

FCA Business Plan 2023/24

Introduction

On 5 April 2023, the FCA published its 2023/24 business plan setting out its strategy for the year ahead (the Plan). The Plan should be read alongside the Financial Conduct Authority's (FCA) three year strategy document, which was published on 7 April 2022.

The most notable announcement in the plan is the creation of a new Interventions team within Enforcement specifically for Consumer Duty. This function will be operational from August 2023 to enable rapid action where immediate consumer harm is detected.

Although its three-year strategy remains unaltered, with delivery across 13 commitments, the FCA has decided to invest further in the four commitments it has identified as critical in the next 12 months.

1. Putting consumers' needs first

The FCA will continue to prioritize protecting people from unfair treatment, with more staff being allocated to ensure firms support consumers who are struggling financially. Further, the FCA has committed to providing additional resource (£5.7m) to ensure that Consumer Duty is embedded effectively. Here the FCA has (again) dangled the carrot of a 'more simplified approach to regulation.'

2. Preparing financial services for the future

The FCA will continue its urgent work relevant to the new Future Regulatory Framework (FRF) and Edinburgh Reforms, which will help support the UK's wider economic growth and international competitiveness. More than £12m will be invested to prepare for the FRF, including the orderly movement of firm-facing requirements in retained EU law into the FCA Handbook. Critically, and likely to be welcomed by the industry, a new cost benefit analysis panel will also be established to support the effectiveness of the FCA's programme of work.

3. Strengthening the UK's position in global wholesale markets

Alongside continuing regulatory reform in secondary markets and of the Listing regime, the additional funding for this commitment will be focused primarily on strengthening the FCA's capability and capacity to predict and react to events in global markets, including heightened volatility.

4. Reducing and preventing financial crime

The FCA continues to look for innovative ways of reducing and preventing financial crime, which harms confidence and integrity in the UK market and puts consumers' money at risk. Initiatives include a strengthened authorization process, increased covert capabilities to identify and

disrupt fraudsters, improved assessments of firms and more staff to investigate and prosecute offenders.

Specific Challenges

The FCA also identifies specific challenges for the year ahead:

Key Uncertainties

The FCA expects the economic and geopolitical environment to remain highly uncertain over the year ahead and has flagged the following specific uncertainties:

Interest rates and inflation.

The risk that unemployment increases more than currently projected.

Potential for further declines in real household disposable incomes.

Potential for further market volatility.

Wholesale markets

Although wholesale markets have recovered from gilt market volatility and the impact on pension funds in the autumn, the FCA will remain alert to potential problems and be ready to act (as firms will need to be) if necessary, to manage heightened operational and market risks.

Cost of living and Consumer Duty

Rising interest rates and inflation have contributed to an increase in the number of people stretched financially and many consumers face significant financial pressure. The FCA will identify and track early indications of problems to enable it to respond proactively.

The FCA has three key focus areas:

- Reducing and preventing serious harm
- Setting and testing higher standards
- Promoting competition and positive change

Focus 1: Reducing and preventing serious harm

Reducing and preventing financial crime

There will be an increase in the number of firm-level anti-money laundering (AML) reviews performed as well as greater use of data analytics to try and identify suspicious activity.

Delivering assertive action on market abuse

The Market Surveillance Refresh project is expected to deliver improvements in the FCA's ability to spot market abuse concerns.

Dealing with problem firms

The plan uses some high-level language about moving harder and faster to tackle problem firms but there is little detail provided. It does suggest that Threshold Conditions will be used more frequently as the basis for banning firms, i.e., rather than poor conduct leading to censure the general ‘unsuitability’ of the firm’s business model or management team will be used to justify action.

Improving the redress framework

There will be a consultation on rule for redress calculations and a review of whether SMEs should be eligible to take cases to the Financial Ombudsman. There will also be proposals for upgraded requirements on complaints reporting.

Reducing harm from firm failure

The only initiative of note here is the planned introduction of a new regulatory capital return which will apply to some 20,000 regulated firms currently subject to limited reporting on their financial resilience.

Improving oversight of Appointed Representatives (AR)

There will be supervisory activity to test compliance with recently introduced rule changes applying to ARs.

Focus 2: Setting and testing higher standards

Putting consumer needs first

The focus here is on implementing the Consumer Duty, critically now described as ‘Consumer Duty and cost of living’, indicating that the Duty is the lever the FCA expects to use to influence outcomes for customers impacted by the cost-of-living crisis. Other initiatives referenced include a review of debt advice rules and a review of rules for handling borrowers in financial difficulty.

Enabling consumers to help themselves

This references the (relatively minor) changes to the financial promotions regime already announced.

A strategy for positive change: environmental, social and governance (ESG) priorities

Minimizing the impact of operational disruptions

There will be more supervisory work with firms on operations resilience arrangements as well as work with the Bank of England and PRA on new rules for oversight of critical third parties.

FCA’s ESG strategy, particularly promoting trust in ESG product marketing and disclosures

This covers the upcoming Sustainability Disclosure Regime for investment funds as well as the expected consultation on broader rules on ESG.

Focus 3: Promoting competition and positive change

Preparing financial services for the future

This covers work to implement the Future Regulatory Framework and also a commitment to develop an improved approach to cost benefit analysis in FCA rules development.

Strengthening the UK's position in global wholesale markets

Not much mention of reducing the regulatory burden here, the activities described are increased use of technology to oversight UK markets and make it simpler for firms to meet their regulatory reporting obligations.

Shaping digital markets to achieve good outcomes

This will be a slow burn, with follow-ups planned to the discussion papers on big tech and artificial intelligence (AI) as an approach to regulation in these areas evolves.

Regulatory Fees

The FCA has also published the consultation on its fees and levies for the year ahead. In recognition of the pressure firms are under, it proposes to freeze application fees, and the minimum fees paid by firms

Regulatory Change

The FCA will work closely with stakeholders on delivering the outcomes of the future regulatory framework and the Edinburgh Reforms. Amendments to the fund regulatory framework should be expected following the publication of its discussion paper in February 2023.

Should you have any questions or require further advice on the impact of the Business Plan on your business, please contact a member of our team.