Compliance Solutions

Regulatory Update

UK, February 2025

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1. FCA UPDATES & DEVELOPMENTS

1.1 FCA Publishes Speech on Culture

On 4 February 2025, Emily Sheppard, Chief Operating Officer of the Financial Conduct Authority (FCA), delivered a speech titled "Culture is Contagious" at the 10th Annual Culture and Conduct in Financial Services Summit. The speech underscored the pivotal role of corporate culture in shaping conduct and decision-making within financial institutions.

Sheppard highlighted that culture profoundly influences outcomes for consumers, markets, and the economy, making it a persistent regulatory focus. She stressed the necessity of cultivating healthy firm cultures to support responsible risk-taking essential for sustained economic growth.

Key Points from the Speech:

1. **Open Dialogue and Constructive Challenge**: Sheppard emphasised the importance of fostering innovation and agility through open dialogue, constructive challenge, and learning from failure.
2. **Non-Financial Misconduct (NFM)**: Identified as a clear indicator of a failing culture, with regulators playing a crucial role in addressing such behaviours.
3. **Stakeholder Collaboration**: The FCA's active collaboration with stakeholders to enhance culture and conduct standards.

Actions by the FCA to Address Cultural Concerns:

- **Updating Rules and Guidance on NFM**: More details to be provided soon.
- **Collaboration with the PRA**: Joint initiatives on diversity and inclusion.
- **Firm Actions Against NFM**: Emphasising the need for firms to take proactive measures beyond rules and guidance.
- **Review and Enhancement of the Senior Managers and Certification Regime**: Working with HM Treasury and the PRA.

This speech underscores the FCA's commitment to fostering healthy corporate cultures within the financial services sector, recognising their significant impact on the industry and broader economy.

1.2 FCA Financial Promotions Data 2024

On 7 February 2025, the Financial Conduct Authority (FCA) published its analysis of financial promotions data for the year 2024, revealing a significant increase in regulatory interventions and ongoing concerns about compliance.

Key Findings from the FCA's Report:

1. **Substantial Increase in Interventions**: The FCA's actions led to 19,766 promotions being amended or withdrawn by authorised firms, marking a 97.5% increase from the previous year's figure of 10,008.
2. **Focus on Cryptoasset Promotions**: The regulator continued its efforts to implement the cryptoasset financial promotions regime, publishing findings on good and poor practices following a review of firms'

compliance. This initiative aims to raise awareness of the rules and promote a competitive, sustainable crypto sector.

3. **Persistent Compliance Concerns**: The FCA expressed ongoing worries about the level of compliance with financial promotion rules, indicating that it will maintain its focus on this area to mitigate consumer harm.
4. **Expanded Monitoring Capabilities**: The FCA utilised data and technology to assess approximately 480,000 new websites potentially offering or promoting financial services without authorisation. This led to reviews of over 3,700 websites and social media platforms, resulting in more than 1,600 consumer alerts.
5. **Action Against Unauthorised Promotions**: The regulator issued 2,240 alerts about unauthorised firms and individuals in 2024, with 11% of these related to clone scams.

The FCA's data underscores its commitment to improving standards across the financial services market and ensuring that consumers receive clear, fair, and not misleading financial promotions.

1.3 House of Lords Committee Criticises FCA's 'Name and Shame' Proposals

On 6 February 2025, the House of Lords Financial Services Regulation Committee published a report titled "Naming and Shaming: How Not to Regulate," addressing the FCA's November 2024 CP24/2, Part 2 proposals on publicising enforcement investigations.

Key Points from the Report:

1. **Ongoing Concerns**: The Committee remains deeply concerned about the consultation process and believes the FCA has not yet made a convincing case for changing its existing powers.
2. **Public Interest Framework**: The Committee is not persuaded that the FCA's proposed framework strikes an acceptable balance between consumer protection benefits and potential risks to firms, individuals, and market stability.
3. **Existing Powers**: The Committee questions why a broader interpretation of 'exceptional circumstances' couldn't be considered instead of the proposed public interest test.
4. **Reputational Risks**: Concerns persist about potential reputational damage to senior managers who could be identified through the Senior Managers and Certification Regime.
5. **Clarity Needed**: The Committee calls for more information on how the public interest test factors would be applied in practice.
6. **International Competitiveness**: The Committee remains unconvinced about how the proposals align with the FCA's secondary objective of international competitiveness and growth.
7. **Cost-Benefit Analysis**: The Committee maintains that a robust analysis of direct costs to the sector is necessary.

The Committee recommends that if the FCA cannot address these concerns and find an acceptable balance in its proposals, it should not proceed with the proposed changes.

1.4 FCA Outlines Expectations for Authorised Fund Applications

On 14 February 2025, the Financial Conduct Authority (FCA) published a document titled "Authorised Fund Applications – Our Expectations," detailing the requirements for firms seeking authorisation for collective investment schemes.

General Expectations:

- Self-Contained Applications: All necessary information must be included within the application, without referencing other documents.

- Fully Developed Strategies: Product and distribution strategies must be fully developed at the time of application.
- Capacity to Act: All parties involved should have the capacity to fulfil their proposed roles.
- Consistency: Information across all application documents must be consistent.
- Complete Documentation: A complete set of required documents must be submitted with the application.

Specific Application Areas:

- Fund Names: Must accurately reflect the fund's strategy and not be misleading.
- Investment Objectives: Should clearly state the fund's aims and how they will be achieved.
- Volatility Targets: If used, must be clearly explained and justified.
- Investment Strategies: Detailed explanation of how the fund will meet its objectives.
- Benchmarks: Proper use and disclosure of any benchmarks.
- ESG Strategies: Clear explanation of any environmental, social, or governance focus.
- Dealing Arrangements: Accurate description of subscription and redemption processes.

Special Considerations:

- Long Term Asset Funds (LTAFs): Require additional details, including valuation processes and management expertise.

The FCA emphasises that incomplete applications may not be subject to normal time limits and could be refused. This guidance aims to streamline the application process and ensure that all necessary information is provided upfront, allowing for more efficient review and authorisation of funds.

1.5 FCA Updates on Sustainability Disclosure Requirements Extension

On 14 February 2025 on the Financial Conduct Authority (FCA) updated its webpage for consultation paper CP24/8, which focuses on extending the Sustainability Disclosure Requirements (SDR) and investment labels regime to portfolio management.

In this update, the FCA indicated that it no longer plans to publish a policy statement in Q2 2025. The decision to delay is to ensure that the extension of SDR to portfolio management delivers positive outcomes for consumers, is practical for firms, and supports the growth of the sector. The FCA notes that it will continue to reflect on the feedback received and provide further information in due course.

1.6 FSB Launches Comprehensive Review of Global Crypto Regulatory Implementation

On 21 February 2025, the Financial Stability Board (FSB) has initiated a significant thematic peer review to assess the implementation progress of its Crypto Framework across member jurisdictions and select non-members. This review aims to evaluate the effectiveness of the global regulatory approach to crypto-asset activities and markets.

Key Aspects of the Review:

1. **Data Collection**: The FSB will gather information primarily through questionnaires distributed to FSB jurisdictions and select non-FSB members.
2. **Feedback Deadline**: Stakeholders are invited to submit their feedback by 28 March 2025.
3. **Report Publication**: The comprehensive peer review report is expected to be published in October 2025.

Objectives of the Review:

- **Implementation Progress**: Examine the progress made in implementing the FSB's global regulatory framework for crypto-asset activities.
- **Challenges**: Identify common challenges faced by jurisdictions in implementation.
- **Effective Practices**: Document effective practices through case studies.
- **Impact Assessment**: Assess the impact of regulatory frameworks on crypto-asset issuers and service providers.
- **Financial Stability**: Evaluate financial stability vulnerabilities across different jurisdictions.

While the peer review will not establish new policies, it may recommend actions for consideration by member jurisdictions and international bodies to address common challenges in regulating the crypto sector. This review is part of the FSB's broader efforts to promote and monitor the implementation of key financial reforms, as outlined in their 2025 work programme.

1.7 Innovating UK Financial Markets: Embracing T+1 Settlement

On 20 February 2025, the Bank of England (BoE) released a speech by Sasha Mills, Executive Director of Financial Market Infrastructure, titled "Innovation in UK Financial Markets – Shortening the Settlement Cycle." Ms Mills highlighted the BoE's support, along with the Financial Conduct Authority and HM Treasury, for the UK's transition to T+1 settlement. This shift promises several benefits, including reduced counterparty risks for firms and central counterparties. However, she acknowledged the challenges of adapting to multiple time zones and standardising and automating settlement instructions.

The speech also discussed the implementation plan from the Accelerated Settlement Taskforce, which outlines how the UK industry can safely move to T+1 settlement. Among the report's key recommendations is the need for financial market infrastructures (FMIs) to update their rulebooks to reflect T+1-compatible systems and processes. Ms Mills noted that the UK, EU, and Switzerland aim to transition on the same date – 11 October 2027.

In conclusion, Ms Mills emphasised that FMIs and market participants should:

- Carefully review the implementation plan
- Develop firm-specific project plans.
- Secure necessary funding for their projects.
- Implement and test changes to their systems and procedures according to the report's timelines.

1.8 FCA Review Highlights Delivery of Ongoing Financial Advice Services

On 24 February 2025, the Financial Conduct Authority (FCA) published findings from its multi-firm review of ongoing financial advice services. The review, which examined 22 of the largest advice firms, found that suitability reviews were delivered in 83% of cases, with an additional 15% of clients declining or not responding to review offers. Only 2% of cases showed no attempt by firms to deliver the promised service.

Key Points:

1. **Focus on Suitability Reviews**: The FCA's review concentrated on suitability reviews as part of ongoing advice services.
2. **Data Coverage**: The review covered a 7-year period from February 2024 backwards.
3. **Service Delivery Alignment**: Firms are urged to review findings and ensure service delivery aligns with consumer payments.
4. **Further Assessment**: The FCA plans further assessment in 2025 to monitor firm responses and complaint handling.
5. **Review of Existing Rules**: A review of existing rules for financial advisers' ongoing services is planned, with sector engagement expected in 2025.

This review demonstrates the FCA's commitment to ensuring consumers receive the financial advice services they pay for, while also indicating a generally high level of compliance within the industry.

Next Steps: The FCA asks all firms to review the findings and take the necessary action to ensure consumers are getting the service they are paying for. Firms carrying out proactive reviews are requested to look back to 2018. If firms receive complaints from customers about delivery of ongoing services, they are reminded to handle these in line with their obligations and the rules set out in DISP, and to consider whether it would be appropriate in all the circumstances to pay redress. The FCA plans to monitor complaint numbers and to conduct further work later in 2025, to assess how firms have responded to the issues it has identified and review actions that they have taken. This will include considering whether appropriate remedies are being applied.

The FCA also notes that it plans to review the existing rules relating to financial advisers' ongoing services to make sure they stay up to date and relevant, and that it will engage with the sector in 2025 on this review.

1.9 FCA Review Reveals High Compliance in Ongoing Financial Advice Services

On 24 February 2025, the Financial Conduct Authority (FCA) has recently completed a comprehensive review of ongoing financial advice services, revealing encouraging results across the UK's largest financial advisory firms. The study, which examined data from 22 major advice providers, focused on the delivery of suitability reviews as a key component of ongoing advice services.

Key Findings:

- **High Compliance Rate**: Approximately 83% of cases demonstrated successful delivery of suitability reviews.
- **Client Non-engagement**: In 15% of cases, clients either declined the review or did not respond to offers.

- **Low Non-compliance**: Fewer than 2% of cases showed no attempt by firms to deliver promised services.

Regulatory Response: The FCA has called on all financial advice firms to evaluate their practices in light of these findings. Firms are urged to ensure they are meeting both regulatory requirements and contractual obligations regarding ongoing services. Simon Walls, interim executive director of markets at the FCA, emphasised the importance of ongoing financial advice: "Ongoing financial advice and support can be crucial in helping people optimise their financial well-being. While the vast majority of firms are delivering on their promises, those few cases where services were not attempted must be rectified."

Future Outlook: The FCA has announced plans to review and potentially update the regulatory framework for ongoing advice services. This decision comes in response to evolving consumer needs, technological advancements, and changing market practices over the past decade.

Consumer Protection: Consumers who believe they have not received contracted services are encouraged to file complaints directly with their advisory firms and, if necessary, with the Financial Ombudsman Service. The FCA stresses that engaging claims management companies for this purpose is unnecessary.

As part of its commitment to enhancing the financial advice market, the FCA continues to develop proposals aimed at improving consumer access to financial support, including initiatives under the Advice Guidance Boundary Review.

1.10 OFSI Releases Financial Services Threat Assessment Report: Key Findings and Compliance Insights

On 13 February 2025, the Office of Financial Sanctions Implementation (OFSI) released its Financial Services Threat Assessment Report, highlighting key threats and compliance challenges for UK financial services firms in relation to financial sanctions.

Key Findings:

1. Underreporting of Breaches:
   - Some firms, particularly non-bank payment service providers (NBPSPs), likely fail to disclose all suspected breaches.
   - Significant delays in reporting breaches were observed.
2. Common Compliance Issues:
   - Improper maintenance of frozen assets, such as unauthorised debits from designated person (DP) accounts.
   - Breaches of licence conditions, including expired licences and incorrect accounts.
   - Inaccurate ownership assessments of entities linked to DPs.
3. Increased Enabler Activity:
   - Russian DPs increasingly use professional and non-professional enablers to bypass sanctions.

- Enablers facilitate payments, front for asset ownership, and use cryptoassets to breach sanctions.

4. Russia-Related Breaches Dominate:
   - Over 87% of suspected breaches reported by firms are Russia-related, with Russia being the largest sanctions regime since February 2022.

Key Risks Identified:

- Use of NBPSPs and cryptoassets by enablers to maintain the lifestyles and assets of Russian DPs.
- Fronting activities by enablers to claim ownership or control of frozen assets.
- Failures in correspondent banking compliance, particularly under Regulation 17A of the Russia (Sanctions) Regulations 2019.

OFSI Recommendations:

- Firms should strengthen sanctions compliance processes, particularly in identifying ownership structures and maintaining frozen assets.
- Prompt reporting of suspected breaches is essential, referencing "OFSI – Financial Services Threat Assessment – 0225."
- Suspicious Activity Reports (SARs) should be submitted to the National Crime Agency (NCA) alongside reports to OFSI.

This report underscores the need for robust compliance frameworks within financial services firms to mitigate risks associated with financial sanctions breaches.

1.11 FCA Sets Out Supervisory Strategy for Asset Management and Alternatives Sector

On 26 February 2025 , the Financial Conduct Authority (FCA) published a portfolio letter outlining its supervisory strategy for the asset management and alternatives sector.

The letter emphasises the importance of the UK asset management sector for the Government's growth objectives. It highlights the crucial role of asset managers and alternatives firms in managing responses to geopolitical and market events. The FCA also underscores the significance of robust operational resilience for the smooth functioning of markets, given the sector's increasing interconnectedness and reliance on third parties. Beyond its supervisory work, the FCA plans to strengthen and streamline its regulatory and data frameworks to support investment in areas such as private assets and digital innovation, including tokenisation. The FCA intends to engage with firms to discuss initiatives aimed at unlocking capital investment and liquidity, accelerating digital innovation to improve productivity, and reducing the regulatory burden.

The FCA will continue to focus on how effectively firms' governance arrangements assign senior accountability for risks identified in its priority areas. It will ensure oversight by governance bodies and appropriate management information supports good decision-making. The FCA is also improving its use of data and technology to reduce regulatory burden and reviewing its data collection processes to enhance efficiency and effectiveness. Additionally, the FCA plans to engage with the industry during 2025 on a review of the

Alternative Investment Fund Managers Directive, aiming to streamline regulatory requirements and collect proportionate and cost-effective data.

Supervisory Priorities:

1. **Private Markets**: The FCA has conducted supervisory work to support confident investing in private assets and plans to release its multi-firm review on Private Market Valuation Practices soon. Firms should consider these findings to ensure robust valuation processes with strong governance frameworks and audit trails. The FCA will also start a multi-firm review in 2025 focusing on conflicts of interest at firms managing private assets, assessing how firms oversee the application of their conflict-of-interest framework through governance bodies and reviews by the three lines of defence.
2. **Market Integrity and Disruption**: Informed by vulnerabilities identified in the Bank of England's System Wide Exploratory Scenario, the FCA will focus surveillance on prudent risk management, liquidity management, and operational resilience. It will continue to improve its supervisory processes to strengthen oversight of these market vulnerabilities. The FCA will also monitor liquidity risk and ensure the recommendations in the International Organization of Securities Commissions' consultation paper on liquidity management for collective investment schemes are implemented across its systems, considering recent findings on margin preparedness.
3. **Consumer Outcomes**: The FCA plans to start a multi-firm review of model portfolio services (MPS) in 2025 to examine how firms are applying the Consumer Duty. It will also publish findings from its ongoing multi-firm review of unit-linked funds later in the year. The FCA will engage with firms affected by key policy proposals to make its disclosure regime more flexible, supporting smooth implementation of these proposals.
4. **Targeted Work – Sustainable Finance**: The FCA will engage with firms offering sustainability-related products to understand how they are implementing labelling, naming, and marketing rules, identifying any outliers and engaging with them.
5. **Targeted Work – Financial Crime and Market Abuse**: Where weaknesses are identified, the FCA plans to review the effectiveness of firms' financial crime systems and controls, with a supervisory focus on anti-money laundering controls in private markets funds.

While the FCA acknowledges that not all issues raised in the letter will be relevant to all firms in the sector, it asks firms to discuss the letter with their Board, Executive Committee, and accountable Senior Managers to consider whether the risks of harm discussed exist in their firm and implement strategies for managing them.

1.12 Key Principles for the Valuation of Collective Investment Schemes (CIS)

The accurate valuation of Collective Investment Schemes (CIS) is essential to ensure fair treatment of investors and maintain the integrity of financial markets. CIS must value all portfolio assets accurately, including those without readily available market quotations, such as derivatives or restricted securities. Proper valuation ensures that shares are redeemed or sold at their true net asset value (NAV), preventing unfair advantages or losses for investors.

The International Organization of Securities Commissions (IOSCO) has outlined key principles to guide CIS valuation practices:

1. **Comprehensive Policies and Procedures**: The Responsible Entity must establish documented policies and procedures governing asset valuation.

2. **Methodology Specification**: Policies should detail methodologies for valuing each asset type, ensuring consistency and reliability.
3. **Conflict of Interest Management**: Procedures must address and mitigate conflicts of interest in the valuation process.
4. **Consistency in Valuation**: Assets must be valued consistently per established policies.
5. **Error Detection and Correction**: Pricing errors causing material harm to investors should be promptly corrected, with compensation provided as needed.
6. **Periodic Review**: Valuation policies should undergo periodic reviews, including annual third-party assessments.
7. **Due Diligence on Third Parties**: Entities performing valuation services should be vetted regularly.
8. **Transparency**: Valuation arrangements must be disclosed to investors through offering documents.
9. **Avoidance of Historic NAV**: Purchases and redemptions should not rely on outdated NAVs.
10. **Daily Valuation for Transactions**: Portfolios should be valued on any day units are bought or redeemed.
11. **Free NAV Access for Investors**: NAV information should be accessible to investors without fees.

These principles aim to promote fairness, transparency, and consistency in CIS valuation practices across jurisdictions while adapting to evolving regulatory and market conditions.

1.13 FCA Chief Executive's Speech on Supporting Growth

On 27 February 2025, the Financial Conduct Authority (FCA) published a speech delivered by its chief executive, Nikhil Rathi, at the Association of British Insurers roundtable. The speech covered several key topics related to supporting growth in the financial sector.

Key Topics Covered:

1. Consumer Duty Champions: From 27 February 2025, firms will have the option to appoint a Consumer Duty champion. More information is available on the FCA's Consumer Duty – information webpage.
2. Progress on Growth Proposals: Mr Rathi highlighted the industry's potential surprise at the pace of implementation for the 50 growth proposals made to the Prime Minister. These proposals include improvements in mortgage affordability, digital payments, removing redundant data returns, supporting international promotion of UK financial services, opening up to more innovative firms, and reducing regulatory barriers.
3. Risk in Relation to Consumer Harm: As the FCA collaborates with the Government on its financial and professional services strategy, it has called for bold thinking around the articulation of the Government’s risk appetite, particularly concerning consumer harm. Mr Rathi emphasised the importance of metrics against which the FCA can be held accountable.
4. Call for Input on Simplifying the Handbook: The FCA has received 170 responses from firms of all sectors and sizes, as well as consumer groups, regarding the simplification of the Handbook. The feedback raised concerns about the pace of regulatory change. The FCA aims for fewer large-scale

changes in its next 5-year strategy, although there is a debate to be had around the speed of change due to diverse views.

5. Consumer Resilience: Despite its focus on growth, the FCA remains committed to ensuring consumers can access good quality, fair value products when they need them. This will be a central part of the FCA’s next 5-year strategy.

This speech underscores the FCA's commitment to fostering growth while ensuring consumer protection and resilience in the financial services sector.

1.14 WealthTek Case: Trial Scheduled for Alleged £64 Million Fraud

On 24 February 2025, in an FCA press release, it was revealed that John Dance, former principal partner of WealthTek LLP, has been charged with misappropriating £64 million in customer funds between 2014 and 2023. He pleaded not guilty to six counts of fraud at Southwark Crown Court. The trial is scheduled for September 2027.

Separately, the High Court has paused civil proceedings initiated by the Financial Conduct Authority (FCA) in April 2023 until the conclusion of the criminal case. This pause was agreed upon by both the FCA and Dance.

1.15 FCA Imposes Fine on Mako Financial Markets Partnership LLP

On **17 February 2025**, the Financial Conduct Authority (FCA) released news imposing a £1,662,700 fine on Mako Financial Markets Partnership LLP for inadequate financial crime prevention measures. This action concludes the FCA's investigations into cum-ex trading, with total fines exceeding £30 million.

Details of the Case:

- **Period of Activity**: Between December 2013 and November 2015, Mako executed significant over-the-counter equity trades for Solo Group clients, involving Danish and Belgian equities. The circular nature of these trades suggested potential financial crime, likely aimed at arranging withholding tax reclaims.
- **Red Flags Missed by Mako**:
  - Trades lacking clear rationale.
  - A transaction resulting in a €2 million loss for the Solo Group controller.
  - Accepting payment from a UAE-based third party without proper due diligence.

The FCA emphasised the importance of robust financial crime prevention measures in maintaining the integrity and reputation of UK financial markets. Mako's cooperation with the investigation resulted in a 30% reduction of the fine under the FCA's settlement discount scheme.

1.16 Capital Deduction for Redress - Personal Investment Firms

As of **14 February 2025**, the Financial Conduct Authority (FCA) has proposed measures to require personal investment firms (PIFs) to be more prudent and set aside capital for potential redress liabilities at an early stage. This initiative aims to address the harm caused to consumers by PIFs.

Key Proposals in CP23/24:

- **Quantifying Redress Liabilities**: Firms are required to quantify an overall amount for their potential redress liabilities.
- **Capital Deduction**: Firms must set aside capital resources for these potential liabilities through a new capital deduction.
- **Asset Retention Requirement**: Firms whose potential redress liabilities cause them to fall below their capital requirements must implement an asset retention requirement.

These measures are designed to improve firm resilience and incentivise better consumer outcomes. The FCA expects firms to recognise and account for potential redress liabilities earlier than might be required under ordinary accounting principles. This approach aims to address the FCA's concerns about significant redress liabilities falling to the Financial Services Compensation Scheme (FSCS) and to strengthen the overall financial stability of the sector.

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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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