



Chartered Institute for Securities and Investment
UK Financial Regulation

Checkpoint – ED32 (01/04/2025)



Knowledge | Skills | Conduct

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CISI UK Financial Regulation: Checkpoint

1. Quick Reference: The Regulatory Environment

1.1. The Regulatory Environment: An Overview

FSA 2012 and the UK regulators

FSA 2012 provides a dual-regulation of the UK financial services industry.

The Financial Conduct Authority (FCA)

- Responsible for the conduct of all firms
- Responsible for the prudential supervision of all non-PRA firms
- Has a rulebook (the FCA Handbook)
- Is a company limited by guarantee
- Has a board appointed by the Treasury

The Prudential Regulatory Authority (PRA)

Responsible for the prudential supervision of:

- Deposit takers
- Insurers
- Significant firms
- Has a rulebook (the PRA Handbook)
- Is the Bank of England

1.2. The Statutory Objectives

The FCA

- Strategic Objective
 - Ensure relevant markets function well
- Operational objectives
 - Consumer protection
 - Integrity
 - Competition

The PRA

- General objective
 - Promote the safety and soundness of PRA-authorised persons
 - Business is carried on in a way that avoids adverse effects on stability
 - Minimise adverse effects if failure occurs
- Insurance objective
 - Contributing to the securing of an appropriate degree of protection for those who are or may become policyholders.

Risk-based approach to regulation

The Regulators seek to anticipate problems before they arise by taking a risk-based approach to activities. They will assess the impact and the probability of a risk occurring.

In assessing the **impact** of a risk, the FCA considers the extent to which the statutory objectives are at risk.

In assessing the **probability** of a risk occurring the FCA considers:

- The firm's strategy
- The firm's **business** and **control** risks

Three pillars of supervision

- Pillar 1 - Proactive firm supervision
 - Business Model Strategy Analysis
 - Proactive engagement
 - Deep dive assessment
 - Firm evaluation
- Pillar 2 – Reactive supervision
 - Event-drive work
- Pillar 3 – Thematic supervision
 - Issues and Products supervision

As part of the change to its supervisory model, firms are being categorised as either:

- **Fixed portfolio** – continue to be subject to a programme of firm or group-specific supervision (Subject to all three pillars)
- **Flexible portfolio** – subject to event-driven reactive supervision (Pillar 2) and thematic review or product supervision (Pillar 3) only.

The tools of supervision

This risk-based approach can be described in four stages. These are:

- **Identify**: identify where harm or potential harm is present
- **Diagnose**: what is the cause, the extent and potential development of the harm
- **Remedy**: through a range of FCA actions that can be taken
- **Evaluate**: FCA assesses how effective these action were

Outcomes-focused regulation

- Greater reliance on outcome-focused rules
- The conduct risk approach

Allows for:

- Innovation and development
- Accessibility for smaller firms
- Focus on the purpose of regulation

Conduct Risk

The risk that detriment is caused to customers, clients, counterparties and employees because of inappropriate judgement in the execution of business activities and the risk of customer detriment due to inappropriate culture.

General Rulemaking Powers

The regulators have been granted a wide range of powers under FSMA 2000. These powers include:

- Authorisation
- Supervision
- Enforcement
- Sanctions and disciplinary action
- Rule making

1.3. Principles Based Regulation

Principles for Businesses

Principles of business are a general statement of the **fundamental obligations** of **authorised firms**. The **twelve** Principles of Business are:

1. Integrity
2. Skill, care and diligence
3. Management and control
4. Financial prudence
5. Market conduct
6. Customers' interests
7. Communications with clients
8. Conflicts of interest
9. Customers: Relationship of trust
10. Clients' assets
11. Relations with regulators
12. Consumer Duty

N.B. Firms within scope of the Consumer Duty disregard PRIN 6 and 7; firms out of scope of the Consumer Duty disregard PRIN 12.

Fair Treatment of Customers – relevant to firms out of scope of the Consumer Duty only

Outcome 1: The fair treatment of customers is central to the corporate culture.

Outcome 2: Products and services meet the needs of identified consumers groups.

Outcome 3: Consumers are provided with clear information before, during and after the point of sale.

Outcome 4: The advice is suitable.

Outcome 5: Consumers are provided with what firms have led them to expect.

Outcome 6: Consumers do not face unreasonable post-sale barriers.

PRA Fundamental Rules

1. Integrity.
2. Skill, care and diligence.
3. A firm must act in a prudent manner.
4. Adequate financial resources.
5. Effective risk strategies and risk management systems.
6. Organise and control its affairs responsibly and effectively.
7. Open and cooperative way with regulators.
8. Prepare for resolution

1.4 Senior Manager and Certification Regime

Covered in the next chapter

1.5. The Chartered Institute for Securities and Investment's Code of Conduct

Members of the CISI are required to meet the standards set out within the Institute's Principles.

The principles

Table 2. The principles

	Principle	Stakeholders
1.	Personal accountability – uphold highest levels of personal and professional standards at all times, acting with integrity, honesty, due skill, care and diligence to avoid damaging reputation of your firm or profession	Self, clients, regulators, colleagues, market participants, firms, society
2.	Client focus – put the interests of clients and customers first by treating them fairly, being a good steward of their interests, respect confidentiality	Clients
3.	Conflict of interest – being alert to, and actively manage fairly and effectively, any personal or other conflict of interest; obey the law and regulations	Clients, market participants, regulators
4.	Respect for market partners – treat all counterparties and business partners with respect, observe proper standards of market integrity and conduct	Clients, market participants
5.	Professional development – strive continually for professional excellence, commit to CPD, promote and support the development of others	Profession, clients, colleagues
6.	Aware of capabilities – decline to act on any matter of which you are not competent or qualified, unless you have access to advice or assistance	Clients, profession, market participants
7.	Respect others and the environment – treat everyone fairly and with respect, support opportunity for all, embrace diversity and inclusion, ensure the environmental impact of your work is considered	Society, colleagues, clients, regulators, market participants, profession, professional body
8.	Speak up and listen up – Be active in speaking up, and encourage others to do so by listening up, promote safe environment for all	Society, colleagues

1.6. Senior Management Arrangements, Systems and Controls (SYSC)

The PRA/FCA places certain requirements on financial services firms' directors and senior managers in relation to the systems and controls in their businesses. The purpose is to:

- Encourage directors and senior managers to take responsibility
- Amplify Principle for Business 3 – Management and control

- Encourage firms to vest responsibility in specific directors
- Create a common platform of systems and controls

More specific provisions refer to:

- A general requirement for sound governance (SYSC 4)
- Responsibility for employees, agents and other relevant persons (SYSC 5)
 - Skills, knowledge and expertise
 - Segregation of duties
 - Awareness of procedures
 - Monitoring
- Provisions for:
 - Compliance, audit and financial crime (SYSC 6)
 - Risk control both internal (SYSC 7) and external (SYSC 12)
 - Outsourcing (SYSC8)
 - Record keeping (SYSC 9)
 - Conflicts of interest (SYSC 10)
- Establishment of a remuneration code (SYSC 19A)

1.7. Other Bodies

The Financial Ombudsman Service (FOS)

- See chapter 5

The Pensions Ombudsman

- See chapter 5

The Financial Services Compensation Scheme (FSCS)

- See chapter 5

The Competition and Market Authority (CMA)

- Investigate takeovers and mergers
- Prosecute illegal cartels
- Enforce consumer protection legislation
- Goals include:
 - Protect consumers and educate business
 - Improve competition
 - Empower consumers

The Information Commissioner's Office (ICO)

- Upholding information rights
 - Promoting access to official information
 - Freedom of Information Act
 - Protecting personal information
 - Data Protection Act

The Pensions Regulator

- To ensure that people responsible for providing access to, and the management of work-based pensions, fulfil their obligations

The Financial Policy Committee (FPC)

- Identifying, monitoring and taking action to remove or reduce systemic risks with a view to protecting and enhancing the resilience of the UK financial system

The Upper Tribunal (Tax and Chancery Chamber)

- Hears appeals against regulatory decisions

Panel on Takeovers and Mergers

- See chapter 3

1.8. Provisions of the FCA/PRA Handbook

Within the Handbook there are various types of provisions. The different provisions and the abbreviations used to denote them are:

Binding

- R (Rule)
- D (Direction)
- P (Statement of principle)
- UK (Text from UK law)

Not binding

- E (Evidential provision)
- G (Guidance)
- C (Conclusive provision)

1.9. Unfair terms

The FCA has the power to challenge, amend and remove unfair terms in consumer contracts in the financial services under the Consumer Rights Act 2015 and the Unfair Terms in Consumer Contracts Regulation 1999.

1.10. The role of oversight

- **The internal audit function** oversees the risks of non-compliance with regulatory requirements. They should develop independent and informed views of these risks discuss them directly with the audit committee and the board of directors.
- **The external auditor** of a firm should objectively and independently assess the risks of material misstatements in financial statements and respond appropriately.
- **Trustees** take legal control of assets on behalf of a third party (the beneficiary). They have a duty of care to protect the assets and administer the assets in the beneficiaries. They may delegate tasks – such as investment advice – but they retain ultimate responsibility.

2. Quick Reference: The Financial Services and Markets Act 2000 and Financial Services Act 2012

2.1. The General Prohibition

'No person may carry on **regulated activity** unless they are **authorised** or **exempt**'. **Regulated activities** are defined in the Regulated Activities Order 2001 as:

- Specified activities; in relation to:
 - Specified investments

Key issues to address are:

- Which investments are specified investments?
- Which activities are specified activities?
- What are the routes to authorisation?
- Who is exempt from the authorisation requirement?

Breach of the general prohibition is a **criminal** offence.

2.2. Specified Investments

Excluded investments

- Tangible property (including land, antiques and commodities)
- Currencies (physical currencies and dealing in currencies, i.e. spot and forward contracts)
- Premium bonds and other National Savings and Investment Bank products

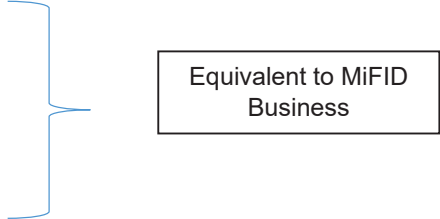
Specific regulated investments

- Shares/Depository receipts/Warrants
- Debt instruments
- Units in collective investment schemes
- Options on:
 - Specified investments
 - Currencies
 - Precious metals (gold, silver, platinum and palladium)
- Futures
- Contracts for difference (CFDs)
- Lloyd's syndicates, insurance contracts and funeral plan contracts
- Pensions
- Regulated mortgages and home finance
- Deposits and electronic money
- Rights to specified investments, e.g. sale and repurchase agreements (repos)
- Loans and other forms of credit
- Credit reference or credit information services
- Emissions auction products
- Benchmarks

Equivalent to MiFID Investments

2.3. Specified Activities

Specific regulated activities

- Dealing in investments
 - Arranging deals in investments
 - Managing investments
 - Advising on investments
 - Operating a multilateral trading facility (MTF) or organised trading facility (OTF)
- 
- Equivalent to MiFID Business
- Safeguarding and administering investments, e.g. acting as a custodian
 - Sending dematerialised instructions, e.g. electronic money transfer
 - Lloyd's activities, insurance activities and providing funeral plan contracts
 - Mortgages: provision, administration, advising and arranging
 - Home finance activities
 - Managing dormant account funds
 - Accepting deposits by way of business and issuing electronic money
 - Establishing, operating or winding up a collective investment scheme or pension scheme
 - Agreeing to carry on most regulated activities

Main exclusions

- Investment advice in newspapers (note tip sheets are not excluded)
- Television broadcasts
- Provision of information (e.g. Reuters and Bloomberg)
- **Unpaid** trustees, nominees and personal representatives
- Operating an employee share scheme
- Absence of holding out – dealing as principal and end user

2.4. Contravention of the General Prohibition

Contravention: Criminal offences and penalties

Table 3. criminal offences and penalties

	Jail and/or	Fine
Crown Court	Two years	£ Unlimited

The FCA/PRA has the power to prosecute.

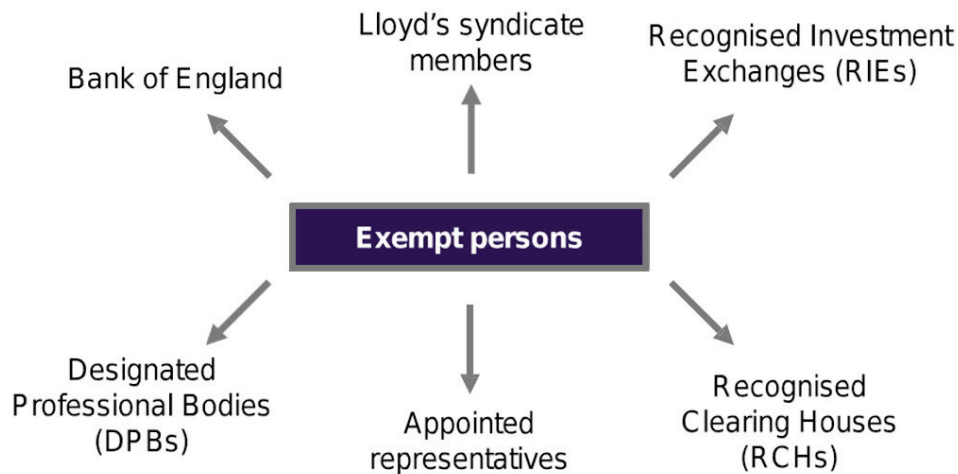
Contravention: Civil remedies

Contracts are **unenforceable** by the firm.

The investor can enforce the contract (sue for **damages**) or 'avoid' the contract (and claim their **money back**).

2.5. Exempt Persons

Exempt persons: Summary



2.6. Authorised Persons

Authorisation

Part 4A permission

In order for an applicant to obtain permission, the FCA/PRA must be satisfied that it is fit and proper. To be fit and proper, a firm must meet and continue to satisfy the following 'threshold conditions':

- Legal status: Required legal status of applicant
- Location of offices: Head office and registered office situated in UK
- Business to be conducted in a prudent manner
- Effective supervision: Controlling shareholders (20% or more of the voting capital)
- Appropriate resources
- Suitability
- Business model
- Appointment of a claims representative (motor insurers only)

2.7. SM&CR and Training and Competence

SM&CR

SM&CR refers to the Senior Managers and Certification Regime. This regime ensures that individuals working in financial services firms conduct themselves in a way that develops a healthy culture. The regime is risk based and firms are categorised as:

- Core firm
- Limited scope firm
- Enhanced scope firm

The regime is also known as the Individual Accountability Regime.

Fit and proper test

Fitness and propriety is:

- Assessed by the regulator before a person can be appointed as a senior manager function.
- Assessed by the firm before a certification function can be appointed.
- Assessed by the firm for both on an annual basis, thereafter.

The regulator will only grant approved person status if the individual is fit and proper to undertake controlled functions.

In assessing fitness and propriety the regulator or firm considers:

- Honesty, integrity and reputation
- Competency and capability
- Financial soundness

Senior manager functions

These include directors, non-executive directors, chiefs, chairs and the heads of main business units or functional areas within firms. It also includes the Money Laundering Reporting Officer and the Compliance Oversight Function.

Certified functions

The Certification Regime requires firms to assess, both at the recruitment stage and on an annual basis thereafter, the fitness and propriety of certain employees within the firm who could pose a risk of significant harm to the firm or any of its customers. Such employees include material risk-takers, those performing risk of significant harm functions, and anyone supervising a certified person.

Conduct Rules

The FCA will assess the conduct of all relevant staff against a basic framework of behaviour. This framework is called the Conduct Rules. Relevant staff include all staff other than ancillary staff, e.g. those providing catering services or those reception staff.

There are two tier of Conduct Rules. Tier 1 applies to all relevant staff and Tier 2 applies to senior manager functions only.

Individual ('First Tier') Conduct Rules

1. You must act with integrity
 - A breach would be to deliberately mislead by act or omission
2. You must act with due skill, care and diligence
 - A breach would be to act without full understanding, without adhering to processes or where regulatory approval has not been gained
3. You must be open and co-operative with the FCA, the PRA and other regulators
 - A breach would be a failure to inform the FCA of anything of a nature that it would reasonably expect to be informed
4. You must pay due regard to the interests of customers and treat them fairly
 - This effectively extends responsibility for FTOC to individuals
5. You must observe proper standards of market conduct
 - A breach would be a failure to comply with the Code of Market Conduct
6. You must act to deliver good outcomes for retail customers
 - This effectively extends responsibility for the Consumer Duty to individuals

N.B. Employees in scope of the Consumer Duty disregard rule 4; employees of firms out of scope of the Consumer Duty disregard rule 6.

Tier 2 – Senior Manager Conduct Rules

SM1: You must take reasonable steps to ensure that the business of the firm for which you are responsible is controlled effectively.

SM2: You must take reasonable steps to ensure that the business of the firm for which you are responsible complies with the relevant requirements and standards of the regulatory system.

SM3: You must take reasonable steps to ensure that any delegation of your responsibilities is to an appropriate person and that you oversee the discharge of the delegated responsibility effectively.

SM4: You must disclose appropriately any information of which the FCA or PRA would reasonably expect notice.

Training and competence

Firms that provide services to retail clients are obliged to arrange for employees to attain, maintain and strengthen their competencies.

For employees to be fit and proper, they must be competent and capable (i.e. attain **threshold competence**). This is achieved by:

- Passing an appropriate exam; and
- Passing an internal assessment

Once threshold competency is attained, employees can operate without supervision.

There can be certain circumstances where a firm would not need to follow the examination requirements.

2.8. Whistleblowing

Protected disclosure set out under law and FCA rules. Provisions include:

- Appoint an individual of sufficient seniority as their whistleblowing champion
- Adopt internal whistleblowing arrangements
- Explaining prominently the legal right to blow the whistle
- Tell UK-based employees about the FCA and PRA whistleblowing services
- Annual report
- Inform the FCA if it loses an employment tribunal with a whistleblower
- Applies to appointed representatives too

2.9. Investigations

Enforcement officers

Direct supervision by the regulators is carried out through supervision visits by enforcement officers. Enforcement officers can enter the premises of an authorised firm **without notice** and:

- Demand the production of documents, tapes, files, computer data or any other information
- Interview **any** employee

Powers to require information

- A firm must provide information in a reasonable amount of time (S165)
- A firm, or employee of a firm, can be required to gather information and provide a report on a specific area of concern (S167)
- The regulator can appoint a third-party to carry out investigations on its behalf (S168)
- It is a criminal offence not to co-operate with the regulators

Disciplinary Process and Measures

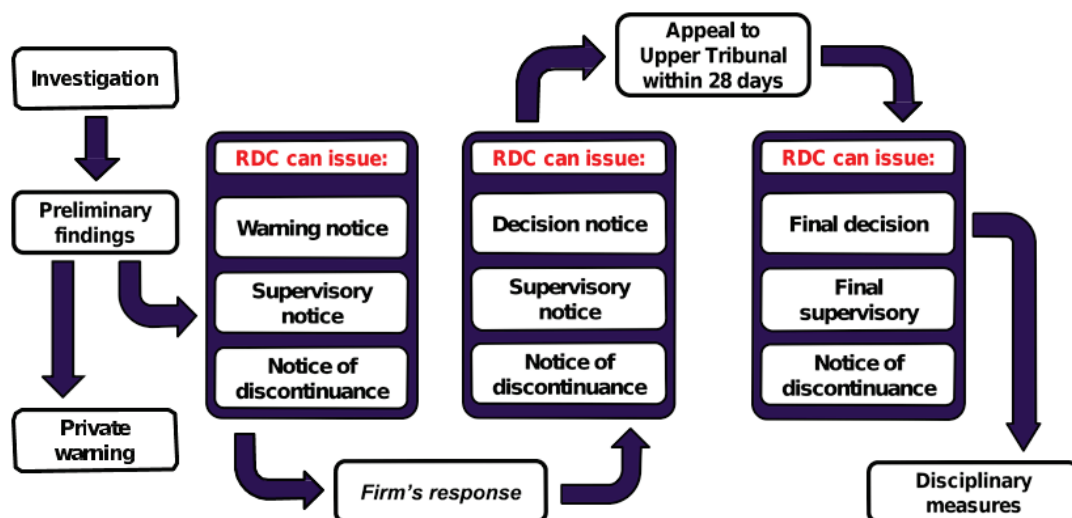
Regulatory Decision Committee

The Regulatory Decision Committee (RDC) administers investigations launched by the regulators. It is accountable to the board of the FCA, but its members are independent. The only FCA employee is the chairman of the RDC.

Bank of England Enforcement Decision-Making Committee

The PRA delegates decision-making powers to the Enforcement Decision-Making Committee (EDMC) for the PRA enforcement regime. Like the RDC, the EDMC process is administrative, not judicial. It is not an appeal body.

Summary of typical events surrounding an investigation:



Notices

Warning notice

Provides details of the actions the RDC is intending to take.

Supervisory notice

An alternative to a warning notice, a supervisory notice is intended to be preventative and protective rather than disciplinary.

Provides details of the action the RDC has taken or proposes to take, normally with **immediate** effect.

Decision notice

Issued when the RDC has reviewed representations relating to a warning notice or supervisory notice and has made a decision.

Further decision notice

May follow a decision notice if the regulator agrees with the firm to take a different action to one in the decision notice.

Final notice

Sets out the terms of the final action decided upon.
Final notices state the **date** from which action takes effect.

Notice of discontinuance

This notice informs the firm or the individual that no further action will be taken by the regulator.

Private warning

Private warnings are issued when the FCA has concerns regarding the behaviour of a firm, but decides that it is **not** appropriate to bring formal disciplinary action.

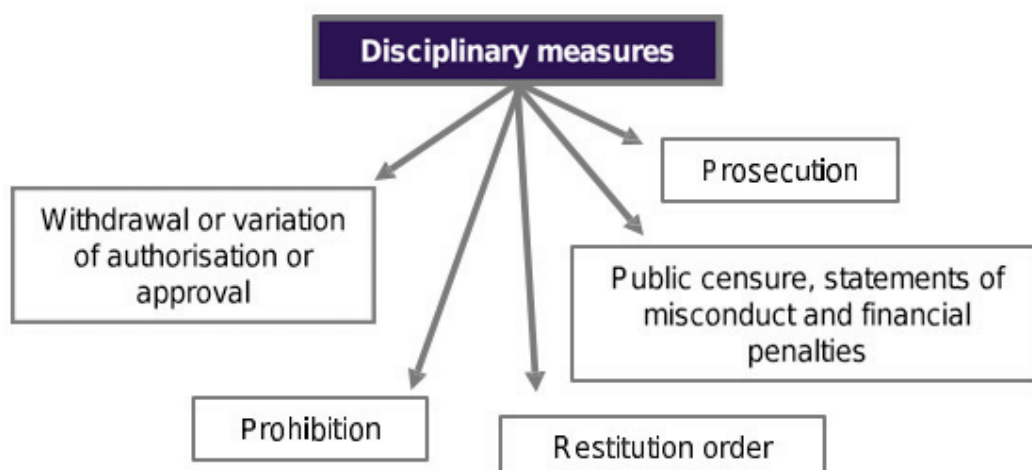
Right to refer to the Tribunal

Appeals can be made to the Tax and Chancery Chamber of the Upper Tribunal against:

- A decision notice
- A supervisory notice
- A refusal to grant authorisation/approval

The Tribunal is an independent body run by the Ministry of Justice department.

Regulatory Enforcement Measures



2.10. Misleading Statements and Impressions (S89-91 FSA 2012)

Misleading statements and impressions: The offences

- S89 Misleading statements
- S90 Misleading impressions
- S91 Misleading statements in relation to benchmarks

Misleading statements and impressions: Defences

- Reasonably believed the statement was not false or misleading
- Acted in conformity with price stabilising rules or control of information rules (Chinese walls) or share buy-back rules

Misleading statements and impressions: Penalty

- Crown court: Ten years' imprisonment and/or unlimited fine

3. Quick Reference: Associated Legislation and Regulation

3.1. Insider Dealing (S52 Criminal Justice Act 1993)

Insider dealing: Offences

In relation to unpublished, price-sensitive information:

- **Dealing** in securities
- **Encouraging** someone else to deal; or
- **Passing** on information

Directors dealing in company shares is **not** in itself an offence.

Insider dealing: Securities affected

All regulated investments except:

- Deposit accounts
- Commodity spot markets
- FX spot and forward markets
- Insurance products

Transactions can take place on a UK or EEA regulated market or NASDAQ, NYSE and SIX or via a professional intermediary.

Only individuals can be found guilty of insider dealing under the Criminal Justice Act.

Insider dealing: Defences

General defences

- Did not expect to profit (or avoid a loss)
- Would have acted in the same way
- Did not expect the recipient to deal
- Information was already public

Special defences

- Price stabilisation rules
- Recipients of market information
- Market makers acting in good faith

Insider dealing: Enforcement

The LSE **monitors** the market. Investigation and **prosecutions** are brought by the FCA.

Criminal offence of insider dealing: Penalty

- Crown court: Ten years' imprisonment and/or unlimited fine

3.2. Market Abuse (Market Abuse Regulation)

Scope of market abuse

- Applies to financial instruments
 - Traded, admitted to trading or for which there is a request for admission to trading on a regulated market and multilateral trading facility (MTF) or organised trading facility (OTF)
 - Traded over-the-counter and which have an effect on the price or value of the above
- Applies to emissions allowance
- For the offence of market manipulation, also applies to commodity derivatives and commodity spot markets

Market abuse: Code of market conduct

- Insider dealing
- Improper disclosure
- Manipulating transactions
- Manipulating devices
- Dissemination
- Benchmark manipulation

Suspicious reported through a Suspicious Transaction and Order Report (STOR)

Market abuse: Legitimate behaviour

- Share buy-back programmes and stabilisation measures
- FCA rules
- Takeover code
- Market soundings

Market abuse: Manager transaction

Those persons discharging managerial responsibilities (PDMR) must notify the issuer and the FCA of details of personal account trades in shares of connected companies.

Close periods: 30 calendar days prior to announcement of interim or annual financial reports.

3.3. Money Laundering (Proceeds of Crime Act 2002)

POCA: The three stages of money laundering

- Placement: Depositing illicit proceeds
- Layering: Investing in depositing funds
- Integration: The surfacing of legitimate proceeds

POCA: The penalties

Criminal offences

- Concealing, acquiring, possessing and arrangements (assisting) - 14 years and/or unlimited fine
- Knowingly prejudicing an investigation – 5 years and/or unlimited fine

Regulated sector criminal offences

- Failure to report – 5 years and/or unlimited fine
- Tipping off – 2 years and/or unlimited fine
- Failure to comply with the Money Laundering Regulations – 2 years and/or unlimited fine

Financial Action Task Force

- A global inter-governmental money laundering and terrorist financing watchdog.
- Sets and monitors recommendations/standards.
- Holds countries to account that do not comply.

3.4. Money Laundering Regulations 2017**Internal controls**

- Appropriate internal controls and staff training
- Appoint a Money Laundering Reporting Officer (MLRO)

Education and training

Staff are **trained** in:

- The law and regulations relating to anti-money laundering
- Recognising suspicious transactions
- Proper ways to report

Record keeping

All records should be kept for five years after:

- The business relationship has ended or
- An occasional transaction

Identification procedures – customer due diligence (CDD)

Generally, identification procedures are required for new customers. Identification procedures are **not required** if customer is an EEA financial institution or similar.

Enhanced due diligence where:

- Any case identified by the firm under its risk assessment (or information provided by supervisory authorities) where there is a high-risk of ML/FT
- Any transaction where a person is established (or in a transaction with a person established) in a high risk third country
- Where the client has not been physically present for identification purposes
- In respect of a relation to correspondent banking relationships
- In respect of a business relationship or occasional transaction with a politically exposed person (PEP), or a family member or known close associate of a PEP
- In any case where a customer has provided false or stolen identification
- In any case where a transaction is complex and unusually large or there is an unusual pattern of transactions.
- Transactions relating to oil, arms, precious metals, tobacco products, cultural artefacts, ivory or other items related to protected species,
- Transactions relating to archaeological, historical, cultural and religious significance, or of rare scientific value.

Reporting suspicions

Employees are **required** to report their suspicions to the Money Laundering Reporting Officer. Failure to report is a **criminal offence**.

Relevant persons under AML/CFT

The money laundering reporting officer and the nominated officer

- A responsible person
- POCA, The Terrorism Act and MLR require a nominated officer
- FCA requires a MLRO
- Generally both roles performed by the same person and called MLRO
- MLRO will report to the National Crime Agency (NCA)

National crime agency (NCA)

- A powerful body of operational crime fighters
- Objective is to tackle organised crime, defend the UK's borders, fight fraud and cyber-crime, and protect children and young people
- Led by a senior chief constable
- Accountable to the Home Secretary

Financial Action Task Force

- A global inter-governmental money laundering and terrorist financing watchdog.
- Sets and monitors recommendations/standards.
- Holds countries to account that do not comply.

3.5. Joint Money Laundering Steering Group Guidance Notes

Purpose

- Risk-based approach to the implementation of the MLR2007
- Not binding on the firm
- Can provide evidence of due diligence

Politically exposed person

The definition includes two types of person:

- An individual who is or has, at any time in the preceding year, been entrusted with prominent public functions; and
- An immediate family member, or a known close associate, of such a person.

Sanctions regime

Sanctions lists are distributed to all firms exposed to money laundering risk. UK sanction regime is the responsibility of:

- HM Treasury
- The Foreign Commonwealth Office and
- The UK Department for Business Innovation and Skills (BIS)

3.6. Combating the Financing of Terrorism

Terrorism Act 2000

- Defines terrorism
- Criminalises terrorism
- States failure to report is a criminal act

Counter Terrorism Act 2008

The Counter Terrorism Act 2008 (CTA 08) was implemented to complement the existing legislation and regulation on managing funds for terrorist activities. Gives extra powers to Her Majesty's Treasury (HMT) to impose direction on firms that it suspects are handling funds to be used for Terrorist activities. These include:

- Enhanced due diligence and monitoring
- Systematic reporting
- Limiting or ceasing business

The difference between money laundering and terrorism

There are two major differences when terrorist funds are compared to money laundering activities:

- Often only quite small amounts are needed to fund terrorist activities
- Money to fund terrorism can come from a legitimate source

3.7. UK Bribery Act 2010

Under the act it is an offence to:

- Pay bribes – It is illegal to give/offer a financial, or other, advantage with the intention of inducing a person to perform 'a relevant function or activity' improperly
- Receive bribes – It is illegal to receive a financial, or other, advantage in order to encourage the performance of 'a relevant function or activity' improperly
- To bribe foreign officials
- Fail as an organisation to prevent bribery

Penalties

- Individual – maximum jail sentence is ten years
- Company – unlimited fine

3.8. Disclosure and Transparency Rules (DTR)

The disclosure and transparency rules (DTR) highlight:

- What type of information should be disclosed
- How and when the information should be disclosed
- Procedures for delaying disclosure

The key objectives of the directive are:

- Prompt and fair disclosure of relevant information to the market
- Sets out specific circumstances when information can be delayed
- Requirements to ensure the control of information to protect investors and prevent insider dealing

The disclosure rules only apply to public listed companies (plcs)

Disclosure of stakebuilding

- EU Transparency Directive stakebuilding disclosure limits: 5%, 10%, 15%, 20%, 25%, 30%, 50%, 75%
- UK Disclosure rules require disclosure to the issuer within two business days when limits:
 - Reach 3%
 - (Above 3%) change up or down to the next whole % point
 - Fall below 3%
- Exceptions
 - Fund managers – at 5%, 10% then every % point
 - Market makers – exempt below 10%
 - Custodians and bare nominees – exempt
 - Shares held as collateral - exempt
- CA 2006 S793 disclosure letter
 - Requirement to disclose beneficial interests

UK Takeover Code

- Administered by Takeover Panel
- Code protects shareholders affected by bid
- Six General Principles
 - All shareholders given equal treatment and protected
 - Shareholders given sufficient time and information to decide
 - Board of target to act in best interests of company as a whole
 - False markets must not be created
 - Predator to make a bid only after ensuring they can meet cash requirements of bid
 - Target company not to be hindered in its business affairs for any longer than is necessary
- **Important definitions under the Takeover Code**
 - Acting in concert
 - Dealings
 - Interest in shares
 - Relevant securities

3.9. Reportable Transactions

Transaction reporting

- Purpose – surveillance
- Both firms report
- T+1 deadline
- Short Selling Regulations and Securities Finance Transaction Regulation

Trade reporting channels and systems

- Purpose – price transparency
- Senior, then selling, firm reports
- 3-minute deadline

3.10. Data Protection

Introduction

The Data Protection Act 2018 (DPA) places an obligation on data controllers to register with the Information Commissioner.

The DPA makes the EU GDPR legally effective in the UK.

Data Protection Act 2018: Principles of data protection

- Processing must be lawful and fair
- Purposes of processing must be specified, explicit and legitimate
- Personal data must be adequate, relevant and not excessive
- Personal data must be accurate and kept up to date
- Personal data must not be kept longer than necessary
- Personal data must be processed in a secure manner

The information Commissioners Office (ICO) enforcement powers

- ICO penalties:
 - Enforcement notices
 - Up to £17.5 million fine or 4% of global revenue whichever is higher
- Criminal penalties:
 - Potentially unlimited fines

3.11. Capital Requirements Directive

Capital Requirements Directive (CRD) came into force 1 Jan 2007 amending the Banking Consolidation Directive and Capital Adequacy Directive.

It is formed of 3 pillars:

Pillar 1

- Minimum capital requirement

Pillar 2

- Assess need for additional capital

Pillar 3

- Disclosure

Once a minimum level of capital has been assessed and agreed, a firm must always maintain capital resources in excess of its capital resource requirement (CRR).

3.12. Markets in Financial Instruments Directive

UK withdrawal from the EU

From 1 January 2021, UK firms are no longer able to 'passport' financial services in the EU, as UK firms are now classified as third country firms. UK and EU firms are therefore limited in their ability to provide financial services to EU and UK clients, respectively.

Many UK firms have responded to this by setting up subsidiaries in EEA countries and seeking local authorisation, so as to ensure they can continue to enjoy passporting rights across the EEA. HM Treasury has granted 'Temporary Transitional Powers' that will enable EU firms, with a branch in the UK or looking to set up a branch in the UK, to continue to comply with the respective EU legislation as it stood on 31 December 2020 until the end of the temporary transitional period – which is 31 March 2022.

3.13. Breaches of Statutory Duty (FSMA 2000)

Section 56

FCA makes a **prohibition order** if an individual is **no longer fit and proper**.

Section 59

An authorised firm must take reasonable care to ensure that no person performs a controlled function unless approved by the FCA.

Section 71

Private person may sue an authorised firm for losses resulting from the **employment of a prohibited person**.

Section 138D (FSA 2012)

Any person may sue an authorised firm for losses resulting from a **breach** by the firm of the **FCA rules**.

Financial loss has to have been suffered.

4. Quick Reference: The FCA's Conduct of Business and Client Assets Sourcebooks

4.1. Application of the Conduct of Business Rules (COBS 1)

The general application rule

The conduct of business rules apply to all authorised firms which carry on the following activities:

- Designated investment business
- Long-term insurance business in relation to life policies
- The firm must be operating from an establishment in the UK

Summary of business covered

The range of businesses that must comply with the conduct of business rules include:

- Brokers
- Fund managers
- Derivative traders
- Organisations administering or marketing unit trusts and pensions or life policies
- Independent financial advisers (IFAs)
- Deposit-taking institutions (limited application)

Appointed representatives

The conduct of business rules do not apply directly to a firm's appointed representatives, but a firm will always be directly responsible for the acts and omissions of its appointed representatives.

Eligible counterparty business

The conduct of business rules that do not apply to eligible counterparty business are:

- Most of COBS 2 (Conduct of business obligations)
- Most of COBS 4 (Communicating with clients, including financial promotions)
- COBS 6.1 (Information about the firm, its services and remuneration)
- COBS 8 (Client agreements)
- COBS 10 (Appropriateness for non-advised services)
- Parts of COBS 11 (Best execution, client order handling and use of dealing commission)
- Parts of COBS 12 (Labelling of non-independent research)
- COBS 14.3 (information relating to designated investments)

Electronic media

To cope with the changing times the FCA have adapted rules to allow for the communication of information electronically. Information need be provided in a **durable** medium. This means:

- Paper
- Any form that can be stored by the client in an unchangeable format.

Note: This does not include websites.

Websites

Websites have specific conditions before they can be used by a firm:

- Appropriate for the client and the service
- Client consents
- Client is notified electronically
- Information kept up-to-date
- Information continuously accessible

The client's best interest rule

A firm must act honestly, fairly and professionally in accordance with the best interest of its client in relation to designated investment business carried out for any client.

Recording telephone conversations

Good quality recording of voice communications must be made when:

- Receiving client orders
- Executing client orders
- Arranging client orders to be executed
- Trades that affects the above
- Records must be kept for five years

4.2. Client Categorisation (COBS 3)

Retail clients

A retail client is a client who is not a professional client or an eligible counter-party.

Professional clients

A professional client is either a per se professional client or an elective professional client.

Per se professional clients

An entity required to be authorised or regulated to operate in the financial markets, including:

- A credit institution
- An investment firm
- Any other authorised or regulated financial institution
- An insurance company
- A CIS (or its management company)
- A pension fund (or its management company)
- A commodity or commodity derivatives dealer
- A local
- Any other institutional investor

A large undertaking: in relation to MiFID business, an undertaking meeting two of the following size requirements:

- Balance sheet total of €20m
- Net turnover of €40m
- Own funds of €2m

There are other criteria for non-MiFID business.

Elective professional clients

A firm may treat a client as an elective professional client if it complies with:

- The 'qualitative test'; and
- The procedures; and
- The 'quantitative test' to meet two out of three of:
 - Average of 10 per quarter over the last four quarters
 - Portfolio of greater than 500,000 EUR
 - 1 year's professional experience

Eligible counterparties

An eligible counterparty is either a per se eligible counterparty or an elective eligible counterparty.

In relation to MiFID business, a client can only be an eligible counterparty in relation to eligible counterparty business (defined in Section 1 above).

Per se eligible counterparties

The following are per se eligible counterparties (this includes entities from inside and outside the EEA):

- Authorised or regulated firm
- A national government (including a body dealing with public debt)
- A central bank
- A supranational organisation

Elective eligible counterparties

The status of being an elective eligible counterparty is only available to an undertaking (not to an individual).

In relation to MiFID business, the firm must obtain express confirmation from the client that it agrees to be treated as an eligible counterparty.

Providing clients with a higher level of protection

A per se eligible counterparty may be treated as a professional client or a retail client; and a per se professional client may be treated as a retail client. This may be done either on the firm's own initiative or at the request of the client.

Agent as client

If the firm is aware that a person with whom it is dealing is acting as an agent for an underlying client, it is the agent who is the client of the firm.

4.3. Client Agreements (COBS 8)

The conduct of business rules describe a client agreement as a written basic agreement between the firm and the client that sets out the essential rights and obligations of the firm and the client.

A client agreement is required when a firm carries on designated investment business for a retail client and (in relation to MiFID business) for a professional client

Does not apply to insurance firms issuing life policies as principal.

Must be provided before the client is bound by the agreement or before the provision of services. This is relaxed if the business is conducted via distance marketing.

4.4. Information Disclosure before Providing Services

A firm must provide appropriate information in a comprehensive form to a client so that the client is reasonably able to understand the nature and risks of the service and investment being offered.

Information about the firm, its services and remuneration (COBS 6)**Information to be provided**

A firm must provide all customers with prescribed information. This includes:

- Information about the firm and its services
- Information about safeguarding of designated investments and client money
- Execution venues
- Information about costs and associated charges

More information to be provided to retail clients:

- Information about the firm
- Information of managing investments
- Information on safeguarding investments/money
- Disclosure of costs

There is clearly a need to keep clients up to date and to inform them of any compensation information.

4.5. Retail Distribution Review (RDR)

In response to the retail distribution review (RDR) the term 'packaged product' was replaced by 'retail investment product'.

Table 4. Retail investment products

Packaged product	Retail investment product
A life policy	Life policies (including investment bonds)
A unit in regulated collective investment schemes	Units in regulated and unregulated collective investment schemes
An interest in an investment trust savings scheme	An interest in an investment trust savings scheme
A stakeholder pension	A stakeholder pension/group stakeholder pension
A personal pension	A personal pension scheme (including self-invested personal pensions)/group personal pension scheme
	Share in an investment trust
	Structured capital at risk products
	Any other product that has been packed in order to change the features of the product

Impact on independent financial advisers (IFA)

In order for a firm to hold itself out as independent:

- The firm must ensure that all retail investment advisers are competent to advise clients on all retail investment products with no restrictions on that advice; and
- Advisors will need to charge for the advice

This charge can take the form of:

- An up-front charge for a particular service; or
- A percentage of the funds invested

Professional standards under the Retail Distribution Review (RDR)

The RDR also imposed new levels of professional standards on retail investment advisers.

- Independent verification of the adviser's competence from a professional body (e.g. CISI) to obtain a Statement of Professional Standing (SPS).
- At least 35 hours of continuous professional development (CPD) per year, of which 21 hours must be structured; and
- Annual declaration of compliance with the requirements contained in the statements of principle

4.6. Communicating with Clients, Including Financial Promotions (COBS 4)

FSMA 2000

A person **must not** communicate a financial promotion unless:

- He is an authorised person; or
- The content of the financial promotion is approved by an authorised person

Breach of S21 carries a penalty of 2 years in jail and an unlimited fine.

Types of communication

Non-written communications (real time)

- A personal visit
- Telephone conversation
- Other interactive dialogue
- Contact can be initiated by the client, in which case it is described as 'solicited', or by the firm, in which case it is 'unsolicited' (an unsolicited real-time communication is a cold call)

Written promotions (non-real time)

Promotions other than real-time are termed as non-real time. These are traditional advertisements such as letters, emails, websites and newspapers.

Communication with retail clients

The fair, clear and not misleading rule

A firm must ensure that a communication by the firm or a business or a financial promotion communicated or approved by the firm is fair, clear and not misleading.

Information contained in a communication or financial promotion that is addressed to, or likely to be received by, a retail client must:

- Include the name of the firm
- Be accurate and give fair balance between relevant investment benefits; and
- Be sufficient for, and comprehensible by, the average likely recipient; and
- Avoid disguising, diminishing or obscuring important items, statements or warnings

Past, simulated past and future performance

Past performance information must cover:

- At least the last five years (or the whole available period, if less)
- Must be based on complete 12 month periods
- The reference period and source information must be stated
- That past performance is not a reliable indicator of future results

Simulated past performance must:

- Relate to the actual past performance of an investment which is the same as, or underlies, the investment concerned; and
- Comply with the same rules as past performance (above)

Future performance must:

- Not be based on simulated past performance
- Be based on reasonable assumptions supported by objective data
- Disclose the effect of commissions, fees or charges; and
- Contain a prominent warning that such forecasts are not a reliable indicator of future performance

Direct offer financial promotions

If it is likely to be received by a retail client, a direct offer financial promotion must contain:

- Such of the information set out in the disclosure of information rules as is relevant to the product or service being promoted
- Appropriate information enabling the client to understand the nature and risks of the investment and to take investment decisions in an informed basis
- The right for the client to cancel

Cold calls and other promotions that are not in writing

Promotions that are not in writing

The person communicating must:

- Only do so at an appropriate time of day
- Identify themselves and the firm they represents at the outset; and
- Make clear the purpose of the communication
- Clarify that the client can terminate the communication at any time
- Give a contact point to any client with whom they arrange an appointment

Restriction on cold calling

Cold calls are promotions that are not in writing that are not explicitly requested by the client. They can only be made in the following circumstances:

- The recipient of the cold call has an established existing client relationship with the firm and envisages receiving cold calls; or
- The cold call relates to a generally marketable product; or
- The cold call relates to activities relating to readily realisable securities (not warrants)

4.7. Advising Clients

Suitability (COBS 9)

Application

The rules on suitability apply to a firm which makes a personal recommendation in a designated investment or which manages investments

In the case of non-MiFID business, the rules only apply if:

- The client is a retail client; or
- The firm is managing the assets of an OPS, stakeholder pension scheme or personal pension scheme

Assessing suitability: The obligations

A firm must take reasonable steps to ensure that a personal recommendation, or a decision to trade, is suitable for its client.

- Does the client want it? (objectives)
- Can the client afford it?
- Does the client understand it?

Suitability reports

Personal recommendations on investment made by a firm to a retail client must be supported by a suitability report.

4.8. Appropriateness (For Non-Advised Services) (COBS 10)**Application**

The rules on appropriateness apply to a firm which:

- Provides MiFID business other than making a personal recommendation and managing investments;
- or
- Arranges or deals in relation to a derivative or a warrant with or for a retail client and the order is in response to a direct offer; or
- Assesses appropriateness on behalf of another MiFID investment firm

Assessing appropriateness: The obligations

When providing one of the services above, a firm must ask the client to provide information about his relevant knowledge and experience.

- Can the client afford it?
- Does the client understand it?

Warning the client

Warnings will be given if:

- The firm considers that the product or service is not appropriate for the client
- The client does not provide information to enable the firm to assess appropriateness

4.9. Product Disclosure**Packaged products: Disclosing information**

Where a firm recommends or arranges a packaged product for a retail client, the firm is required to provide standardised information about the product particulars, the firm's services, fees, commissions etc. The firm must provide enough information about the nature and risks of a product to enable a retail client to make an informed decision.

Types

- Key Information Document (KID)
 - Packaged Retail and Insurance-based Investment Products (PRIIPS)
- Key Investor Information Document (KIID)
 - UCITS schemes
- Key Features Document
 - Any non-PRIIP packaged product e.g. Pension annuities

The client's right to cancel

When entering into an investment in a retail investment product, the retail client has the right to cancel:

- Generally – 14 calendar days
- Life products and pensions – 30 calendar days

4.10. Dealing and Managing (COBS 11)**Conflicts of interest****Application**

A firm must take all reasonable steps to identify conflicts of interest between:

- Itself and a client of a firm; or
- One client of the firm and another client

Types of conflict of interest

The types of conflicts of interest that may arise include situations where the firm:

- May make a financial gain (or avoid a financial loss) at the expense of the client
- Has an interest distinct from the client's in a service provided for the client
- Has a financial or other incentive to favour one client's interest over another client's interest; or
- Receives an inducement from a person other than the client in relation to a service provided for the client

Management or disclosure of conflicts of interest

A firm must have effective arrangements to manage conflicts of interest so as to prevent them giving rise to a material risk of damage to a client's interests.

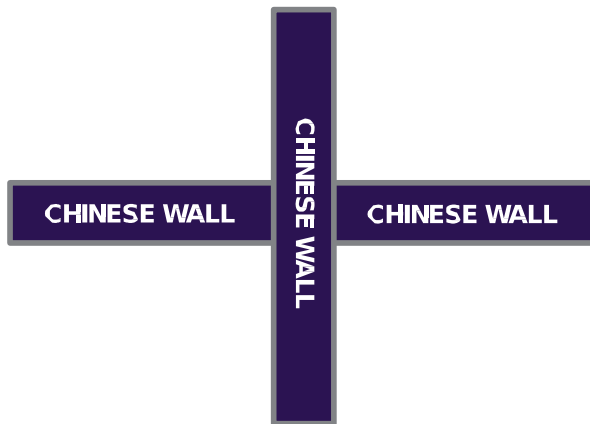
Written conflicts of interest policy

A firm must have in place a written conflicts of interest policy which:

- Identifies the circumstances that may give rise to a conflict of interest; and
- Specifies the procedures to be adopted in order to manage such conflicts

Chinese walls

A Chinese wall is defined as “an arrangement that requires information held by a person in the course of carrying on one part of its business to be withheld from, or not to be used for, persons with or for whom it acts in the course of carrying on another part of its business”.



Investment research (COBS 12)

When a firm produces investment research for dissemination to its clients or to the public, the firm must ensure the implementation of all the measures for managing conflicts of interest between those providing the research and those receiving it.

For example, a firm must ensure that:

- The firm or financial analyst must not trade on the research until the recipients have had a reasonable opportunity to act on it
- The firm/a financial analyst must not promise issuers favourable research coverage

Best execution

Best execution obligation and execution factors

- When executing an order for a client, a firm must take all sufficient steps to obtain the best possible result for its client taking into account the execution factors

The **execution factors** are “price, costs, speed, likelihood of execution and settlement, or any other consideration relevant to the execution of an order”.

Role of price

In the case of a retail client, the best possible result must be determined in terms of the total consideration, and must include all expenses incurred by the client that are directly related to the execution of the order.

Competing execution venues

In the case of a retail client, where there are two or more competing execution venues, the firm must take its own commissions and costs for execution the order into account.

Methods to achieve best execution

- Follow the order execution policy; or
- Follow a specific client instruction

Order execution policy

In order to satisfy its obligation to obtain the best possible result for its clients, a firm is required to establish and operate an order execution policy. This policy must include information about:

- The different execution venues that the firm will use to execute client orders; and
- The factors affecting the choice of execution venue

Duty of portfolio managers to act in clients' best interests

The obligation to act in the best interest of its clients is extended to a portfolio manager when it places an order with another entity for execution on behalf of its client.

Client order handling

General principles

A firm must provide for the prompt fair and expeditious execution of client orders. In general, otherwise comparable orders executed on behalf of clients must:

- Be promptly recorded and allocated
- Otherwise comparable orders must be carried out sequentially and promptly

Aggregation and allocation of orders

A firm is not permitted to aggregate unless the following conditions are met:

- It must be unlikely that the aggregation will work overall to the disadvantage of any client whose order is to be aggregated
- It must disclose to each client that the effect of aggregation may work to his disadvantage in a particular order
- The firm must have in place an order allocation policy, providing in precise terms for the allocation of aggregated orders

Limit orders

- Limit orders that cannot be executed by a firm immediately must be made public unless:
 - Specific client instructions
 - Large orders

Personal account dealing

The firm's arrangements on personal account dealing must ensure that:

- Each relevant person is aware of the restrictions on personal transactions (and of the firm's arrangements in this area)

- The firm is informed promptly of all personal transactions
- A record is kept of all personal transactions notified to the firm

The rule on personal on personal account dealing does not apply to personal transactions in:

- A discretionary managed independently of the relevant person
- Shares in a UCITS scheme
- Life policies

4.11. Inducements and Payments for Research

Rule on inducements

MiFID II has strengthened the rules on inducements, to reduce the risk of conflicts of interest. For MiFID business:

- A firm must not pay to, or accept from, a person other than the client, any fee, commission or non-monetary benefit unless the fee (etc.) enhances the quality of service to the client, and does not impair the firm's duty to act in the best interests of the client
- The firm must clearly disclose to the client the existence, nature and amount of the fee/commission before providing the service
- Proper fees necessary to the provision of the business are permissible

Payments for research

Firms must apply charges for research when providing it to other firms:

- Receiving firms can only use the research if it pays for it itself from its own resources, or pays for it from a separate research account

4.12. Reporting Information to Clients (COBS 16)

Occasional reporting (confirmations)

Timing of dispatch

When a firm has carried out an order on behalf of a client, it must promptly provide the client with the essential information concerning the execution of the order.

In the case of a retail client, this must be sent no later than the next business day after execution.

Exceptions to the requirement

In the case of non-MiFID business, a firm need not dispatch a confirmation if:

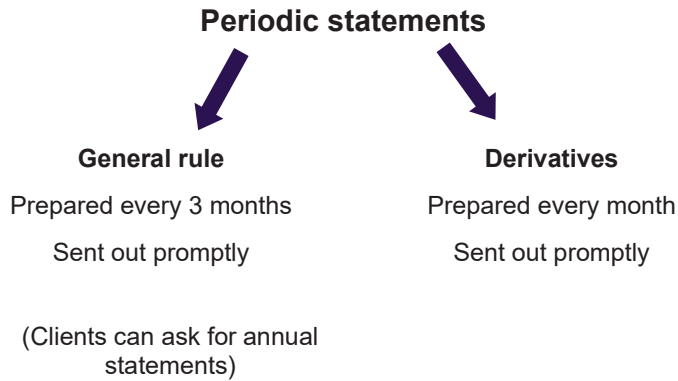
- The firm has agreed with the client; or
- The investment is a life policy or a personal pension scheme

Periodic reporting

Provision of periodic statement

If a firm is managing investments on behalf of a client, it must provide the client with a periodic statement in a durable medium.

Timing of periodic statement



Exceptions to the requirement

In the case of non-MiFID business, a firm need not provide a periodic statement to a client habitually resident outside the UK if the client has so requested.

4.13. Client Assets

Custody rules (CASS 6) Applies to all firms

Applies to all firms

Purpose

- Restrict co-mingling of clients' and firms' assets
- Minimise the risk of client assets being used without the consent or against the wishes of the clients

Exemptions

The custody rules **do not** apply to:

- Investment business passported into the UK
- Designated investments held on behalf of an affiliated company (**unless** they are held for a client, or the affiliated business is an arm's length client)
- A firm acting as the operator of a regulated collective investment scheme

Delivery vs. payment (DvP) transactions

The custody rules **do not** apply to DvP transactions provided delivery or payment by the firm will occur within **three business days** of the client making delivery or payment.

Reconciliations

The firm will have three different sets of records relating to the safe custody business it provides:

- A record of the safe custody investments that it is accountable for, but does not hold in its possession
- A record of safe custody investments that it **does** physically hold itself
- A record of **all** the safe custody investments held on a client by client basis

Any discrepancies must be made good by the firm, and firms should inform the FCA without delay of any failure to comply with reconciliation requirements.

Client money rules (CASS 7)

Applies to MiFID firms

Client money

When a firm holds money which belongs to someone else, then it is client money.

Segregation

Client funds should be **segregated** from those of the firm by the use of client money bank accounts.

The FCA generally requires a firm to place client money in a client bank account with an 'approved bank'.

Not client money

Money is not client money when it becomes properly due and payable to the firm for its own account.

Money is not client money when the firm has discharged its responsibilities to segregate client money and holds it separately.

Reconciliations

A firm must reconcile its records of client balances to bank statements from approved banks as often as is necessary.

- Internal reconciliations
 - Errors corrected by the end of the business day on which reconciliation occurred.
- External reconciliations
 - Errors investigated and corrected as soon as possible.

Enhancing the CASS regime

CASS audit

- Required annually and submitted to the FCA within four months of the audit
- Client asset assurance standard set by the Financial Reporting Council
- Firm to explain any breach identified

Right of use

- Where the right to use a client's assets is transferred to the firm e.g. rehypothecation
- Title transfer collateral agreement

CASS resolution pack

- Specific documents and information relating to client money and assets
- Must be available to the regulator on request

Mandate accounts

- Where a client gives a firm control over their assets or liabilities e.g. direct debits, pre-approved companies with PayPal
- Firms must establish and maintain adequate records and controls

5. Quick Reference: Complaints and Redress

5.1. Complaints and Redress

Eligible complainants

- Consumers
- Micro-enterprises
 - <10 employees
 - Balance sheet < 2m EUR
- Charities with annual income <£6.5m
- A trustee of a trust with a net asset value of less than 5 million at the time the complaint is raised
- Certain SMEs
 - Turnover <£6.5m
 - Balance sheet <£5m
 - Fewer 50 employees

Complaints procedures

Internal complaints procedures must be **in writing** and cover:

- Receiving complaints
- Responding to complaints
- The appropriate investigation of complaints; and
- Notifying complainants of the right to approach the Financial Ombudsman Service

Procedures should be drawn to the attention of customers at the first point of contact, sent to customers on request and to complainants automatically.

All employees that deal with customers should be aware of the complaints procedures.

Written acknowledgement and a copy of the complaints procedures should be sent promptly after receipt of the complaint.

A firm has a maximum of **eight weeks** to try to resolve a complaint, at the end of which it must inform the complainant that they may refer the complaint to the Financial Ombudsman Service.

The Financial Ombudsman Service (FOS)

Purpose of the FOS

A free and private dispute resolution service for the clients of authorised firms. The scheme is available to eligible complainants. The maximum award by the scheme is £430,000.

Scope of the FOS

Compulsory jurisdiction for authorised firms.

Voluntary jurisdiction for other firms.

The Pensions Ombudsman Service (POS)

The Pensions ombudsman performs a similar role for complaints regarding pension schemes.

The Financial Services Compensation Scheme

The scheme is administered by the FCA for investors who have a claim in the event of the insolvency of an authorised firm.

The scheme is primarily available to **retail clients**, although intermediate customers and market counterparties can make limited claims in respect of insurance losses.

The scheme limits are as follows:

- Deposits, investments or home finance: 100% of any claim up to a maximum of £85,000.

The maximum payout by the scheme each year is unlimited.

Super-complaints and mass-detriment references

Super-complaints

A consumer group can raise a complaint about competition and consumer issues

- The consumer group must be designated by the Treasury

Mass-detriment

FOS and firms can report mass detriment to the regulator if:

- Consumers are suffering from regular failures by firms
- Firms regularly behave in a way that would lead to complaints

Impact

FCA must publish a response to super-complaint or mass detriment within 90 days.