

The background of the slide is a dark blue gradient overlaid with various financial market data visualizations. These include green and red candlestick charts, several blue and red line graphs representing different metrics, and a prominent red dashed diagonal line. The overall aesthetic is high-tech and professional, typical of a financial institution's branding.

Financial Regulation Monthly Breakfast Webcast

18 June 2025

LATHAM & WATKINS

Today's Topics

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The FCA's Policy Statement on its Enforcement Guide and greater transparency of enforcement investigations

Anna James

Naming and Shaming – how not to regulate

- FCA publishes Consultation Paper – 27 February 2024
 - Proposed new approach to publicising enforcement investigations as part of FCA's plans to deliver "impactful deterrence"
 - Decision to publish on a case-by-case basis based on a "public interest test"
 - Significant criticism from industry and government
- FCA publishes revised proposals – 28 November 2024
 - FCA made a number of important revisions to the proposal in order to address criticisms. These included increasing the notice period given to firms prior to any announcement, and including both: (i) the impact of an announcement on the firm; and (ii) market ramifications, as part of the public interest test
 - Industry and government remained unconvinced
- FCA announcement – 12 March 2025
 - FCA would not be taking forward the main proposal to introduce a public interest test for announcing enforcement investigations, but would take forward other aspects of the proposals that received support
- FCA publishes PS25/5 – 3 June 2025
 - Final policy on announcing enforcement investigations, along with updated Enforcement Guide

Announcement of enforcement investigations

- FCA will retain the existing “exceptional circumstances” test
- FCA will pursue policy of increased transparency by:
 - Reactively confirming investigations that are officially announced by a firm, regulatory body, government or public body
 - Making public announcements in relation to potentially unlawful activities of unregulated firms, and regulated firms operating outside the regulatory perimeter
 - Publishing greater detail of issues under investigation on an anonymous basis
- Changes apply from 3 June 2025 onwards
- Timing and format of announcements (if any) will vary depending on the circumstances

Other changes to the Enforcement Guide

- Changes aimed at streamlining and updating content, for example by:
 - Moving certain information about its broader strategic approach to enforcement to the FCA's website
 - Deleting wording that repeats legislation
 - Deleting aspects that are duplicated in the Decision Procedure and Penalties Manual (DEPP)
 - Moving or reducing content that is more about supervision than enforcement
- Other important amendments include:
 - Whether to hold scoping meetings will be decided on a case-by-case basis
 - FCA has indicated that it may refuse the attendance of a particular legal advisor when interviewing a person, if the advisor's attendance may reasonably be assessed as potentially prejudicing the investigation
 - FCA has clarified the basis on which it will accept reports provided on a limited waiver basis
 - FCA has deleted content on use of private warnings

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The PRA's updated Supervisory Statement on its approach to international firms, and expectations regarding UK firms' booking models

Rob Moulton

Overview

- PRA's Policy Statement provides:
 - Feedback on CP11/24
 - Updated Supervisory Statement
- Key focuses are on:
 - Criteria used to require a subsidiary rather than a branch
 - Clarification as to expectations on booking models
 - Amendments to PRA branch returns

PRA's branch risk appetite

- Existing thresholds updated for inflation
 - £130m (previously £100m) in FSCS covered instant access accounts
 - £650m (previously £500m) in total FSCS covered deposits
 - Less than 5,000 retail and small company customers with transactional accounts (unchanged)
- Post Silicon Valley Bank UK, new threshold for non-FSCS covered deposits
 - Less than £300m in retail and smaller company deposits regardless of FSCS coverage
- PRA retains flexibility where these limits are breached mainly by HNWI clients

PRA's booking expectation guidance

- Lots of feedback to PRA on different approaches by different international regulators
 - PRA says it will work cooperatively and often has MoUs
 - But cannot always align with or defer to other regulators
- PRA changes are often to make public the expectations developed during the joint PRA/ECB Desk Mapping Review exercise

PRA's booking expectations – continued

- Focus is on risks from trading activities, but expectation is that where banking book products exhibit similar characteristics, they will be treated similarly
 - Secured financing, leveraged financing, warehouse loans, derivatives
- PRA must be consulted over material booking changes
 - Examples include: degree of fragmentation to centralised risk management structure; illiquid risks; whether traders may be relocated outside UK; whether developments have been considered by the relevant SMF and Board
- Further guidance on what PRA sees as the drawbacks to the operation of split desks, saying it does “not expect them to be frequent” and there is a “high threshold to cross”
- Remote booking structures with all traders remote are “unlikely to be acceptable” to the PRA
- Comments above apply intra-firm (that is, between Head Office and a UK branch)

Liquidity reporting

- Firms will be permitted to align returns if Home State data is not available on 30 June or 31 December (to prior Home State deadlines)
- Further minor changes to Branch Returns
 - PRA has agreed to extend implementation date to 1 March 2026



The latest output from the FCA on AI

Becky Critchley

AI developments

- Supercharged Sandbox
 - For firms to build their early-stage proof of concept models with FCA support
 - FCA's AI Spotlight digital repository
- FCA and ICO collaboration
 - “Regulation as a bridge, not a barrier”
 - Industry feedback is not that regulation is standing in the way of innovation
 - Uncertainty remains around “what good looks like”
 - Liability and Responsibility for third-party AI tools
 - Increase awareness of the support and tools available, including:
 - From the FCA – the Digital Sandbox, Supercharged Sandbox and AI Live Testing within the FCA's Innovation Hub
 - From the ICO – the Innovation Advice Service, Regulatory Sandbox and Innovation Hub under its Innovation Services

AI developments (cont.)

- Research note “Money talks: Lessons from 2 LLM pilots on consumer guidance”, which focussed on:
 - Simplifying financial concepts
 - Providing consumer guidance on the features of one type of cash savings product
- The three main lessons learned were:
 - LLMs demonstrate strong potential in simplifying complex information, enhancing readability and accessibility. However, validating their outputs requires a robust evaluation framework that combines human judgement with automated tools
 - The effectiveness of LLMs is context-dependent. Outcomes such as user comprehension and engagement are influenced by how the model is embedded within the customer journey, including content design and delivery
 - There is a clear appetite for AI-driven assistance. Many users responded positively to automated support, indicating a readiness to engage with intelligent systems in decision-making processes

The background of the image is a complex financial chart. It features a dark blue background with various colored lines and candlestick patterns. A prominent blue line with a jagged, oscillating pattern runs horizontally across the middle. Above it, there are several red and green candlestick bars, some of which are grouped together. A thick, solid blue line curves upwards from the bottom left towards the top right. Another thick, solid red line curves downwards from the top left towards the bottom right. A dashed red line runs diagonally from the top right towards the bottom left. The overall effect is one of a busy, data-driven financial environment.

The FCA's statement on next steps in its motor finance review

Becky Critchley

Key considerations in implementing a possible motor finance consumer redress scheme

- 5 June 2025 FCA webpage inviting 'feedback' on a possible redress scheme
- Areas for comment:
 - Opt-in scheme vs opt-out scheme
 - Calculation of redress
- Next steps:
 - FCA confirmation on whether it will propose a redress scheme within 6 weeks of the Supreme Court decision
 - Timings for FCA consultation
 - FCA consultation
 - Any redress scheme expected to be implemented in 2026

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The House of Lords Financial Services Regulation Committee report on the regulators' secondary international competitiveness and growth objective

Rob Moulton

Growing Pains: Clarity and Culture Change Required

- Lengthy Parliamentary report on the secondary international competitiveness and growth objective
- Recognised as having “proved a valuable stimulus” although “it has also brought into stark relief long-standing issues”
- Highly critical of FCA and PRA’s performances
- Contains a number of calls to action

Our favourite quotes

- “We are sceptical that the FCA and PRA can clearly set out how their interventions can support growth in the wider economy”
- “The burden of compliance in the UK is perceived to be disproportionately high. Firms have told us that they are inundated by information requests”
- “The FCA does not do enough to distinguish between firms that cater to wholesale and retail markets”
- “The regulators do not have a clear understanding of the accumulative burden of regulation”

Detailed commentary

- FCA and PRA's senior leadership must drive cultural change throughout their organisations
- Criticisms are (for once) roughly equally targeted at FCA and PRA (rather than focusing on FCA's perceived under performance)
- Equally, a keen focus emerges on the "significant overlaps between the regulators" which are said to have "delayed the implementation of reforms and made it harder for firms to conduct business"
- Repeats past criticisms (largely thought to have been addressed) on authorisation times, including the "stop the clock" approach
- Perception that becoming authorised is too difficult – "the FCA and the PRA should work together to develop a proposal for a 'concierge service' in the UK"

Detailed commentary (cont.)

- Inconsistencies in the quality of supervision, and a substantial discrepancy between supervision of the largest institutions and the rest of the sector
- Criticism that there are too many regulatory thresholds that constitute cliff edges
- Extensive criticism of the Consumer Duty
 - Uncertainty and lack of clarity as to how to comply, and who it applies to
 - Lack of pace in the work at removing redundant or duplicative rules

Selected barriers identified in the report

- A deeply entrenched culture of risk aversion that undermines trust between regulators and industry
- A disproportionately high cost of compliance and complex regulatory landscape, with an overlap in regulatory remits and an excess volume and scope of activity
- Slow rate of authorisation of firms and funds
- A lack of proportionality in approach, both between: (i) wholesale and retail markets by FCA; and (ii) capital requirements by PRA
- Inadequate guidance from the Government as to how it sees financial services regulation supporting its growth strategy

Suggested next steps

- Government to commission an independent study to assess the accumulative cost of compliance
- Development of concierge service between FCA and PRA
- FCA to work at pace to remove redundant or duplicative rules following introduction of Consumer Duty
- Government to further development evidence base for how regulators can support growth in the wider economy

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Recent regulatory action in relation to social media platforms and influencers

Jonathan Ritson-Candler

International regulators take aim at unlawful promotion of financial products via social media platforms

- FCA
 - Along with regulators in Australia, Canada, Hong Kong, Italy and the UAE took part in a “week of action” on 2 June 2025 against unlawful finfluencers
 - In the UK, this has resulted in:
 - 3 arrests and criminal proceedings against 3 further individuals
 - 4 finfluencers invited for interview with the FCA
 - 7 cease and desist letters
 - 50 warning alerts
 - 650 promotion take down requests and 50 website take down requests
- ESMA
 - Has written to EU HQ of 10 tech companies that host social media platforms
 - Flagging risks of unlawful promotions and scams on their platforms
 - Urging platforms to put measures in place to prevent such promotions by unauthorised firms
 - Asking platforms to confirm receipt and attend a meeting with ESMA to discuss
 - Commending one platform for already having a procedure in place, albeit asks that it is extended to all EU Member States

International regulators take aim at unlawful promotion of financial products via social media platforms (cont.)

- IOSCO
 - Cites harms suffered by retail investors resulting from both online paid-for advertisements and user-generated content that amounts to fraud, scams and the unlawful promotion of financial products
 - Encourages:
 - Use of IOSCO tool to check for unauthorised firms, firms with known regulatory disciplinary history etc.
 - Development of internal processes for detecting scams
 - Platforms to understand legal requirements in their jurisdiction
 - Direct engagement with regulators

Taken together, a helpful reminder for firms that either use influencers or other content creators to promote their firm / services to ensure adequate diligence and ongoing oversight (including firms that use the financial promotions gateway to approve promotions made by unauthorised firms)

Recent Thought Leadership

- [FCA Publishes Final Policy Position on Announcing Enforcement Investigations](#)
- [FCA's Final Proposals for PISCES: A New Era for Private Market Trading](#)
- [UK Government Sets Out Next Steps on BNPL Regulation](#)
- [UK Government Publishes Initial Proposals on CCA Reform](#)



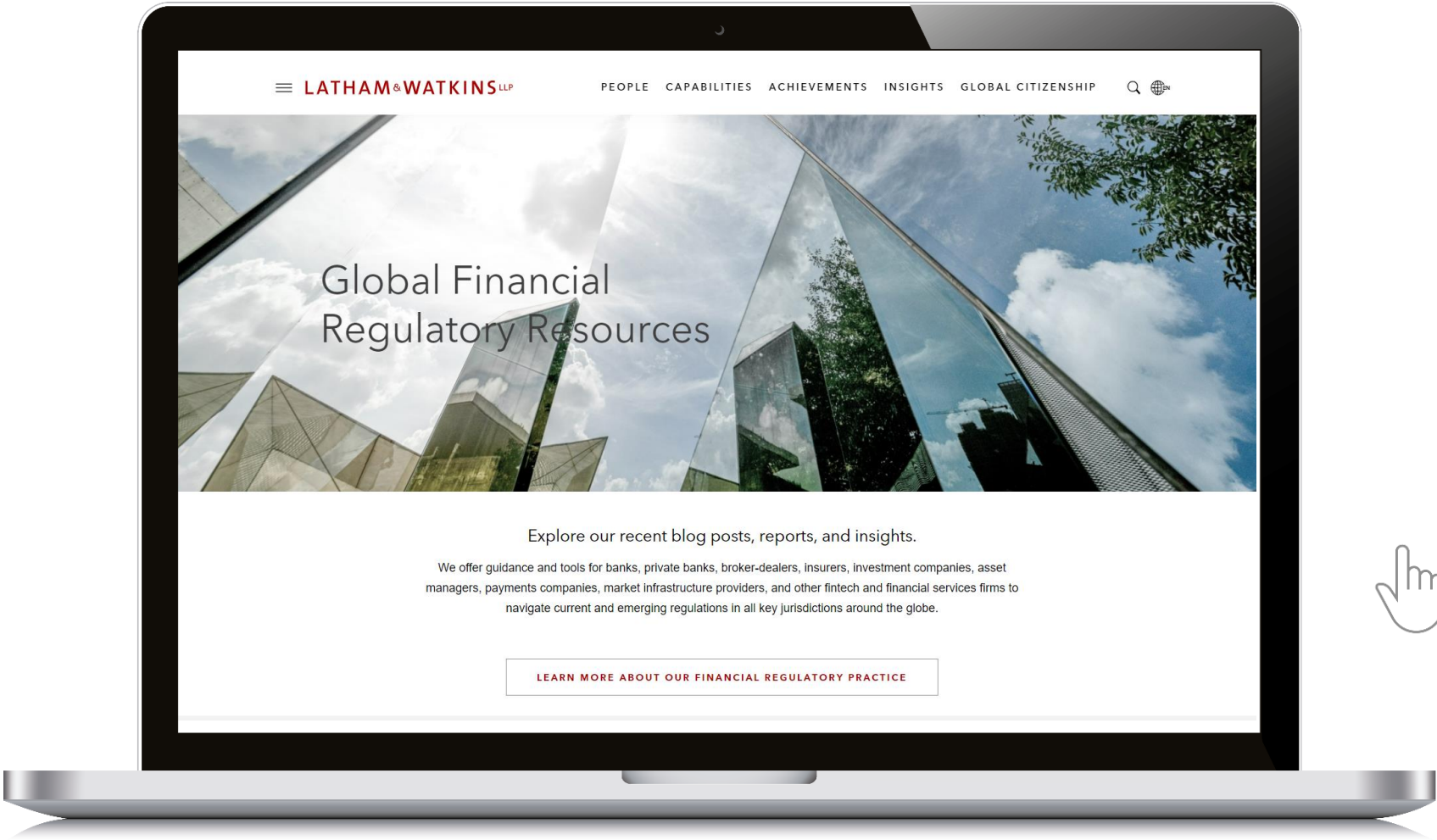
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