

# The FCA's aims and activities

## LEARNING OBJECTIVES

From this topic onwards, our focus changes to the regulation of the financial services industry. We begin with an overview of the role of the Financial Conduct Authority (FCA).

By the end of this topic, you should have an understanding of the:

- changes to regulatory bodies in the aftermath of the 2007–09 financial crisis;
- role and powers of the FCA;
- main sections of the FCA Handbook;
- Principles for Businesses;
- fair treatment of customers.

This topic covers Unit 2 syllabus learning outcomes K1.1–K1.3, K1.6, K2.3 and part of K2.6.



## THINK ...

The need to comply with regulation affects every aspect of an adviser's work. Even the fact that you are studying this qualification may be as a result of regulatory requirements! If you are already working in an administrative or paraplanner role in a financial services business, you might be familiar with some FCA requirements. For example:

- What kind of information must be provided to a client before and after a meeting?
- What kind of records of transactions must be kept, and for how long?

If you aren't yet working in the sector, you might have heard or seen references to the FCA or PRA in the media.

## **17.1 Introduction**

Many people believe that, as commercial organisations have grown through mergers and acquisitions, they have become more remote from their customers and more concerned with their own financial results than with customer satisfaction. This belief is reflected in the emergence of government-sponsored organisations, such as the Competition and Markets Authority (CMA), consumer bodies such as Which?, and websites such as Money Saving Expert.

One of the primary objectives pursued by most modern governments is an economic and legal environment in which a balance is established between the need for businesses to make a profit and the rights of customers to receive a fair deal. This has led to the regulation, to some degree, of most industries in the UK. At the same time, the government recognises the right of companies to make a profit and does not want rules and regulations to become a burden that prevents this. Indeed, the government recognises that it is essential that companies be permitted to make a reasonable profit; it would otherwise be impossible to attract the investment that sustains the industries on which the UK economy depends.

Because the financial services industry deals with money – vital both to individuals and to the national economy – it has become one of the most regulated sectors of all. In the context of financial services, key aims of regulation include:

- ensuring that those businesses operating in the industry are authorised to do so and conduct their business in a manner that ensures the fair treatment of their customers;
- ensuring that businesses have the necessary financial arrangements in place to minimise the risk of loss to their customers;
- establishing and understanding accountability at a senior level within financial service organisations;
- ensuring that individuals carrying out defined regulated activities have the competence and capability to do so;
- the ongoing development of the skills and knowledge of individuals working in the industry;
- ongoing supervision to ensure that regulatory requirements are adhered to and to try to prevent problems;
- actions to be taken when problems arise.

**KEY TERMS****REGULATION**

The body of rules created by the various regulatory bodies, to which participants in the financial services industry must adhere.

**SUPERVISION**

The range of activities undertaken by regulators to ensure that participants adhere to the regulatory requirements.

**PREVENTION OR CURE?**

Although governments try to foresee problems and to introduce legislation as a means of 'prevention rather than cure', most regulatory legislation in the past has been reactive rather than proactive, ie it has been passed in response to problems, rather than designed to foresee and prevent them. Legislation has often resulted from:

- **Particular scandals or crises** – for example, the events leading up to the credit crisis from 2007. This showed the need for more diligent financial regulation of banks and for tighter rules on lending activities.
- **An increase in consumers' financial awareness and a demand for a more customer-focused business approach** – demands for a 'one-stop shop' approach to financial services sales were instrumental in the deregulation of banks and building societies.
- **The need to respond to changes in lifestyle** – more relaxed attitudes to marriage and divorce have led to a strengthening of the rights of divorcees to share in former spouses' pension benefits; the introduction of marriage for same-sex couples and civil partnerships has extended the scope of some tax benefits and other financial and state benefits.
- **Developments in business methods** – technological advance in particular has transformed business processes at every level of the sector; for instance, many customers of banks and building societies now carry out many of their transactions electronically and rarely visit a branch office.

- **Innovation in product design** - rapid expansion has been seen in the ranges of certain products, particularly in mortgage business and, more recently, in the pensions arena in response to freedoms introduced in 2015. This has made it more important than ever that a consumer should be provided with sufficient clear information about the features and benefits of the products they are buying.
- **The increasing number and complexity of financial products** has made it necessary to provide customers with more information and advice.

## **17.2 How did regulation change after the financial crisis?**

The financial crisis of 2007-09 was essentially caused by a failure of prudential regulation. A number of firms were found to have inadequate management systems and financial safeguards. Events leading up to and after the crisis led to concerns about the effectiveness of the industry's regulator, the Financial Services Authority (FSA), and its ability to prevent and then deal with a similar situation in the future.

In the years following the financial crisis there have been a number of issues related to the conduct of firms in the financial services sector, including the mis-selling of payment protection, the Libor rate-fixing scandal and the sale of interest rate hedging products to corporates.

These concerns resulted in the Financial Services Act 2012, which modified the Financial Services and Markets Act 2000 to enable changes to the regulatory system to be made under existing legislation. The Act saw the creation of a number of new regulatory bodies and the abolition of the FSA, with many of its powers handed to the Bank of England. Most of these changes came into effect on 1 April 2013.

In 2016, the Bank of England and Financial Services Act 2016 made further changes to the regulatory architecture by strengthening the governance and accountability of the Bank, ending the subsidiary status of the PRA and establishing a new Prudential Regulation Committee (PRC), which makes the PRA's most important micro-prudential decisions. These changes also include allowing the National Audit Office to undertake value-for-money reviews of the Bank for the first time.

- The **Bank of England** is responsible for protecting and enhancing monetary and financial stability, aiming to maintain economic stability. The Bank has a central role in the regulation of financial services in the UK. It was also responsible for payment systems, settlement systems and clearing

oversight, but from April 2015 these responsibilities passed to the Payment Systems Regulator.

- The **Financial Policy Committee (FPC)** is a committee of the Bank of England. The FPC looks at the economy in broad terms to identify and address risks that may threaten the stability of the whole (or large parts of the) economy. The FPC has no direct regulatory responsibility for particular sectors of the financial services industry, but has various powers to take action where it sees threats to economic stability.
- The **Prudential Regulation Authority (PRA)** has sole responsibility for the day-to-day prudential (financial) supervision of banks and other financial institutions. The PRA sits within the Bank of England, although it is operationally independent. The PRA authorises large, systemically important providers of financial services such as banks, insurance companies and building societies.

#### KEY TERMS

##### CONDUCT REGULATION

Regulation requiring firms that provide products and services to consumers to ensure that those products and services meet the consumer's needs, and to act appropriately and to deal fairly with consumers.

##### PRUDENTIAL REGULATION

Regulation aimed at ensuring that a business is established and run on a sound financial basis. This aims to limit the risk of that business failing and, if a failure does occur, to limit any adverse impact on consumers and the wider economy.

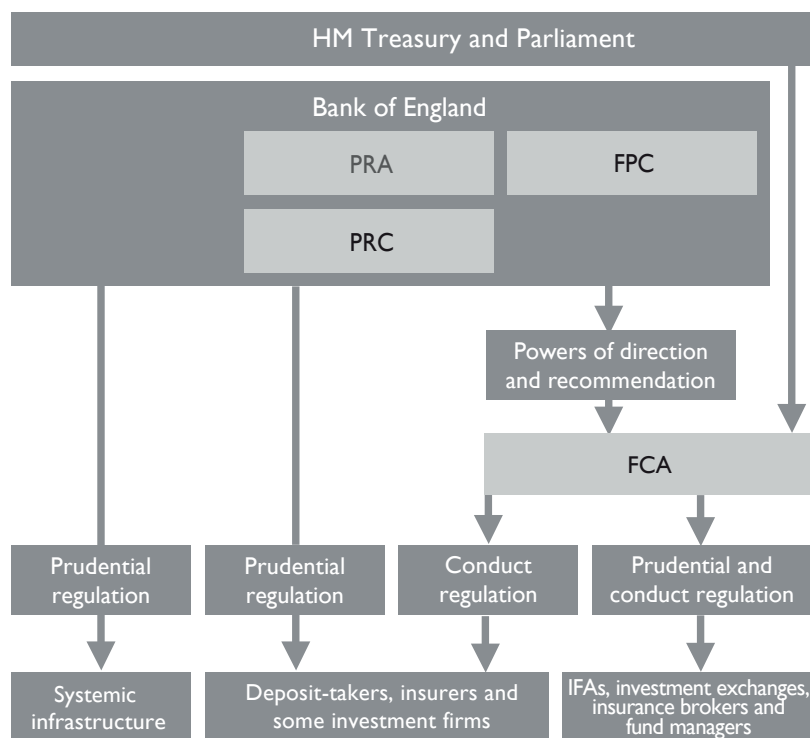
##### SYSTEMICALLY IMPORTANT PROVIDERS

Providers whose failure would have a significant adverse impact on the national or global financial system. Generally these would be providers with a large customer base.

- The powers of the PRA are exercised by the **Prudential Regulation Committee (PRC)** which is also within the Bank of England. The PRA's primary objective is to promote the safety and soundness of the firms it regulates. It has further objectives to secure an appropriate degree of protection for insurance policyholders, to facilitate effective competition and to facilitate the UK economy's international competitiveness and its growth over the medium to long term, subject to alignment with international standards.
- The **Financial Conduct Authority (FCA)** has responsibility for the conduct of all retail and wholesale financial firms. The FCA also undertakes

prudential supervision of firms that are not regulated by the PRA. The FCA is a quasi-government department with statutory powers given to it under the Banking Act 1987, the Financial Services and Markets Acts 2000 and 2023, and the Financial Services Act 2012 (the Act that created the FCA).

**FIGURE 17.1 THE UK REGULATORY STRUCTURE**



### **17.3 What is the Financial Services and Markets Act (FSMA) 2023?**

In addition to the secondary regulatory objective of international competitiveness and growth we have already touched on in Topic 2, the FSMA 2023 introduces (among other measures):

- **A smarter regulatory framework:** the Act enables retained EU law on financial services and markets to be revoked and empowers HM Treasury to make regulations either restating or amending that law in line with the needs of the UK.
- **The Designated Activities Regime (DAR):** a UK regulatory regime for financial activities previously covered by EU regulations, eg short-selling.
- **Oversight of critical third parties (CTPs):** the regulators now have limited oversight of certain ‘critical’ or systemic non-regulated businesses which financial services firms rely on, eg IT and cloud service providers.
- **Digital settlement assets (DSAs):** the Act allows HM Treasury to bring DSAs (eg cryptoassets and stable coins) under financial regulation.

- **A financial promotions gateway:** regulated firms wanting to approve financial promotions for non-regulated businesses now have a new gateway to do so.
- **Improved access to cash:** the FCA has a new duty to ensure UK current account customers can access their cash for free (on withdrawals and deposits).

### FACTFIND

For a more detailed summary, you can visit:

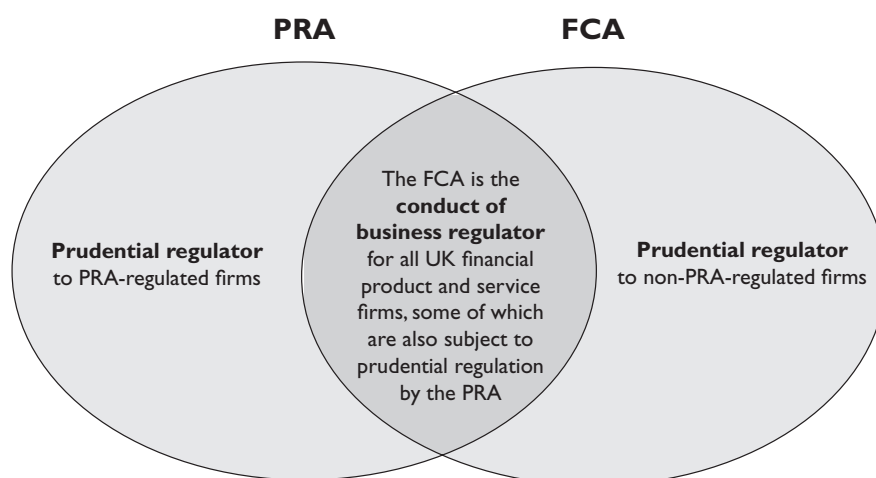
[www.cliffordchance.com/content/dam/cliffordchance/briefings/2023/07/uk-financial-services-and-markets-act-2023.pdf](http://www.cliffordchance.com/content/dam/cliffordchance/briefings/2023/07/uk-financial-services-and-markets-act-2023.pdf)

[harperjames.co.uk/article/financial-services-and-markets-act-2023](http://harperjames.co.uk/article/financial-services-and-markets-act-2023)

## 17.4 What is the FCA's role?

The FCA is an independent financial regulator that reports to the Treasury and Parliament. The FCA and PRA oversee the regulation of the financial services industry in the UK. As noted above, the FCA is responsible for conduct regulation of all firms, and also for the prudential regulation of firms that are not considered to be systemically important. Thus some firms are regulated solely by the FCA, in relation to both prudential and conduct matters, while others are regulated by the PRA in respect of prudential matters and the FCA in respect of conduct.

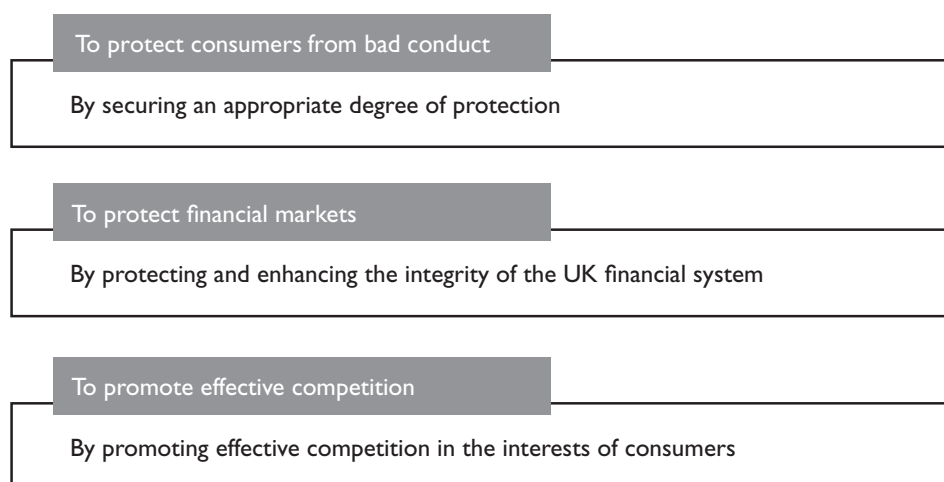
**FIGURE 17.2 PRA AND FCA SPHERES OF RESPONSIBILITY**



The FCA's strategic objective is to make sure relevant markets function well so that consumers get a fair deal.

To do this, the FCA pursues three operational objectives, as defined in the Financial Services Act 2012 (Figure 17.3).

**FIGURE 17.3 OPERATIONAL OBJECTIVES OF THE FCA**



The FCA and the PRA now have a new secondary objective: to facilitate the UK economy's international competitiveness and growth in the medium to long term, subject to alignment with international standards. Introduced by the FSMA 2023, this objective is designed to ensure that when either regulator implements a new measure to further a primary objective, they take into account the impact on international competitiveness and medium- to long-term growth of the UK economy. The idea is that the regulators should favour policy options that better enable firms to thrive and innovate or compete effectively abroad and options that promote accessible markets in the UK.

In seeking to promote competition, the FCA uses its powers to ensure that:

- there are no undue barriers to entry - in other words, to ensure that the required regulatory standards are not set so high that new providers are unable to enter the market;
- consumers are empowered to engage in such a way as to drive competition - for instance, by being able to switch providers easily if a product they hold becomes uncompetitive;
- no single firm or small group of firms dominates the market; and
- firms focus on consumers' genuine needs and ensure that recommendations made are suitable.



**WORKING TOGETHER: THE FCA AND PRA**

The FCA works closely with the PRA to exchange information that is relevant to each regulator's objectives, but acts as a separate entity when engaging with firms. A memorandum of understanding sets out two key principles for co-operation between the two regulators, which are that:

- each regulator's supervisory judgements will be based on all relevant information; and
- supervisory activity will not usually be conducted jointly.

One example where the co-operation between the FCA and the PRA is particularly important is in the supervision of insurers with with-profits business, because the returns from such investments are not well defined and impact on, or depend on, prudential as well as performance criteria.

As part of its continuous assessment of an insurer's financial soundness, the PRA ensures that any discretionary benefit allocations (such as discretionary bonuses) are compatible with the firm's continued safety and soundness.

The FCA monitors whether the proposed allocations are consistent with the insurer's previous communications to policyholders; that conduct in communicating and administering such payments is in line with the FCA's conduct rules; and that the insurer's overriding obligation to fair treatment of customers (see section 17.8.1) is maintained.

**CHECK YOUR UNDERSTANDING I**

Can you recall what is meant by 'with-profits business', referred to in the information panel on PRA and FCA co-operation?



### CHECK YOUR UNDERSTANDING 2

A major clearing bank has its headquarters in London but operates in many other countries. It is regulated by:

- a) the PRA.
- b) the PRA and the FPC.
- c) the FCA.
- d) the PRA and the FCA.

## **17.5** What powers does the FCA have?

The FCA has powers to enforce the prohibitions in the Competition Act 1998 on anti-competitive behaviour in relation to the provision of financial services. It also has powers under the Enterprise Act 2002 to carry out market studies and make market investigation referrals to the CMA relating to market studies. The competition powers held by the FCA in respect of financial services are the same as those held by the CMA, so the FCA and the CMA are concurrent regulators.

The FCA has product intervention powers, which means that it is able to act quickly to ban or impose restrictions on financial products if it thinks that they are not in the best interests of consumers because of their complexity or suitability. It can disclose details of warning notices issued in relation to disciplinary action. It can take formal action in response to misleading financial promotions and publicise the fact that it has done so.

In discharging its powers, the FCA adopts a “proportionate” approach, focusing its resources on those areas of the industry and firms that pose the greatest risk to its objectives.

The PRA and the FCA are jointly responsible for the Financial Services Compensation Scheme (FSCS), and the FCA is responsible for the Financial Ombudsman Service (FOS).

IN  
BRIEF

## THE FCA'S POWERS

- **Competition powers** to open up competition, carry out market studies and make referrals to the CMA.
- **Product intervention powers** to ban or restrict financial products.
- **Power of disclosure** to publish details of warning notices issued and disciplinary action taken.
- **Power to take formal** action against misleading financial promotions.

## COMPETITION AND MARKETS AUTHORITY

Like the FCA, the CMA aims to promote competition for the benefit of consumers. It is responsible for investigating mergers that could restrict competition, carrying out investigations into markets where competition may not be working effectively and enforcing consumer protection legislation. It has powers to impose financial penalties and, in the case of cartels, is able to bring criminal proceedings.

**17.6 What is in the FCA Handbook?**

The FCA Handbook details the FCA's requirements of firms that operate in the financial services industry and consists mainly of rules and guidance:

- **Rules** - most of the rules in the Handbook create binding obligations on authorised firms. If a firm contravenes a rule, it may be subject to enforcement action and, in certain circumstances, to an action for damages.
- **Guidance** - the purpose of guidance is to explain the rules and to indicate ways of complying with them. The guidance is not binding, however, and a firm cannot be subject to disciplinary action simply because it has ignored the guidance; compliance with the rules is the key consideration, and firms have discretion as to how they achieve this.

The FCA Handbook also contains evidential provisions. These are rules that are not binding in their own right but relate to a binding rule. Compliance with an evidential provision may be relied on (when it says so) as 'tending to establish compliance' with the rule to which it relates. Non-compliance with

an evidential provision may be relied on (again, when it says so) as ‘tending to establish contravention’ of the rule to which it relates. Evidential provisions are used, for example in the Code of Market Conduct, which specifies:

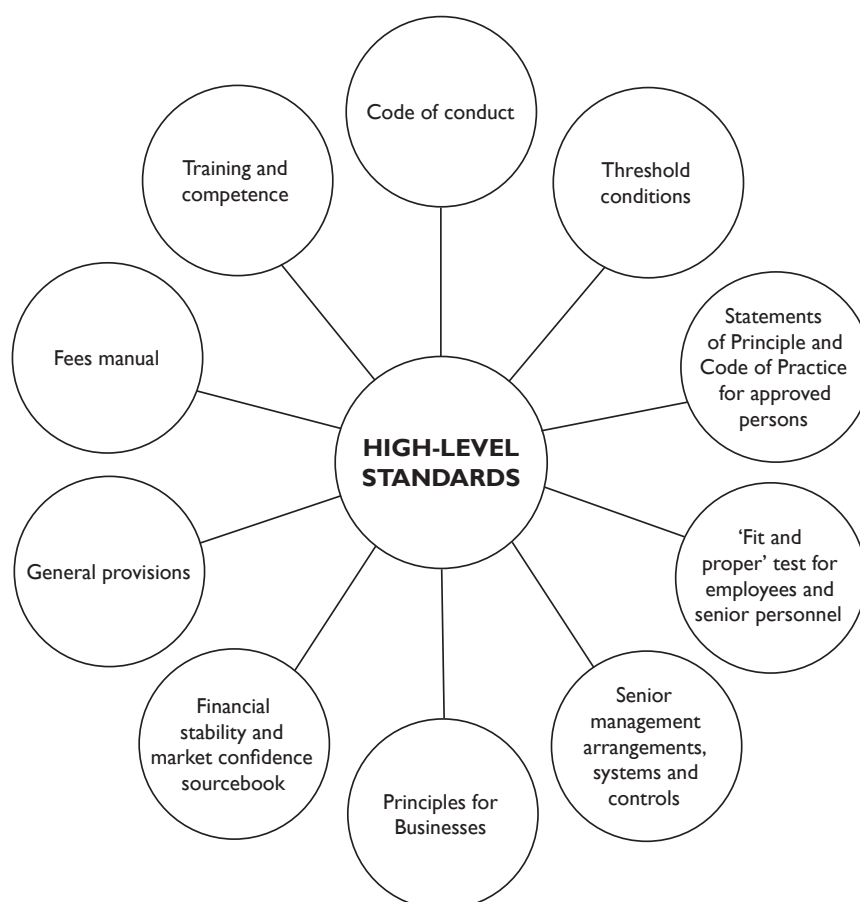
- descriptions of behaviour that we consider amounts to markets abuse; and
- factors that we will take into account when determining whether or not behaviour amounts to market abuse.

In this text, we cover the areas of the FCA Handbook of greatest interest to financial advisers and mortgage advisers, to enable advisers to carry out their activities in an efficient, safe and well-regulated manner.

### 17.6.1 High-Level Standards

The High-Level Standards section of the FCA’s Handbook details overarching standards applying to all firms and authorised individuals. The areas it covers are outlined in Figure 17.4.

**FIGURE 17.4 FCA HIGH-LEVEL STANDARDS**



### 17.6.2 Prudential standards

For those firms regulated solely by the FCA, prudential standards are detailed in the prudential sourcebooks. They deal with the financial soundness and management of firms, and cover issues such as the valuation of a firm's assets and liabilities, its reserves, and financial reporting. The PRA establishes and monitors prudential requirements for dual-regulated firms; we look at the role of the PRA in more detail in Topic 19.

### 17.6.3 Business standards

Business standards are described in the following sourcebooks:

- **Conduct of Business sourcebooks** comprising the:
  - Conduct of Business Sourcebook (COBS), which sets general conduct standards;
  - Banking: Conduct of Business sourcebook (BCOBS);
  - Insurance: Conduct of Business sourcebook (ICOBS);
  - Mortgages and Home Finance: Conduct of Business sourcebook (MCOB).

These individual sourcebooks set out the standards that apply to the marketing and sale of financial services products. We look at them in greater detail in Topic 21.

- **Market Conduct sourcebook** – this concerns investment markets and is therefore primarily of interest to investment firms. It covers such issues as insider dealing.
- **Client Assets sourcebook** – contains the requirements relating to holding client assets and safe custody of client assets.

### 17.6.4 Regulatory processes

This section of the Handbook covers regulatory processes, including rules and guidance for firms wishing to seek authorisation. It also includes the Supervision manual, which sets out the way that the FCA regulates and monitors the compliance of authorised firms.

### 17.6.5 Redress/specialist sourcebooks

The two remaining sections of the Handbook cover:

- **redress** – including regulatory standards for dealing with complaints and the provision of compensation; and
- **specialist sourcebooks** – including arrangements for credit unions, professional firms such as solicitors and accountants, collective investments

(COLL), consumer credit (CONC), investment funds, recognised investment exchanges and regulated covered bonds.



### CHECK YOUR UNDERSTANDING 3

Getting to grips with the different sections of the FCA Handbook can be a challenge! To check your understanding of what you have read so far, in which sections of the FCA Handbook would you look for information on each of the following?

- a) Training and competence requirements.
- b) Rules surrounding the sale of mortgages.
- c) General rules about conduct of business.
- d) Rules relating to consumer credit.
- e) Rules relating to compensation and complaints.

## 17.7 What are the Principles for Businesses?

The FCA's regulatory regime is based on a set of 12 'Principles for Businesses' (including the Consumer Duty), from which all of the more precise rules and regulations follow. They apply to the behaviour of firms and of the individuals who carry out the firm's activities. The Principles, which are set out in the PRIN subsection of the High-Level Standards in the FCA Handbook, are shown in Figure 17.5.

### KEY TERMS

#### SENIOR MANAGEMENT FUNCTIONS

Key individuals within a firm who perform significant roles. Individuals must be pre-approved by the FCA/PRA before they are appointed.

#### CERTIFICATION FUNCTIONS

Individuals who must be certified as fit and proper to carry out their role. Also known as significant harm functions, this includes mortgage and investment advisers.

**FIGURE 17.5 FCA PRINCIPLES FOR BUSINESSES**

|   |  |
|---|--|
| <b>1. Integrity</b>                         | A firm must conduct its business with integrity  |
| <b>2. Skill, care and diligence</b>         | A firm must conduct its business with due skill, care and diligence  |
| <b>3. Management and control</b>            | A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems                        |
| <b>4. Financial prudence</b>                | A firm must maintain adequate financial resources  |
| <b>5. Market conduct</b>                    | A firm must observe proper standards of market conduct   |
| <b>6. Customers' interests</b>              | A firm must pay due regard to the interests of its customers, and treat them fairly  |
| <b>7. Communications with clients</b>       | A firm must pay due regard to the information needs of its clients and communicate information to them in a way that is clear, fair and not misleading         |
| <b>8. Conflicts of interest</b>             | A firm must manage conflicts of interest fairly, both between itself and its customers and between one customer and another                                    |
| <b>9. Customers: relationships of trust</b> | A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely on its judgement |
| <b>10. Clients' assets</b>                  | A firm must arrange adequate protection for clients' assets when it is responsible for them  |
| <b>11. Relations with regulators</b>        | A firm must deal with its regulators in an open and co-operative way, and must disclose anything of which the FCA or PRA would reasonably expect notice        |
| <b>12. Consumer Duty</b>                    | A firm must act to deliver good outcomes for retail customers  |

There is a set of conduct rules that apply to all individuals working in the financial services industry, except for those in certain 'ancillary' roles.

There is also a set of senior management conduct rules for those who carry out a senior management function.

We look at the Senior Managers and Certification Regime and the codes of conduct in more detail in Topic 18.

### **17.7.1 Consumer Duty**

To further protect consumers from bad conduct, the FCA has implemented a Consumer Duty, bringing the rules and guidance into force on a phased basis:

- For new and existing products or services that are open to sale or renewal, Consumer Duty became effective on 31 July 2023.
- For closed products or services, Consumer Duty is effective from 31 July 2024.

The Consumer Duty goes beyond the previous framework relating to the fair treatment of customers and adds Principle 12 to the Principles for Businesses: “A firm must act to deliver good outcomes for retail customers”.

The Duty applies to products and services offered to retail customers and applies to firms forming part of the distribution chain, whether there is a direct relationship with the buyer or not. It does not apply to institutional investors, professional clients or eligible counterparties.

Principles 6 (Customers’ interests) and 7 (Communication with clients) no longer apply where Principle 12 (Consumer Duty) applies, as Principle 12 sets a higher standard. However, the FCA has retained Handbook and non-Handbook material linked to Principles 6 and 7 as it continues to apply to firms and business activities outside the scope of the Duty and may help firms in considering their obligations where the Duty does apply.

Principle 12 is intended to improve consumer protection by ensuring that firms place customer interests at the heart of everything they do. The FCA has identified four outcomes for the key elements of the firm-consumer relationship:

- Products and services: these should be designed to meet consumer needs and sold to customers whose needs they meet.
- Price and value: products and services must represent fair value for consumers.
- Consumer understanding: consumers must be given the information they need to make effective, timely and properly informed decisions regarding products and services.
- Consumer support: consumers must be enabled to realise the benefits of products and services without undue hindrance through support that meets their needs and interests.

In addition, three cross-cutting rules require firms to:

- act in good faith;



- avoid causing foreseeable harm; and
- enable and support retail customers to pursue their financial objectives.

### 17.7.2 Fair treatment of customers

To ensure that regulatory principles are translated into a practical, properly controlled regulatory regime, the FCA has established a very large body of rules, many of which are found in the sourcebooks listed in section 17.7.

The establishment of rules and regulations can, however, have serious drawbacks. People and organisations may make it their aim to comply with the letter of the law rather than to operate according to its spirit. There is also the danger firms might be able to hide behind the rules, using loopholes or technicalities to their own advantage.

The former regulator, the FSA, was aware of these potential drawbacks, so it introduced an initiative known as treating customers fairly (TCF), which the FCA continues to pursue under the banner of the fair treatment of customers. Among the FCA's Principles, Principle 6 states that "a firm must pay due regard to the interests of consumers and treat them fairly". The FCA expects that all firms must be able to show consistently that the fair treatment of consumers is at the heart of their business, as spotlighted by the new Principle 12.

### 17.7.3 What does fairness mean in practice?

The FCA does not provide a definition of 'fair'; its view is that fairness is a concept that is "flexible and dynamic", which can "vary with particular circumstances". Firms must decide for themselves what fair treatment means within the context of their own business. What is clear is that the FCA intends fair treatment to apply at every stage throughout the life cycle of financial products, such as:

- product design;
- sales and marketing;
- advice and selling;
- administration; and
- post-sales activities, including claims handling and dealing with complaints.

The FCA provides some guidance on the types of behaviour it wishes to see and suggests a number of areas that a firm should consider. These include:

- considering specific target markets when developing products;
- ensuring that communications are clear and do not mislead;
- honouring promises and commitments that it has made;
- identifying and eradicating root causes of complaints.

Responsibility for the fair treatment of consumers lies with a firm's senior management, which is required to ensure that fair treatment is "built consistently into the operating model and culture of all aspects of the business".

### 17.7.4 Clarity in sales

Firms are expected to be clear about the services they offer and about the true cost to the customer. Information must be provided to customers in a way that is clear, fair and not misleading. Firms should always consider the ways that the customer will assess their product against others in the market, and ensure that a fair comparison can be made. This means not only that product literature should be clear and appropriate to the target customer group's expected financial sophistication, but also that the advice given should be of a sufficiently high quality to reduce the risk of mis-selling.

### 17.7.5 The FCA's 'six outcomes'

The FCA defines six outcomes (see Figure 17.6) that a firm should strive to achieve in order to ensure the fair treatment of its consumers, and makes it clear that these are at the core of what it expects from firms.

**FIGURE 17.6 SIX OUTCOMES TO ENSURE FAIR TREATMENT OF CUSTOMERS**

|          |  |
|----------|--|
| <b>1</b> | Consumers will be confident that the firms they are dealing with are committed to fair treatment of customers. |
| <b>2</b> | Products are designed to meet the needs of properly identified customer groups.                                |
| <b>3</b> | Consumers are provided with clear information at all stages, before, during and after a sale.                  |
| <b>4</b> | Any advice given is suitable for the customer, taking account of their circumstances.                          |
| <b>5</b> | Products perform as customers have been led to expect, and associated services are of an acceptable standard.  |
| <b>6</b> | There are no unreasonable barriers to switching product or provider, making a claim, or complaining.           |

Firms must demonstrate to the regulator that they are consistently treating their customers fairly. This can be done by using management information (MI) that shows how they are delivering the six consumer outcomes or, in areas of the business where outcomes are below standard, what action the firm is taking to address the issues.

**MANAGEMENT INFORMATION (MI)**

Data or statistics used to measure business performance and drive necessary change.

**FACTFIND**

While the fair treatment of customers remains in place, the Consumer Duty differs in that it requires firms to demonstrate to the FCA that its processes and frameworks are effective in delivering good (rather than fair) outcomes for customers.

To find out more about how the Consumer Duty goes beyond the fair treatment of customers, you can visit:

[aveni.ai/blog/is-consumer-duty-just-another-tcf-thing](https://aveni.ai/blog/is-consumer-duty-just-another-tcf-thing)

**17.8 The prevention of financial crime**

The FCA has an operational objective to enhance the integrity of the financial system and is therefore committed to reducing financial crime of all kinds, in particular:

- **market abuse**, which is separated into two aspects:
  - insider dealing, where a person who has information not available to other investors (eg a director with knowledge of a takeover bid) makes use of that information for personal gain;
  - market manipulation, where a person knowingly gives out false or misleading information (for instance about a company's financial circumstances) in order to influence the price of a share for personal gain;
- **money laundering**, which is dealt with in Topic 23.

## WHISTLEBLOWING

Firms should have whistleblowing procedures in place to enable employees to report serious inappropriate circumstances or behaviour within the firm, which they believe are not being addressed. Workers who wish to report their knowledge or suspicions regarding, for example, a failure by the firm to comply with legislation, have a right to protection under the Public Interest Disclosure Act 1998. The firm's procedures should assist staff and not hinder them in the whistleblowing process.



## THINK AGAIN ...

Now that you have completed this topic, how has your knowledge and understanding improved?

For instance, can you:

- explain why regulation of the financial services sector is necessary?
- define 'conduct regulation' and 'prudential regulation'?
- describe how the Bank of England, FPC, PRA and FCA together provide regulatory oversight of the sector?
- summarise the FCA's objectives?
- explain the difference between rules and guidance in the FCA Handbook?
- list the twelve Principles for Businesses?
- list the six outcomes that firms should seek to achieve to ensure the fair treatment of customers?

Go back over any points you don't understand and make notes to help you revise.

Test your knowledge before moving on to the next topic.



### Test your knowledge

Use these questions to assess your learning for Topic 17. Review the text if necessary.

Answers can be found at the end of this book.

- 1) The main driver for changes to the regulatory structure governing financial services that were introduced in 2013 was:
  - a) the collapse of Barings Bank.
  - b) the weaknesses exposed by the 2007-09 financial crisis and a number of mis-selling scandals.
  - c) the deregulation of banks and building societies.
  - d) the need to respond to changes in lifestyle.
- 2) The FCA's role is to identify and address risks that may threaten the stability of the economy as a whole. True or false?
- 3) The FCA is the conduct regulator for all firms within the financial services industry and the prudential regulator for firms that are not considered systemically important. Explain what is meant by:
  - a) conduct regulation.
  - b) prudential regulation.
  - c) systemically important.
- 4) Name the three operational objectives of the FCA and its secondary objective.
- 5) What is the difference between 'rules' and 'guidance' in the FCA Handbook?
- 6) Name four powers that the FCA can exercise in its regulation of business conduct.
- 7) Which one of the following is **not** one of the FCA 'Principles for Businesses' with which a firm must comply?

A firm must:

  - a) act to deliver good outcomes.
  - b) conduct its business with integrity.
  - c) maintain an independent compliance function.
  - d) observe proper standards of market conduct.

- 8) The FCA Handbook contains a section on redress. This section of the Handbook is primarily concerned with:
- a) sales policy.
  - b) recruitment standards.
  - c) maintaining and developing skills and knowledge.
  - d) complaints and compensation.
- 9) Which of the following is the phrase used by the FCA to summarise its requirements for effective communication designed to ensure the fair treatment of customers?
- Information must be:
- a) accurate, up to date and detailed.
  - b) clear, fair and not misleading.
  - c) brief, clear and accurate.
  - d) concise, written in plain English and truthful.
- 10) Under the Consumer Duty, what are the four outcomes for the key elements of the firm-consumer relationship?