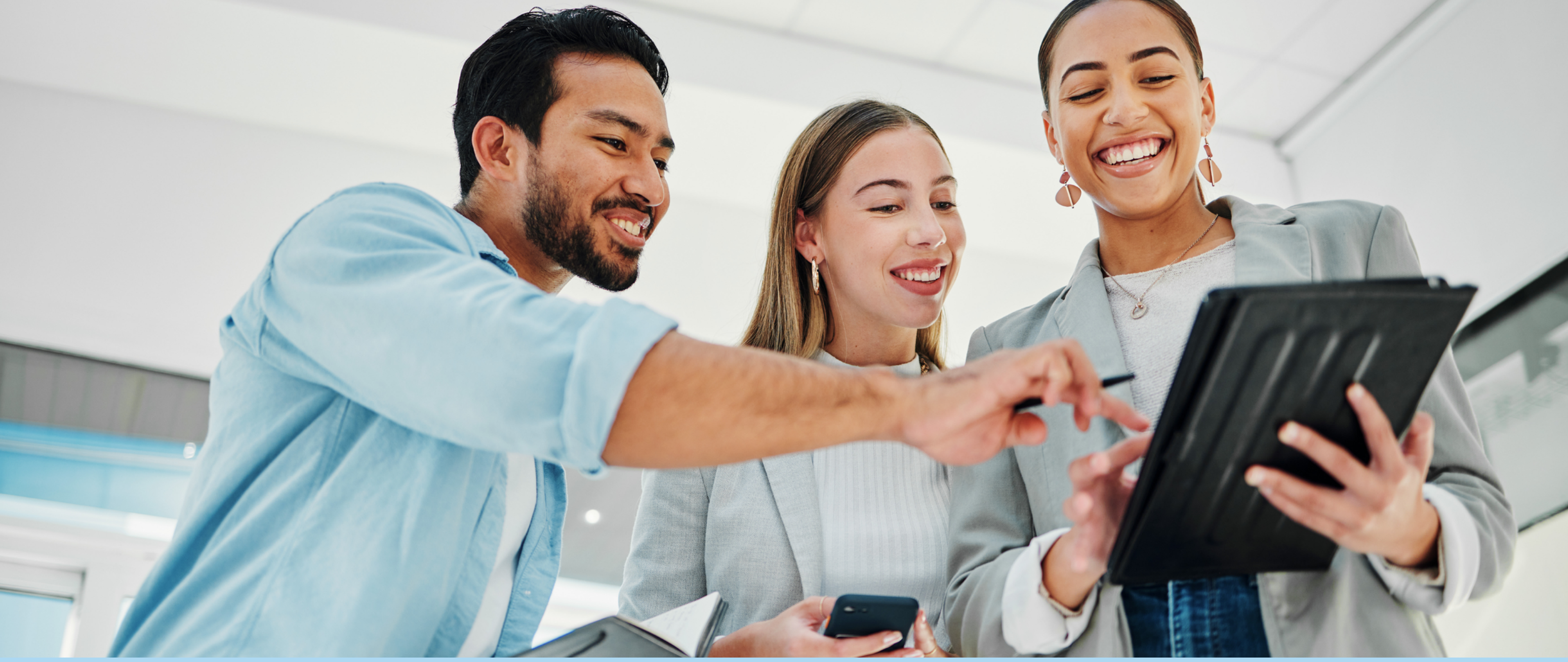

Reg Agenda

November 2023 | BULLETIN

What's inside...

- FCA and PRA publish feedback statement on artificial intelligence and machine learning
- FOS publishes H1 2023 Complaints Data
- ICO publishes guidance on lawfully monitoring workers

target

A TECH MAHINDRA COMPANY

Welcome to Target's Reg Agenda

Foreword by

KATHY GRIFFIN

Target Group
Chief Risk Officer

Hi and welcome to November's Reg Agenda update.

Artificial Intelligence (AI) and its application within the Financial Services sector was a topic of conversation in many of the speeches and articles by the FCA this month. This is in light of a joint policy statement between the FCA and PRA on Artificial Intelligence and Machine Learning as well as a response by the International Regulatory Strategy Group to a Government white paper published in March 2023.

The Task Force on Climate Related Financial Disclosures (TCFD) published its 6th report in October. The report gives an update of firms progress towards financial disclosures, as well as the actions taken by governments and regulators.

The ICO has continued to publish guidance for firms. During October draft guidance was published showing how the ICO calculates and issues its fines, as well as guidance for firms who monitor workers in the workplace.

UK Finance issued its half-year fraud report on 25th October. Whilst there had been a 2% decrease in the amount stolen by fraudsters in the first half of 2023 compared with the same period in 2022, criminals had still stolen approximately £580 million during the period.

There were a few fines of note this month, but none more so than an £11 million fine against Equifax Ltd as a result of the 2017 data breach by Equifax Inc (Equifax Ltd's parent company). This is in addition to the £500,000 fine issued in 2018 by the ICO.

I am also sad to say that this will be my final foreword for the Reg Agenda. During my time as CRO the Reg Agenda has transformed greatly and I am proud of the publication it has become. I leave you in the capable hands of Target's new CRO Ashley Seymour-Skinner who, from next month, will continue to provide you with all of the relevant regulatory updates.

Happy reading!

This month's headlines

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- Improving the Appointed Representatives regime through greater use of data
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- FCA speech – AI: Flipping the coin in financial services
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- PSR publishes speech outlining current and future focus
- FCA CEO speech on International Competitiveness and Growth Objective
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Data protection

- ICO consults on draft fining guidance
- ICO publishes guidance on lawfully monitoring workers

Complaints

- FOS publishes H1 2023 Complaints Data
- FOS sets out how financial businesses should work with it to resolve complaints
- FCA Complaints Data for H1 2023

Consumer credit

- There are no material updates for the sector this month

Investments

- Updating and improving the UK regime for asset management: FCA priorities

Mortgages

- There are no material updates for the sector this month

Financial crime

- Independent Review of Disclosure and Fraud Offences announced
- FCA: Process of Fraud – Detecting and preventing money mules
- UK Finance half-year fraud report

Enforcement

- FCA fines ADM Investor Services International Limited for AML systems and controls failings
- FCA bans and fines former Barclays CEO
- Financial watchdog fines Equifax Ltd £11 million

List of abbreviations used throughout the Reg Agenda:

AML Anti-Money Laundering
BoE Bank of England
BCAP Broadcast Committee of Advertising Practice
CTF Counter Terrorism Financing
EBA European Banking Authority
FCA Financial Conduct Authority
FOS Financial Ombudsman Service
FSCS Financial Services Compensation Scheme
ICO Information Commissioners Office
ICT Information and Communication Technology
IRSG International Regulatory Strategy Group
PRA Prudential Regulation Authority
PSR Payment Systems Regulator
OFSI Office of Financial Sanctions Implementation
TCFD Task Force on Climate-related Financial Disclosures

General

Improving the Appointed Representatives regime through greater use of data

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FCA CEO speech on International Competitiveness and Growth Objective

PRA and FCA publish feedback statement on artificial intelligence and machine learning

On 3rd October 2023, the Financial Conduct Authority (FCA) updated its webpage setting out how it is improving the appointed representatives (AR) regime through greater use of data.

The webpage includes data from the FCA's 2021 and 2022 data requests sent to principal firms and authorisation information collected from firms. On the webpage, the FCA:

Shares analysis of the data it has collected on the AR regime. Currently, there are around 2,900 principals, with approximately 35,000 AR's reporting into them. The webpage provides information about the reasons for AR appointments and details about AR revenue

Shows how the data has improved the FCA's understanding of the regime, its risks and benefits. This includes how it informs the FCA's supervisory approach, with it targeting its resources on the highest risk principals and their ARs. Areas of concern highlighted by the FCA relate to principals ensuring that their Introducer ARs (IARs) do not exceed the scope of their activity and principals being able to adequately supervise overseas ARs. The FCA also reminds principals to ensure that they hold compliant professional indemnity insurance to cover the activities of their current and former ARs, including IARs, where required to do so by its rules

Explains how the data is informing greater scrutiny of authorisation applications and the FCA's more assertive supervisory approach

Reminds principals of its enhanced expectation. In particular, the FCA refers to the details of its enhanced expectations in its policy statement on improving the AR regime (PS22/11), published in August 2022

To Note: Improving the AR regime continues to be an FCA priority. It will continue to use improved data to strengthen its scrutiny of authorisations and approvals and supervise high-risk principals more assertively. It will also undertake deeper analysis of existing data.

The FCA also reminds firms of the Consumer Duty, which came into force on 31st July 2023. When the FCA assesses whether a principal has complied with the Duty, it will also consider the actions of its ARs.

Call to action

- The FCA has written to all principal firms to clarify that it expects them to hold Professional Indemnity Insurance (PII) for all their ARs, at an appropriate level of cover where required, and to hold adequate capital to cover the ARs' activities. Firms should check they have appropriate PII cover.

Further reading

A link to the webpage is here.

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IRSG response to UK government's AI white paper

On 2nd October 2023, the International Regulatory Strategy Group (IRSG) published its response to the artificial intelligence (AI) white paper.

The white paper was published by the Department for Science, Innovation and Technology (DSIT) and Office for Artificial Intelligence (OAI) in March 2023. In its response, the IRSG makes a number of comments and recommendations, including:

- The IRSG welcomes the government's proposal to implement a principles-based framework for regulators to interpret and apply to AI within their remits, to allow regulatory agility and proportionality. The IRSG considers that the financial services sector is not currently in need of additional AI-specific regulation
- An outcomes-based approach is likely to be the most appropriate in practice, although process-focused regulation of AI might stifle innovation. Technological neutrality to regulation avoids either constraining or altering the innovative and beneficial ways in which AI is or may be used in financial services
- As stated in the white paper, it is equally important that regulators issue clear, consistent and interoperable guidance on how the principles interact with existing legislation and the regulators' future approaches to enforcement. A clear deadline for the provision of guidance from regulators would be welcome. This guidance should also be regularly reviewed, given the speed of technological change
- Co-ordination across regulators will be crucial. However, while effective co-ordination is critical to achieve the objectives of the white paper, the addition of further regulators, or an AI-specific regulator, is not required at this stage
- The white paper recognises the importance of technical standards as a way of providing consistent, cross-sectoral assurance that AI has been developed responsibly and safely. The IRSG would welcome clear deadlines on the creation and publishing of certain standards by organisations

Further reading

The full response can be read here.

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PRA and FCA publish feedback statement on artificial intelligence and machine learning

On 6th October 2023, the FCA published a speech given by Jessica Rusu FCA Chief Data, Information and Intelligence Officer, on AI in financial services.

Ms Rusu focuses on key questions that must be addressed to shape the future of AI in the financial services industry. Ms Rusu emphasises the importance of not focusing too narrowly on AI alone. Instead, focus should be on the broader issues related to digital infrastructure, a growing reliance on the cloud and other third-party tech providers, and the vital role good quality data plays in the adoption of AI and consumer safety.

In this regard, Ms Rusu:

- Outlines the importance of addressing the systemic risks posed by firms' reliance on critical third-party (CTP) providers and the associated risks to stability, resilience and confidence in the UK financial system. The FCA will consult on requirements relating to providers of critical services later in 2024 once it has considered responses to the joint CTP discussion paper (PRA DP3/22 and FCA DP22/3)
- Reminds firms that they remain responsible for their own operational resilience, including for services outsourced to third parties. This is not changing: safety and security are important considerations when it comes to 'frontier technology'
- Warns firms to be aware of the risks of tailored and sophisticated AI-powered cyber-attacks
- Explains that the role of data in AI and the question of ethical data usage are examples of important data considerations, to ensure the safe and responsible adoption of AI

Finally, Ms Rusu provides examples of what responsible adoption of AI looks like and provides examples of how the FCA is using AI in practice, such as by developing web-scraping and social media monitoring tools that can detect, review and triage potential scam websites.

Further reading

The full speech can be found here.

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TCFD publishes 2023 Status Report

On 12th October 2023, the Task Force on Climate-related Financial Disclosures (TCFD) published its sixth status report.

The report describes companies' progress in making climate-related financial disclosures and highlights some of the challenges they face in making these disclosures, including in relation to incorporating climate-related risks into their financial statements.

It also provides an update on significant actions taken by governments, regulators and standard setters to use the TCFD recommendations in developing climate-related disclosure requirements.

The report concludes with the TCFD's view of the insights gained over the past eight years, since its establishment by the Financial Stability Board (FSB) and the areas that merit continued focus or further work.

Key findings include:

- 97 of the 100 largest companies in the world have declared support for the TCFD, report in line with TCFD recommendations, or both
- The percentage of public companies disclosing TCFD - aligned information continues to grow, but more progress is needed
- Disclosure of climate-related financial information in financial filings is limited
- The majority of jurisdictions with final or proposed climate-related disclosure requirements specify that these disclosures must be reported in financial filings or annual reports
- Over 80% of the largest asset managers and 50% of the largest asset owners reported in line with at least one of the 11 recommended disclosures. Based on a review of publicly available reports, nearly 70% of the top 50 asset managers and 36% of the top 50 asset owners disclosed in line with at least five of the recommended disclosures

The report is the TCFD's final status report. The International Sustainability Standard Board (ISSB) released its climate-related and general sustainability-related disclosure standards in June 2023.

Starting in 2024, the International Sustainability Standards Board will assume responsibility for monitoring companies' climate-related disclosures and reporting to the FSB.

Further reading

The sixth status report can be found here.

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PRA and FCA publish feedback statement on artificial intelligence and machine learning

On 11th October 2023, the Payment Systems Regulator (PSR) published a speech delivered by Managing Director Chris Hemsley at the Payment Leaders' Summit outlining the PSR's areas of current and future focus.

The points addressed in the speech include the following:

- The PSR is approaching the mid-point of its five-year strategy, with a particular focus being placed on the challenges brought about by the shift to digital payments
- The PSR's interim findings on cross-border interchange fees are scheduled for publications in the coming weeks
- The PSR expects there will be more designated payment systems because technologies such as distributed ledger technology (DLT) will eventually move from the current wholesale use cases to become a more mainstream payments method
- The PSR is preparing for a step-change in the incentives for firms to tackle authorised push payment (APP) fraud, with a particular focus being placed on recipient banks
- The PSR has identified utility, financial and government payments as use-cases where open-banking can deliver tangible benefits, such as flexibility and control, to consumers and businesses

Further reading

The full speech can be found here.

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FCA CEO speech on International Competitiveness and Growth Objective

On 17th October 2023, the FCA published a speech (dated 16th October 2023) by Nikhil Rathi, FCA Chief Executive, which focused on the FCA's new secondary objective to support international competitiveness and growth over the medium to long-term (known as the SICGO).

Mr Rathi stated that he sees five ingredients essential for the objective which are as follows:

1. **An effective regulator:** Progress has been made by the FCA over the last three years in investing in its authorisations resources to deliver cases within statutory deadlines; automating processes; and increasing scrutiny at the gateway. This approach is enabling the FCA to effectively use its Supervisory and Enforcement resources and powers and intervene earlier when needed. Consumer Duty is the most significant reform for decades and the FCA is already seeing improvements in firms offering better value products, communications and customer journeys

2. **An international standard-bearer:** The FCA as an effective regulator has to be internationally engaged and it plays a full part in setting global standards in crypto, sustainability, non-bank finance and artificial intelligence

3. **Reforms to support a bolder risk appetite:** The FCA is supporting a bolder risk appetite to underpin long-term investment

4. **Raised ambition on data and digital infrastructure:** Mr Rathi stated that, as a country, the UK has not taken data and digital infrastructure seriously enough. The UK needs sustained leadership and investment, both public and private, to progress in this area

5. **Skills and talent:** The FCA states that, through its many initiatives, including its Diversity and Inclusion initiative, it is supporting the talent and capabilities the sector needs so that everyone can access financial services from a sector that is genuinely open to all backgrounds

Further reading

The full speech can be found here.

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FCA CEO speech on International Competitiveness and Growth Objective

PRA and FCA publish feedback statement on artificial intelligence and machine learning

On 26th October 2023, the PRA and FCA published a feedback statement (FS23/6) to their October 2022 discussion paper DP5/22 Artificial Intelligence and Machine Learning.

The discussion paper aimed to further the PRA's and FCA's understanding and to deepen dialogue on how artificial intelligence (AI) may affect their respective objectives for the prudential and conduct supervision of financial firms.

The key points made by respondents included:

- That a regulatory definition of AI would not be useful
- As with other evolving technologies, AI capabilities change rapidly. Regulators could respond to the rapidly changing nature of AI by designing and maintaining 'live' regulatory guidance
- There is a need for ongoing industry engagement on the subject
- More coordination and alignment between regulators, domestic and international, would be helpful
- That a key focus of regulation and supervision should be on consumer outcomes, especially with respect to ensuring fairness and other ethical dimensions
- The increasing use of third-party models and data is a concern and an area where more regulation would be helpful
- That existing firm governance structures (and regulatory frameworks such as the Senior Managers and Certification Regime (SM&CR)) are sufficient to address AI risks

The discussion paper forms part of the PRA's and FCA's wider programme of work related to AI, including the AI Public Private Forum (AIPPF), and its final report published in February 2022.

Further reading

The feedback statement can be found here.

ICO consults on draft fining guidance

On 3rd October 2023, the Information Commissioner's Office (ICO) published a consultation on new draft guidance on data protection fining under the UK GDPR and DPA 2018 (it does not cover PECR).

The guidance covers the ICO's legal powers to impose fines, the circumstances in which the Information Commissioner would consider it appropriate to issue a penalty notice and how the amount of the fine is calculated, including the concept of an undertaking, and aggravating or mitigating factors.

The guidance will replace parts of the ICO's Regulatory Action Policy on approach to fining.

The ICO also plans to consult on new procedural guidance that will incorporate the other statutory guidance about regulatory action required by the DPA 2018, again to replace parts of the Regulatory Action Policy.

Call to action

- The consultation is open until 27th November 2023.

Further reading

The consultation can be found here, and the new draft guidance here.

Data protection

ICO consults on draft fining guidance

ICO publishes guidance on lawfully monitoring workers

ICO publishes guidance on lawfully monitoring workers

On 3rd October 2023, the ICO announced in a press release that it has published its guidance 'Employment practices and data protection – Monitoring workers', which follows a public consultation.

The ICO explains that with the increase in remote working and developments in technology, many employers are seeking to carry out checks on their workers.

The ICO urges organisations to consider both their legal obligations and their workers' rights before they implement any monitoring in the workplace.

The guidance aims to help employers fully comply with UK GDPR and DPA 2018, it also provides good practice advice and checklists.

The ICO's commissioned research reveals of people surveyed:

- Almost one in five (19%) believe that they have been monitored by an employer
- Over two-thirds (70%) would find monitoring in the workplace intrusive
- Fewer than one in five (19%) would feel comfortable taking a new job if they knew they would be monitored.

Monitoring can include tracking calls, messages and keystrokes, taking screenshots, webcam footage or audio recordings, or using specialist monitoring software to track activity.

The ICO uses the term 'worker' to refer to someone who performs work for an organisation. If an organisation is looking to monitor workers', it must take steps which include:

- Making workers aware of the nature, extent and reasons for monitoring
- Having a clearly defined purpose and using the least intrusive means to achieve it
- Having a lawful basis for processing workers' personal data
- Telling workers about any monitoring in a way that is easy to understand
- Only keeping information relevant to the purpose
- Carrying of a Data Protection Impact Assessment for any monitoring that is likely to result in a high risk to workers' rights

The guidance follows swiftly on from the ICO's guidance on processing workers' health data published in September 2023.

Further reading

The guidance can be found here.

FOS publishes H1 2023 Complaints Data

FOS sets out how financial businesses should work with it to resolve complaints

FCA Complaints Data for H1 2023

FOS publishes H1 2023 Complaints Data

On 11th October 2023, the Financial Ombudsman Service (FOS) published its H1 2023 Complaints Data (January to June 2023).

The FOS publishes this data every six months which shows the number and outcome of the complaints they handle about financial businesses.

The data is presented in an Excel spreadsheet which includes two rows for totals: the number of complaints FOS received, and the totals purely for firms which are above the publication threshold of 30 new and 30 resolved complaints.

The FOS received a total of 93,114 complaints between 1st January and 30th June 2023.

245 businesses feature in the complaints data for the first half of 2023, this is up on the previous six-month period (the second half of 2022) where 220 businesses featured.

In the first six months of the year, FOS notes it upheld 37% of complaints in the consumers' favour, compared to 34% in the previous six-month period. Banking and credit complaints have risen substantially, with fraud and scam cases making up around half of that increase.

In addition, the release includes a category for complaints that have been settled proactively with businesses. Proactively settled complaints are recorded separately, they aren't recorded as a change in favour of the consumer and do not count towards a financial business' change in outcome rate.

The FOS is trialling this third category in its data until March 2024.

The FOS also notes that it is not currently seeing complaints about claims management companies which meet the thresholds for data publication. It will update the page when this threshold is reached.

Further reading

The webpage including the data can be found here.

FOS sets out how financial businesses should work with it to resolve complaints

On 17th October 2023, the FOS published a blog post by Deputy Chief Ombudsman and leader of the Ombudsman and Investigation teams, James Dipple Johnstone.

It sets out what firms and claims management companies (CMCs) should do when a complaint is referred to the FOS and highlights the support the FOS provides.

The blog post highlights recent letters by the FOS to financial firms and professional representatives to explain their role in helping the FOS deliver its service and in resolving complaints for customers.

The blog post is divided into the following four sections:

- **Before the complaint comes to the FOS:** it reminds firms that when a customer complains to them, the company has a duty to respond within prescribed time limits. Should a business regularly fail to reply in time, or doesn't respond to their customers, the FOS will intervene
- **When a customer uses a CMC:** The FOS encourages financial businesses to be open to engagement with professional representatives where they have been retained on the case, and urges professional representatives to work with businesses and provide them with the information they need to investigate the complaint
- **What to send to the FOS:** The FOS reminds firms they should start preparing evidence and documentation as early as possible, using the FOS's website to help, as this means cases are ready to assess more quickly, leading to a speedier resolution
- **Proactively settling a complaint:** When the FOS confirms that a complaint is moving to an investigation, a firm has time to proactively settle with its customers, as long as they make them an offer within 14 days, or notify the FOS that they will be making an offer within 21 days

Further reading

Find the full blog post here.

Complaints

FOS publishes H1 2023 Complaints Data

FOS sets out how financial businesses should work with it to resolve complaints

FCA Complaints Data for H1 2023

FCA Complaints Data for H1 2023

On 19th October 2023, the FCA published a webpage containing complaints data for the period 1st January to 30th June 2023 (H1).

The FCA also published a firm-specific complaints data set of submissions from approximately 290 individual firms reporting either 500 or more complaints within a 6-month period or 1,000 or more complaints annually, and an aggregate (total) market-level complaints data set which includes 1 or more complaints reported by over 3,000 regulated firms.

The FCA complaints data shows that:

- In H1 2023, financial services firms received 1.88m opened complaints, an increase of 5% from H2 2022 (1.80m)
- The product groups that experienced an increase in their opened complaint numbers from H2 2022 to H1 2023 were:
  - decumulation and pensions (20%)
  - investments (18%)
  - insurance and pure protection 6%)
  - banking and credit cards (3%)
- The home finance product group saw a 10% reduction in opened complaints from 101,333 (H2 2022) to 91,469 (H1 2023)
- Since H2 2016, current accounts have remained the most complained about product. The number of current accounts opened complaints increased, from 500,371 (H2 2022) to 509,923 in H1 2023 (2%)

Complaints data for H2 2023 and H1 2024 will be published by the FCA on 25th April 2024 and 24th October 2024, respectively.

Further reading

The FCA complaints data can be found here.

Investments

Updating and improving the UK regime for asset management: FCA priorities

A speech delivered on 11th October 2023 by Ashley Alder, Chair of the FCA, at the Investment Association's Annual Dinner, set out the FCA's priorities for updating and improving the UK regime for asset management.

Mr Alder began by referencing the FCA discussion paper DP23/2: Updating and improving the UK regime for asset management, which closed in May 2023, noting that the implementation of the Financial Markets and Services Act requires the FCA to think deeply about how its work can drive long-term competitiveness.

The feedback to DP23/2 has formulated the FCA's three main priorities for reforming the asset management sector, mainly:

- Making the regime for alternative fund managers more proportionate, with calls to retain the core framework of the Alternative Investment Fund Managers (AIFMD), while making it more proportionate in some areas and more tailored to the UK market
- Updating the regime for retail funds, in particular the way in which some funds are regulated like alternative investment funds, where in principle only retail rules should apply
- Supporting technological innovation, including how fund managers might adopt distributed ledger technology (DLT) or offer fully digitised funds to the public

In light of 'very useful feedback', the FCA does not intend to take forward some of the ideas in DP23/2. Among these was a suggestion to consolidate the rules for different types of asset managers, as well as potentially developing a category of basic authorised funds to help retail investors navigate the market.

While there are benefits to pursuing these proposals, respondents argued they should not be a priority. This is on the basis that simplifying the FCA handbook should come after targeted reforms intended to make a tangible, positive difference to the environment in which asset managers and investors operate.

The FCA's thinking about asset management sits within a wider debate about ways to mobilise domestic savings to fund productive investment in the UK. There are a number of initiatives in this area on both the part of the government and the FCA, which highlight issues about societal tolerance of risk, leading to sensitive debates about the scope of redress.

Further reading

The full speech can be found here.

Financial crime

Independent Review of Disclosure and Fraud Offences announced

Independent Review of Disclosure and Fraud Offences announced

FCA: Process of Fraud - Detecting and preventing money mules

UK Finance half-year fraud report

On 12th October 2023, the Home Office announced an independent review of criminal disclosure and fraud.

The last independent review of fraud in the UK occurred in 1986 led to, among other things, the creation of the Serious Fraud Office (SFO). Since then, the nature and scale of fraud has evolved considerably and now constitutes over 40% of all offences in England and Wales, with a particular growth in online-enabled fraud.

This creates additional challenges, including the increasing volume of digital material that cases generate, which increases the time and resources required to undertake an investigation and bring a prosecution to court.

The government published the Fraud Strategy in May 2023, which committed to launch an independent review into how the disclosure regime is working in a digital age and if fraud offences are effective.

The review will be chaired by Jonathan Fisher KC and will investigate the application of the disclosure regime and the challenges arising for the investigation of all crime types, including fraud, that handle large volumes of digital material. It will also look at barriers to the investigation, pursuit, and prosecution of fraud, current penalties and the role of civil powers to tackle fraud.

The review will report in two parts:

Part one

Disclosure Regime to assess the operation of the criminal disclosure regime, as set out in the Criminal Procedure and Investigations Act 1996. There will be a focus on disclosure application for crime types with a large volume of digital material. The review will also assess the Attorney General's Guidelines on Disclosure and consider legislative and non-legislative modification that could improve the regime.
This will report in summer 2024

Part two

Fraud Offences to explore if certain fraud offences should be summary only rather than triable either way. The phase will also consider making it easier for individuals to inform on associates in criminal fraud networks and investigate the scope of existing civil powers, and whether they go far enough, to tackle fraud, including exploring a fraud-specific order.
This part will report in summer 2025

Further reading

The full announcement can be found here.

FCA: Process of Fraud - Detecting and preventing money mules

Independent Review of Disclosure and Fraud Offences announced

FCA: Process of Fraud - Detecting and preventing money mules

UK Finance half-year fraud report

On 12th October 2023, the FCA published key findings from its review of payment account providers' systems and controls against money mule activity to allow others to learn from it.

A money mule is someone who is recruited by criminals to move illegally obtained money. Money mules play a crucial role in the process of cashing out the proceeds of fraud. They are either knowingly involved or unknowingly involved in the fraudulent/money laundering process. Unknowingly involved money mules are drawn into criminal activities and are unaware of their involvement in illegal transactions and believe they are working for a legitimate company or helping someone in need.

As part of the review the FCA focused on Payments Service Providers and Electronic Money Institutions (firms), some well-established and others newer to the market.

The review focused on the systems and controls firms have in place to detect and prevent money mule activity, primarily related to cashing out the proceeds of fraud. It covered all aspects of firms' response to mules including controls at onboarding, monitoring and reporting.

Areas of good practice:

- Systems and controls
- Use of intelligence, industry engagement and data sharing
- Training

Areas that need improvement:

- Governance, management information (MI) and risk assessment
- Onboarding
- Transaction monitoring
- Reporting
- Resourcing
- Communication and awareness
- Training

The findings of this review will be of interest to MLROs and industry practitioners working in financial crime and fraud roles within payment service providers and electronic money institutions. This includes banks, building societies and payment firms.

Call to action

- The FCA expects payment account providers to consider their own organisation's arrangements, systems and controls against its findings.
- It is vital that firms have a proactive approach to identifying and swiftly remedying any weaknesses identified in their anti-fraud systems and controls.

Further reading

The full review can be found here.

Independent Review of Disclosure and Fraud Offences announced

FCA: Process of Fraud - Detecting and preventing money mules

UK Finance half-year fraud report

UK Finance half-year fraud report

On 25th October 2023, UK Finance issued a press release regarding its half-year fraud report.

The report details the amount its members reported as stolen through fraud and scams in the first half of 2023.

The headlines include:

- Criminals stole £580 million through unauthorised and authorised fraud in the first half of 2023, a 2% decrease compared with the same period in 2022
- Banks prevented a further £651 million of unauthorised fraud from being stolen through advanced security systems
- 77% of APP fraud started online and another 17% started through telecommunications networks
- The total number of APP cases was up 22% to 116,324. The main driver behind this is purchase scams, where people are tricked into paying for goods that never materialise
- The financial services sector is at the forefront of efforts to protect customers from fraud, including partnering with other sectors, government and law enforcement to prevent and disrupt the criminal activity and bring perpetrators to justice

Claire Pratt
Head of Financial Crime

"The increase of fraud is something we should be collectively working to tackle, in business and as a society. In a cost-of-living crisis, victims are suffering catastrophic financial losses and vulnerable people, including children, are increasingly being recruited to become money mules for dangerous criminals.

From 2024, the Payment Service Regulator will require sending and receiving institutions to reimburse victims 50:50 of any scammed funds. Firms who utilise faster payments should implement robust controls which both prevent victims being scammed AND ensure they are not facilitating scammers by unwittingly giving them accounts. Robust due diligence, frequent transaction and behavioural monitoring along with clear, strong messages and support for potential victims should be considered by everyone in an effort to stop this devastating trend."

Further reading

The full press release can be found here.

Enforcement

FCA fines ADM Investor Services International Limited for AML systems and controls failings

FCA bans and fines former Barclays CEO

Financial watchdog fines Equifax Ltd £11 million

FCA fines ADM Investor Services International Limited for AML systems and controls failings

On 29th September 2023, the FCA published a final notice, fining ADM Investor Services International Limited (ADM) £6.47 million.

Between 30th September 2014 and 31st October 2016, ADM should have had controls in place to mitigate against the potential for its funds to be used to launder the proceeds of crime or to fund terrorism.

ADM's market covered areas such as energy, base metals, foreign exchange and cocoa. This was a global and diverse market, which therefore led to an increased AML risk for ADM.

In early 2014, the FCA carried out a review of ADM as part of its 'Contracts For Difference' (CFD) business. As part of this review, the FCA identified weaknesses in the systems and controls that it expected ADM to investigate and resolve.

The FCA returned in 2016 to carry out a follow-up review, but found significant findings remained, including:

- The firm's AML customer risk assessment was basic and did not enable an assessment of a customer's financial crime risk
- It did not conduct a firm-wide money laundering risk assessment
- There was little evidence of adequate on-going monitoring in the form of periodic customer reviews
- Policies were outdated and referred to old legislation

ADM agreed not to take on business from high-risk customers whilst improvements were undertaken.

After further remedial action, the requirements were lifted in January 2018.

Further reading

The Press Release from the FCA can be found here.

FCA bans and fines former Barclays CEO

FCA fines ADM Investor Services International Limited for AML systems and controls failings

FCA bans and fines former Barclays CEO

Financial watchdog fines Equifax Ltd £11 million

On 12th October 2023, the FCA has fined former Barclays CEO James Staley £1.8 million and banned him from holding a senior management or significant influence function in the financial services industry.

The FCA has found that Mr Staley recklessly approved a letter set by Barclays to the FCA which contained two misleading statements about the nature of his relationship with Jeffrey Epstein and the point of their last contact.

This is the second action the FCA has taken against Mr Staley, having fined him (alongside the PRA) in 2018 £642,430 for failing to act with due skill, care and diligence after Mr Staley attempted to identify a whistleblower.

In August 2019, the FCA asked Barclays to explain what it had done to satisfy itself that there was no impropriety in the relationship between Mr Staley and Mr Epstein. Barclays relied on the information provided by Mr Staley and Mr Staley confirmed the information was fair and accurate.

The letter claimed there was no close relationship between the two, however emails between Mr Staley and Mr Epstein suggested otherwise.

Similarly, the letter claimed that Mr Staley had ceased contact with Mr Epstein before joining Barclays however evidence showed that Mr Staley and Mr Epstein were in contact in the days leading up to Mr Staley's appointment as CEO.

> In response to the evidence, the FCA has said:
>
> 'Mr Staley is an experienced industry professional and held a prominent position within financial services. It is right to prevent him from holding a senior position in the financial services industry if we cannot rely on him to act with integrity by disclosing uncomfortable truths about his close personal relationship with Mr Epstein.'

Further reading

The Press Release from the FCA can be found here.

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On 13th October 2023, the FCA announced that they had fined Equifax Ltd £11,164,400 for failing to manage and monitor the security of UK consumer data it had outsourced following a cyber attack.

In 2017, Equifax Inc (Equifax Ltd's parent company) was subject to one of the largest cybersecurity breaches in history. The breach allowed access to approximately 13.8 million UK consumers.

In 2018, the ICO imposed a fine on Equifax Ltd of £500,000 following the data breach.

Equifax did not treat its relationship with its parent company as outsourcing and as a result, it failed to provide sufficient oversight of how data it was sending was properly managed and protected.

Following the breach, Equifax made several public statements, giving an inaccurate impression of the number of consumers affected. Equifax also treated customers unfairly by failing to maintain quality assurance checks for complaints following the breach, meaning complaints were mishandled.

Jessica Rusu, FCA Chief Data, Information and Intelligence Officer said:

'Cyber security and data protection are of growing importance to the security and stability of financial services. Firms not only have a technical responsibility to ensure resiliency, but also an ethical responsibility in the processing of consumer information. The Consumer Duty makes it clear that firms must raise their standards.'

Further reading

The Press Release from the FCA can be found here.

Dates for the diary

2023	Oversight of Critical Third Parties
2023	FCA and PRA Consultation Paper on Diversity, Equity and Inclusion
H1 2023	Review of the UK's AML/CTF regulatory and supervisory regime
H1 2023	Regulation of Buy Now Pay Later (BNPL)
2022-23	Continuous FCA evaluation of how firms treat Vulnerable Customers
H1 2023	Transforming data collection building on Digital Regulatory Reporting
30 Jun 2023	Deadline for ending reliance on US dollar LIBOR
July 2023	Proposed Consumer Duty implementation period ends, and rules and guidance come into force for existing and open products
13 Jul 2023	Consultation closes on CP23/13 - Strengthening protections for borrowers in financial difficulty
Q3 2023	Final findings of Credit Information Market Study
End 2023	Remaining UK Green Taxonomy Technical Screening Criteria to be finalised
Q4 2023	Deadline for principals to prepare and approve the first self-assessment of compliance with the new appointed representatives' rules
March 2024	Synthetic sterling 3-month LIBOR rate cease
July 2024	Proposed Consumer Duty implementation period ends, and rules and guidance come into force for closed products
2024	Second Consumer Credit Act Consultation to be published with more detailed proposals
17 Jan 2025	The EU's Draft Digital Operational Resilience Act (DORA)

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