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Who is covered by the UK FSA Remuneration Code?

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In common with other EU jurisdictions, the UK has implemented new rules on remuneration in the financial services sector. These are contained in the Remuneration Code (the "**Code**") issued and governed by the UK Financial Services Authority (the "**FSA**").

Importantly, and in contrast to current U.S. rules on remuneration in the financial services sector, the Code applies to a broad range of financial institutions including hedge funds managers and investment managers of UCITS funds, as well as some firms engaged in corporate finance, private equity and venture capital.

European regulators have been allowed to apply a proportionate approach to firms by reference to their size, internal organisation and the nature, scope and complexity of their activities. The Code has addressed this by dividing firms covered by the Code into four tiers. The tiers are structured by reference to FSA's approach to the classification of firms under prudential standards.

The following table attempts to cut through the complexity of the rules governing the application of the Code and is indicative only. Specific legal advice should be sought in any particular case.

Type of Firm	Covered by Code?	Applicable Proportionality Tier
Banks and Building Societies	Yes	Tiers 1, 2 or 3
Broker-Dealers	Yes	Tiers 1, 2 or 3
Hedge Fund Managers	Yes	Tier 4
Private Equity Fund Managers	No*	N/A
Real Estate Fund Managers	No*	N/A
Investment Managers (long-only equities)	Yes	Tier 4
Arrangers	No*	N/A
Insurers	No	N/A
Corporate Finance Advisory Firms	No*	N/A
Investment Managers of UCITS Funds	Yes	Tier 4

*This negative classification assumes that the firm is not carrying on any services under MIFID and, if so, does not qualify as a "CAD investment firm."

Overseas branches and group members

The Code also can apply to businesses outside of the UK. This is because UK-headquartered groups are required to apply the Code globally to all their entities carrying out relevant activities. Therefore, where a UK-headquartered firm is covered by the Code, it also will apply to its overseas branches and (on a consolidated basis) to non-UK group members if they form part of the UK firm's consolidation group (or an EEA subgroup). A UK firm's overseas operations will therefore fall within the scope of the Code.

The table illustrates the application of the Code for UK and non-UK entities.

	UK-based Firm	France-based Firm	U.S.-based Firm
London Branch	ü	X	ü
Paris Branch	ü	X	X
New York Branch	ü	X	X

It should be noted that French legislation implementing the underlying European legislation on financial services remuneration would apply to all the branches of the France-based firm.

Please do not hesitate to get in touch for more detailed and specific advice about the Code and how its applies to your business.

Related Professionals

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