Frequently Asked Questions – Small Firms

General

Where can I find a copy of the ‘Journey to the Financial Conduct Authority’ document?

This document, which sets out the FCA’s approach to supervision, is available on the FSA website at:

http://www.fsa.gov.uk/about/what/reg_reform/fca

You can call the Firm Contact Centre on 0845 606 9966 to request a copy of this document.

Will the FCA and PRA have separate registers?

There will be one register maintained by the FCA. It will be available to all firms, reflecting the position of both the FCA and PRA.

Will I retain the same Firm Registration Number (“FRN”)?

Yes. Your FSA number will be carried across to the new Register.

Will I have to reapply to be authorised under the new regulators?

No. If you are regulated by the FSA, your permission will automatically be transferred over and you will not have to submit a new application.

Will firms be required to disclose that they are authorised and regulated by the FCA?

What are the final transitional rules, including disclosure requirements and the split of controlled functions between the FCA and PRA?

Yes, firms will be required to disclose that they are authorised and regulated by the FCA. We have consulted on revised wording of this status disclosure and a proposed transitional, as part of consultation on Handbook changes. The paper can be accessed here: http://www.fsa.gov.uk/library/policy/cp/2012/12-24.shtml

We announce in a Policy Statement on 25 March 2013 what the disclosure requirements text will be and the transitional arrangements.

What will happen to our existing permissions and waivers?

Transitional arrangements for ‘grandfathering’ existing provisions are dependent on secondary legislation. We are in discussion with HM Treasury, with a view to the legislation providing that existing Part IV permissions, controlled functions, passports, limitations and requirements are grandfathered without the need for a firm to take action. Exact details of grandfathering arrangements will be finalised once secondary legislation has been published.

What happens if we are applying for a new or varied permission or waivers over the period including legal cutover?
The FCA will ensure that applications to the FSA that are made before legal cutover but not
determined until after legal cutover are transitioned to the appropriate regulator and made
against the appropriate statutory tests. Exact details of ‘in-flight’ authorisation arrangements
will be finalised once secondary legislation has been published.

Will there be new Threshold Conditions (TCs)? What is expected of my firm?

The existing FSA Threshold Conditions will be replaced in their entirety by the Threshold
Conditions being introduced by HMT via secondary legislation pursuant to the Financial
Services Act 2012. The Threshold Conditions in the order that has been laid before
parliament are essentially in the form HMT consulted on in October 2012. The new
conditions will take effect at the same time as the rest of the amendments to FSMA are
introduced, on 1 April 2013, for both existing authorised firms and all in-flight cases.

The Financial Services and Markets Act (Threshold Conditions) Order 2013, as laid before
parliament, can be viewed at:

df

We consulted on changes to the guidance in the Threshold Conditions sourcebook (COND) –
not on the TCs themselves – in November 2012 in Consultation Paper 12/34 (Chapter 4):

The consultation period ran until January 2013 and a Policy Statement with the final FCA
guidance on the TCs will be published on 25 March 2013.

The new TCs are not significantly different to those under FSMA 2000. Rather they place
greater emphasis on some aspects of firm standards, for example business models, as a
reflection of the FCA’s statutory objectives, As is the case with the FSA’s current TCs, firms
will be required to adhere continuously to the new TCs from April 2013, and the extent to
which firms are meeting TCs will be considered by FCA supervisors when carrying out
assessments and other work.

The new business model TC will be applied appropriately in our assessment of a firm. The
FCA’s assessment of a firm’s business model will not be to stifle innovation or reduce
competition, but to allow us to form a view of the sustainability of the business from a
conduct perspective and where future risks might lie.

The COND sourcebook contains only high-level guidance. The purpose of the guidance is to
help firms by explaining what is expected of them when they apply for authorisation and
throughout their regulatory life, bearing in mind that the TCs are the minimum standards that
we expect firms to satisfy to become and remain authorised. Firms should not consider the
guidance set out in COND as limiting and should design a business model that is unique to it
depending on the nature, scale and complexity of the business it conducts.

Regulatory returns and other information

Should I continue to submit my regulatory returns?
Yes. From legal cutover both the FCA and the PRA will maintain the existing regime of regulatory returns, submitted as they are now.

GABRIEL will continue to be used by the FCA and the PRA. Firms will continue to use their current URL and login details to access it. The existing data items will remain with only a few changes to the wording.

Both the FCA and the PRA will be using the reported data as appropriate.

**Should I continue to use Online Notifications and Applications system (ONA) after legal cutover?**

Immediately after legal cutover, the ONA system will continue to be used for the submission of applications and notifications, with some minor changes to reflect that it will be owned by the FCA, but accessible to both regulators.

**Will I be required to resubmit any information or notifications that are submitted just before legal cutover?**

No. Any submissions or information received prior to legal cutover will not need to be resubmitted.

**Firm classification and supervision**

**Will my firm be solo regulated by the FCA or dual-regulated by the FCA and PRA?**

All FCA-regulated firms will have a conduct categorisation, C1 – 4.

Firms with a prudential categorisation of P1 – 3 or P4 will be solo-regulated by the FCA, i.e. the FCA will be the conduct and prudential regulator.

Firms assigned no prudential categorisation by the FCA will be dual-regulated, with the FCA as the conduct regulator and the PRA as the prudential regulator.

**Will my firm’s conduct and/or prudential categories stay fixed?**

Categories are not permanent and we will continue to monitor your firm’s potential impact to the FCA’s objectives. This may mean that at some point in the future we could decide to change your category. If we do this we will write to you to let you know.

**Is there a correlation between the conduct and prudential categories?**

No. The conduct and prudential classifications do not necessarily operate in parallel, i.e. it is possible to be very significant from a conduct perspective but less so prudentially, and vice-versa.

**Who will be my FCA supervisor? Will my firm be relationship-managed?**

C3 and C4 firms will be managed on a non-relationship-managed basis, whereby groups of similar firms will be supervised by specialist teams. In late April 2013 we will write again to
all firms that have a dedicated supervisor to confirm the details of who their supervisor will be or if a firm has changed to no longer having a dedicated supervisor, what this means for the firm in more detail. If the firm does not currently have a dedicated supervisor, then it should continue to use the Customer Contact Centre as the first point of contact.

**When will be my first FCA risk assessment visit?**

After April 2013 we will carry out a transition to the FCA firm-specific conduct supervision assessment framework. Firms will be notified of how and when their supervision will be transitioned to the FCA’s framework.

**My firm has been categorised as a Small Firm by the FSA and is the subject of some ongoing supervisory work. What will happen to this at legal cutover?**

Unless you are informed otherwise, ongoing supervisory work will continue to a conclusion after legal cutover.

**Policy material**

**What is happening to the Handbook of rules and guidance?**

At legal cutover, the FSA Handbook will be split between the FCA and the PRA to form two new Handbooks: one for the FCA and one for the PRA. Most provisions in the FSA Handbook will be incorporated into the FCA’s Handbook, the PRA’s Handbook, or both, in line with each new regulator’s set of responsibilities and objectives. Information on this can be found in a One Minute Guide, updated in December 2012. [http://www.fsa.gov.uk/smallfirms/resources/one_minute_guides/about_fsa/handbook-pra-fca.shtml](http://www.fsa.gov.uk/smallfirms/resources/one_minute_guides/about_fsa/handbook-pra-fca.shtml)

After legal cutover, the FCA will amend its set of rules and other material as an independent body, with cooperation with the PRA as required by the Financial Services Act. Over time, as set out in the Approach Documents, the FCA will move towards a rulebook containing only FCA rules.

**How will the FCA issue policy material after legal cutover?**

The FCA Approach Document set out that the FCA will establish and maintain published policy material which is consistent with its objectives, clear in intent, straightforward in presentation and as concise as possible.

**Fees and costs**

**Will the current fee structure be adopted by the FCA?**

Your firm’s current fees will see you through this fee period. For the first fee year under the FCA (expected to be 2013/14) the FCA fees structure will be based on adapting the current structure, making only the necessary changes to accommodate dual-regulation. These proposed changes are in the [fees policy Consultation Paper (CP)](http://www.fsa.gov.uk/smallfirms/resources/one_minute_guides/about_fsa/handbook-pra-fca.shtml).
How will fees be set next year?

For the first year under the FCA (expected to be 2013/14) the FCA fees will be set to recover the annual funding requirement it needs to meet its statutory objectives. This funding requirement and the fee rates to recover will be included in the FCA fees rates Consultation Paper (CP) expected to be published in April 2013.

Co-ordination with the PRA

On what basis will the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) work together?

The draft Memorandum of Understanding (MoU) between the FCA and the PRA sets out a high level framework for how the two regulators will work together within the new regulatory system provided for by the Financial Services Act. It will be vital that the two authorities pursue their own mandates, respecting the UK’s Twin Peaks supervisory system. But it will also be essential that they coordinate activities in some areas, and cooperate in others. The MoU sets out these arrangements to help ensure they are effective and efficient.

The internal procedures for both the FCA and the PRA will apply the principles of the MoU in operational practice.

My firm will be dual-regulated and can therefore expect assessments from both the FCA and PRA. How do you intend to separate the two areas?

The FCA and PRA are two different regulators looking at different aspects of firms’ businesses, although there is a requirement to share information. Detail of the FCA and the PRAs assessments and expectations of firms are set out in the respective FCA and PRA Approach Documents. The FCA and PRA will be aware of each other’s assessment work, but firms can expect assessments to be carried out separately and at different times.

Will there be a Practitioner Panel?

Yes. The FCA will establish a Practitioner Panel.