Frequently Asked Questions

1. General questions

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

This document is available on the FSA website at:

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

At what stage is the Financial Services Bill?

The Financial Services Bill has been approved by the House of Lords. Royal Assent was given on Wednesday 19 December. The Bill is now the Financial Services Act 2012 (“The Act”).

The Act will be supported by secondary legislation. The Treasury has already published some draft orders, including:

- specifying which regulated activities will be subject to the FCA’s regulation,
- the new Threshold Conditions,
- transferring the FSA’s responsibilities in relation to mutuals to the FCA and the PRA, and
- allocating responsibility for making rules in relation to FSCS between the FCA and the PRA. The consultation on the draft orders closed on 24 December 2012.

Secondary legislation also includes orders setting out transitional provisions in relation to the setting up of the new regulatory bodies, making consequential legislative amendments, and commencing certain provisions of the Act.

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.

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.
2. **Authorisations and transitional arrangements**

Are we going to 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](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.

All the transitional rules we consulted on between September and December 2012, including status disclosure requirements and the split of the controlled functions between PRA and FCA, will be announced in this Policy Statement published on 25 March 2013.

**When will we know the outcome of the consultation on the Approved Persons regime?**

There is more detail on our approved person regime in our Approach Documents and in the consultation paper covering changes to Handbook sections which cover approved persons. This paper can be accessed here: [http://www.fsa.gov.uk/library/policy/cp/2012/12-26.shtml](http://www.fsa.gov.uk/library/policy/cp/2012/12-26.shtml)

**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.

**Does my prudential category impact my ability to apply for a waiver?**

No. Regardless of prudential category, solo-regulated firms may apply for prudential waivers as they did previously under the FSA, and such requests will be handled by the relevant FCA specialists.

**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:


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): http://www.fsa.gov.uk/static/pubs/cp/cp12-34.pdf

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.

Dual regulated firms will need to meet two sets of conditions, one set from the PRA and one set from the FCA.
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.

3. Supervision

What is the FCA's approach to conduct supervision?

As described in the ‘Journey to the Financial Conduct Authority’ document published last year, from legal cutover the FCA will adopt a new approach to supervision, an approach that will be supported by a new firm classification methodology.

The approach document can be accessed via the FSA website: [http://www.fsa.gov.uk/about/what/reg_reform/fca](http://www.fsa.gov.uk/about/what/reg_reform/fca)

We have produced a factsheet summarising the FCA supervisory approach and what the different conduct and prudential categories mean for the nature and intensity of supervision. A copy of this factsheet has been included in the letter issued to firms, and is also available on our website. [http://www.fsa.gov.uk/doing/regulated/fca-firm-classification](http://www.fsa.gov.uk/doing/regulated/fca-firm-classification)

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. The PRA is the prudential regulator for all deposit takers and insurance firms, and for significant investment firms.

It is possible that a group will be dual regulated, but that individual entities within a group may be solo regulated by the FCA.

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.

Will you publish our classification?

No, we will not publish a firm’s classification (other than to the firm itself).

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

From April 2013 firms categorised as C1 and C2 will be managed on a relationship-managed basis by a named supervisor.

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.

My firm has been relationship-managed by the FSA (and/or will be supervised in this way by the PRA) but will be categorised by the FCA as C3 or C4, meaning it will no longer have a dedicated supervisor. Why is this?

The FSA’s impact metrics used to categorise firms are based on a combination of both prudential and conduct considerations. The FCA is primarily a conduct regulator, and the impact metrics and other criteria used to categorise firms for conduct purposes has changed to reflect the FCA’s objectives. An important change in this respect is the number of retail customers a firms has. Firms may be relatively large in size, but may be categorised as C3 or C4 if they have relatively few retail consumers and/or are considered to pose a lower threat to market integrity. Moving more firms to a flexible supervision model allows us to focus more resources on the firm level risks that are more important and on thematic reviews.

When will be my first FCA risk assessment visit?

After April 2013 we will not begin any new supervisory assessments to relationship-managed firms under the FSA’s risk assessment framework. 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.

Will my firm still be required to comply with outstanding FSA Risk Mitigation Programme (RMP) items? What will happen to RMPs?

In April 2012 we streamlined the number of actions in many firms’ RMPs and split them into conduct and prudential actions. A further review of RMP items will take place in April 2013 to ensure that they are aligned with the FCA approach and objectives.
Your supervisor will communicate with your firm to confirm the outstanding RMP actions, which may change as a result of the move to the FCA, and your firm will be accountable to the FCA for their resolution.

**Will my firm still be subject to the same schedule of ‘close and continuous’ (C&C) meetings?**

As with Risk Mitigation Programmes (RMPs) you supervisor will communicate with your firm should there be any changes to the current schedule of C&C meetings.

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

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

**I had received some capital or liquidity guidance from my supervisor at the FSA – does this continue after April 2013?**

If you are P1 or P2, yes, your individual capital and/or liquidity guidance will be carried forward and will be considered when we next perform a supervisory review.

If you are P3 or P4, previous individual capital and/or liquidity guidance you have received will be reviewed after legal cutover, with a view to removing it. This should not be read, however, as a relaxation of prudential standards. Rather, it is necessary as the manner in which we give capital and liquidity guidance currently does not easily accommodate changes in your circumstances going forward.

Please bear in mind that all entities supervised by the FCA are required to abide by our general regulatory requirements, including the requirement to maintain adequate financial resources, and we expect you to regularly assess your prudential requirements. We plan to conduct cross-firm assessments to satisfy ourselves that this is the case.

**Will the FCA supervision category affect my annual CASS classification?**

No. The CASS classification is specific and in addition to this supervision category for firms who have the authority to hold client money and/or the Safeguarding and Administration of Assets (without arranging) regulated activity. Firms who have either or both of these permissions will be subject to the CASS rules within the handbook.

The process for classification under CASS is laid out under CASS 1A.2 and this will continue on an annual basis.
4. **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.  

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.

5. **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).

**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.

6. **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.