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Proskauer Breaks Down the Latest FCA Business Plan

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On 7 April 2020, the FCA published its latest Business Plan for 2020/21 ("**Business Plan**"). The FCA's Business Plan, amongst other things, sets out its key priorities and objectives for the medium term.

This note summarises the key points in the Business Plan which are relevant to the financial services industry and confirms that financial crime, conduct and culture remain a key focus area for the regulator.

1. Dealing with the Covid-19 pandemic

This year's Business Plan is notably shorter than those objectives published in previous years. The Business Plan confirms that the FCA's immediate focus is to address the challenges presented by the 2019 novel Covid-19 pandemic and states that in response to the pandemic, it will focus its efforts on ensuring the following going forward:

- *that markets function well;*
- *the most vulnerable are protected;*
- *the impact of firm failure is minimized;*
- *that it tackles scams; and*
- *consumers and small firms are treated fairly.*

The FCA explains the difficulties in planning ahead due to the uncertainty surrounding the magnitude and duration of the economic shock resulting from Covid-19. It further stated that it would take forward its five key priority areas (detailed below) but acknowledged that there would likely be an impact on timing which would provide for the FCA to fully focus on intended plans and as such, the shape and scale of these issues may change.

Despite complexities caused by Covid-19, the FCA warns that it will remain vigilant to potential misconduct and reminds firms that where it finds poor practice, *"[it] will clamp down with all relevant force".*

2. Key priority areas

Over the medium term, the FCA identifies five key priorities for the next one to three years, as follows:

- *transforming how it works and regulates;*
- *enabling effective consumer investment decisions;*
- *ensuring consumer credit markets work well;*
- *making payments safe and accessible; and*
- *delivering fair value in a digital age.*

In addition to the above, six cross-cutting work priorities were identified, along with the FCA's planned sector work in wholesale financial markets, investment management, retail banking and general insurance and protection.

3. Investment Management

Key outcomes the FCA seeks to achieve in the investment management sector is to ensure that investors get high-quality, fair value, products and services. Consumers should be able to access and choose from a range of products that are fair value and meet their investment needs and the FCA will explore further what effective disclosure looks like in supporting consumer investment decisions.

The FCA continues to prioritise effective governance and expects firms to implement the Senior Managers and Certification Regime ("**SM&CR**") properly to help deliver this. It is currently evaluating how 'host' Authorised Corporate Director ("**ACD**") firms discharge their responsibilities, including in the day-to-day management of the fund.

With respect to asset managers' exposure to LIBOR risk, the FCA expects managers to have strategies to manage the risks – including conduct risks – and are actively monitoring how firms implement these plans.

4. Financial Crime

An ongoing focus in the FCA's Business Plan and in line with its commitments in the UK's 2019 National Economic Crime Plan, the FCA will start to implement changes to how financial crime is to be reduced. These measures include making greater use of data to identify firms or areas that are potentially vulnerable. The FCA plans to consult on extending the Financial Crime Data Return to more firms to help strengthen its risk-based supervision as part of the wider Anti Money Laundering (AML) strategy.

5. A focus on smaller firms

The FCA plans to move its supervisory focus towards smaller firms in the financial services industry, particularly those that consistently fail to meet its regulatory standards and makes clear that it is committed to swifter enforcement action against firms that fail to consistently meet its standards, causing harm to the industry and consumers.

6. The future regulatory framework

The Business Plan also confirms the FCA's commitment to working with the government and its stakeholders to shape the future regulatory framework, to not only reflect the UK's future outside of the EU, but also to address lessons learned through operating in the current regulatory framework.

The current framework is viewed as too focused on rules and processes and should instead be focused on principles and outcomes. Too many resources are currently devoted to redress and remediation, and not enough to empowering consumers to take good decisions and regulatory action to prevent harm and safeguarding consumers' financial wellbeing from the beginning. To this end, industry should expect more outcomes focused rules as the UK regulation and guidance evolves, particularly post Brexit.

"We want all firms to take the end outcomes for consumers and markets into greater account when they design and deliver services."

To support this, the FCA promises it will be clearer with firms about the outcomes expected of them to achieve this.

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- **John Verwey**

Partner