

Regulatory Update

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1. FCA UPDATES & DEVELOPMENTS

1.1. FCA publishes webpage CrowdStrike outage: lessons for operational resilience

On 31 October 2024, the FCA published a [webpage](#) on operational resilience which features its insights, observations and the key lessons learnt from the way firms responded to the CrowdStrike outage and their preparedness to respond to future incidents.

The FCA noted that since 2023 there has been a trend of third-party related incidents. In both 2022 and 2023, third party related incidents were the leading cause of operational incidents reported to the FCA. These outages emphasise firms' increasing dependence on unregulated third parties to deliver important business services.

By March 2025, firms in scope of [PS21/3: Building operational resilience](#) must ensure they can deliver important business services in severe but plausible scenarios, such as the CrowdStrike outage, to help minimise the impact on consumers and markets.

1.2. House of Lords Financial Services Regulation Committee publishes letter from Baroness Altman - UK listed investment company cost disclosures – response to FCA evidence

On 31 October 2024, the House of Lords Financial Services Regulation Committee (the Committee) published a [letter](#) dated 2 October 2024 from Baroness Altmann regarding listed investment companies and cost disclosure.

The letter states that, in relation to the cost disclosure regulations imposed on UK listed closed-ended investment companies, it seems that there were some serious errors in the evidence provided to the Committees. The letter includes a submission (Submission), also dated 2 October 2024, that is a response to the FCA's statements regarding the nature and characteristics of London-listed closed-ended investment companies in the context of their cost disclosure obligations. The Submission provides further information on the points made by the FCA to the Treasury Select Committee and the Committee and states that industry participants disagree with some of the key statements that the FCA has made. The Submission also asserts that there is a legal basis to address the ongoing breakdown of the Investment Company market ahead of the new legislation to replace PRIIPs.

The letter has been prepared in collaboration with a large group of industry experts and a high profile legal team on this problem who feel that the record needs to be corrected.

1.3. FCA issues Financial Promotions Quarterly Data for Q3 2024

On 25 October 2024 the FCA issued its latest [financial promotions quarterly data](#) covering Q3 2024. The key messages were as follows:

- The FCA's interventions in Q3 2024 resulted in 10,593 promotions being amended or withdrawn by authorised firms.
- There were 552 alerts on unauthorised firms and individuals.

- The FCA's cryptoasset financial promotions regime came into force on 8 October 2023 and has now been live for a year. Over the last year the FCA issued 1,702 consumer alerts about illegal crypto promotions and their actions have resulted in the take down of over 900 scam crypto websites and the removal of 56 apps from UK apps stores.
- The FCA is actively engaging with firms who provide and advertise unauthorised debt advice and debt solutions to consumers via online promotions.

1.4. FCA publishes the results of its survey on non-financial misconduct

On 25 October 2024 the FCA published the [results of a survey](#) to better understand how firms record and manage allegations of non-financial misconduct. The survey of over 1,000 investment banks, brokers and wholesale insurance firms found that the number of allegations reported increased between 2021 and 2023. In the three years covered by the survey, bullying and harassment (26%) and discrimination (23%) were the most recorded concerns. However, the large 'other' group of concerns (41%) indicates how difficult it can be to categorise issues of personal misconduct.

The findings are being shared to enable firms to benchmark their own reporting against this peer analysis and consider if their processes for reporting and investigating possible non-financial misconduct remain appropriate.

1.5. FCA speech on vulnerability and the Consumer Duty

On 24 October 2024, the FCA published a speech by Graeme Reynolds (Director of Competition, FCA) entitled [Vulnerability is not a buzzword](#). The speech was delivered at the PIFMA's Wealth Vulnerability event. The speech focuses on customer vulnerability in the whole wealth management sector and pointed out that, in 2022, nearly a third of UK adults with significant investable assets showed vulnerability characteristics, underscoring the necessity for firms to adapt their services but that only 5% of portfolio managers recognised vulnerable clients, indicating a significant gap in understanding within the wealth management sector.

The FCA identified three key steps for firms: identifying vulnerable clients, understanding their specific needs, and providing tailored support, with ongoing monitoring and evaluation being crucial for improvement. The FCA also identified the importance of recognising clients who may need assistance, ensuring clear communication, and adapting services as circumstances change.

1.6. Interim Regulatory Initiatives Grid published

On 15 October 2024, the Financial Services Regulatory Initiatives Forum (the Forum) published an [interim version of the Regulatory Initiatives Grid](#). They explained that the publication of the eighth edition of the Grid was postponed due to the general election and that due to the replanning required as a result of the change of government that the Forum will not be able to provide a complete Grid during 2024. Notwithstanding this, the Forum nonetheless recognises that the Grid is a valuable tool for industry and stakeholders and is therefore providing an interim update.

This update covers known regulatory initiatives impacting firms from October 2024 to March 2025. It is intended to support impacted firms and stakeholders in their planning.

Included within the Grid are the following:

Non-Financial Misconduct and D&I

The FCA intends to publish a Policy Statement on 'Tackling Non-Financial Misconduct in the Financial Sector' around year-end 2024, to be followed by FCA and PRA Policy Statements on the remaining D&I proposals in 2025.

FCA Call for Input - Review of FCA requirements following the introduction of the Consumer Duty

The FCA expects to publish its Feedback Statement during Q1 2025 following its July 2024 Call for Input seeking views on whether, where, and how, under the Consumer Duty, it may simplify the requirements on firms while ensuring the continued support and protection of consumers.

The Packaged Retail and Insurance-Based Investment Products (PRIIPs) Regulation/Consumer Composite Investments (CCIs)

The FCA expects to publish its Consultation Paper during Q4 2024 on the replacement of the PRIIPS Regulation with the new Consumer Composite Investments (CCIs) retail disclosure regime.

Advice Guidance Boundary Review

The FCA confirms that during Q4 2024 it will be able to publish an update of its timeline for the publication of its proposals for the support needs to be provided to retail consumers in relation to their savings and investments.

1.7. FCA speech on its new supervisory strategy for the financial advice sector

On 11 October 2024, the FCA published a speech, ['It's good to be different: the new FCA supervisory strategy for the financial advice sector'](#), delivered by Nick Hulme, the FCA's Head of Department, advisers, wealth and pensions, consumer investment. The speech was made at the Consumer Duty Alliance - Future Strategy for Personal Finance Professionals event in Birmingham.

The speech explains the FCA's desire to take a less prescriptive and more outcomes-based approach to regulation. The strategy has three main focus areas:

Reduce and prevent serious harm

There was discussion around retirement income, ongoing client advice, capital deduction from firms that fail for redress with a goal to reduce the FCA levy, and good practice when firms merge or acquire another firm.

Test and monitor under Consumer Duty

The second strand of the new supervisory strategy will involve monitoring and testing around the Consumer Duty's four outcomes.

Advice Guidance Boundary Review

The Advice Guidance Boundary Review is all about ensuring – in a commercially appealing way for firms – that clients get the help they want, when they need it and at a cost that is affordable.

In conclusion, Nick Hulme reaffirmed that while some of the existing building blocks of the FCA's regulation remain the same, the FCA is focusing on a different way of regulating.

1.8. FCA publishes Market Watch 80

On 9 October 2024 the FCA published [Market Watch 80](#) in which it made some observations about what firms can do to ensure compliance with SYSC 6.1.1R when dealing for overseas clients who operate aggregated accounts that provide no visibility of the ultimate beneficial owners (UBOs). The FCA noted that FCA authorised firms often accept instructions to execute trades from 'aggregated' accounts administered by both FCA authorised and overseas firms. This offers legitimate advantages to both parties, for example, simplified administration. However, the FCA noted that it had seen an increase in potential market abuse in leveraged equity products from aggregated accounts administered by firms based overseas; specifically, in countries where the regulatory approach to preventing market abuse may not be equivalent to that supervised by the FCA. It also noted that the identities of the UBOs of these trades are often withheld from the FCA authorised firms executing their trades. In some cases, individual UBOs within these accounts instruct trades on their own behalf, rather than accept investment advice from the administrator. The FCA refers to accounts, where the identities of UBOs who determine their own investments are unknown to FCA authorised firms, as 'obfuscated overseas aggregated accounts' (OOAAs).

The FCA directed that firms may want to take extra precautions when onboarding and trading with OOAAs. This includes modifying risk frameworks and thresholds for offboarding.

In addition, authorised firms may wish to:

- Inform OOAAs that they operate a zero-tolerance approach to market abuse, have an open relationship with their regulators, submit STORs for every suspicious trade, liaise with other law enforcement agencies and overseas regulators as appropriate, and do not hesitate to end relationships, including corporate relationships, if trading falls outside risk tolerance.
- Require OOAAs (both prospective and existing), which execute for anonymised UBOs, to provide information about their systems and controls to prevent market abuse. This might include:
 - a description of market abuse surveillance arrangements, risk tolerance and risk framework, including thresholds within that framework for taking steps to manage risks, such as terminating accounts
 - the nature of underlying clients (e.g. individuals, retail, professional, High Net Worth, corporate)
 - the number of clients deemed high risk, and how these are identified
 - confirming whether OOAAs will provide the identities of relevant UBOs, if the FCA authorised firm is concerned about particular trades.
- Where the identities of individual UBOs are masked, ask OOAAs to differentiate between trades for those UBOs by assigning each with a sub-account with a unique identifier code. This would allow firms to determine whether suspicious trades are on behalf of specific UBOs. In line with common practice, firms could then require the administrator not to route through them further trades from those identified sub-accounts which fall outside their risk tolerance.
- Apply robust measures to end entire OAAA relationships where appropriate.

The FCA reminds firms of the requirement under SYSC 6.1.1R, as set out above and that, if it identifies poor compliance with its Handbook provisions, it will not hesitate to intervene.

1.9. FCA reviews payment firms' implementation of the Consumer Duty

On 9 October 2024, the FCA published its [review](#) into payment firms' implementation of the Consumer Duty. The FCA also reviewed how far payment firms have considered the specific payments sector risks set out in its [Dear CEO letter](#) on implementing the Duty in Payments firms of 21 February 2023 and have acted to deliver good consumer outcomes.

In January 2024, the FCA asked 23 payments firms how they had implemented the Consumer Duty's requirements. The FCA asked for documents evidencing their approach as well as specific questions about how they had approached the Duty for a key product or service.

Of the 23 firms, just over half were rated as satisfactory and the FCA did not view them as presenting a risk of significant poor consumer outcomes (although some minor actions may still have been needed).

However, just under half of the firms in the review had only partially implemented the Duty and required significant work to comply with it. These firms present either a moderate or higher risk of delivering poor consumer outcomes.

The findings have caused concern for the FCA which, if representative of the sector, would indicate that a substantial minority of firms may not be compliant with the Duty.

1.10. FCA publishes Dear CEO Letter on expectations for financial advisers and investment intermediaries

On 7 October 2024, the Financial Conduct Authority (FCA) published a [Dear CEO letter](#) to firms whose primary business is financial advice or investment intermediation. The letter sets out a summary of the FCA's priorities, its expectations of those firms, and the work it intends to do.

The FCA explains that its priorities over the next two years are to:

- reduce and prevent serious harm, with a focus on retirement income advice, ongoing advice services, ensuring the 'polluter pays', and consolidation
- monitor and test higher industry standards under the Consumer Duty – it warns that CEOs should be able to evidence their firm has implemented the Duty and complies on an ongoing basis
- enable more consumers to pursue their financial objectives through the Advice Boundary Guidance Review – the FCA encourages firms to actively engage with it on the review and consider the opportunities it may provide to better support their clients.

The FCA will underpin these priorities with:

- increased industry engagement and collaboration
- a forward-looking and data-led approach.

2. ESG

2.1. Taskforce on Nature-related Financial Disclosures draft guidance on nature transition planning

On 27 October 2024, the Taskforce on Nature-related Financial Disclosures (TNFD) issued [draft guidance](#) on nature transition planning for corporates and financial institutions developing and disclosing a transition plan in line with the TNFD recommended disclosures. This draft guidance sets out:

- what a nature transition plan should include
- how a plan should be presented and disclosed.

The draft guidance covers all aspects of nature apart from climate change and greenhouse gas emissions as drivers of nature loss, and natural carbon stocks.

The deadline for comments on the discussion paper is 1 February 2025.

2.2. FCA updates webpage on Climate Financial Risk Forum

On 10 October 2024, the FCA updated its webpage [Climate Financial Risk Forum \(CFRF\)](#) to add three new links:

[Nature-related Risk: Handbook for Financial Institutions](#)

This publication is an introductory guide for banks, insurers, asset managers or asset owners who are embarking on their nature journey, covering information on:

- the context on nature-related risk for firms, including a definition of nature and how nature risks can be transmitted to financial institutions
- emerging practice on how to incorporate nature into financial services risk management frameworks
- case studies showing how a range of financial institutions are performing pilots to assess nature-related risks and opportunities across their portfolios
- an overview of the nature data landscape and key applications of nature-related data and tools for financial institutions.

[Climate Financial Risk Forum Guide 2024](#)

This document aims to guide financial services companies to create, leverage and embed short-term climate scenarios for the purposes of their business strategies and risk management.

[Mobilising Adaptation Finance to Build Resilience](#)

This document focuses on several key objectives:

- Assessing physical risks - it provides guidance for financial institutions to evaluate the physical risks posed by climate change, helping them understand how these risks can impact their operations and investments.
- Increasing investment in adaptation - the guide encourages greater investment in climate adaptation strategies. This is crucial as it helps organisations not only mitigate risks but also seize opportunities that arise from adapting to climate change.
- Framework for action - it outlines a framework for developing adaptation-inclusive transition plans, which are essential for aligning financial strategies with climate resilience goals.
- Data utilisation - the guide emphasises the importance of selecting and applying relevant data to inform decision-making processes regarding climate risks and adaptation needs.
- Creating opportunities - it aims to identify and create new opportunities for adaptation-focused investments, which can lead to more resilient economic practices.

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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.