Insights: The Financial Conduct Authority's Business Plan – Priorities for 2020/21

Overview

On 7 April 2020, the UK Financial Conduct Authority ("FCA") published its Business Plan 2020/21 which sets out its key priorities over the next three years and its planned activities for 2021. The FCA's ongoing response to Covid-19 - with its main objective of protecting consumers from harm - is the headline.

Aside from Covid-19, a key theme throughout the plan is a heightened consumer-outcome focus. This includes the need to address continuing harm from existing poor practices and a focus on: affordability; poor value or risky products; safe and accessible payments for customers and fair value in the digital age. The Business Plan provides a strong indication of the FCA's continued shift away from rules and process towards a greater focus on principles and outcomes. As such, firms can expect culture and rationale for new and existing products to be scrutinised from a customer perspective.

Firms should also see an emphasis on areas that have a broad market impact putting Brexit, climate change, innovation and technology, operational resilience, financial crime and culture in financial services at the heart of the FCA's "cross-cutting" work.

From an enforcement perspective, the FCA confirms that it will investigate where it is suspected that "serious misconduct" has occurred and take enforcement action *"where necessary"*.

Covid-19 response – "Dealing with enormous uncertainty"

Over the past month, and prior to publishing its Business Plan, the FCA has been extremely active in taking action and issuing guidance to firms on matters relating to Covid-19 (e.g. ensuring payment holidays across several types of consumer credit and setting out clear expectations for general insurance providers) and has a dedicated section on its website relating to this. The FCA's main priorities relating to Covid-19 are to ensure that financial services businesses give customers the support they need, that people don't fall for scams, and that financial services businesses and markets know what is expected of them. Much of this is indicative of the FCA's broader aim in the Business Plan to prevent harm and safeguard consumers' financial wellbeing. However, the Business Plan recognises that Covid-19 has made the FCA's own planning harder and that it may be months before it can focus fully on the core activities set out in its plan.

In its plan, the FCA emphasises that it will continue to:

- Work with the industry and do all it can to support firms who are doing the right thing for consumers and markets;
- Remain vigilant for potential misconduct ; and

- Keep its plans updated, informing stakeholders and updating its website in a timely manner given the "enormous uncertainty" about the size and nature of potential damage arising due to Covid-19.

There is a particular warning shot of enforcement action, promising to *"clamp down with all relevant force"* where it finds poor practice (including market abuse, capitalising on investors' concerns or reneging on commitments to consumers), citing that the FCA is working with a range of partners including other regulators, law enforcement and consumer groups to raise awareness of the increased risk of scams.

Key priorities over the next 1-3 years

The FCA has identified 4 "external priorities" and its own transformation as its 5 priorities over the next 1-3 years.

1. Transforming how the FCA works and regulates

The FCA describes this priority as a "foundation" to enable it to deliver its external priorities better. Its key outcomes in this area include:

- Making faster and more effective decisions
- Prioritising end outcomes for consumers, markets and firms
- Intelligence and information
- Influence internationally on issues that affect UK markets and consumers

These embody the FCA's ongoing transition towards "outcomes-based" regulation and working in a more integrated way as "One FCA". Firms will be expected to take the end outcomes for consumers and markets into greater account when they design and deliver services – interestingly, the FCA has promised to be clearer with firms about the outcomes that it expects them to achieve. The FCA's approach will also be shaped by its use of information, including its Data Strategy[1], as it seeks to capitalise on information and intelligence that it already receives about the markets, firms and individuals (including customers). Firms will also see their data and regulatory reporting burden streamlined.

2. Enabling effective consumer investment decisions

The FCA has identified a significant risk of harm in pensions and retail investments markets, in part driven by the shift to Defined Contribution (DC) pensions and the Government's 2015 pension freedoms. It is targeting 3 outcomes:

- Ensuing that investment products are appropriate for consumer needs
- Ensuring that consumers have sufficient advice and support to enable them to make effective decisions about their investments
- Ensuring firms and individuals operate under high regulatory standards and act in consumers' interests

[1] As updated in January 2020, which builds on its original Data Strategy published in September 2013

The FCA is seeking to give consumers more effective investment choices in a fair market and is keen for consumers to have access to high-quality advice and support, and be aware of how to protect themselves from scams and fraud. The FCA will place a greater focus on the design of products at their inception, as well as the way that products are marketed, meaning that firms will need to look substantially beyond the existing suitability framework set out in the Conduct of Business Sourcebook ("COBS") at the point of KYC/new product approval/transacting. The FCA is also consulting on a "consumer harm campaign" in the retail investments area (on the basis of recovering costs from fee-payers).

3. Ensuring consumer credit markets work well

The FCA's key outcomes in this area include ensuring that:

- Consumers can find products that meet their needs
- Consumers do not become over-indebted by being given credit they cannot afford
- Affordable credit is available to smooth expenditure
- Consumers can take control of their debt at an early state when they call into financial difficulty

This had already been a significant focus of the FCA over the last year[2] and will include assessment of the suitability of customers' creditworthiness assessments, monitoring the amount of over-indebted customers and volume of arrears and defaults in key markets.

4. Making payments safe and accessible

The FCA plans to work with the Payment Systems Regulator, the Government, Bank of England and other regulators on the following key outcomes:

- Ensuring that consumers transact safely with payment firms
- Payment firms meet their regulatory responsibilities while competing on quality and value
- Consumers and SMEs have access to a variety of payment services

5. Delivering fair value in a digital age

The FCA's key outcomes in this area include:

- Consumers being able to choose from products that meet their needs, at a suitable quality and price
- Digital innovation and competition supports greater value for consumers
- Ensuring that vulnerable consumers are not exploited or targeted with poor value products and that services and access to key products and services is fair

[2] Such as the rules introduced in 2019 following its High-Cost Credit Review and work on overdraft charges (PS19/16)

The FCA is currently working on an approach to assess fair value for consumers based on objective measurements and metrics, supported by its Data Strategy. It is expected to look at the rate of product switching by customers (or lack thereof), but it remains to be seen how effectively these outcomes can be assessed on a data-driven basis.

Cross-cutting

The FCA has identified the following sectors as areas that have a broad market impact: EU withdrawal, climate change, innovation and technology, operational resilience, financial crime and culture in financial services. Much of its work in these areas will be forward-looking, including:

- Deepening engagement on artificial intelligence and machine learning
- Replacing its Gabriel system with a new platform to collect firms' data
- Setting new requirements to strengthen operational resilience[3]
- Make greater use of data to identify firms or areas that are potentially vulnerable and take enforcement action where serious misconduct is uncovered, particularly where there is a high risk of money laundering (This is in keeping with the investment the FCA has already made in technology over the past year in order to transform how it operates and regulates as it enters the new decade)
- Ensuring that all solo-regulated firms comply with the requirements of the Senior Management and Certification Regime ("SM&CR") as they fall due
- Focusing on the 4 key culture drivers in firms – purpose, leadership, approach to rewarding and managing people and governance

Sector work

The FCA remains focused on regulating conduct across the entire financial services sector (i.e. wholesale financial markets, investment management, retail banking and general insurance and protection ("GI&P")). Across these areas there is a desire to ensure that customers get high-quality and fair value products, as well as more specific aims, including:

- An orderly transition from LIBOR in wholesale markets before the end of 2021 and to treat customers fairly in the process
- Markets remaining orderly and meeting users' needs (with a more risk-sensitive prudential regime expected to be introduced for investment firms in 2021)
- Reducing the scope for of market abuse and financial crime (which includes ensuring "clean markets" and building greater resilience to economic crime in retail banking, through firms sustainably improving their systems and controls)
- Customers taking out GI&P products and services that are suitable for their needs and deliver on their promises at the time of the claim (with the FCA continuing to assess firms' performance on value measures, renewals and switching)
- The GI&P sector being operationally resilient, supplying important products and services with minimal disruption to customers and markets

[3] Following its joint consultation with the Bank of England last year (CP19/32)

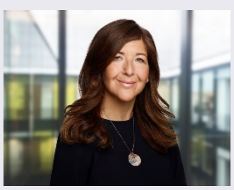
FCA's budget

Overall, there are no significant changes in the FCA's budget and annual funding requirement (which has increased overall for this coming year by 5.2% against 2019/20, mostly reflecting costs associated with its transformation and the EU withdrawal). Relatedly, the FCA has stated in its Fees Consultation Paper (CP20/6) that the 71% of firms that currently pay minimum fees will see those fees frozen and will be given until the end of 2020 to pay such fees.

Conclusion

It is unsurprising that, given the Covid-19 uncertainty, the FCA has flagged that updates to this Business Plan may be required over the coming months as priorities may change. Firms should continue to (i) stay up to speed with the almost daily new guidance that is coming from the FCA and other regulators in relation to Covid-19 and (ii) put its customers at the heart of its decision-making.

CONTACT



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