Financial Regulation Monthly Breakfast Webcast

12 November 2025

LATHAM & WATKINS

Today’s Topics

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FCA’s consultation on changes to the UK’s short selling regime

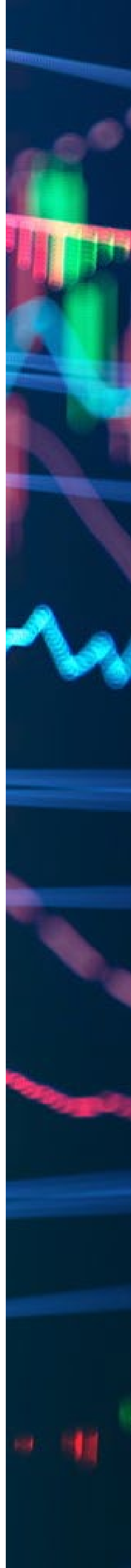
Rob Moulton

Background

- UK revision of the short selling regime announced as part of the Edinburgh reforms in December 2022
- July 2023 – HMT consultation announced removal of UK sovereign debt and associated CDSs
- Early use of the new Designated Activities Regime
- FCA retains emergency powers to act (e.g. in a financial crisis)

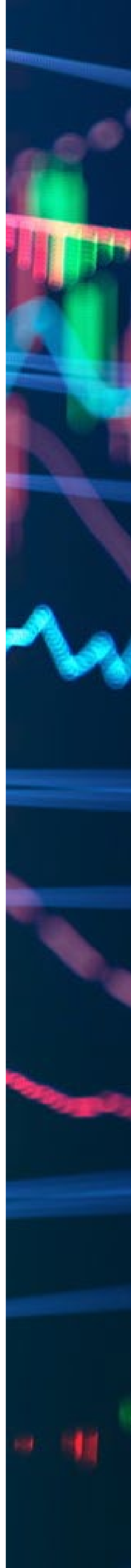
Position reporting

- Extension of the deadline by which notifications are required to 23:59 T+1
  - Previously 15:30 T+1
- Additional guidance on the calculation of Net Short Positions
  - Can be at any point during the trading day, previously midnight
- Guidance on sources of information on issued share capital
  - Filings at Companies House; information from commercial data providers; figures disclosed by companies
- Basic requirement to “act reasonably having regard to publicly available information”
- Continued complexity and guidance relating to groups



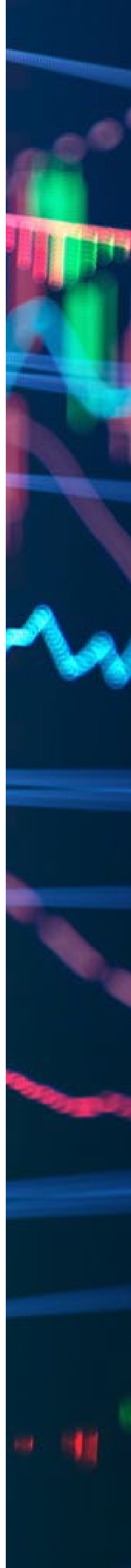
Borrowing

- Easy to borrow or purchase lists
  - Replace the maximum amount of shares affected by the possible sale with “the amount of shares that is available”
- Maintenance of 5-year record keeping requirement



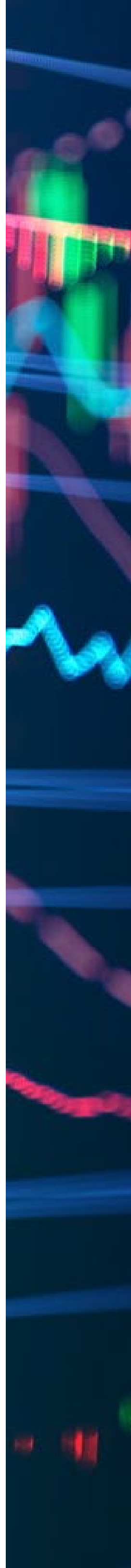
Reportable shares list

- FCA will publish a list of admitted shares (replacing list of exempt shares)
- Reduction of the number of shares on the list
  - If a share is not of significant UK importance, FCA can choose not to include it if subject to similar rules elsewhere such as EU or Switzerland
- Reportable shares list will be updated every two years
  - This aligns with the EU's approach



Market maker exemption

- Eligibility requires firm to be a member of one UK trading venue (or equivalent EEA venue)
- Exemption only applies when acting as a market maker, not dealing on a proprietary basis
- New firms must give 15 calendar days notice
  - Previously 30 calendar days
- Existing firms adding shares are exempt immediately on notification
  - Previously 30 calendar days
- FCA is removing requirement to provide volume estimates for new shares



Public disclosure

- Net Short Positions will be reported on an aggregated and anonymised basis above 0.2%

Timings

April 2026

FCA to publish Policy Statement and reportable shares list

June 2026

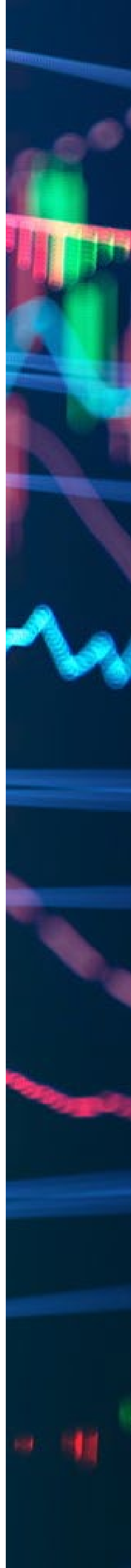
Main Commencement Date — new Short Selling Sourcebook takes effect, FCA starts to publish ANSPs

December 2026

FCA system updates for position reports and market maker exemption notifications

1 June 2027

End of grandfathering for market maker exemption notifications



How helpful is all of this?

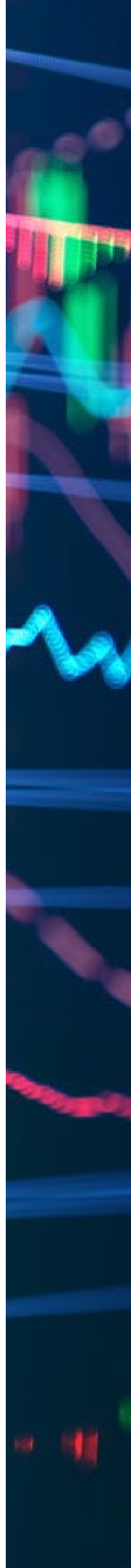
- No wide ranging analysis of whether the regime is required, or fit for purpose
- Focus is on (somewhat) alleviating the administrative burden
  - Extended deadline to report
  - Quicker approval of exemption applications
  - Slightly shorter reportable shares list
  - Slightly less information publicly disclosed
- But still considerable complexities in group reporting, transitionals, and the regime as a whole

The regulators' Policy Statement on changes to the remuneration regime for banks

Rob Moulton

Background

- UK slowly reforming remuneration rules (partly in response to Government’s growth and competitiveness agenda)
- Past consultation in 2024 is largely being taken forward
    - But with even more liberalisations
    - PRA and FCA called in front of the Treasury Committee to explain their approach
    - The Policy Statement says “the proposals bolster the regime’s core objective of safety and soundness while also promoting the competitiveness and growth of the UK economy”



Key Proposals – Deferral and Retention Periods

- All MRTs will be subject to a four-year minimum deferral period
  - Five-year period for SMFs scrapped
  - PRA says internal analysis concludes most adverse outcomes take more than three, but less than four, years to emerge
  - Regulators take comfort from requirement on firms to continue to freeze vesting of awards to persons undergoing investigation
  - Firms can always choose longer deferral periods
- CP16/24 proposed increasing the threshold at which deferral increases from 40% to 60% from £500,000 to £660,000. Regulators have now also decided to include a marginal deferral system, where the 60% rate applies only above £660,000 (not to the whole award)
- Rules will be amended to remove the requirement for an equal split between cash and instruments in the upfront and deferred portions
  - PRA guidance is that good practice for the deferred portion of pay is to contain a higher share of instruments
  - One-year retention period for upfront instruments remains
- PRA has removed the requirement for firms to notify supervisors of retention awards
  - Will instead continue to be disclosed through remuneration policy statements

Key Proposals – Deferral and Retention Periods (cont.)

Chart 1: Final Changes to Deferral Rules

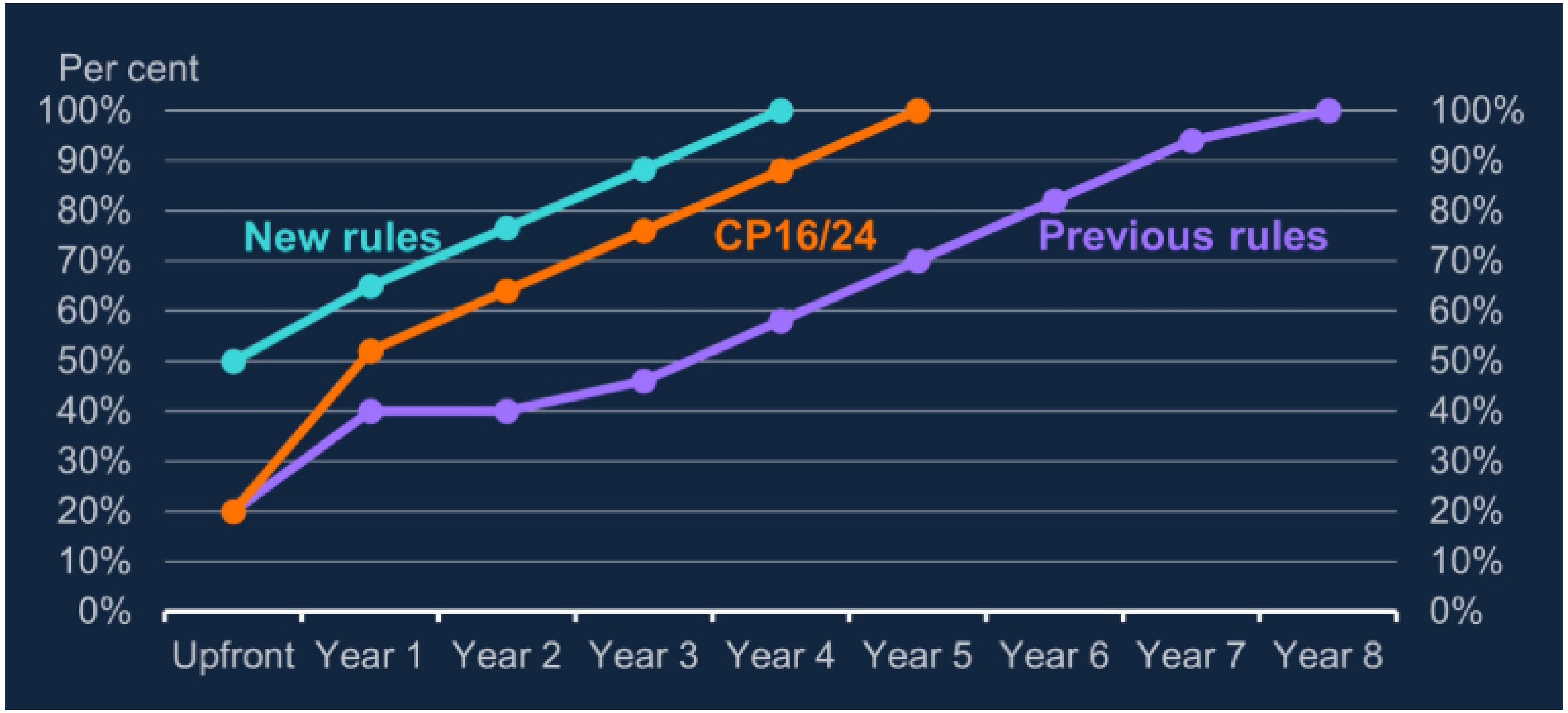
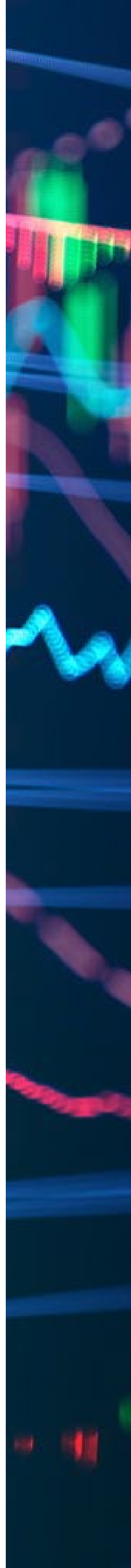


Chart 1 illustrates the impact of the PRA's policy as set out in this PS on the rate at which £1m in variable pay would vest for a senior manager. It compares this to the vesting rate under the proposals set out in CP16/24, and under the pre-existing rules. This vesting profile will vary depending on the amount of variable pay received and decisions taken by individual firms implementing the reforms.

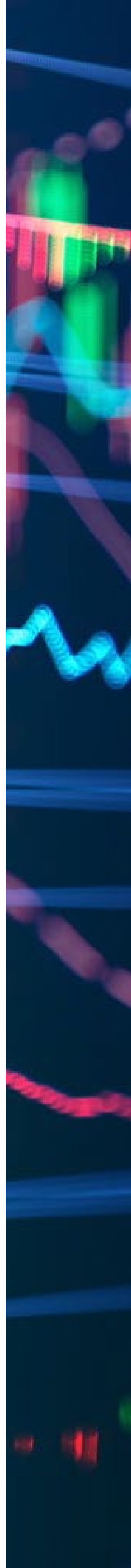
Key Proposals – Identifying Material Risk Takers

- Remuneration committee now expected to oversee and approve design of MRT methodology on behalf of the board
- PRA has replaced the expectation for “active involvement” of the individual responsible with an expectation of “oversight”
- No new guidance on how to calculate who the top 0.3% of highest earning staff may be



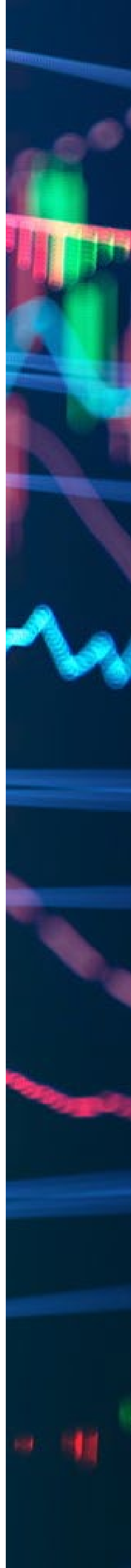
Key Proposals – Enhancing Proportionality

- CP16/24 proposed raising pay threshold below which firms may disapply some remuneration rules to £660,000 (variable no more than 33% of that)
  - PRA is retaining this approach
- Additionally, PRA will reinstate guidance exempting employees in role for less than 3 months from these requirements



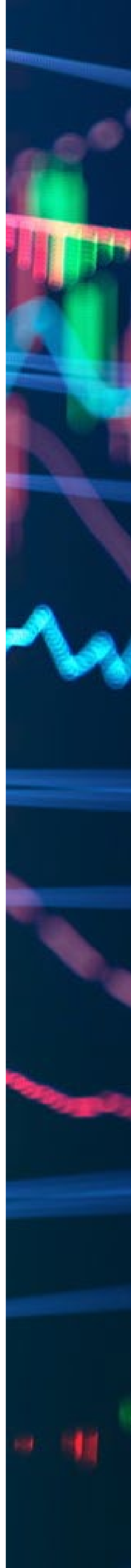
Key Proposals – Remuneration and Individual Accountability

- CP16/24 contained (cryptic) guidance on performance adjustments “up the management chain”
  - PRA has declined to provide additional guidance to firms on how to do this
- CP16/24 said that matters raised with firms in PSM letters needed to be linked to SMF Statements of Responsibility
  - PRA has removed this requirement and instead expects firms to document how PSM actions will be taken into account for remuneration purposes



Timing

- Rules relating to individual pay (e.g. deferral, amount deferred, pro-rata vesting) come into force immediately and can apply to current performance year, and remuneration awarded in prior years, but which is not yet vested
- All other changes (mainly relating to governance etc.) came into force immediately and will apply to the next performance year
  - Further impact of lobbying on international competitiveness
- Future consultations will look at:
  - Regulatory reporting requirements for remuneration
  - Aligning FCA solo-regulated firm rules (AIFMs, MIFIDPRU firms, UCITS firms) with an update expected early 2026



The FCA’s findings from its reviews of client categorisation and financial crime controls in corporate finance firms

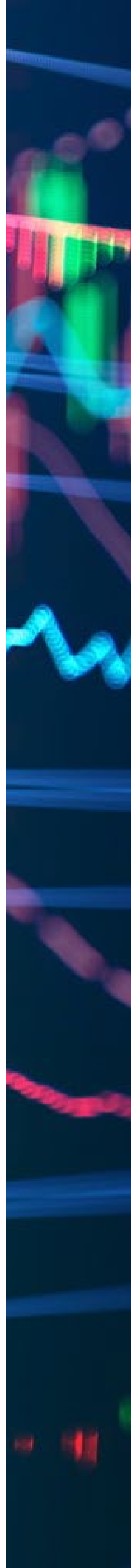
Jonathan Ritson-Candler

Background

- FCA has previously announced a full review of the rules on elective professional clients
- Here, FCA reviews the approach of corporate finance firms to various related topics
- FCA states the rules exist to “differentiate non-retail clients, so wholesale business can proceed without unnecessary regulatory protections”
  - So, “correct client categorisation should promote trust in financial services and support growth”

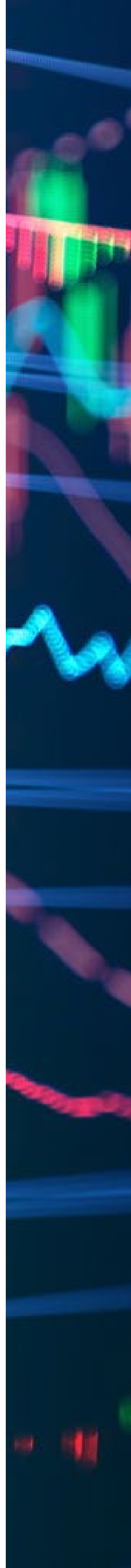
Conducting an assessment

- Criticism of the “superficial approach” and “not keeping supporting records” at the time of assessing a customer’s categorisation
- Clients assessed for a specific transaction, but it is unclear why they had the same categorisation for a later transaction
  - Not clear firms considered whether to revise the client categorisation assessment “as a company’s size may change”
- Firms criticised for applying invalid criteria (public listing, including capital not yet raised in the balance sheet)



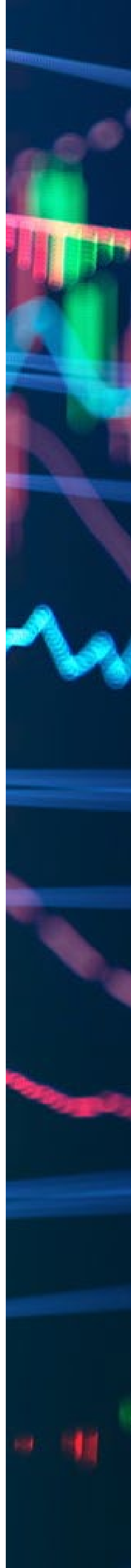
Elective professional categorisation

- FCA criticises the "unstructured approach" of firms, e.g. not using "sufficient and clearly defined criteria to assess expertise, experience and knowledge" and document the rationale
- FCA notes professional clients let firms know any changes affecting their categorisation
  - If client is a natural person, FCA thinks "changes to their health" could affect their capacity to inform the firm, and that firms are therefore required to "refresh a client categorisation assessment, as part of their obligations under COBS 3.5.9 or the client's best interests rule in COBS 2.1.1"
  - We could not disagree more
- 30 October – FCA press release on elective professionals and CFDs
  - FCA "concerned that firms are using high-pressure techniques to encourage investors to claim they are professional clients"
  - Investors warned not to lose out on protections such as Consumer Duty



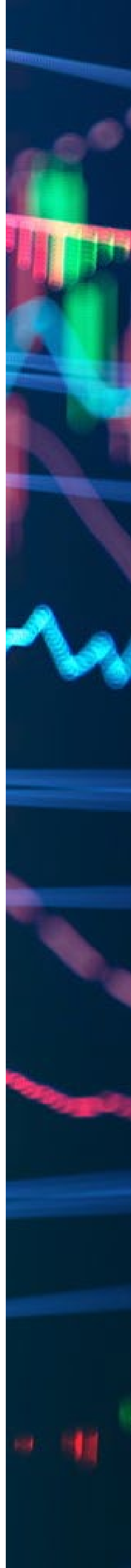
Categorising corporate finance contacts

- Most firms treated potential investors as contacts
- Assessment process criticised as not always being clear or rigorous
  - Firms criticised for not maintaining an organised list of contacts (?)
  - FCA criticises categorisation by *feel* based on an understanding of the contact
  - Firms criticised for relying on close and longstanding relationships for categorisation (NB as a contact?)
  - FCA repeats the criticism of not recategorising professionals in case they cannot inform the firm of a change affecting their categorisation
- FCA says the corporate finance contact warning cannot be "buried in a disclaimer" if the firm is to meet the requirement to "clearly indicate"
- We could not disagree more



Using elective professional categorisation for contacts

- FCA FinProm rules apply to contacts unless promotions are exempt
- Elective professionals are automatically exempt
  - FCA praises firms who meet investors, use investor questionnaires, consult databases and open-source checks and consider all available information in assessing categorisation
  - But FCA criticises firms who “relied on historic assessments of contacts as elective professional clients without considering their ongoing eligibility” (e.g. health issues or other incapacity again)

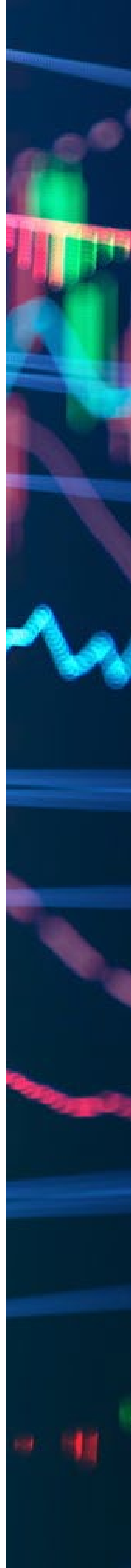


Certification as high net worth or sophisticated

- FCA criticises lack of clarity on whether FCA or FPO exemption provisions are being relied on
  - But FCA found examples of communications without a valid statement of worth or sophistication
  - Also found the “unlisted company” exemptions being used to promote investments in listed companies
  - FCA found firms communicating promotions to a different person to one that signed the statement

Financial crime oversight in corporate finance firms

- FCA survey of firms not required to submit financial crime returns
- A series of criticisms are made
  - FCA’s feedback often focused on appointed representatives and principal firms
  - 11% of firms had no documented business-wide risk assessment
  - 10% of firms did not retain documented evidence of customer due diligence
- FCA did find examples of good practice
  - Regularly updating business-wide assessments to reflect emerging risks
  - Use of detailed MI to strengthen financial crime controls



AML risk assessment processes and controls in firms: FCA findings

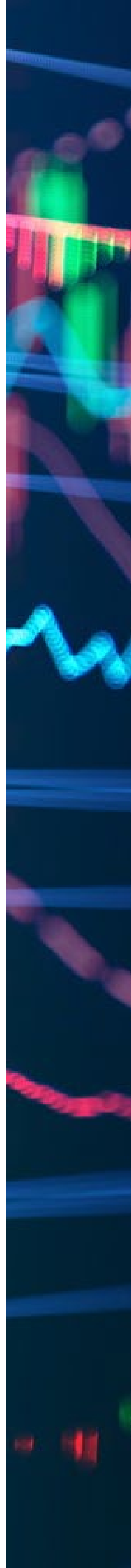
- FCA also published findings on AML risk assessment processes and controls relevant to all firms
- Firms should ensure that business-wide risk assessments:
  - Are adequately tailored such as including qualitative and quantitative scoring for risks, their mitigants and residual risks
  - Are formally assessed annually
  - Cover broad range of financial crime (money laundering, terrorist financing, fraud, ABC and proliferation financing)
  - Include evidence to support findings
  - Are used to inform customer risk assessment, CDD / KYC and ongoing monitoring
  - Are consulted during product development / new business approval
- Senior management should be familiar with risk assessment and be able to speak to all financial crime risks to the firm (FCA found most can only speak to fraud risk)

Findings from the FCA’s multi-firm review of consolidation in the wealth management sector

Ella McGinn

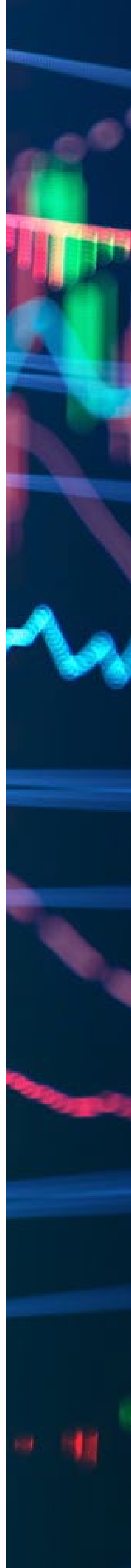
Introduction

- On 31 October 2025, the FCA published findings from its multi-firm review of consolidation in the financial advice and wealth management sector
- A range of good practices and practices which could increase harm
- FCA supports consolidators to invest and innovate, but warns it can lead to poor outcomes – e.g. poor client service, failure of business continuity and disorderly failure
- Sustainable consolidation to ensure good outcomes for clients on a long-term and stable basis
- Relevant to businesses that have made, or are looking to make, future acquisitions in this sector
- Impact on smooth change in control processes



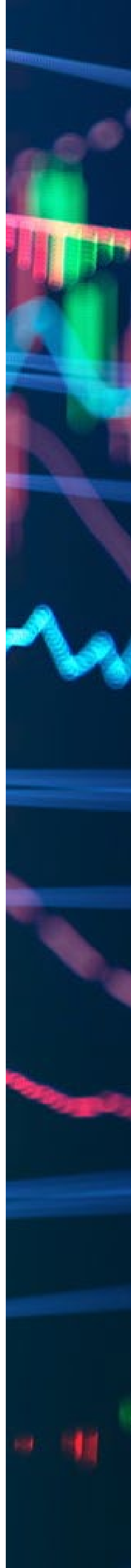
Findings – debt structures

- Impact on resilience of funding equity investments through debt
- FCA is particularly concerned about debt that is guaranteed by, or secured on the assets of, the regulated firms within a group
- Reliance on short-term borrowing which can increase future obligations
- Reliance on cash generation from regulated entities to service group debt, in some cases with no contingency plans and no effective stress testing
- Focus on proactive risk management – early warning indicators and regular board level review



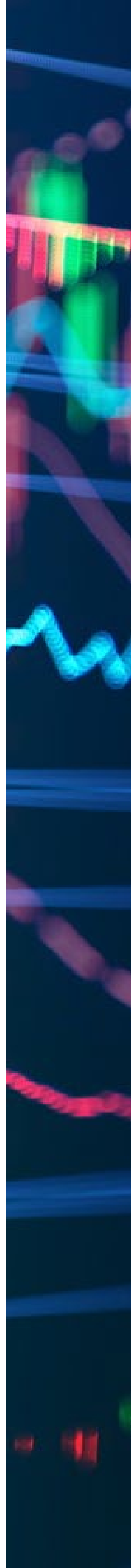
Findings – risk management

- Consider risk management and financial resources across the group as a whole when assessing threshold conditions
- Internal Capital and Risk Assessment (ICARA) process requires firms to consider risks across all group entities, not just those in an investment firm group
- Consistent oversight of risks across all entities, new risks being captured effectively, and proper assessment of adequate resources



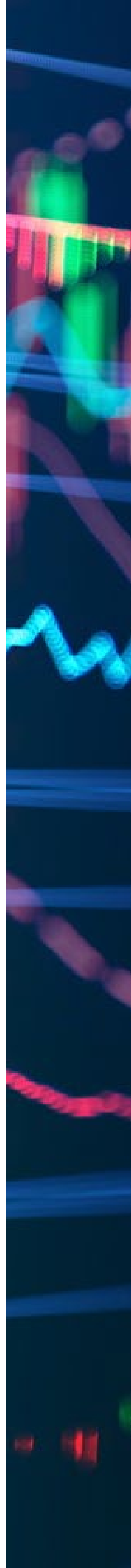
Findings – group structure

- FCA has concerns where acquisitions are structured through offshore holding companies, which limits the applicability of FCA prudential consolidation requirements
- These provisions are designed to mitigate the risk of disorderly failure and allow FCA to exercise effective supervision by having overall visibility of the relevant entities and risks
- Lack of full prudential consolidation can undermine the financial resilience of regulated entities, increasing the risk of harm to clients and markets
- Where goodwill is held outside an investment firm group it may not be appropriately deducted from capital, which affects the assessment of adequate financial resources



Findings – approach to acquisition and integration

- Conduct rigorous due diligence, usually with third party support, challenged and understood by decision makers – not “tick box” in nature
- Implement clear and disciplined integration plans, with well-resourced teams monitoring integration and client outcomes, and processes tailored to the profile of the firm being acquired
- Address post-acquisition risk and compliance improvements quickly to avoid substantial further investments of financial and non-financial resources



Findings – governance and resourcing

- Resourcing must keep pace with the increasing scale and complexity of the group
- Senior management must have the knowledge and experience necessary to manage the increasing size and complexity of the business
- Robust systems and controls and monitoring to ensure well controlled growth
- Embed knowledgeable staff within the acquisition and integration process
- Staff training on product testing and ongoing product governance reviews
- Ensure effective autonomy of regulated firm boards with sufficient independent challenge

Findings – conflicts management

- Ensure conflicts of interest registers are clear and well-developed
- Vertically integrated groups, where advised clients are placed into products offered by other group entities, need to properly identify and manage the inherent conflicts associated with this type of business
- No explicit or implicit incentives to invest in group products or services
- Offer a broad range of investment options, with robust onboarding assessments to ensure investment suitability
- Embed strong compliance monitoring to identify and manage actual or potential conflicts of interest effectively

Next steps

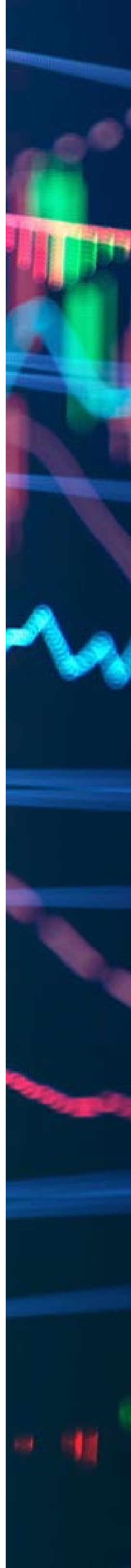
- Review arrangements in light of FCA's findings, and consider whether they might lead to increased prudential or conduct risks
  - *Good:* Clear structure, strong governance and risk management processes, well resourced and resilient
  - *Increased harm:* No prudential consolidation, resilience weakened by group debt arrangements, failure to grow compliance and governance infrastructure
- Reassess risk management arrangements and group structures for orderly and effective growth, bearing in mind the Consumer Duty (where applicable) and market integrity
- Review the impact of any offshore holding company structures on financial resilience
- Assess risk management arrangements in any upcoming consolidation plans to ensure in line with FCA's expectations for an efficient change in control process

FCA's bulletin on the delayed disclosure of inside information under MAR

Nicola Higgs

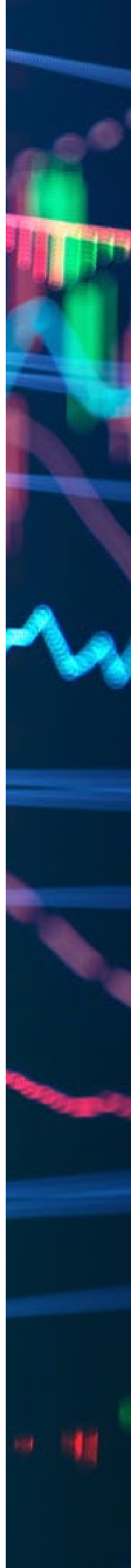
Introduction

- FCA compared information on Delayed Disclosure of Inside Information (DDII) notifications between (i) 2020 and (ii) 2022 – 2024
  - Article 17.4 of MAR
  - Ongoing uncertainty as to how this applies to scheduled announcements
- FCA reminder as to use of Delayed Disclosure Form



Findings

- Significant and unexpected fall (39%) in the volume of DDIIs
  - FCA thinks this could be because less inside information was identified, or issuers were less commonly delaying it
  - May do no more than reflect the prevailing market condition changes between 2020 and 2024
  - Only two notifications received relating to PDMR Shareholders
  - Reminder that companies with listed debt may (albeit less frequently) need to make notifications
- Average period of delay increased from 28 to 35 days
  - FCA describes this as an “unexpected increase”
  - May reflect the different market conditions, and longer time periods for completing transactions
  - Delays for unscheduled financial information fell from 21 to 15 days
- Delays in submission of DDII notifications
  - 43 issuers identified as submitting DDIIs 7 or more days after disclosure to the public
  - Other issuers identified as “significant outliers in terms of the length of delay”



Recent Thought Leadership

- [FCA Consults on Changes to the UK Short Selling Regime]
- [UK Regulators Finalise Updates to Bank Remuneration Rules]
- [FCA Review Highlights Important Considerations for Acquisitions in the Financial Advice and Wealth Management Sector]
- [EU Sustainability: State of Play — ESG in the Financial Services Sector]

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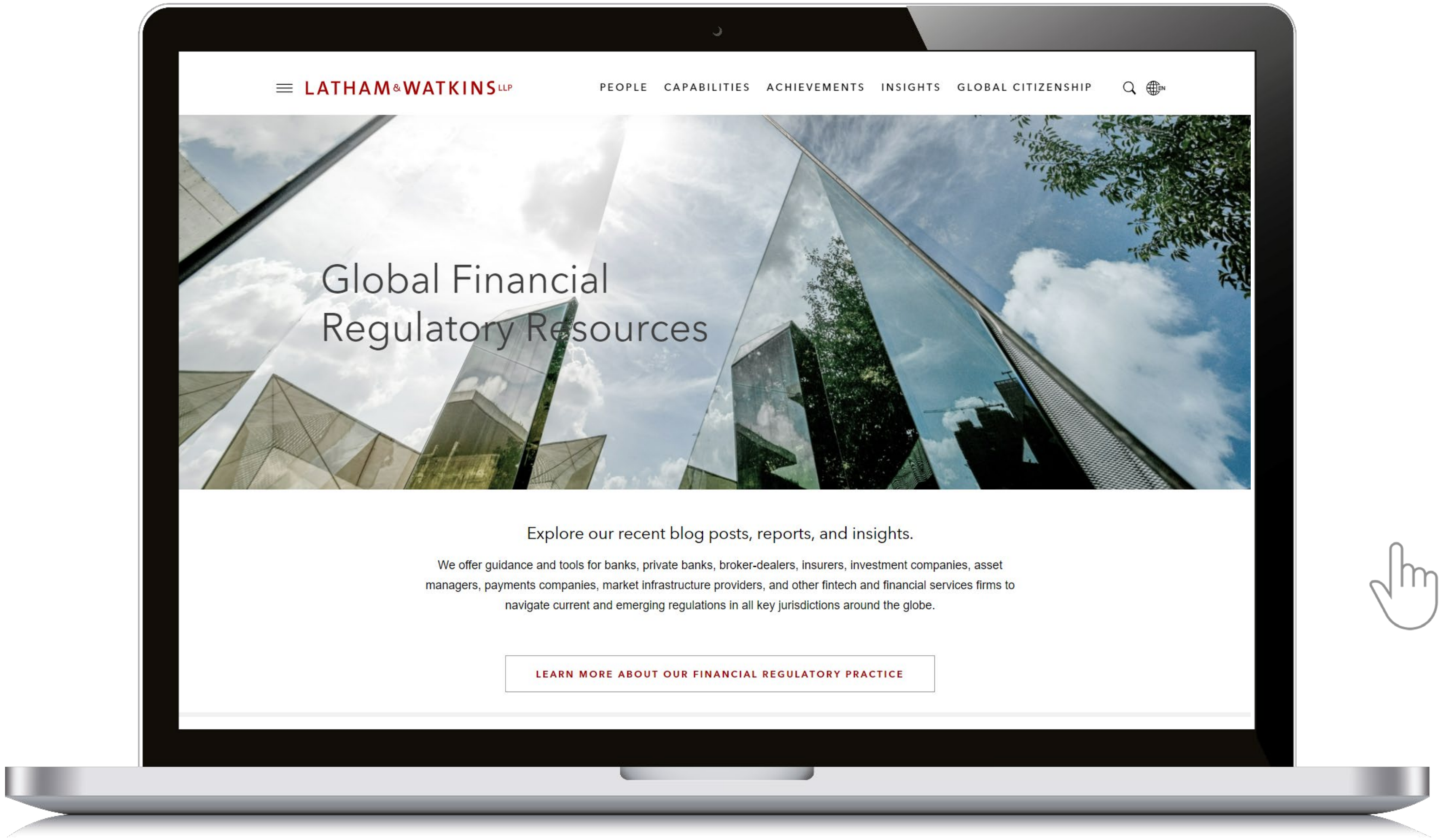

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