THE YEAR AHEAD: THE FINANCIAL CONDUCT AUTHORITY'S AMBITIOUS ENFORCEMENT PLANS FOR 2024/2025

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In 2022, for the first time, the Financial Conduct Authority (FCA) published a three-year strategy setting out three key themes for promoting positive change, namely: (1) reducing and preventing serious financial harm and crime, (2) setting and testing higher standards, and (3) promoting competition and positive change with greater regulatory openness. The FCA pledged to fulfil 13 public commitments centred around its key themes. Each of these commitments entailed specific actions and objectives, which the FCA has sought to achieve over the last 24 months.

The strategy is now in its final year, and the FCA is focused on completing a strong final stretch. To this end, the regulator recently published itsBusiness Plan for 2024/25 (the Business Plan), which sets out challenges, areas of focus, and plans for delivering on its commitments over the next 12 months. In this alert, we explore the regulator's key aims from an enforcement perspective and the steps mapped out over the next year to help tackle financial crime.

REDUCING AND PREVENTING SERIOUS FINANCIAL HARM

'Focus 1' of the FCA's three-year strategy is the reduction and prevention of serious financial harm. The FCA recognizes that whilst only a small proportion of authorized firms cause life-changing harm, it can and does happen very quickly. The following are six of the commitments that the FCA has pledged to deliver on, which focus on protecting consumers by mitigating, and, where possible, preventing harm:

1. Dealing with problem firms faster and increased early intervention.
2. Improving the redress framework and firms' financial resilience so that they can cover a large portion of their redress liabilities without needing to rely on the Financial Ombudsman Service or the Financial Services Compensation Scheme.
3. Reducing harm from firm failure, including the FCA being more assertive with its powers to start insolvency processes to ameliorate harm.
4. Improving oversight of appointed representatives, and the FCA using more assertive supervision regarding high-risk principals through both regulatory tools and appropriate enforcement action.
5. Reducing and preventing financial crime, including greater scrutiny on firms by the FCA and requiring them to have robust financial crime systems and controls in place. The FCA made it clear that it will not

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hesitate to use its enforcement powers to pursue and sanction those committing, or facilitating, financial crime.

6. Delivering assertive action on market abuse, including ensuring firms and issuers adequately protect inside information and disclose it to the market in an accurate and timely way when required. The FCA also recognizes the importance different data, intelligence, and artificial intelligence (AI) tools will play in detecting and disrupting market abuse.

TACKLING FINANCIAL HARM IN 2024/25

The FCA's Business Plan for 2024/25 makes it clear that the key priority from an enforcement perspective is its aforementioned commitment to reduce and prevent financial crime.

The Business Plan sets out the desired outcomes that will drive the FCA's approach towards tackling financial crime over the next 12 months, namely:

- Slowing the growth in investment fraud victims and losses.
- Slowing the growth in authorized push payment fraud cases and losses.
- Reducing financial crime by lowering the number of money-laundering incidents in FCA-authorized firms and improving the effectiveness of supervision by professional body supervisors.

To achieve these outcomes, the FCA will dedicate itself to commencing, and continuing with, the following workstreams throughout 2024/25:

- Investing more in its systems so that intelligence and data is used more effectively within its financial crime work. This will help ensure the FCA has adequate resources to target higher risk firms and activities.
- Using its powers more widely to disrupt, pursue, and sanction those committing and enabling financial crime.
- Focusing on unauthorized financial promotions by increasing its identification capabilities and requesting that they are removed from platforms, associated websites, and social media accounts.
- Continuing to raise awareness of fraud through ongoing campaigning initiatives.
- Actively engaging with partners, including the National Economic Crime Centre, to strengthen the system-wide response to financial crime.
- Expanding its intelligence-gathering capabilities and analytics to better spot and track potentially fraudulent activity and to reduce the average amount of money lost to scams.
- Proactively assessing anti-money laundering systems and controls implemented by firms considered to be higher risk.
- Using data to target the firms that are more susceptible to receiving the proceeds of fraud and ensuring that they do more to crack down on the flow of illegitimate funds.

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- Strengthening its overall supervision of firms' sanctions systems and controls.

WHAT THIS MEANS FOR YOU

The FCA's Business Plan, with its associated goals, demonstrates the regulator's determination to deliver on its overall three-year strategy. Looking critically at the substance of the Business Plan and the workstreams identified by the FCA to foster the reduction and prevention of financial harm, we envisage the next 12 months to be a period ripe with changes in the enforcement sphere.

To begin with, firms are likely to experience more assertive supervision and enforcement in the FCA's stated focus areas, particularly with regards to money laundering and fraud. It is no surprise that these financial crimes have received granular attention, particularly fraud, given the new corporate criminal liability for failing to prevent fraud, which was introduced in October 2023 under the Economic Crime and Corporate Transparency Act (for more information on the Economic Crime and Corporate Transparency Act, see our latest alert here). Accordingly, firms would be well-advised to ensure their systems and controls are enhanced in these fields well in advance of any potential regulatory scrutiny.

With regards to money laundering in particular, firms should prepare for proactive assessments of their Anti-Money Laundering (AML) systems and controls, especially those operating in higher-risk markets. Firms must ensure their financial crime controls keep pace with business growth and must risk-assess their own and their clients' activities properly. Inadequate resourcing and assessments in this regard could lead to an increase in regulatory and enforcement action, as the FCA warned in its recent market update. Moreover, the Business Plan's notable focus on AML related risks potentially foreshadows upcoming reforms to the UK's anti-money laundering framework. HM Treasury consulted on reforms in this area in June 2023 and is expected to publish decisions by the summer of 2024. As well as ensuring suitable oversight practices are in place, firms must therefore be receptive to impending regulatory reforms in this area and any associated further requirements spelt out therein.

Firms should ensure they are able to evidence how they can, and will, remain resilient in the face of challenges and ensure that they have robust wind-down plans in place. They must be able to better demonstrate how they can protect consumers' assets in the event of disruptions, particularly disruptions stemming from criminal activities, and swiftly recover from any disruptions. An absence of effective systems and controls in this regard exposes customers to significant and unacceptable levels of financial harm. To this end, we expect to start witnessing an increasing number of firms being refused authorization at the gateway, or the FCA more readily cancelling and withdrawing permissions, if such firms cannot demonstrate an ability to withstand disruptions and remain operationally resilient. In addition, for noticeably problematic firms, the FCA could take this one step further and begin using their powers more widely to instigate insolvency proceedings.

What is evident from the Business Plan is that two of the core pillars supporting consumer protection and the reduction of financial harm are data analytics and technology investments. The FCA see intelligence-gathering capabilities and analytics as the way forward in identifying, disrupting, and mitigating financial crime, particularly fraudulent, terrorist financing and sanction related activity. We expect to see the FCA investing a huge amount of its resources in the field of AI over the upcoming year with new tools potentially on the horizon.

Finally, the FCA is committed to delivering assertive action on market abuse. To this end, firms and issuers of securities should expect greater scrutiny of their market abuse practices and controls surrounding inside

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information. In keeping with the above, we also expect to see the FCA upgrading its market surveillance systems and the way it tracks evolving markets by branching into the field of AI. There may also be increased use of criminal and civil sanctions for market abusers to help deter future conduct.

HOW WE CAN HELP

The strategic priorities laid down by the FCA in its Business Plan suggest that the year ahead could be one of notable enforcement developments as the regulator strives to get its three-year plan across the finish line. Our Policy and Regulatory team is well equipped to advise on how best to prepare for the FCA's new approach and how to navigate any potential issues your business may face. If you have any questions about the matters in this briefing, please do not hesitate to contact us.

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