 |
| 4. ENFORCEMENT ACTIONS | 8 |
| 4.1 FCA fines Guaranty Trust Bank (UK) Limited £7,671,800 for AML failures | 8 |
| 4.2 FCA fines Al Rayan Bank PLC for anti-money laundering failures | 9 |
| Waystone Compliance Solutions | 10 |
| Consultancy Services & Support | 10 |

1. FCA UPDATES & DEVELOPMENTS

1.1 FCA releases podcasts on Consumer Duty

The FCA has released two podcasts on Consumer Duty. The first [podcast](#), released on 6 January 2023, considers the Price and Value Outcome with the FCA's Manager of Consumer Policy Outcomes, Richard Wilson.

The podcast features insights into:

- the overlap with existing product governance rules
- the application of the rules to services
- the granularity of the target market
- how vulnerable customers should be considered
- what factors firms should consider when deciding the appropriate time to review products or services
- the sharing of information between distributors and manufacturers

Although the Duty is to be implemented by 31 July 2023, by 30 April, manufacturer firms should have reviewed any product or service already on the market and which will continue to be sold and have provided all the relevant information to enable the distributor firms to meet their own requirements under the Duty. The April milestone will also provide time for the manufacturer to make any necessary changes to those products and services by the time the rules come into force at the end of July.

The transcript is available here: [Inside FCA Podcast: What is the Consumer Duty price and value outcome?](#)

The second [podcast](#), released on 17 January 2023, features the FCA's Head of Competition Policy, Ed Smith, who provides insight on the Products and Services Outcome, including:

- elements of a good value assessment framework
- the existing fair value rules for some sectors
- how firms should document and evidence value assessments
- benchmarking products against the market
- the impact of the cost-of-living crisis
- considerations around charging different customers or distributors different prices
- the importance of collaboration between manufacturers and distributors to assess fair value.

The transcript is available here: [Inside FCA Podcast: Understanding the Consumer Duty products and services outcome](#)

Waystone has prepared a comprehensive series of Regulatory Guides that will guide you through the complexity of the Consumer Duty. For more information about our advisory support, please [contact us](#).

1.2 FCA findings on Consumer Duty implementation review

On 25 January 2023, the FCA published its areas of focus for firms implementing the Consumer Duty.

Over the remaining 6 months of this implementation period, the FCA wants firms to particularly focus on:

- **Prioritising:** firms should make sure they are prioritising effectively, with a focus on the areas that will make the biggest impact on outcomes for consumers;
- **Making the changes needed:** the FCA urges firms to ensure they are making the changes needed so consumers receive communications they can understand, products and services that meet their needs and offer fair value, and they get the customer support they need, when they need it; and
- **Working with other firms:** firms need to share information and work closely with their commercial partners to make sure they are all delivering good customer outcomes. The FCA has found that some firms need to accelerate this work to implement the Duty on time.

Further information can be found on the FCA website here: [FCA highlights areas of focus for firms implementing the Consumer Duty | FCA](#)

1.3 FCA experiences delays in Change in Control notifications

On 23 December 2022, the FCA published an update on its [Change in Control](#) webpage stating that it has been experiencing delays in allocating notifications to case officers in recent months and currently it is typically taking between 2 and 4 weeks to allocate notifications.

The update includes a reminder that it's a criminal offence under FSMA section 191F to proceed with acquiring or increasing control in an authorised firm or its parent undertaking before requesting – and receiving – approval for the transaction (or before the statutory assessment period has expired).

The FCA reminds firms that incomplete notifications with missing relevant information and documents take longer to process. For assistance with FCA applications, notifications and filings please [contact us](#).

1.4 FCA's latest Skilled Person data

On 17 January 2023, the FCA published on its [website](#) its quarterly data on s166 Skilled Person Reviews for the period July to October 2022.

The latest data on the FCA's website shows the number of skilled persons reports commissioned in Q2 2022/23 (July - October 2022) was highest for Retail Investments, followed by Retail Lending and Wholesale Financial Markets. Most of the reports related to Conduct of Business or Systems and Controls.

The data can be found here: [Number of skilled person reports commissioned in Q2 2022/23 \(July to October 2022\) \(fca.org.uk\)](#)

1.5 FCA's latest whistleblowing data

On 12 January 2023, the FCA published on its [website](#) its Whistleblowing Quarterly Data for Q3 2022.

During this period, the FCA's whistleblowing team has received a total of 291 new whistleblowing reports by telephone, email, FCA online reporting forms, and post. Most allegations concern Compliance, Fitness and Propriety, Treating Customers Fairly, Culture of Organisation, and Systems and Controls.

The data can be found here: [Whistleblowing quarterly data 2022 Q3 | FCA](#)

1.6 New alliance for Digital Currencies

On 11 January 2023, UK Finance - the industry trade group representing over 300 firms in the UK banking and financial services sector - published a [press release](#) announcing the formation of the UK Forum for Digital Currencies (UK FDC).

The UK FDC is an alliance between five associations: the City of London Corporation, Digital Pound Foundation, The Payments Association, TheCityUK and UK Finance.

The UK FDC aims to develop better policies, practice and regulation around digital and cryptocurrencies. It is a forum for discussion and collaboration around the industry's response to digital currency developments in the UK. This includes the potential for a Central Bank Digital Currency (CBDC), as well as the regulatory approach to stablecoins and other variable value cryptoassets.

The announcement from UK Finance can be found here: [Five associations form industry alliance to guide the UK's digital currency future.pdf \(ukfinance.org.uk\)](#)

1.7 Payment Services Regulations 2017 – Review and Call for Evidence

On 13 January 2023, HM Treasury issued a [Payment Services Regulations Review and Call for Evidence](#).

- The review meets the government's statutory requirement to review the Payments Services Regulations 2017, which are principally the transposition of the second EU's Payment Services Directive (PSD2).
- Alongside the review, the government also launched a Call for Evidence on how UK payments regulation should evolve to continue to meet the government's aims and address the specific challenges highlighted in the review.

On the same day, the Government published a [Payment Card Interchange Fee Regulations Post Implementation Review](#).

The Call for Evidence will close at midnight on Friday 7 April 2023.

1.8 FCA update on Temporary Permission Regime

On 6 January 2023, the FCA updated the following webpages on the Temporary Permission Regime (TPR):

- [Temporary permissions regime | FCA](#)
- [TPR fees and levies | FCA](#)
- [Landing slots for firms in the TPR | FCA](#)

The webpages' contents have been modified to account for the end of 2022.

In particular, the [Landing slots](#) webpage states that all relevant EEA-based firms that had notified the FCA of their intention to operate under the TPR have received a landing slot.

Firms that did intend to apply for full UK authorisation but did not receive a landing slot should have submitted an FCA application before 31 December 2022.

Firms that have failed to submit an application within their landing slot, or that have done so but are refused UK authorisation, may be moved into the Financial Services Contracts Regime (FSCR) so that they can conduct an orderly exit from the UK market.

For firms that are not allowed by the FCA to operate under the FSCR, their temporary permission will come to an end with their decision notice and they may no longer carry on a regulated activity in the UK (unless an exclusion applies).

For firms looking for support with authorisation, variation of permissions or other authorisation and permission-based processes, please [contact us](#).

1.9 FCA Regulation Round Up - January 2023

On 26 January 2023, the FCA published its most recent Regulation Round Up, which covers the Consumer Duty, changes to logging into FCA systems, section 165 request for principal firms with appointed representatives (ARs), and other recent regulatory changes that may affect your business.

The full Regulation Round Up can be found here: [Regulation round-up January 2023 \(govdelivery.com\)](#)

1.10 FCA updates definition of 'significant SYSC firm' for Enhanced scope SM&CR regime

On 27 January 2023, the FCA published Handbook Notice 106 including details of a change to the definition of 'significant SYSC firm' for the purpose of the Enhanced scope SM&CR regime.

The changes mean only firms that would have been both significant IFPRU firms and IFPRU investment firms under the pre-IFPR arrangements fall within the definition of a 'significant SYSC firm' for the purpose of the Enhanced scope SM&CR regime.

The full Handbook Note can be found here [Handbook Notice 106 \(fca.org.uk\)](#)

2. EU REGULATORY UPDATES

2.1 European Commission tentative agenda for forthcoming meetings

On 17 January 2023, the European commission [published](#) its tentative agenda for forthcoming Commission meetings. The agenda includes, amongst other things:

- a meeting on 5 April 2023 on an investment package focused on 'Improving the retail investment framework' and 'Retail investment strategy'
- a meeting on 13 June 2023 on, inter alia, a 'Regulation on environmental, social and governance ratings' proposal.

The Commission meets every week to discuss politically sensitive issues and adopt proposals that need to be agreed on by oral procedure. Once a legislative proposal has been collectively decided on by the Commissioners, it is transmitted to the European Parliament for examination and adoption.

3. FINANCIAL CRIME

3.1 Money Laundering threshold increased to £1,000

On 5 January 2023, the [Proceeds of Crime \(Money Laundering\) \(Threshold Amount\) Order 2022](#), a statutory instrument made by parliament on 15 December 2022, came into force.

The instrument increased from £250 to £1,000 the threshold amount specified in section 339A of the Proceeds of Crime Act 2022 (POCA).

The threshold amount is the value of criminal property below which a bank or similar firm (a deposit-taking body, electronic money or payment institution) can carry out a transaction, in operating an account for a customer, without committing one of the main money laundering offences in sections 327 to 329 of POCA.

3.2 FCA good practice for Cryptoasset applications in relation to AML and CTF

On 25 January, the FCA published feedback on applications it received from cryptoasset applications in relation to AML and CTF. The feedback covers:

- what to consider before applying
- preparing the application
- submitting the application
- what to do while the FCA assesses the application.

For the full feedback, please see here: [Cryptoasset AML/CTF regime: feedback on good and poor quality applications | FCA](#)

3.3 Five individuals face conspiracy to commit insider dealing and money laundering charges

On 25 January 2023, the FCA published on its website a [press release](#) stating that it has started criminal proceedings against five individuals for conspiracy to commit insider dealing and money laundering.

The FCA alleges that Mr. Redinel Korfuzi, former analyst for asset manager Janus Henderson, used confidential inside to enable timely and profitable trading in 49 companies through accounts held by his co-conspirators. Using contracts for differences (CFDs), they were able to realise profits of approximately £1.5 million by placing short bets on the value of the shares of these companies ahead of company announcements.

In addition to insider dealing, all five individuals are also charged with money laundering offences relating to over 170 cash deposits totalling approximately £200,000.

In the UK, insider dealing and money laundering offences are punishable by a fine and/or up to 10 and 14 years imprisonment respectively.

4. ENFORCEMENT ACTIONS

4.1 FCA fines Guaranty Trust Bank (UK) Limited £7,671,800 for AML failures

On 10 January 2023, the FCA [fined](#) Guaranty Trust Bank (UK) Limited (GT Bank) £7,671,800 for serious weaknesses in its anti-money laundering (AML) systems and controls between October 2014 and July 2019. Amongst other things, the FCA found that:

- GT Bank failed to undertake adequate customer risk assessments, often not assessing or documenting the money laundering risks posed by its customers
- GT Bank failed to ensure that the information it held on customers was up to date and accurate by undertaking regular timely reviews of customer files
- GT Bank failed to monitor customer transactions and business relationships to the required standard.

The FCA has stated that the bank's conduct was particularly egregious as it failed to put in place adequate AML controls following another fine from the Regulator in 2013. GT Bank agreed to settle, qualifying for a 30% discounted penalty.

4.2 FCA fines AI Rayan Bank PLC for anti-money laundering failures

On 11 January 2023, the FCA [fined](#) AI Rayan Bank PLC (AI Rayan) £4,023,600 for failing to put in place adequate anti-money laundering (AML) controls between 1 April 2015 and 30 November 2017. The FCA has found that, inter alia:

- AI Rayan failed to adequately check its customers' Source of Wealth and Source of Funds when it was required to make sure the money was not connected to financial crime
- AI Ryan did not provide proper training to staff about how to handle large deposits.

A relevant finding in the [Decision Notice](#) shows that AI Rayan relied on due diligence carried out by financial institutions within GCC states, in circumstances where it was aware this would not meet the required standards under the ML Regulations.

Because of its failures, AI Rayan potentially allowed money connected to financial crime to pass through the bank and be used within the UK. AI Rayan has agreed to 30% reduced penalty with the FCA.

If you would like to obtain an independent review of your AML and CTF systems and controls, please [contact us](#).

Waystone Compliance Solutions

Waystone Compliance Solutions offers 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 and covering the UK, Middle East, United States and Asia.

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.

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.

<https://compliance.waystone.com/>

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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.