

# Regulatory Update

UK, June 2023

Issued 25 July 2023



## Table of Contents

<b>1. FCA UPDATES &amp; DEVELOPMENTS</b> .....	<b>3</b>
1.1 FCA speech 'do the right thing' .....	3
1.2 FCA publishes 10 key questions for firms to consider with one month to go for the Consumer Duty ..	3
1.3 FCA Quarterly Consultation No. 40 .....	4
<b>2. EU REGULATORY UPDATES</b> .....	<b>4</b>
2.1 AFME updates guidelines on MiFID II product governance and PRIIPS regulation.....	4
2.2 ESMA publishes updated Q&As on AIFMD and UCITS Directive .....	5
2.3 EU and UK sign Memorandum of understanding on regulatory cooperation in financial services.....	5
2.4 EBA consults on money laundering and terrorist financing risk .....	5
<b>3. FINANCIAL CRIME</b> .....	<b>6</b>
3.1 HM Treasury's updated advisory notice on money laundering and terrorist financing controls .....	6
3.2 HM Treasury consults on the reform of the anti-money laundering and counter-terrorism financing supervisory regime.....	6
<b>4. ESG</b> .....	<b>6</b>
4.1 FCA welcomes launch of ISSB standards .....	6
4.2 EU Commission publishes Sustainable Finance proposals. ....	7
<b>Waystone Compliance Solutions</b> .....	<b>8</b>
Consultancy Services & Support .....	9

## 1. FCA UPDATES & DEVELOPMENTS

### 1.1 FCA speech 'do the right thing'

On 1 June 2023, Therese Chambers, Joint Executive Director of Enforcement and Market Oversight at the FCA delivered a [speech](#) at the City & Financial FCA Investigations and Enforcement Summit titled 'Do the Right Thing'. Highlights included:

- Doing the right thing as part of your day job is easy in financial services and far more rewarding in the long run
- The FCA praises Quilter – the parent company of Lighthouse Advisory Services – for taking action to redress customer losses and improving their systems and controls
- FCA took assertive action in a case involving racehorses as part of its supercharged commitment to fight crime and fraud.

### 1.2 FCA publishes 10 key questions for firms to consider with one month to go for the Consumer Duty

On 28 June 2023, the FCA published on its website [ten key questions](#) for firms to consider before the Consumer Duty comes in to force on 31 July for new and existing products and services that are open for sale or renewal. The ten key questions are the following:

1. Are you satisfied your products and services are well designed to meet the needs of consumers in the target market, and perform as expected? What testing has been conducted?
2. Do your products or services have features that could risk harm for groups of customers with characteristics of vulnerability? If so, what changes to the design of your products and services are you making?
3. What action have you taken as a result of your fair value assessments, and how are you ensuring this action is effective in improving consumer outcomes?
4. What data, MI and other intelligence are you using to monitor the fair value of your products and services on an ongoing basis?
5. How are you testing the effectiveness of your communications? How are you acting on these results?
6. How do you adapt your communications to meet the needs of customers with characteristics of vulnerability, and how do you know these adaptations are effective?
7. What assessment have you made about whether your customer support is meeting the needs of customers with characteristics of vulnerability? What data, MI and customer feedback is being used to support this assessment?
8. How have you satisfied yourself that the quality and availability of any post-sale support you have is as good as your pre-sale support?
9. Do individuals throughout your firm – including those in control and support functions – understand their role and responsibility in delivering the Duty?
10. Have you identified the key risks to your ability to deliver good outcomes to customers and put appropriate mitigants in place?

The FCA expects governing bodies to have clear oversight of Consumer Duty implementation plans and to have identified any potential gaps or weaknesses and developed a plan to remedy this.

### 1.3 FCA Quarterly Consultation No. 40

On 2 June 2023, the FCA issued [Quarterly Consultation No 40](#), which includes amendments to the ban on offering incentives to invest in high-risk investments. The FCA proposes to change the wording of the incentives rules and guidance in COBS to better reflect the intended scope of the ban.

- The ban applies to any incentives offered to retail clients as part of a financial promotion relating to high-risk investments, even when there is no requirement to invest to gain the benefit
- The ban applies regardless of the rationale for offering the incentive, which consumer the incentive is aimed at, or whether it might be incentivising related actions to investing, such as registration or sign up
- Shareholder benefits are exempt
- The FCA is proposing to exempt from the ban incentives offered for the sole purpose of encouraging clients to switch platforms, where there is no attempt to encourage a client to change the total level of their holdings or the underlying products they hold
- The FCA is proposing to amend the Handbook guidance to clarify what falls in scope of an ‘incentive’ to cover the following:
  - **Benefits that are not an incentive:**
    - Lower fees that are available to all retail clients and not linked to the volume of trades made
    - A benefit that is intrinsically linked to the investment product e.g., voting rights.
  - **Benefits that fall within the scope of the ban:**
    - Rebates, including those based on volume
    - Benefits that are extrinsic to and separable from the investment, e.g., a free gift
    - Benefits that are only available in some specific circumstances e.g., for a limited time or limited channel.

The FCA proposes that the changes will apply with immediate effect when the final Handbook changes are made and published.

## 2. EU REGULATORY UPDATES

### 2.1 AFME updates guidelines on MiFID II product governance and PRIIPS regulation

On 6 June 2023, AFME published updated [guidelines](#) on MiFID II product governance and PRIIPS Regulation regimes: An approach for the Equity-Linked markets. The paper sets out an approach for the Equity-Linked (convertible and exchangeable bond) markets (i.e. syndicated cross border convertible and exchangeable bond issuance), to the Product Governance and PRIIPs regimes, which came into effect on 1 January 2018. It has been updated to reflect changes to the EU product governance regime effective from

22 November 2022, as reflected in amendments to the MiFID II Delegated Directive and ESMA Guidelines on the EU MiFID II product governance obligations.

## 2.2 ESMA publishes updated Q&As on AIFMD and UCITS Directive

On 14 June 2023, ESMA updated its Q&As on the [application of AIFMD](#) to include new sections on notification of AIFs, Notification of AIFMs and Calculation of leverage.

ESMA also updated its Q&As on the [application of the UCITS Directive](#) to include questions on:

- Management of AIFs and pension schemes by UCITS management companies
- De-notification of marketing arrangements for UCITS
- Scope of activities passported by UCITS management companies.

## 2.3 EU and UK sign Memorandum of understanding on regulatory cooperation in financial services

On 27 June 2023, the UK and EU signed the [memorandum of understanding](#) (MoU) on regulatory cooperation in financial services. Based on a shared objective of preserving financial stability, market integrity, and the protection of investors and consumers, these arrangements will provide for:

- Bilateral exchanges of views and analysis relating to regulatory developments and other issues of common interest
- Transparency and appropriate dialogue in the process of adoption, suspension and withdrawal of equivalence decisions
- Bilateral exchanges of views and analysis relating to market developments and financial stability issues
- Enhanced cooperation and coordination including in international bodies as appropriate.

The agreement creates the Joint EU-UK Financial Regulatory Forum to improve transparency, reduce uncertainty and share knowledge and information.

## 2.4 EBA consults on money laundering and terrorist financing risk

On 31 May 2023 the EBA published a [Consultation Paper](#) on amendments to guidelines on customer due diligence and the factors credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions. The EBA is proposing amendments to the guidelines to cover crypto-asset service providers.

The amending guidelines:

- Highlight specific risk factors that reflect features of crypto assets and service providers which should be considered by credit and financial institutions
- Emphasise the need for secure remote onboarding tools to be put in place by credit and financial institutions

- Provide further guidance for credit and financial institutions when entering into business relationships with service providers in crypto assets ecosystem established in a third country
- Provide guidance on mitigating measures Crypto Asset Service Providers should apply in situations where the risk is either increased or reduced
- Provide sector-specific guidance for Crypto Asset Service Providers.

Comments should be submitted by 31 August 2023.

## 3. FINANCIAL CRIME

### 3.1 HM Treasury's updated advisory notice on money laundering and terrorist financing controls

On 23 June 2023, HM Treasury [published](#) an updated advisory notice on money laundering and terrorist financing controls in high-risk countries.

Money Laundering and Terrorist Financing (High-Risk Countries) (Amendment) Regulations 2023 came in to force on 27 June 2023 and replaces the list of high-risk third countries specified in Schedule 3ZA of the Money Laundering Regulations. This list will continue to align with both the Financial Action Task Force's (FATF) 'Jurisdictions under increased monitoring' and 'High-risk jurisdictions subject to a call for action' documents. Schedule 3ZA consolidates these lists into a single list of countries, as all countries included in either of the FATF's lists have significant shortcomings in their anti-money laundering, counter terrorist financing and counter-proliferation financing controls.

Specifically, this update will remove Cambodia and Morocco from Schedule 3ZA to reflect changes in FATF lists, and the significant progress made by these countries in addressing AML/CTF deficiencies.

The government will introduce a separate SI shortly to introduce country additions agreed to FATF's list in February and June 2023, accompanied by a full impact assessment.

### 3.2 HM Treasury consults on the reform of the anti-money laundering and counter-terrorism financing supervisory regime

On 30 June 2023, HM Treasury published a [consultation paper](#) on the reform of the anti-money laundering and counter-terrorism financing supervisory regime, which offers stakeholders the opportunity to provide their views on which of the four proposed options would improve the regime the most.

The closing date for comments to be submitted is 30 September 2023.

## 4. ESG

### 4.1 FCA welcomes launch of ISSB standards

On 26 June 2023, the FCA published a [statement](#) welcoming the International Sustainability Standards Board (ISSB) launch of its first [sustainability-related reporting standards](#): the General Requirements for Disclosure of Sustainability-related financial information (IFRS S1), and the requirements for Climate-related Disclosures (IFRS S2).

The FCA states: “*These standards answer the clear market demand for complete, consistent, comparable and reliable corporate sustainability disclosures. Including this information in annual financial reports will inform companies’ own decisions, and capital allocation by investors and lenders; feed data services; underpin instrument and product design; and steer corporate decision making.*”

The objective of IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information is to require an entity to disclose information about its sustainability-related risks and opportunities that is useful to primary users of general-purpose financial reports in making decisions relating to providing resources to the entity. This Standard requires an entity to disclose information about all sustainability-related risks and opportunities that could reasonably be expected to affect the entity’s cash flows, its access to finance or cost of capital over the short, medium or long term.

The objective of IFRS S2 Climate-related Disclosures is to require an entity to disclose information about its climate-related risks and opportunities that is useful to primary users of general purpose financial reports in making decisions relating to providing resources to the entity.

## 4.2 EU Commission publishes Sustainable Finance proposals

On 13 June 2023, the EU Commission issued a [press release](#) detailing the further steps it is taking to boost investment for a sustainable future. The Commission is adding additional activities to the EU Taxonomy and proposing new rules for Environmental, Social and Governance (ESG) rating providers, which will increase transparency on the market for sustainable investments.

The package aims to:

- Ensure that the EU sustainable finance framework continues to support companies and the financial sector, while encouraging the private funding of transition projects and technologies
- Ensure that the sustainable finance framework works for companies that want to invest in their transition to sustainability
- Make the sustainable finance framework easier to use, thereby continuing to contribute effectively to the European Green Deal objectives.

The Commission approved in principle a new set of EU Taxonomy criteria for economic activities making a substantial contribution to one or more of the non-climate environmental objectives:

- Sustainable use and protection of water and marine resources
- Transition to a circular economy
- Pollution prevention and control
- Protection and restoration of biodiversity and ecosystems.

These are expected to apply as of January 2024.

The package also includes recommendation on transition finance, which aims to provide guidance as well as practical examples for companies and the financial sector. The objective is to facilitate transition finance, not only for companies that have strong sustainability records already, but also for those that are at different starting points, with credible plans or targets to improve their sustainability performance. It

also acknowledges that small and medium-sized enterprises face specific challenges that need to be addressed.

Waystone is helping clients navigate ESG regulation around the world, including the operational implementation and oversight of ESG processes. To discuss how we can help you, 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/>



## Consultancy Services & Support

[Regulatory Technology – CORE](#)

[Compliance Advisory](#)

[Assurance Reviews](#)

[Compliance Remediation](#)

[Compliance Support Services](#)

[Documentation](#)

[Financial Crime Prevention](#)

[Corporate Governance](#)

[Risk Management](#)

[FCA Authorisation](#)

[Prudential Rules & Regulatory Reporting](#)

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:

Email: [compliancesolutions@waystone.com](mailto:compliancesolutions@waystone.com)

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

or write to us at:

2nd Floor,  
20-22 Bedford Row  
Holborn, London,  
WC1R 4EB, England

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.