



Regulatory Update

Week 25 - 2024



2024

1

Regulatory Updates – FCA (General)

2

Regulatory Updates – Legal (General)

3

Regulatory Updates – Others

FCA (General)

Over the past week, our team have noticed the FCA's focus has been on Complaints Data, Big Tech and AI, and Financial Crime Updates.

If you have any questions about any of the items that are featured in this review, please do contact your consultants.

Update

Summary

Action for firms

[Update on the FCA's review of treatment of Politically Exposed Persons](#)

Last year, the FCA launched a review of the treatment of domestic Politically Exposed Persons (PEPs) by financial services firms.

They had been on track to publish the findings from this review in line with the end of June deadline set in the Financial Services and Markets Act 2023.

However, the FCA do not think it is appropriate to publish the review during the pre-election period. The FCA will now publish it in July once Parliament has returned.

Date published: 19 June 2024

Update

Summary

Action for firms

[Wider Implications Framework Annual Report 2023-2024](#)

The Financial Conduct Authority (FCA) has released its Wider Implications Framework Annual Report for 2023-2024, outlining key focus areas and regulatory updates aimed at enhancing the resilience and integrity of the UK's financial markets and consumer protection mechanisms.

Key Focus Areas:

1. **Consumer Duty:** The FCA is dedicating significant resources to supervise and enforce compliance with this duty, ensuring firms support consumers effectively, especially amid rising living costs([FCA](#)) ([Welcome to WilmerHale](#)).
2. **Operational Resilience:** The FCA emphasises the need for firms to bolster their operational resilience against cyber threats, operational risks, and geopolitical uncertainties. Firms must demonstrate their ability to remain within specified operational impact tolerances by 2025 ([Welcome to WilmerHale](#)).
3. **Financial Crime Prevention:** Reducing and preventing financial crime remains a priority for the FCA. This includes enhancing authorisation processes, improving firm assessments, and investing in data-driven analytical tools for anti-money laundering (AML) supervision ([KPMG](#)).
4. **Market Abuse:** The FCA plans to intensify efforts against market abuse by ensuring firms have robust systems and controls in place. It aims to deter wrongdoers through stringent sanctions and increased investigation and prosecution efforts ([Welcome to WilmerHale](#)).
5. **Future Regulatory Framework (FRF) and Edinburgh Reforms:** Over £12 million will be invested to support the FRF and Edinburgh Reforms, which aim to enhance the UK's economic growth and international competitiveness. This includes integrating retained EU law into the FCA Handbook and establishing a cost-benefit analysis panel to enhance regulatory efficiency ([KPMG](#)).

Action for Firms

1. **Review and Implement Consumer Duty.**
2. **Strengthen Operational Resilience:**
3. **Enhance Financial Crime Defences:**
4. **Prepare for Regulatory Changes:.**
5. **Engage with the FCA:**

If you need any assistance understanding or implementing any of the actions please get in touch with us today.

Date published: 19 June 2024

Update

Summary

Action for firms

[Whistleblowing Quarterly Data 2024 Q1](#)

Date published: 14 June 2024

The FCA has published its whistleblowing data for Q1 2024, reporting an increase in new cases. Key highlights include:

- **298 new reports** received, up from 280 in Q1 2023.
- **801 allegations** in total, primarily reported via the online form.
- **253 reports closed**, with significant action taken in 4% of cases, including enforcement actions and restrictions.

Action to Take:

1. **Review Internal Processes:** Ensure your firm's whistleblowing procedures are robust and compliant with FCA guidelines.
2. **Enhance Training:** Provide regular training for staff on the importance of whistleblowing and how to report concerns.
3. **Monitor and Report:** Maintain thorough records of all whistleblowing reports and actions taken, ensuring timely reporting to the FCA.

[NCSC and Cyber Insurance Industry Joint Guidance on Ransom Payments](#)

Date published: 14 May 2024

NCSC and Cyber Insurance Industry Joint Guidance on Ransom Payments

For the first time, the National Cyber Security Centre (NCSC) has collaborated with the cyber insurance industry, including the Association of British Insurers (ABI), British Insurance Brokers' Association (BIBA), and International Underwriting Association (IUA), to produce joint guidance for organisations considering paying a ransom. This guidance, published on 14 May 2024, aims to provide much-needed advice to organisations contemplating ransom payments during cyber-attacks.

Action to Take:

1. Review Incident Response Plans:
2. Engage External Experts:
3. Understand Regulatory Obligations:
4. Promote Staff Awareness:

See the full guidance for the detail or contact us for more information and advice on how to implement the actions.

Update

Summary

Action for firms

NEW Blog Post

[Crypto Compliance: Navigating the Regulatory Maze](#)

As the crypto industry continues to attract scrutiny, robust compliance has become crucial for firms to establish legitimacy and mitigate risks. In my latest blog, I share insights from my experience as a compliance consultant, guiding crypto startups through the evolving regulatory landscape.

Read the full blog to gain a comprehensive perspective on navigating the crypto compliance labyrinth and positioning your firm for sustainable growth in this dynamic industry.

Date published: 19 June 2024

Key themes covered:

- Understanding the UK's crypto regulations: MLRs, FSMA, RAO, and more
- FCA registration requirements for crypto asset service providers
- Implementing robust AML/KYC measures and leveraging decentralized solutions
- Addressing data security concerns and adopting comprehensive security practices
- Challenges of multi-jurisdiction operations and maintaining global standards
- Exploring new monitoring methods: blockchain analytics, smart contracts
- Importance of staff training and education on evolving regulations

Update	Summary	Action for firms
--------	---------	------------------

<p>Building Operational Resilience - 10 Months Till the Deadline</p> <p>Date published: May 2024</p>	<p>The FCA set out their final rules and guidance on new requirements to strengthen operational resilience in the financial services sector in March 2022.</p> <p>The FCA rules and guidance came into force on 31 March 2022.</p>	<p>As soon as possible after 31 March 2022, and by no later than 31 March 2025, firms must have performed mapping and testing so that they are able to remain within impact tolerances for each important business service. Firms must also have made the necessary investments to enable them to operate consistently within their impact tolerances.</p>
--	--	--

<p>FCA Multi- Factor Authentication</p> <p>Date published: May 2024</p>	<p>FCA Multi- Factor Authentication</p> <p>The FCA are making changes to improve and speed up how they verify callers to the FCA Supervision Hub.</p> <p>From mid-June 2024, multi-factor authentication will be used to verify firms' identity when they call the Supervision Hub, using a one-time passcode that will be sent by text message.</p> <p>.</p>	
---	---	--

Update	Summary	Action for firms
--------	---------	------------------

<p>Consumer Duty - Next Deadline - 31st July 2024</p> <p>Date published: May 2024</p>	<p>The next milestone on 31 July 31, 2024. By then, firms should have assessed their closed product ranges.</p> <p>The FCA defines closed products as products which are no longer marketed or distributed to retail customers nor open to renewal. It is up to firms to consider each product and decide whether it is closed, and if it falls within the scope of Consumer Duty.</p> <p>The FCA have updated the following pages on their website - https://www.fca.org.uk/firms/consumer-duty-information-firms</p>	<p>If you're navigating these changes and not sure what you need to do, we are here to help. Whether you're seeking guidance on compliance or have questions about regulatory responsibilities, get in touch. We'd love to help you.</p>
---	---	--

<p>European Union: New EU rules have been adopted to combat money-laundering and terrorist financing</p> <p>Date published: May 2024</p>	<p>The European Parliament has adopted the new AML/CFT legislative package, which aims to comprehensively strengthen the EU rules to fight money-laundering and terrorist financing, including the establishing of a New EU Authority to directly supervise the riskiest entities, an EU limit on large cash payments up to EUR 10,000, and more detailed, directly applicable rules regarding customer due diligence and beneficial ownership.</p> <p>The legislation still needs to be formally adopted by the Council, after which it will be published in the Official Journal.</p> <p>The AMLA will enter into force seven days after publication and will apply from 1 July 2025, and the AMLR will enter into force 20 days after publication and will apply 36 months from the date of entry into force, with the exception of a few articles, AMLD6 will enter into force 20 days after publication and Member States will have two years from the date of entry into force to transpose the Directive.</p> <p>The TFR will enter into force in Member States from 30 December 2024.</p>	
--	---	--

Update

Summary

Action for firms

[FOS Statistics Update](#)

We would like to share with you the recent performance stats released by the FOS, summarised as follows;

These can be read in full by clicking the link on the left hand side.

- Overall, the FOS received a total of 95,349 complaints between 1 July and 31 December 2023. This is an increase of almost 20% on the same period in 2022,
- In the second six months of the year, the FOS upheld 36% of complaints in the consumers' favour, compared to 34% in the second half of 2022.
- [Banking](#) and [consumer credit](#) related complaints were the main driver of the rise.
- For the insurance sector, there was an increase. Complaints about [car or motorcycle insurance](#) saw the sharpest rise, with issues including delays in putting things right when a claim is made, and claims valuations.

Date published: 1 May 2024

Update	Summary	Action for firms
--------	---------	------------------

[Charging Claims Management Companies and other professional representatives Consultation paper](#)

Date published: 29 May 2024

The FOS has launched a consultation to implement a fee for Claims Management Companies (CMCs) and other professional representatives.

In particular, This paper sets out how and why we propose to introduce a £250 fee for CMCs and other professional representatives, reducing to £75 for cases we determine in favour of the complainant, with the objective of ensuring that our case fee arrangement allocates an element of the costs of resolving cases to CMCs and other professional representatives who can derive benefit from our service.

We propose that where the £250 has been paid we will reduce the fee for the respondent firm by £175.

To be responded to by 4 July 2024.

Please email your response and any questions about this consultation to

consultations@financial-ombudsman.org.uk

[FCA regulatory Initiatives Grid](#)

Date published: 29 May 2024

The new issue of Regulatory Initiative Grid is delayed due to general election.

Following the Government announcement of the General Election on 4 July, the eighth edition of the Grid has been delayed. Members of the Financial Services Regulatory Initiatives Forum will consider when best to publish an update on the regulatory pipeline and initiatives later this year.

Update

Summary

Action for firms

[FCA regulated fees and levies: rates proposals for 2024/25](#)

The FCA has made changes to the FEE consultation based on feedback received. In particular, 29 May 2024 addendum:

Read and familiarise yourself with the Addendum

Date published: 29 May 2024

Following feedback, the FCA have expanded Table 3.3 in our CP to include other fee-blocks which weren't previously shown. See the addendum for further details.

[Preparing your firm's financial information | FCA](#)

Preparing your firm's financial information both for new firms and VoP
The FCA are improving the way they collect financial information at the gateway. On the Authorisations webpage, in [preparing your firm's financial information](#), you can now find a new template, available to Wholesale firms.

Date published: 30 May 2024

You can download this template and use it when you submit your firm's financial information, as part of your application. The aim is to improve firms' experience when applying for authorisation, by preventing unnecessary later requests for baseline financial information. Please note that this template does not replace the financial questions in other forms you need to submit with your application.

Update

Summary

Action for firms

[Financial Resilience](#)

Whilst not applicable to most insurance intermediaries, the FCA has issued a reminder to firms to prepare to the new rules surrounding financial resilience.

Read and familiarise yourself with the Addendum

Date published: 30 May 2024

The new rules come into force in 10 months and will be applicable to insurers and enhanced SMCR firms.

[FCA - Multi-Factor Authentication](#)

Security is at the heart of our Technology and Data platforms. With this in mind, we're making changes to improve and speed up how we verify callers to our Supervision Hub.

There are a number of useful guides and videos on the FCA website, click the link on the left hand side of this slide.

From mid-June 2024, callers will need to verify using a one-time passcode sent by text message. The changes align our phone verification process with multi-factor authentication which was rolled out for FCA systems last year.

Date published: 30 May 2024

Update

Summary

Action for firms

[Firms to recommence GAP insurance sales following FCA action](#)

Firms that have resumed sales of GAP insurance have done so with materially lower levels of commission being paid out to those selling GAP, improving value for customers.

Following this action, customers purchasing GAP insurance can expect to receive better value cover which is suited to their needs, and receive better outcomes.

The FCA has agreed that the following firms can recommence selling GAP insurance:

Fortegra Europe Insurance Company Ltd
Motors Insurance Company Ltd
Amtrust Europe Ltd
Financial & Legal Insurance Company Limited

To restart sales, firms need to demonstrate that their GAP products provide fair value to customers, in line with FCA rules.

Date published: 21 May 2024

Update

Summary

Action for firms

[Change to the FCA Handbook](#)

For the insurance sector, there are no material changes to note, however firms should be aware that the FCA is looking to introduce annual consultation on TC and qualification requirements.

Read the Handbook Notes

Date published: May 2024

[FCA Update Information on Closed Products following 16th May Dear CEO Letter](#)

Firms should carefully consider the FCA definition of ‘closed books’ and in turn, appropriately document the internal decisions.

Firms must take action before the 31 July 2024 deadline.

Date published: 24 May 2024

Update

Summary

Action for firms

['Finfluencers' charged for promoting unauthorised trading scheme](#)

News this week that several reality TV stars have been charged with allegedly providing advice on buying and selling contracts for difference (CFDs) when they were not authorised to do so.

CFDs are a high-risk investment product used to bet on the price of an asset, in this case, the price of foreign currencies. It is also alleged that they were paid to promote the Instagram account at the heart of the case.

Firms need to be mindful of where they use influencers, and indeed influencers too, that they are not undertaking a regulated activity.

The FCA clarified its expectations for when firms and others, such as influencers, use social media to communicate financial promotions and address emerging consumer harm arising from the use of social media.

If you need any help understanding or implementing these rules please get in touch with one of the team today, we'd love to help you.

Date published: 16 May 2024

Update

Summary

Action for firms

[FCA 'Dear CEO' Letter](#)

Date published: 16 May 2024

The letter focuses on the next deadline of the Consumer Duty for closed products and services by 31 July 2024. The 'Dear CEO' Letter outlines the areas that firms need to focus on. The letter sets out the actions firms need to take which can be broadly summed up as follows;

1. gaps in firms' customer data
2. fair value
3. treatment of consumers with characteristics of vulnerability
4. gone-away or disengaged customers
5. vested contractual rights

If firms do not have closed products, they need to acknowledge it internally and file it away.

Firms must take action before the 31 July 2024 deadline.

[FCA Authorisations operating service metrics 2023/24 Q4](#)

Date published: 15 May 2024

The FCA performance shows 10 metrics are green, 6 are amber and none are red.

98.1% of applications across all metric areas were determined within the statutory deadline.

The regulator will publish our performance for the first quarter of 2024/25 in August 2024.

Update	Summary	Action for firms
Office of Financial Sanctions Implementation (OFSI) published a new set of Frequently Asked Questions (FAQs). <p>Date published: May 2024</p>	<p>The FAQs provide short-form guidance and technical information on financial sanctions.</p> <p>Via an accompanying blog (the Blog), OFSI states it will not generally accept individual requests for new FAQs. Instead, it will publish them on an as-needed basis, focusing on areas where new guidance would be beneficial to a substantial audience. OFSI has indicated that it will continue to work closely with the industry to identify issues where additional guidance would be beneficial and that it will announce any new FAQs via its E-Alert service.</p>	<p>OFSI strongly recommends reviewing the FAQs alongside their existing guidance and legislation, which take precedence.</p>
Changes in Companies House Fees - general increase <p>Date published: May 2024</p>	<p>This FCA information shows the individual firm data reported to the FCA by financial services firms for 2023 H2 between 1 July to 31 December 2023. It includes analysis on the latest trends for each product.</p> <p>The current data set was published on 19 October 2023 and covers complaints received up to 8 October 2023.</p>	<p>Familiarise yourself with the fees and how they are calculated.</p>

Update

Summary

Action for firms

Approach to Artificial Intelligence

Date published: 3 May 2024

On 22 April 2024, the Financial Conduct Authority (FCA) and the Bank of England (including the Prudential Regulation Authority (PRA), together the Bank) published updates on their approach to artificial intelligence (AI). The FCA's update is available [here](#) and the Bank's update is available [here](#).

Firms should now expect, where they are using AI, that they will need to be able to explain their use of AI to their regulators. This will involve explaining how risks associated with the deployment of AI have been identified, assessed and managed. The acid test is: if the regulator asks, do you have a convincing narrative about your approach to managing the risks associated with AI?

What do you need to do now?

- Understand, and be prepared to explain, how AI is being used at all levels of your business. This includes suppliers and outsourced service providers – are they using AI, and do you know about it?
- Understand how your legal and regulatory obligations interact with any existing or proposed use of AI in your business.
- Ensure that client and commercial data is protected – you will need to make sure you understand how your staff are using AI, and what systems and data their AI tools can access.
- Put in place and maintain robust governance arrangements, and systems and controls, to discharge your legal and regulatory obligations in connection with AI – this might involve, for example, the implementation of an "AI policy".

Update

Summary

Action for firms

[The European Union Artificial Intelligence Act \(the Act\)](#)

Date published: 3 May 2024

The European Union Artificial Intelligence Act (the Act) is the world's first comprehensive framework on Artificial Intelligence (AI). But what does the Act mean for insurers in the UK?

The Act introduces an AI classification system that determines the level of risk an AI solution could present to individuals. The four levels of risk classifications are:

- Unacceptable risk – Application of AI that is banned within the European Union (EU), for example social scoring and monitoring of people and AI which manipulates human behaviour or exploits people's vulnerabilities.
- High risk – Examples include AI that controls access to financial services, critical infrastructure or employment. High risk AI systems are subject to strict conformity assessment and monitoring. AI systems that profile individuals, for example that process personal data to assess various aspects of a person's life such as health or economic situation, interests or behaviour.
- Limited risk – Examples include chatbots. They are subject to specific transparency obligations. For example, users should be aware that they are interacting with AI. There are also requirements to ensure that AI generated content is identifiable.
- Minimal risk – Examples include spam filters and AI enabled video games. Minimal risk is unregulated.

How does it relate to UK firms?

A number of businesses and [insurers](#) operate in both jurisdictions. The Act applies to those that intend to place on the market or put into service AI systems in the EU, regardless of whether they are based in the EU or a third country. It also applies to third country providers where AI system's output is used in the EU.

The UK currently relies on existing insurance laws and regulations, which are broad enough to apply to new technologies. It has implemented a cross-sector and outcome-based framework for regulating AI, underpinned by five core principles:

1. Safety, security and robustness
2. Appropriate transparency and explainability
3. Fairness
4. Accountability and governance
5. Contestability and redress.

With the Act the EU is hoping to play a leading role globally. The UK is holding off introducing legislation until the challenges and risks of AI are better understood.

Update

Summary

Action for firms

[Financial Ombudsman - Fees and Budget Update 24/25](#)

Date published: 3 May 2024

What are key points for insurers?

The FCA will continue to embed the Consumer Duty and the focus on delivering good outcomes for all consumers.

Focus on ensuring products deliver value for money.

Key activities the FCA will start in 2024/25 are:

- Multi-firm work and market studies on how the [insurance industry](#) responds to claims, including where customers are more likely to show characteristics of vulnerability. The FCA will also look at how firms assess overall product value and respond where they identify unfair value.
- A review on how customers in vulnerable circumstances are treated.

The FCA is assessing the impact of AI on UK markets to better understand the risks and benefits. The FCA says: “We will build on our pro-innovation and technology-agnostic approach to ensure that the outcomes for consumers and markets are beneficial, while recognising there are risks and opportunities.”

Continue investigations on digital consumer journeys and firms using sludge practices.

What are key points for insurers?

- FOS intends to reduce its cost to the financial services industry. Its case fee will reduce from £750 to £650. The compulsory and voluntary jurisdiction levy costs to businesses will also reduce.
- FOS is now expecting to see 210,000 complaints (47,400 regarding insurance) during 2024/25; an increase from its previous expectation of 181,300 complaints (44,300 regarding insurance).
- FOS is still considering whether to exercise new powers granted under the Financial Services and Markets Act 2023 to introduce a fee for professional representatives bringing a case to its service on behalf of a consumer. It will publish a further consultation which will outline the feedback it has received on this topic and next steps, during the first quarter of 2024/25.

Update

Summary

Action for firms

Various FCA Upcoming Reviews

Date published: 3 May 2024

Insurance intermediaries: In May 2022 the FCA wrote portfolio letters to P&CLII and LLMI on key risks and notes that they will write again in 2024 to provide their updated view of the key risks firms in this portfolio pose, the extent to which these risks are being mitigated and their updated supervisory plan.

Vulnerable customers: The FCA intends to conduct a post-implementation review of FG21/1 in 2024 to test the effectiveness of firm's implementation and look at how this has impacted on outcomes for customers in vulnerable circumstances. It aims to publish a final report by end of 2024.

Multi-occupancy buildings: Legislation - Leasehold and Freehold Reform Bill - expected to be enacted which will ban managing agents, landlords and freeholders from taking commissions and other payments when they take out buildings insurance but replacing these with more transparent fees.

Update	Summary	Action for firms
--------	---------	------------------

Scotbeef Ltd v D&S Storage Ltd & Anor [2024] EWHC 341 (TCC) (20 February 2024) Date published: 30 April 2024	<p>The Insurance Act (2015) - In Scotbeef Ltd v D&S Storage Ltd (In Liquidation) [2024] EWHC 341 (TCC), the court considered the interpretation of various clauses purporting to be conditions precedent to liability in light of the Insurance Act 2015 (the IA 2015). The judgment is one of only a handful of cases to have considered the application of the IA 2015 and considers in particular s.9(2), which prevents representations being converted into warranties (and abolishes basis clauses), and ss.16 and 17, which set out the transparency requirements for parties to contract out of the policyholder protections. The court found that a misrepresentation by the insured which put the insured in breach of a condition precedent could not be relied on by the insurer because of the application of the IA 2015.</p>	<p>The case is also a useful reminder that the remedies for breach of the duty of fair presentation have changed significantly since the pre-IA 2015 position and that the onus is on the insurer to show what they would have done had there not been a breach.</p> <p>In this case although the court found that the duty had been breached, the insurer had no remedy as it did not show that the policy terms would have been altered if the risk had been properly represented.</p>
FCA - Firm Specific Complaints Data Date published: 25 April 2024	<p>This FCA information shows the individual firm data reported to the FCA by financial services firms for 2023 H2 between 1 July to 31 December 2023. It includes analysis on the latest trends for each product.</p> <p>The current data set was published on 19 October 2023 and covers complaints received up to 8 October 2023.</p>	<p>This information can be used to see examples of good complaint handling processes by firms.</p>

Update

Summary

Action for firms

[Artificial Intelligence \(AI\) update – further to the Government’s response to the AI White Paper | FCA](#)

Date published: 22 April 2024

The FCA issued an AI Update further to the Government’s response to the AI Whitepaper.

In the update the FCA have outlined their approach to AI and want to promote safe and responsible use of AI in the Financial Markets.

The update focuses on the FCA’s roles and objectives, work so far, existing approach, and plans for the next 12 months.

Firms should ensure that they have read the report and understand the FCA’s approach to AI in the Financial Markets.

[‘Big Tech a priority’ says FCA Chief Executive](#)

Date published: 22 April 2024

The FCA’s Chief Executive Nikhil Rathi delivered a speech announcing the FCA’s plans to examine how Big Tech firms unique access to large sets of data could unlock:

- Better products
- More competitive prices
- Wider choices for consumers and businesses

The FCA’s Big Tech Plans are included in a feedback statement to it’s call for input on data sharing between Big Tech and Financial Services Firms.

We recommend that firms have read the speech and understood the FCA’s focus on Tech and AI

Update

Summary

Action for firms

[Using the new Form A | FCA](#)

Date published: 12 April 2024

The FCA published changes to using the new form A.

They have incorporated a new version of form A

Some of the changes include:

- Adding questions of the right to work in the UK
- Removal of the send later function
- Improved virus scanning on attachments
- A checklist of information needed before you start the application
- Improved layout
- Easier navigation
- Improved help and guidance
- If you are a solo regulated firm, you will input 10 years of Employment history instead of uploading a CV.

Firms should read through the new Form A and ensure that they are clear on all the changes and how these affect the firm,

Your consultants are able to help if you have any questions or queries regarding the form.

Update	Summary	Action for firms
--------	---------	------------------

[Firm notification form \(SUP 15\) | FCA](#)

Date published: 2 April 2024

The FCA have issued the Firm notification form (SUP15)

Regulated firms and Insolvency Practitioners can complete this form to notify the FCA of an event that has occurred or will occur in the foreseeable future.

Principle 11 requires a firm to deal with its regulators in an open and cooperative way and to disclose anything relating to the firm of which they would reasonably expect notice.

To improve the efficiency of this process, they have created a new webform for Sup 15 notification submission. This asks for more details of the issue before firms upload their submission. This will allow the FCA to identify high-risk concerns which we may need to escalate promptly.

Firms should use it when submitting a Sup 15 notification.

We would like to remind firms of the SUP 15 process and the new web form, please ensure that you have familiarised yourself with this process.

Update	Summary	Action for firms
--------	---------	------------------

Complaints data FCA Date published: 25 April 2024	<p>The FCA have published this update on their Complaints Data.</p> <p>The latest findings:</p> <ul style="list-style-type: none"> • In 2023 H2, financial services firms received 1.87m complaints, a decrease of 1% from 2023 H1 (1.89m). Since the Payment Protection Insurance (PPI) peak in 2020, complaints have stayed relatively constant between 1.8m and 2m. • The product groups that experienced an increase in their complaint numbers were: banking and credit cards (up 3.2%), home finance (up 3.7%), and investments (up 3.4%). • The percentage of complaints upheld decreased from 61% in 2023 H1 to 58% in 2023 H2. 	<p>Firms should keep up to date on the complaints received, the causes of these, and ensure that they are aware of how these type of complaints could affect the firm.</p>
--	--	--

Update

Summary

Action for firms

<https://www.fca.org.uk/publication/consultation/cp24-9.pdf>

The FCA published the consultation paper CP24/9 on Financial Crime Updates.

Some of the key points:

Firms should keep up to date on the Financial Crime updates and the firm's responsibilities in relation to Financial Crime.

Date published: April 2024

- Sanctions: The updates to Chapter 7 will focus on enhancing firms' systems and controls for managing financial sanctions without referring to specific regimes. The key changes include:
 - Mandatory reporting of sanctions breaches.
 - Governance frameworks for oversight of sanctions controls.
 - Emphasis on management information to monitor sanctions controls effectively.
 - Guidance on assessing exposure to and preparation for potential sanctions.
 - Examples of expected practices using screening tools for sanctions compliance.
 - Integration of Customer Due Diligence and sanctions risk management.
- Proliferation Financing (PF) Revisions in Chapter 7.2 to incorporate PF risk assessment guidance and links to relevant resources, reflecting changes to the Money Laundering Regulations (MLRs).
- Consumer Duty: Integration of the Consumer Duty with financial crime controls, reminding firms to consider these duties together for products open for sale or renewal.

Legal Developments

Legal updates and developments are summarised below.

Update

Summary

Action for firms

[Project Angel Bidco Ltd \(In Administration\) v Axis Managing Agency Ltd & Ors \[2024\] EWCA Civ 446](#)

Date 8 May 2024

Court of Appeal dismissed the claimant's appeal, agreeing with the Commercial Court's earlier decision - that as the insured under a buy-side warranty and indemnity insurance policy, they had failed to show that an apparent inconsistency between the insured obligations and the policy exclusions was the result of a clear drafting error.

Commercial Court Decision: The Commercial Court sided with the insurers, stating no contradiction existed between the insured obligations and the ABC Exclusion Clause. The various parts of the W&I Policy, when read together, did not indicate an obvious error, and thus, no cover was provided for the ABC Warranties.

Readers may be interested in Lord Justice Lewison's Judgment and the court's decision to uphold the Commercial Court's decision, dismissing Project Angel's appeal.

Key Points for Drafting Warranty and Indemnity Insurance Policies also make for interesting reading.

[Norman Hay Plc vs Marsh Ltd Case](#)

Date 2 May 2024

Norman Hay Plc, a company with global operations requiring frequent business travel, retained Marsh Ltd to arrange non-owned auto insurance on a country-by-country basis for the policy year 2017/2018 and under a global liability programme for the policy years 2018/2019 and 2019/2020. Non-owned auto cover insures motor liability when cars are hired.

On 22 November 2018, Mr Nigel Kelsall, an employee of Norman Hay's subsidiary, Internationale Metall IMPragneier GmbH (IMP), was killed in a road accident in Ohio, USA, while driving a hire car without insurance. The other driver, Ms Sage, was seriously injured and sued Norman Hay and IMP, alleging negligence by Mr Kelsall. The case was settled with Norman Hay paying Ms Sage US\$5.5 million.

The Judge set out a series of actions to take note of;

1. Review Insurance Arrangements:
 - Ensure adequate coverage for all potential risks, especially for frequent business travel.
2. Document Decision Processes:
 - Maintain thorough records of insurance advice and decisions to support claims if disputes arise.
3. Legal and Regulatory Compliance:
 - Regularly review compliance with legal and regulatory obligations to avoid negligence claims.

Update	Summary	Action for firms
--------	---------	------------------

[On 29 April 2024, the EU published in the Official Journal a new Directive criminalizing sanctions violations, Directive \(EU\) 2024/1226](#)

Date May 2024

New EU Directive Criminalizes Sanctions Violations

The EU has published a new Directive that mandates Member States to criminalize certain intentional violations of EU sanctions. The covered offenses include making funds available to designated persons, failing to freeze assets, enabling entry of designated persons, and engaging in prohibited trade, financial services, or other services. It also criminalizes four forms of sanctions circumvention. Member States must punish inciting, aiding, abetting, and attempted violations. While allowing exemptions for low-value violations under €10,000, the Directive aims to achieve more consistent enforcement of EU sanctions across Member States.

Companies and individuals engaged in international trade or finance should review their compliance programs and procedures to ensure adherence to the new criminal sanctions regime across the EU.

Update	Summary	Action for firms
--------	---------	------------------

[High Court Holds That Limitation Clause Did Not Limit Primary Payment Obligation](#)

Date 14 May 2024

The High Court ruled that a broadly drafted limitation of liability clause did not cap the defendants' primary obligation to pay for goods received from Costcutter.

The defendants argued the clause limiting "total liability...arising out of any...breach of contract or otherwise" reduced their debt to zero. However, the court distinguished between primary obligations like paying for goods, and secondary obligations like damages for breach. It held limitation clauses only apply to limit secondary liability, not primary obligations to perform a contract's core duties, unless explicitly stated. Following the Supreme Court's guidance, the court was reluctant to find the clause excluded Costcutter valuable rights without clear wording.

This serves as a useful reminder of the difference between primary and secondary contractual obligations and the court's reluctance to infer that primary contractual obligations are limited by broadly drafted limitation of liability clauses.

This highlights that broadly worded exclusions are unlikely to limit core contractual payment obligations.

[Bellini v Brit: The Court of Appeal serves up a slightly sour COVID-19 decision](#)

Date 14 May 2024

The Court of Appeal ruled against the policyholder in a case involving a "Murder, suicide or disease" extension clause for business interruption coverage.

The key issue was whether the disease clause provided non-damage cover or required property damage, as defined in the policy. The court found that the clause's wording, when read objectively alongside the overall policy, clearly required property damage to trigger coverage. Despite potentially providing only limited additional coverage, the court held the clause was unambiguous and could not be re-written absent a drafting mistake.

This decision highlights the importance of carefully reviewing policy wordings, as endorsements may not expand coverage as intended if they incorporate requirements from the main insuring clause.

Update

Summary

Action for firms

[Project Angel Bidco Ltd \(in administration\) v Axis Managing Agency Ltd \(as representative of Syndicate 1686 at Lloyd's of London\) and other companies](#)

As seen from the case, definitions (and coverage) may change because of a single letter. Insurers should exercise care and caution in the drafting of policies as the English courts (and ones in other common law jurisdictions) are reluctant to step in to rewrite the contract (even when there is an apparent inconsistency). Instead, as seen from the Court of Appeal's judgment, the court's intervention is confined to very limited circumstances where there is an obvious drafting error and where the cure is equally obvious.

For Reinsurance clients

Date 9 May 2024

[Tyson International Company Ltd v Partner Reinsurance Europe SE](#)

The article discusses a legal dispute between Tyson and Partner Re over a reinsurance contract. Initially, they entered into a Market Reform Contract (MRC) on July 1, 2021, governed by English law and jurisdiction. Eight days later, Partner Re issued a Market Uniform Reinsurance Agreement (MURA) covering the same risks but with New York law and arbitration clauses.

For Reinsurance clients

Date 9 May 2024

The key question was whether the MURA superseded the MRC or was merely an administrative document. The Court of Appeal ruled that the MURA replaced the MRC, objectively analyzing the parties' actions and the MURA's terms, including an entire agreement clause stating it superseded prior agreements.

Despite the MRC being a valid contract, the court held that the parties intended to switch to the MURA, which resembled a binding reinsurance contract governed by New York law. As the judge quipped, "the parties began by playing cricket but then switched to baseball," referring to the change from English to New York law.

Update	Summary	Action for firms
Improving the quality of data on our registers Date 3 May 2024	From 4 March 2024, greater powers for Companies House to query information, stronger checks on company names, new rules for registered office addresses, and new lawful purpose statements.	We recommend that firms read and understand the related risks to their firm
Confirmation statement changes Date 3 May 2024	From 4 March 2024, new requirements to provide a registered email address and to confirm that the intended future activities of the company will be lawful.	
Changes to Companies House fees Date 3 May 2024	From 1 May 2024, increased fees to take new future expenditure into account, as well as making sure costs are recovered from existing expenditure.	
Identity verification Date 3 May 2024	Companies House will introduce a new identity verification process to help deter those wishing to use companies for illegal purposes. Anyone setting up, running, owning or controlling a company in the UK will need to verify their identity to prove they are who they claim to be.	Over the coming months, we'll explain when these changes will come into effect and how the identity verification process will work. You do not need to do anything yet.

Update

Summary

Action for firms

[Changes to accounts](#)

Date 3 May 2024

The measures set out in the Economic Crime and Corporate Transparency Act will improve transparency by making more financial information available to the public.

The new legislation lays the foundation for Companies House to require companies to file accounts in a digital format. To comply with these changes, all companies will need to find suitable software before web-based and paper filing options are no longer available.

This applies to directors who file accounts themselves, and companies who use third party agents or accountants to file their annual accounts.

We recommend that firms read and understand the related risks to their firm

[Protecting your information](#)

Date 3 May 2024

The Economic Crime and Corporate Transparency Act has introduced measures to prevent abuse of personal information held on the Companies House register.

One of the aims is to balance the need for corporate transparency with the understanding that personal information should only be published when it's necessary and proportionate to do so.

These measures will come into force over the next two years in a phased approach.

[Changes to limited partnerships](#)

Date 3 May 2024

Limited partnerships will need to file their information through authorised agents, and they'll need to file more information with Companies House.

This is for information only at this stage as these measures will need secondary legislation before they're implemented.

Update

Summary

Action for firms

[Improving transparency of company ownership](#)

Date 3 May 2024

Under measures introduced by the Economic Crime and Corporate Transparency Act, company ownership will be more transparent.

When the measures come into force, companies must:

- record the full names of shareholders who are individuals – or the full names of corporate members and firms – in their registers
- provide a one-off full shareholder list so Companies House can display shareholder information in a more user-friendly way

Companies House will:

- collect and display more information from companies claiming an exemption from providing person with significant control (PSC) details, including the reason for the exemption
- collect and display the conditions which allow a relevant legal entity (RLE) to be recorded as a PSC

We recommend that firms read and understand the related risks to their firm

[Investigation, enforcement and data sharing companies house](#)

Date 3 May 2024

The Economic Crime and Corporate Transparency Act will introduce a number of changes over the next few years. This page summarises everything you need to know about the new measures.

More effective investigation and enforcement powers for Companies House, and new powers to share data with law enforcement agencies and other government departments.

We recommend that firms read and understand the related risks to their firm

Update

Summary

Action for firms

<https://ondemand.questionmark.eu/delivery/open.php?session=0435667000435667&customerid=607443&name=TELLABAB&group=2024>

Date 26 April 2024

HMRC have created the Tell ABAB Survey 2024 to allow the Administrative Burdens Advisory Board (ABAB) to use insight from HMRC to inform small business services and make tax quicker and easier.

We would recommend that firms complete the survey.

[Company directors should consider company's nature-related risks \(including climate risks\): landmark English law legal opinion – CCLI](#)

Date April 2024

This article provides some Key takeaways on nature-related risks and directors' fiduciary duties in UK law:

- When exercising their duties to promote the success of the company, and to exercise reasonable care, skill and diligence, directors should approach identification and assessment of nature-related risks as they would any other type of risk.
- When conducting such an assessment, companies would be wise to apply a double materiality approach, in line with recommendations from the Taskforce on Nature-Related Financial Disclosures (TNFD) – i.e., identifying and assessing not only how nature-related risks may affect enterprise value (financial materiality), but also how their business activities impact and depend on nature (impact materiality).
- Directors who perform such an assessment, who actively consider nature-related risks, dependencies and impacts, and who document how they do so, are more likely to have discharged their duties than those who give those risks no consideration at all.

We recommend that firms read and understand the related risks to their firm.

Update

Summary

Action for firms

[Non-Financial Misconduct: How Your Organisation Should Prepare for Regulatory Reform and Mitigate Risk](#)

Date 18 April 2024

This article by Ankura, highlights the Non-Financial Misconduct consultation the FCA have been focusing on.

The FCA's September 2023 consultation paper proposes to explicitly include non-financial misconduct within the regulatory regime. Specifically:

- bullying within the workplace is relevant to fitness and propriety, as well as similar behaviour in a person's private life;
- clear conduct rules covering *serious instances* of bullying and harassment towards colleagues;
- to bring discriminatory practices (e.g., sexually, or racially motivated offences) and any adverse findings against associated individuals within the suitability criteria for firms.

We would recommend that firms read the consultation paper and are aware of the FCA's expectation in relation to Non-Financial Misconduct.

Update

Summary

Action for firms

[Protect the House New Criminal Offence Raises Risks Amid Accountability Crackdown](#)

Date 23 April 2024

This article by Latham and Watkins LLP, highlights the Enhanced Serious Fraud Office powers and promises of swifter action on economic crime underscore the importance of anti-fraud measures for sponsors and portfolio companies.

Since 2010 there have been a growing number of “failure to prevent” offences — which pass on criminal liability to organisations for wrongdoing by those working on their behalf. As liability can accrue from crimes committed by employees or agents working anywhere in the business, and at any level, even legitimate and sophisticated organisations have been caught out. Fines are potentially unlimited — last year, a fine of £465 million was imposed to settle an investigation into failure to prevent bribery.

In this environment, portfolio companies could face criminal liability if their personnel pay bribes, facilitate tax evasion, or commit fraud. While it is unlikely that a fund would be held liable for criminal conduct committed by a portfolio company itself, the test for the new “failure to prevent fraud” offence is nuanced and fact-specific; it warrants careful consideration in the context of each sponsor/fund structure.

We would recommend that firms read this article and are aware of the expectation in relation to bribery, liability, and failure to prevent fraud.

Update

Summary

Action for firms

[Changes at a glance](#)

Date April 2024

The Government have issued their list of changes.

The Economic Crime and Corporate Transparency Act will introduce a number of changes over the next few years. This page summarises everything you need to know about the new measures.

Some of the changes include:

- Confirmation Statements
- Changes to Companies House Fees
- Changes to Ltd Partnerships
- Investigation and Enforcement Data Sharing

We would recommend that firms read the changes and are aware of how this effects then firm.

Events

Other details: n/a



RR Compliance Associates are a trading style of R&R Compliance Consultants Ltd, a limited company registered in England and Wales (company number 12070286). Our registered office is Level 30, The Leadenhall Building, 122 Leadenhall Street, London, England, EC3V 4AB. VAT number 326 1938 96.



www.rrcompliance.com



contact@rrcompliance.com



0203 488 4322