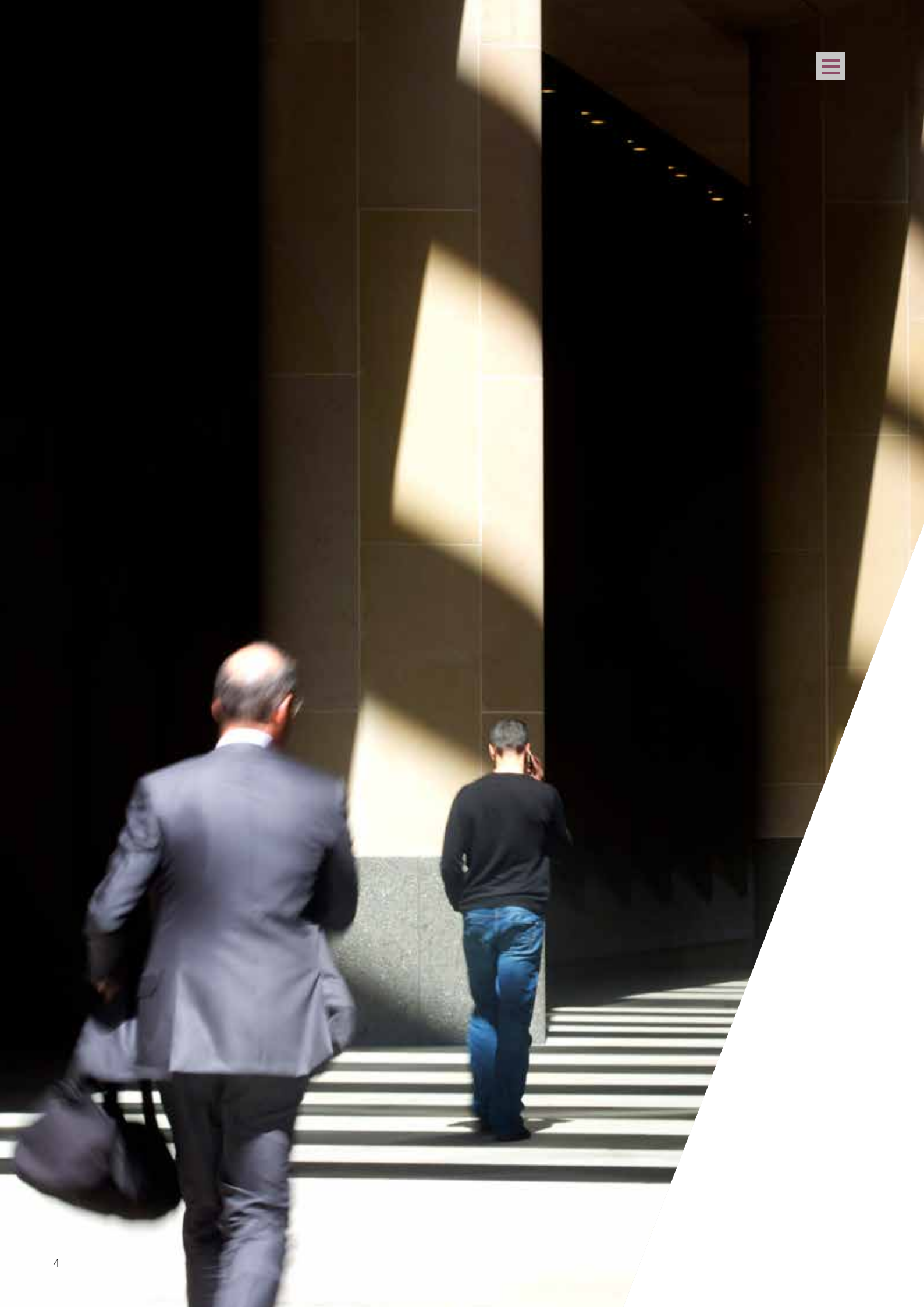
FINANCIAL CONDUCT AUTHORITY

FCA Mission:
Approach to Authorisation

November 2018

FCA Mission: Approach to Authorisation

Contents



Introduction

Every day the UK population relies on a range of financial services, from basic bank accounts to car loans, mortgages, pensions and complex investment products.

Consumers need to have confidence in these services and the firms and individuals that provide them. They expect the market to be fair, open and competitive. They also have high expectations of those who regulate these firms.

Parliament created the Financial Conduct Authority (FCA) to regulate the conduct of the UK's financial services. The FCA is also the prudential regulator for all firms apart from banks, building societies, credit unions, insurers and designated investment firms. These are authorised by the Prudential Regulation Authority (PRA) and regulated by both the PRA and the FCA.

Parliament gave the FCA a strategic objective – to ensure that relevant markets function well – and 3 operational objectives:

- protect consumers – to secure an appropriate degree of protection for consumers
- enhance market integrity – to protect and enhance the integrity of the UK financial system
- promote competition – to promote effective competition in the interests of consumers

The aim of our regulation is to serve the public interest by improving the way the UK financial system works and improving how firms conduct their business. By doing this, it benefits individuals, businesses, the economy and so the public as a whole.

We add public value by: enhancing trust in markets, improving how they operate, delivering benefits through a common approach to regulation, working to prevent harm from occurring and helping to put things right when they go wrong.

Making our regulation more transparent

We want to ensure that firms and individuals who apply to be authorised or approved understand how we test that they will comply with our regulation, which aims to serve the public interest. This document explains the purpose of authorisation and our approach. It also explains the public value it delivers and changes we are making to improve our approach.

It sets out:

- the legal basis for authorisation and the minimum standards that firms and individuals must meet to be authorised
- the difference between authorisation and registration
- how we evaluate whether firms and individuals meet the minimum standards, and the support we will give them

- their available options if we decide not to authorise them
- how we use authorisation to promote effective competition
- how we evaluate the effectiveness of our authorisation decisions
- how and why we revoke an authorisation
- how we are improving our approach and measuring our performance

The tools to deliver our objectives

To deliver our objectives, Parliament gave us a range of tools, and independent powers to decide how best to use them.

One of these tools is authorisation. Firms that want to provide any of a broad range of financial services and products ('regulated services') must have our authorisation. Individuals that hold specific important functions in those firms must also be approved by us. The primary focus of authorisation is to protect consumers and proactively prevent harm to consumers and markets. We do this through authorisation and supervision by ensuring that firms and individuals meet our minimum standards and, importantly, understand that they must continue to meet them for as long as they are authorised. The consequences of conducting activities without authorisation from us will be very serious for the firms and individuals involved.

To manage this work, we have a dedicated authorisations function. This is part of our wider supervision function, which works with all areas of the FCA and with other stakeholders such as the PRA.

How we make decisions

We aim to use our tools efficiently and cost-effectively to identify and mitigate harm. To ensure we do so, we use a decision-making framework that guides our decisions on where we use our resources. This framework also helps us ensure our regulatory judgements are consistent and helps us to publicly explain how we made them.

The framework has 4 stages: identify harm or potential harm; diagnose the cause, extent and potential development of harm; assess all our remedy tools and decide which can resolve or mitigate the harm cost-effectively; and evaluate the effectiveness of the remedy.

Authorisation as a preventative tool

The harm that we seek to prevent through authorisation includes harm to consumers, both individually and collectively, and threats to effective competition and to market integrity. We seek to prevent harm by ensuring that all regulated firms and individuals meet our minimum standards. For firms that wish to be authorised or approved under the Financial Services and Markets Act 2000 (FSMA), the minimum standards are the Threshold Conditions and for individuals it is the Fit and Proper test. Other regulations apply to firms seeking authorisation or registration under other regimes, for example, through the Payment Services Regulations 2017 and the Electronic Money Regulations 2011. We will refuse to authorise a firm if it does not satisfy us that it meets, and will continue to meet, our minimum standards.

These standards are specifically designed to mitigate the risk of harm occurring and seek to ensure that these risks do not materialise. Addressing risk of harm at the authorisation stage can be a more cost-effective approach because it is generally more efficient to prevent firms that do not meet our minimum standards from entering the regulatory perimeter than use Supervision and Enforcement tools once they are authorised.

We give greater scrutiny to, and therefore spend more of our resources on, firms and business models that pose the greatest risk of harm to consumers and the markets. When assessing a business model at the authorisation stage, we consider how it operates, how it makes money, and its future strategy for doing business. This enables us to understand the way the firm intends to make a profit. It also helps us to identify any economic incentives it may have to cause harm to consumers. We also use authorisation to assess the drivers of behaviour that create a firm's culture, for example, assessing whether an individual is fit and proper gives us information about the attitude, skills and capabilities of potential leaders of the firm.

When we have authorised firms and approved individuals, we publish their details on the Financial Services Register (FS Register) so that consumers and other users can check that a firm they are dealing with, or individuals who hold controlled functions in that firm, are authorised or registered by the FCA.

Regulating and tackling harm in consumer credit

In 2014, Parliament transferred the regulation of consumer credit firms, such as those providing credit cards, store loans or rent-to-own products, to the FCA.

This transfer presented several challenges. One of these was how to ensure that consumers were not at risk of harm from firms. We took the view that the consumers dealing with some kinds of firm were particularly vulnerable and at greater risk.

For example, we identified risk of harm for the customers of commercial debt-management firms, having assessed the business models and charges of these firms and noting that their customers were often vulnerable and they generated a high level of consumer complaints.

As a result, we required more information and evidence from these firms at the point of authorisation, to establish that they met our minimum standards, than we did from others that posed a lower risk to consumers.

A safety net for debt management customers

When we took over the regulation of consumer credit firms in 2014, we found that many debt management firms were unable to meet our minimum standards and we refused their applications. This meant that they could no longer operate. However, we recognised the importance of providing a safety net for their existing customers.

We worked with trade bodies to ensure their members provided at least 60 days forbearance to customers affected when debt management companies left the market. We also asked the Money Advice Service (MAS) to arrange additional staff to help affected consumers get free debt advice. We worked closely with MAS to direct consumers to them whenever our intervention meant that a debt management firm would have to leave the market. For example, in a case involving a debt management firm, MAS arranged a translation service for the firm's customers who did not speak English. So far, around 90,000 consumers have been helped through our partnership arrangements with MAS.

Chapter 1
The basis for and purpose of authorisation

Parliament has explicitly stated that firms wishing to provide specific financial services must first be authorised or registered by the FCA. So, too, must individuals who hold certain important functions in those firms.

Accordingly, we will only authorise or approve a firm or individual where they meet our minimum standards, and continue to do so. Where they do not, we will not allow them to enter the relevant financial market.

However, just because firms demonstrate they can meet our minimum standards at the point of authorisation – and we believe they will continue to do so – does not mean they will not commit misconduct or fail financially in the future. At the point of authorisation, we assess several areas, for example, whether a firm has adequate financial resources for the activities that it wishes to undertake. When assessing whether a firm has adequate financial resources, we expect a number of elements to be considered. For example, it should be able to meet its liabilities as they fall due, and the controllers of the firm should be solvent. Our regulation does not try to remove all harm from markets or operate a zero-failure regime. Inevitably, some firms will fail. Our aim is to ensure that if they do so, they leave the market in an orderly way minimising potential harm to consumers and the market.

In 2017/18, we determined more than 4,400 applications for authorisation from firms. In total, we have authorised, and now regulate, more than 58,000 firms, ranging from large banks to single independent financial advisers. This includes around 1,500 banks, building societies, credit unions, insurers and designated investment firms, which are regulated by both the FCA and the PRA. These are referred to as dual-regulated firms.

Some firms carrying on regulated activities are authorised by regulators in the EEA Member States in which they are based. These firms can offer certain financial products and services in the UK if they have the relevant passport from the regulator in their home Member State.

In December 2017, the Government announced that, if necessary, it would bring forward legislation to establish a Temporary Permissions Regime (TPR) for inbound passporting EEA firms and investment funds. If there is not an implementation period and the passporting regime falls away when the UK leaves the European Union, the TPR will provide a backstop. It will allow inbound firms to continue operating in the UK within the scope of their current permissions for a limited period after exit day, while seeking full UK authorisation. It will also allow investment funds with a passport to continue temporarily marketing in the UK while seeking UK recognition.

The TPR will provide continuity of service for UK customers and an extension of essential protections. Firms and fund managers will need to notify us that they wish to use the TPR. We expect the regime will be in place for a maximum of 3 years within which time firms and funds will be required to obtain authorisation or recognition in the UK. The TPR legislation allows us to allocate a period or 'landing slot' when firms and funds must submit their application for full UK authorisation/ recognition. The TPR itself and the ability to assign 'landing slots' are key tools to allow the FCA to manage the flow and operational impact of these aplications.

The Treasury has now published drafts of the legislation that will establish the TPR and the first of the relevant statutory instruments has now passed into law. In addition, Consultation Paper (CP18/29) sets out how we expect the TPR to work in practice, how firms and funds can enter it, how long it will operate for, and the rules we propose should apply to firms and fund marketing activities during the regime.

Other entities we authorise

As well as authorising firms and individuals, we also authorise and give permissions to other regulated entities:

Investment Funds

The FCA authorises certain types of investment schemes under FSMA, the Open-Ended Investment Company Regulations, the European Long-Term Investment Funds Regulation, and the European Money Market Funds Regulation.

The following are investment schemes open to retail investors:

- Undertakings in Collective Investment in Transferable Securities (UCITS)
- Non UCITS Retail Schemes (NURS)
- Most money market funds
- Qualified Investor Schemes (only open to professional and sophisticated retail investors)
- European Long-Term Investment Funds (open to either professional investors, or professional and retail investors with some conditions)

We authorise these funds, and the additional 'sub-funds' within them, so that investors know these products meet an appropriate standard for retail investment.

We also formally approve significant changes to existing funds, such as changes to investment objectives or policies, and proposals to merge funds. This ensures that any changes to a fund are clear, fair and in the interests of investors.

These types of authorisation focus on funds that are available to retail, as well as professional investors. We make decisions on more than 1,000 new funds or those seeking significant changes a year. However, not all funds that operate in the UK need our authorisation[1]. The Financial Services Register (FS Register) holds details of all the funds we authorise.

Recognised Investment Exchanges (RIEs)

We also grant Recognition Orders to investment exchanges, such as stock exchanges. We assess applications against the specialist FCA Sourcebook's Recognition Requirements.

An investment exchange must continue to meet these recognition requirements after it becomes an RIE, and may be required to notify us if it subsequently makes any significant changes.

Multilateral Trading Facilities (MTFs) and Organised Trading Facilities (OTFs)

These are trading venues that are alternatives to traditional stock exchanges. They offer trading in a variety of financial instruments. Authorising applications to operate an MTF or an OTF from an investment firm is complex, requiring involvement from many specialist areas across the FCA. This includes assessing whether the applicant meets the specific rules for MTFs and OTFs, that its systems' resilience and outsourcing oversight are sufficiently robust and that its systems and controls for monitoring market abuse are strong enough.

Permission to administer a benchmark

Benchmarks play a central role in many financial markets through pricing investment funds and financial contracts. Benchmarks are important to UK consumers who invest in assets, such as index tracker funds that are linked to benchmarks.

Benchmarks need to be reliable, robust and administered in a way that minimises any conflicts of interest between those administering them and those using them. As with MTFs and OTFs, we treat applications to administer some types of benchmark as complex applications that require assessment and support from specialist areas across the FCA.

The EU Benchmark Regulation entered into force on 30 June 2016: most of its provisions came into effect on 1 January 2018. Since 1 January, UK-based benchmark administrators have been applying to the FCA for authorisation, registration or recognition in accordance with the Regulation. We have approved more than a dozen to date. After 2019, EU supervised users will not be able to use benchmarks if neither the benchmark nor its administrator has been approved (authorised, registered, recognised or endorsed) by the relevant EU regulator in accordance with the Regulation.

1 The FCA only authorises Undertakings for Collective Investment in Transferable Securities (UCITS), Non-UCITS Retail Schemes (NURS), Qualified Investor Schemes (QIS)and European Long-Term Investment Funds (ELTIFs)

Improving conduct standards

The 2008 financial crisis and subsequent significant conduct failings, such as the manipulation of LIBOR, showed standards in the financial sector needed to improve. In response, the government set up the Parliamentary Commission for Banking Standards (PCBS) to make recommendations for improvement in the banking sector.

The PCBS recommended the development of a new accountability framework that was more focused on senior managers and individual responsibility. It also recommended that firms should take more responsibility to ensure the fitness and propriety of their employees and that better standards of conduct were required at all levels.

Based on these recommendations, Parliament passed legislation in 2013 requiring the FCA and PRA to introduce the Senior Managers and Certification Regime (SM&CR) for the banking sector. The Senior Insurance Manager Regime (SIMR) was introduced to the insurance sector.

The aim of these regimes is to reduce consumer harm and strengthen market integrity by making individuals more accountable for their conduct and competence. The regimes are designed to:

- encourage a culture in which staff at all levels take personal responsibility for their actions, for example, through 5 conduct rules (see below) which set standards for the behaviour of financial services staff
- ensure firms and staff clearly understand and can demonstrate where responsibility lies for example, by requiring Senior Managers to maintain a clear Statement of Responsibilities
- ensure that senior managers take responsibility for actions within their areas of responsibility
- ensure the competence of key staff

Parliament made further changes to legislation in May 2016, requiring us to extend the SM&CR to insurers (who are dual regulated by the FCA and PRA) and all FCA solo-regulated firms authorised under FSMA. This new and more rigorous regime will replace the current Approved Persons Regime under which FCA approval is required before individuals can be appointed into certain roles. We have published final rules on the extension of the regime for insurers that will commence on 10 December 2018. We also published near-final rules for FCA solo-regulated firms, who will move to the new regime on 9 December 2019.

The FCA and PRA have currently approved more than 140,000 individuals under either the Approved Persons Regime or the SM&CR to operate in roles in authorised firms, from Chair and Chief Executive, to Money Laundering Reporting Officer and Financial Adviser.

Conduct rules for financial services staff

A key element of SM&CR will be extending the 5 conduct rules to all solo-regulated FSMA firms. The rules set the minimum standards of behaviour that we expect from all financial services employees within regulated firms.

The five conduct rules

- **act with integrity**
- **act with due care, skill and diligence**
- **be open and cooperative with the FCA, the PRA and other regulators**
- **pay due regard to the interests of customers and treat them fairly**
- **observe proper standards of market conduct**

The difference between authorisation and registration

Depending on the type of financial services that firms intend to provide, we may register rather than authorise them.

Registered firms generally have limits on the services they can provide. In some cases, they may also need to meet fewer regulatory requirements than authorised firms.

There are several types of registered firms. Mutual Societies[2] must be registered with the FCA, but do not need our authorisation unless they provide regulated financial services. Other types of registered firms include smaller payment services firms, which can choose to be registered as small payment institutions (SPI). SPIs cannot provide payment services in any other European Economic Area member state and cannot provide Account Information Services or Payment Initiation Services.

2 Here we use the term, Mutual Societies, to cover those societies registered under the Co-operative and Community Benefit Societies Act 2014; Friendly Societies Acts 1974 and 1992, Building Societies Act 1986 and Credit Unions Act.

Appointed Representatives

An Appointed Representative (AR) is an unauthorised firm that enters into an agreement with an already-authorised firm. Under this agreement, the AR can carry out specific regulated activities and the authorised firm is responsible for overseeing the AR's good conduct in doing so. We assess the authorised firm's ability to oversee effectively its ARs, and require it to register its ARs with us.

Products and services

We regulate most firms that provide financial products and services, but not all. Some firms may provide only financial services for which they are specifically authorised or registered. Other firms provide a mix of services, including some for which they are authorised or registered, and others which do not require authorisation or registration. For example, firms must be authorised to be able to provide mortgage advice, but if they only advise on and arrange consumer buy-to-let mortgages then they need to be registered. Other firms offer financial services that do not need to be authorised, such as credit agreements that are repaid within 12 months and attract no interest or charges.

Building public trust – the Financial Services Register

For financial markets to operate effectively, consumers need to be able to trust that they will work well for them. Knowing that firms are effectively regulated means users of financial services can make confident choices about the products they buy. This should motivate firms to compete effectively, innovate and grow.

To support public trust and transparency in financial services we are required by law to maintain the FS Register. This is a public record of the firms we regulate, and the individuals we and the PRA have approved. This currently includes information on a firm's senior management, key functions and customer-facing roles. Publication of this information meets our obligations under FSMA.

As well as allowing consumers to check that those offering financial products and services are regulated, the FS Register also means consumers can check whether individuals or firms have been sanctioned or had other action taken against them. The historical nature of the FS Register ensures that firms remain traceable through changes such as mergers or name changes.

In September 2018, we launched a 'beta' consumer search which provides the most commonly searched information in a more consumer friendly format.

Under the SM&CR, firms will be required to certify annually key individuals as fit and proper to hold specific financial services roles, although these individuals will not have to be approved by the FCA. Some of the staff in scope of the Certification Regime may have previously been approved by us. We will not approve these people any more. This is because an objective of the Certification Regime is to reinforce that firms, rather than the regulator, are responsible for making sure their staff are fit and proper on an ongoing basis, and at least once a year.

We recently consulted (in CP18/19) on the introduction of a new Directory to provide details of individuals who are certified by firms, and those carrying out other roles that do not require FCA approval. This data will link to the FS Register to provide a single intuitive resource for consumers to use.

> **"Knowing that firms are effectively regulated means users of financial services can make confident choices about the products they buy."**

Chapter 2

How we evaluate whether firms meet the Threshold Conditions and individuals are 'fit and proper'

We group harm in financial services into 5 types, which often overlap:

- confidence in markets is threatened by unacceptable conduct such as market abuse or unreliable performance
- products are unsuitable or mis-sold; there is poor customer service or treatment
- important consumer needs are unmet
- prices are too high or quality is too low
- there is risk of significant harmful effects on wider markets and the UK economy

Central to authorisation is how we decide, using the Threshold Conditions and the Fit and Proper test, whether applicant firms and relevant individuals who require approval meet our minimum standards and will continue to meet them for as long as they are authorised or approved. These minimum standards are designed to prevent harm from occurring.

The conditions for firms are, in broad summary[3]:

- Business model: a firm will need to satisfy us that its business model is suitable for the regulated activities that it wishes to undertake
- Effective supervision: a firm must demonstrate that it is capable of being supervised effectively by the FCA
- The location of offices: a firm that is a body corporate should have its head offices (and its registered office, if it has one) in the UK[4]
- Appropriate resources: the firm must have the right people, financial resources and systems to deliver the products or service
- Suitability: a firm must be fit and proper having regard to all the factors in Schedule 6 of FSMA

The conditions for approved individuals are, in broad summary:[5]

- Honesty, integrity and reputation: we will have regard to all relevant matters in assessing whether a person has the honesty, integrity and reputation to be approved, for example whether they have contravened regulatory standards or defrauded customers
- Financial soundness: we will consider any factors, including whether the individual has been subject to any judgement debt that remains outstanding or was not satisfied within a reasonable period, or has filed for bankruptcy or been adjudged bankrupt
- The competence and capability to carry out the role, based on experience and necessary qualifications

The factors we look at include the type of financial services a firm wants to provide, and the nature and size of its customer base.

Information we use to assess whether firms or individuals meet our minimum standards

We use a range of information sources to assess whether firms or individuals meet - and will continue to meet - our minimum standards, including:

- information provided by firms / individuals in the application
- market research and intelligence
- calls made to the FCA Contact Centre
- complaints data from external sources such as the Financial Ombudsman Service

3 This is a summary of the FCA Threshold Conditions in Schedule 6 of FSMA and our guidance in the 'COND' part of our FCA Handbook; equivalent conditions apply under other regulations.

4 Firms passporting in to the UK from EEA Member States are authorised by relevant regulators in the Member State and so do not require our authorisation. As a result, there is no requirement for passporting firms to have offices in the UK.

5 This is a summary of the FCA Fit and Proper test in Part V of FSMA and our guidance on how the FCA assesses fitness and propriety of FCA approved individuals in the 'FIT' part of our FCA Handbook.

- our experience of supervising already-authorised firms that provide similar financial services
- specific information we have and judgments we make about the firm or individual, which may include an interview with them

FCA-wide action to prevent harm

We received an application from X International who intended to act as a broker of contracts for difference to retail clients. It was operating as an Appointed Representative of an authorised firm and had applied for direct authorisation. As part of our information-gathering across the FCA, our supervisors identified that X International was involved in a pension scam. The Authorisations team investigated further and found that X International's directors were also directors of another firm that advertised pension services they were not authorised to provide. We issued X International with a 'minded-to-refuse' letter. It withdrew its application. The firm's Principal carried out an investigation into X International's unregulated activities and subsequently terminated its Appointed Representative status. We considered both firms as part of a larger Enforcement Investigation into pension scams.

A proportionate approach

We apply our judgement, based on these facts, to determine whether firms and individuals meet the conditions. Some judgements can be relatively simple to make. Others are more difficult.

We take into account the principles of good regulation, including proportionality, and recognise the differences in the businesses of regulated firms and individuals. In our approach to authorisation, we ensure that the information we require from firms and our level of scrutiny is proportionate to the actual or potential harm they could cause. We consider a number of factors. These include the sector the firm operates in, its activities, its business model, the size of the firm (based on customer numbers), financial metrics, scale and risk to market stability, and any negative intelligence.

We will only require firms to provide us with information that we reasonably require to help us assess whether it meets our minimum standards. We will already hold information on firms we have previously authorised to provide certain financial services. If these firms subsequently apply to vary the types of regulated services they provide, then we will only require additional information that is directly relevant to the new activities to make our assessment. If we have reason to believe that the risk of harm a firm poses is greater than we would normally expect, then we may increase our level of scrutiny and require the firm to provide more information. This may happen if, for example, our initial assessment shows cause for concern. Correspondingly, if we decide that the risk of harm is less than we would normally expect, we can reduce the level of our scrutiny. In all cases, firms must still meet our minimum standards.

It is important that firms understand the Threshold Conditions and Fit and Proper test when they make their application for authorisation. This next section aims to help explain what some of these conditions mean.

Assessing firms

In assessing firms we make judgements based on the facts of each case.

For example, one condition for authorisation is that the head office of a UK incorporated company should be in the UK. Because there is no definition of 'head office', we use our judgement to decide whether the condition is met. A key factor we consider is the location of the directors and senior management who take material day-to-day decisions about the firm's central direction.

Another condition for authorisation is that a firm must have appropriate resources, and this means more than purely financial resources. When assessing a firm's financial resources, we expect it to meet several tests. For example, it should expect to meet its liabilities as they fall due and the controllers of the firm should be solvent. However, this does not mean that a firm must always project profitability within a certain period of time from authorisation but that it will always have sufficient capital and liquid resources available to it.

We recognise that not all firms will be successful - some will fail. Our assessment tests that, should a firm fail, it would do so in an orderly way, so that its withdrawal from the market prevents or minimises risk to consumers and market integrity. Where relevant, our assessment also takes account of the impact on a firm's financial resources of being part of a group.

"Central to authorisation is how we decide whether applicant firms and relevant individuals who require approval meet our minimum standards and will continue to meet them."

While we will take a firm's finances into account when assessing whether it meets this condition, we will also consider the skills and experience of people in key roles. We will also assess how adequately the firm's policies, procedures and systems, for example, deal with customers in financial difficulty, and its systems for safeguarding sensitive customer data and preventing financial crime.

Assessing individuals

The fit and proper test is a benchmark used to assess whether individuals are suitable to perform senior management functions or controlled functions. Firms subject to the SM&CR (eg the banking sector) are responsible for their own fit and proper assessment of individuals who hold senior management and certified functions. We approve an individual only when we are satisfied they are fit and proper to perform the senior management functions or controlled functions that they have applied for. If we are aware of something that suggests that an individual might not be fit and proper, we will consider how relevant and how important it is to the senior management function or controlled function applied for.

Solo-regulated firms should conduct their own due diligence for a person they intend to appoint in a controlled function before submitting applications to the FCA. Under our Approved Persons Regime (APR), we require the firm to carry out appropriate checks, but we do not specify what they should be. This allows firms the flexibility to undertake them in a range of ways.

In implementing the SM&CR, the FCA and PRA have strengthened the checks that firms must undertake, these checks include requiring regulatory references. For Senior Managers, a criminal record check is required. In addition, we also require each Senior Manager to have a formal Statement of Responsibilities setting out the areas for which they are responsible.

Different requirements apply to dual-regulated firms, which must get both FCA and PRA approval to appoint people to the most senior roles. These roles include, but are not limited to Chair, Chief Executive and Chair of the Audit Committee.

The FCA, together with the PRA where applicable, may interview individuals for roles that pose the greatest risk of harm, for example, a Chair or Chief Executive of a dual-regulated bank or insurance company, to satisfy ourselves that the individual is fit and proper. After authorisation, we will hold them to account if there is misconduct at their firms. While our assessments in these cases will be different to the PRA's, as we have different statutory objectives, we will continue to work closely with the PRA to minimise the administrative burden on firms.

When considering whether individuals in key roles are suitable, we assess if the people who will manage the business have the right skills and experience to do so without harming consumers or market integrity. We look at the connections these people have with others outside the business, to ensure that the firm is not actually controlled from behind the scenes by people we have not approved. We also consider an individual's history, including but not limited to, an individual's employment and regulatory history and whether they have been involved in misconduct, or any criminal activity or adverse civil proceedings.

While previous misconduct will be considered as part of an application for an individual approval, it is not an automatic bar to being approved. The severity of the misconduct and time that has elapsed, the efforts taken to rehabilitate, the nature of the role applied for, and the controls in place to oversee the individuals conduct will all be considerations.

Senior managers have a special role to play. This is both because they make important decisions, such as about the firm's strategy and business model, and because they often oversee the decision-making of others. These managers lead the organisation and shape its culture by setting the tone from the top. For this reason, it is particularly important that they are fit and proper – that they act with integrity and have appropriate skill.

Improving culture and the role of ongoing supervision

As noted earlier, we use authorisation and approval primarily as a forward-looking tool to prevent harm from occurring. We achieve this by ensuring that all regulated firms and individuals meet our minimum standards at the outset.

In assessing whether firms and individuals meet our minimum standards, we look at the drivers of culture ie the drivers of behaviour that could lead to poor outcomes for consumers and markets. In ongoing supervision, we specifically focus on 4 key drivers of behaviour that can create cultures likely to cause harm.

These are:

- the firm's purpose (as it is understood by its employees)
- the attitude, behaviour, skills and capabilities of the firm's leadership
- the firm's approach to managing and rewarding people (eg staff competence and incentives)
- the firm's governance arrangements; controls and key processes (eg for whistleblowing or complaint handling)

Our assessment of whether a firm meets the Threshold Conditions provides us with information about these drivers of behaviour. We use this to inform our supervisory assessment of how effective those drivers are in reducing potential harm. For example, determining whether an individual is fit and proper gives us information about the attitude, skills and capabilities of potential leaders of a firm. A firm's systems and controls, and how they intend to manage risk, can give us information about how effective a firm's governance arrangements will be in reducing future harm. The capacity and capability of the resources the firm has put in place provides us with information about their approach to people they employ. And the consideration of a firm's business model and strategy tells us about a firm's purpose and what it is setting out to achieve.

When assessing a firm's business model, we consider how it operates, how it makes money and its future strategy for doing business. This enables us to understand the way the firm makes profits. It also allows us to identify any economic incentives it may have to cause harm to consumers, for example, a business model that is only profitable because of excessively high interest rates. Firms need to demonstrate to us that they can make sustainable returns.

Preventing the spread of poor practice

Motor Group X was already authorised to provide insurance mediation (introducing clients to insurance products) and consumer credit lending for car purchases. It applied to us to extend its authorisation to buy existing FCA-authorised firms that sold used cars and offered insurance and car finance.

Our assessment found risks around Motor Group X's commission-based incentives for sales staff and managers, performance management and controls to manage these risks.

We were concerned that, as well as the potential risk of harm posed by Motor Group X, these practices could be adopted by the firms it wanted to buy and affect their ability to keep meeting our conditions for authorisation. We told Motor Group X we could not extend its authorisation until it gave us evidence that it had put effective controls in place to manage these risks, which it did.

Supporting firms and individuals to meet the conditions

We aim to decide whether a firm or individual meets the conditions for authorisation as soon as realistically possible, and certainly within the statutory deadlines which Parliament put in place. For FSMA firms this is a maximum of 6 months from the point at which a firm provides all the information the application form asks for, or if it contains some incomplete information, a maximum of 12 months from when we receive the initial application. For individuals, we have a statutory obligation to decide an application within 3 months. We can extend this if we are waiting for information from the firm. In practice, we deal with most applications well within these statutory deadlines.

Experience shows that firms and individuals do not always meet all our minimum standards when they first apply to be authorised. The FCA is a regulator, and does not provide consultancy-type advice. This means that there are limits to what we should and can do to help a firm or individual meet our minimum standards for authorisation, although we will provide as much assistance as is reasonable, given our resources. Our Contact Centre provides online and telephone help, often to small firms who cannot afford to pay for consultancy services. They discuss what applicants want to achieve and explain the FCA Handbook and application process.

The most practical help that we can give is to explain to the firm, as clearly and precisely as possible, which of the Threshold Conditions it may not meet and why. This enables the firm to identify the changes that it must make. We do not prescribe how the firm should make the changes; that is for the firm to decide.

Once the firm makes these changes, we will determine whether it now meets our minimum standards. If it still does not, we will again explain why. The onus then switches back to the firm to make further changes.

We expect firms to take regulation seriously and plan how they will meet the standards of the regulatory system before they apply. When we consider the extent to which a firm has planned ahead we ask ourselves whether the applicant is ready, willing and organised to be authorised as follows:

Ready

We will consider what preparation the applicant has done to submit their application.

Positive indicators include:

- reading information on our website
- making enquiries of the Contact Centre
- seeking legal/compliance advice
- being able to clearly articulate their regulatory obligations

Willing

We will consider the attitude of the applicant during the authorisation process.

Positive indicators include:

- being open and honest in all their dealings with us
- being proactive about getting information to us
- demonstrating initiative to understand their regulatory duties
- timeliness and availability of staff to deal with queries about the application

We are aware that while an applicant may be willing to correct mistakes or gaps in their application, they must also have satisfied the readiness question. We do not believe it is sufficient for an applicant to submit a poor application but show they are willing, with help from us, to address any deficiencies.

Organised

Firms should ensure that they have all the supporting documentation prepared and have the necessary arrangements in place to comply with regulations from the day they are authorised.

We will consider the following:

- why the applicant has applied now
- what is left outstanding that would prevent the firm from carrying on the activity they have applied for
- if the applicant were authorised today, would they be able to carry out the activity they have applied for

Chapter 3
Refusing and cancelling authorisation

> **We will now reject applications where it is clear they are inadequate.**

Refusing authorisation

While we provide support to firms and individuals to help them make the changes necessary for authorisation, this is not an open-ended process. We must decide whether a firm should be authorised or registered within statutory deadlines. Our experience shows us that some firms are simply not ready to meet our minimum standards for authorisation or registration. In these circumstances, we will formally refuse to authorise or register a firm. Often, the firm will withdraw its application before we make a formal refusal.

We take a similar approach to individuals. If we are not satisfied that a person is fit and proper to hold a role at an authorised firm, we will explain why. The individual will have an opportunity to demonstrate to the FCA, or to the FCA and PRA, that they are fit and proper, by providing additional evidence in writing or at interview. Again, this is not an open-ended process.

Historically, we have worked with applicant firms that do not meet our minimum standards over extended periods to help them to do so. We will now reject applications where it is clear they are inadequate and do not meet our minimum standards. We will continue to work with applicants we believe are likely to meet the minimum standards. However, we are more likely to refuse applications that we believe will not meet the minimum standards within the 12-month deadline.

Revoking authorisation, registration or approval

Unless we have mitigating evidence, we will revoke authorisation or registration if a firm no longer meets our minimum standards. There are various circumstances that could lead to the cancellation of a firm's authorisation or registration. For example, a firm that can no longer fulfil its basic regulatory obligations, such as paying fees or submitting returns. At the authorisation stage, we assess if a firm is appropriately set up to comply with and understand its regulatory obligations. When firms fail to pay fees or submit returns, we interpret this as a breach of the appropriate resources threshold condition or the suitability threshold condition. If a firm can no longer meet its liabilities as they fall due, or where a firm fails to pay the amount due to a consumer under a final decision of the Financial Ombudsman Service (FOS), we will articulate this as a breach of the financial resources threshold condition or the suitability threshold condition.

We may also revoke the approval of an individual, or ban them from working in a role if we have evidence that they are no longer fit and proper, for example, if they are convicted of a financial crime.

Where we decide to revoke a firm's authorisation or registration, we will expect it to take appropriate steps to safeguard the interests of its customers as it ceases to conduct regulated business. Where appropriate, we will intervene to ensure that this happens, as we did when we concluded that many debt

management firms were unable to meet our minimum standards - see 'A safety net for debt management customers' in the introduction section.

We cover the difference between authorisation and registration in Chapter 1, under 'the difference between authorisation and registration'.

Challenging our recommendations

A recommendation not to authorise or register a firm, approve an individual or cancel a firm will be taken by FCA experts who have not been involved in assessing the application, sitting as the Regulatory Transactions Committee (RTC). The scrutiny provided by the RTC, and the separation from those recommending refusal, helps to ensure that decisions are made fairly.

Firms and individuals have the right to challenge our recommendation not to authorise or approve them. The first way in which they can do this is by making representation to the Regulatory Decisions Committee (RDC). The RDC operates separately from the rest of the FCA and takes certain independent decisions on behalf of the FCA. The FCA Board appoints the RDC Chair and members, who are drawn from a range of business, consumer and industry backgrounds.

The RDC is part of the FCA's decision-making process and follows the FCA's published procedures on decision-making. These procedures are set out in the Decision Procedure and Penalties Manual in the FCA Handbook which is designed, among other things to ensure that the FCA's decision-making process is fair.

The RDC has a team of support staff and its own legal advisers, which ensures separation from those recommending the action. This helps to ensure that decisions to issue statutory notices are made fairly.

The RDC process is administrative, not judicial. It is not an appeal body; it is the final stage of decision-making for the FCA. The RDC will scrutinise a proposal to refuse an application and consider representations by the firm or candidate. It will then decide, on behalf of the FCA, whether the application is refused. If the RDC decides to refuse the application, it will issue a decision notice refusing the application. If it disagrees, then we will proceed with authorisation or approval.

If the RDC issues a decision notice refusing the application, the applicant can refer the matter to the Upper Tribunal - part of the UK's administrative justice system - for it to consider afresh.

Chapter 4
Promoting effective competition

"One of the FCA's operational objectives is to promote effective competition in the interest of consumers. This is because harm can be caused by weak competition in markets. Harm can also be caused when valuable and innovative products are unable to reach the market."

One of the FCA's operational objectives is to promote effective competition in the interest of consumers. This is because harm can be caused by weak competition in markets. Harm can also be caused when valuable and innovative products are unable to reach the market.

Regulation itself can be a barrier to competition. It can be complex and hard for firms to understand. It has not always kept up with market innovation, with some firms operating business models the rules did not foresee. Regulatory uncertainty or complexity in the authorisations process can deter firms from entering the UK financial services market. These challenges can pose an even greater barrier to entry for firms that are new to the market, innovative or both.

We are working on a general approach to provide all firms with some form of pre-application support. This support ranges from providing clearer information on our website to help firms prepare for authorisation including being clearer about what it means for a firm to be 'ready, willing and organised', improved FCA Handbook navigation, through to more direct support for a range of firms, which we talk about under the 'Direct Support Initiatives' section.

We have also invested in our people to equip them with the necessary market knowledge and skills so that they can deal with a range of business models. We have done this through tailored training and continuous improvement mechanisms. We also engage with industry representatives to understand more about their business models and developments in the sectors, to keep our knowledge up to date.

Supporting newly established firms

We recognise that firms in the start-up phase may find it difficult to meet some conditions for authorisation, such as having appropriate financial resources. Some firms, for example, may only be able to attract the required investment once we have authorised them.

We will consider these situations carefully. For example, for an applicant firm to meet the relevant conditions in these cases, we may decide to authorise it 'subject to' a restriction, limitation or requirement that it must meet from the point of authorisation. This could include, for example, limiting the firm's ability to operate by restricting the number of customers it can serve. We may also authorise firms with restrictions to allow them to test business models and products in a controlled environment.

Direct support initiatives

We have several services that offer direct support to both regulated and unregulated businesses that will benefit consumers and the market. Supporting unregulated firms, for example, can help to develop solutions to common industry problems or solve shared issues that may be at the boundaries of what is currently regulated.

We provide direct support for firms through the Innovation Hub, Regulatory Sandbox, the Advice Unit, the New Bank Start-up Unit, the New Insurer Start- up Unit, and our Asset Management Authorisation Hub.

We are looking at ways to strengthen further the support we give firms in the first few months after authorisation, as firms become more familiar with what it means to be supervised.

Innovation Hub

FCA Innovate publish eligibility criteria that show the factors that help us decide whether a firm should benefit from direct support. These criteria include whether the business model is genuinely innovative, whether the innovation is likely to provide clear benefit to consumers and if the firm has a genuine need for support. Depending on the needs of the firm and our available resource, our support can range from a phone call to clarify how our rules apply to a specific business model to ongoing support to help an innovative start-up prepare for authorisation. This support could include helping firms understand the rules, or supporting them as they shape their business model in more detail.

Encouraging competition in banking

Both the FCA and PRA recognise that firms find it more difficult to enter some sectors of the financial services market than others. For example, 4 banks control 75% of the UK's current account market.

In 2013, following reports from the Office of Fair Trading and Independent Commission on Banking[6 7], the FCA and PRA introduced changes to the regulatory requirements and authorisation process for new banks, which were designed to reduce barriers to entry.[8] These included changes to the capital and liquidity requirements for new banks at authorisation; increased pre-application support and streamlining the information required from applicants. The changes also included the introduction of an additional option for the authorisation process, known as mobilisation. This is where a new bank is authorised at an earlier stage but with a restriction on the business that it can undertake. This then enables the firm to mobilise the remaining requirements such as capital, personnel, IT and other infrastructure with the certainty of being authorised.

Building on these changes, the FCA and PRA launched the New Bank Start-up Unit in 2016, to further encourage competition in banking.[9] A dedicated, jointly-staffed team supports potential entrants, explaining the regulatory requirements, helping them through the authorisation process and providing support for 2 years after authorisation to help them adapt to the requirements. By the end of July 2018, 34 banks had been authorised since the introduction of the changes set out in the 2013 review. Around 20 of these received support from the New Bank Start-up Unit.

6 Review of barriers to entry, expansion and exit in retail banking, Office of Fair Trading, (November 2010): http://webarchive.nationalarchives.gov.uk/20140402172131/http://oft.gov.uk/shared_oft/personal-current-accounts/oft1282

7 Final Report Recommendations, Independent Commission on Banking, (September 2011): http://webarchive.nationalarchives.gov.uk/20120827143059/http://bankingcommission.independent.gov.uk/

8 A review of requirements for firms entering into or expanding in the banking sector, FSA and the Bank of England (March 2013): www.fca.org.uk/publication/archive/barriers-to-entry.pdf

9 www.bankofengland.co.uk/prudential-regulation/new-bank-start-up-unit

Supporting new insurers

The New Insurer Start-up Unit (NISU) is a joint initiative from the PRA and the FCA. The NISU is part of our ongoing work to improve the authorisation process for prospective new insurers in the UK. The aim of this service is to make the application process, information and materials we provide more helpful for potential applicants. This will lead to an effective and efficient way of working together, and to improved quality of applications.

A safe space to test innovative services

Our Regulatory Sandbox is open to both start-ups and established businesses that meet our eligibility criteria. The sandbox allows them to pilot and test new, innovative financial products, services or business models in a live - but supervised - environment. This gives firms a reduced time-to-market at potentially lower cost and so helps to promote innovation. To protect consumers, we closely oversee trials using a tailored regulatory environment for each pilot, including consumer safeguards.

Using technology to extend the reach of financial advice

Our Advice Unit provides regulatory feedback to firms planning to offer automated advice to the mass market ('robo-advice'), as this could make suitable financial advice available to many more consumers. The unit's aim is to reduce the level of regulatory uncertainty for firms that want to operate in this relatively new market.

We provide firms that meet the eligibility criteria with specific feedback on their model, and support that can include:

- an initial meeting with the relevant parts of the FCA to discuss the firm's proposal
- for firms requesting ongoing engagement with us, a dedicated point of contact to provide regulatory support at agreed milestones
- specific feedback on the regulatory implications of the firm's model – this could include follow-up meetings with relevant FCA experts to discuss specific issues informal steers and individual guidance
- help on how to apply for authorisation if the firm is currently unauthorised

Our tailored feedback focuses on helping the firm understand the regulatory implications of its model. Again, we do not dictate what firms should do to meet the relevant conditions for authorisation; this remains the responsibility of the firm's senior management.

Asset Management Authorisation Hub

The UK's asset management industry is the largest in Europe, with an estimated £9.1 trillion assets under management and the 2nd largest in the world after the United States of America. Given the industry's importance in the wider UK financial services market, we launched the Asset Management Authorisation Hub (AMAH) in October 2017. The hub's aim is to remove unnecessary regulatory barriers in establishing and running an asset management firm in the UK. It gives firms that want to enter the market the opportunity to engage earlier with us during the authorisation process, and access to a new dedicated part of the FCA website, to help them better understand how they can meet the conditions.
We also provide early-life supervisory support to asset management firms after they are authorised to help them with the transition from authorisation to being supervised.

Chapter 5
Helping firms respond effectively to regulatory change

The number and type of firms that we are required to authorise and regulate has increased significantly. A combination of consumer demand and technical innovation is driving new and often complex financial services and, while many consumers are benefitting from these new services, they carry potential risks of harm. There is a high volume of legislative change expected over the next few years, as well as uncertainty about how firms will respond to the UK's withdrawal from the European Union.

One way we help firms prepare for authorisation is by giving them timely advance notice of how they are likely to be affected by forthcoming regulatory changes. We use a mix of conventional and innovative approaches, including written communication, press articles, webinars, the customer contact centre and speaking at conferences to ensure that firms and individuals understand what we expect of them.

Given the diversity of the firms we regulate, we recognise the need for greater consistency and dynamism in our approach to authorisation. We must become more efficient and transparent, while improving how we support regulated firms and individuals.

We will continue to use authorisation to help create public value by preventing harm to consumers and to market integrity where possible. We will improve the support we give to firms and individuals to help them meet our minimum standards for authorisation. We will make smarter use of data and technology.

Industry-wide support for regulatory change

On occasion, we allow early applications from firms to ensure we can grant them the right permission in time. The revised Markets in Financial Instruments Directive (MiFID II) took effect from 3 January 2018. It required hundreds of firms to either extend their permissions with us or become authorised for the first time.

The legislation is complex and the timetable for implementation was relatively short. To support firms to meet the 3 January 2018 deadline, we undertook a major programme to enable firms to send us their applications before the January 2018 deadline, including:

- publishing a MiFID II applications guide, explaining the new processes, and making user-friendly changes to our online authorisations portal, CONNECT
- opening the online gateway for draft applications at the end of January 2017 to give firms enough time to apply ahead of 3 January 2018
- running a series of workshops to explain the authorisation process, timelines and key policy issues
- holding over 50 pre-application meetings with firms to discuss their business models and the information they need to include with their applications
- rolling out a communications programme involving speeches at industry events, press releases, newsletters, regular updates to our MiFID II webpages and targeted phone calls and letters to raise knowledge and awareness among affected firms

As a result, almost all firms that needed to be authorised by 3 January 2018 were granted the appropriate permission. A small minority of applications remained outstanding. This was either because firms had submitted late applications, or were setting up new businesses.

Chapter 6
Improving our approach and measuring our performance

> **We continually seek to improve how we operate and add public value.**

We continually seek to improve how we operate and add public value. We must and will continue to respond to changes in financial services markets, anticipating them where possible. We have a major programme underway to improve our approach to authorisation. We have set ourselves 4 strategic goals:

Act where we make the most difference

This goal is about prioritising our focus on areas that can have the biggest impact on outcomes in the market and preventing harm where possible.

Working across the FCA, we continue to strengthen our approach to assessing the risk of actual or potential harm, to ensure we focus where the harm is greatest.

Improve the support we provide to firms to enable them to meet minimum standards

This goal is about continuing to make good quality regulatory decisions while supporting firms and individuals to meet, and continue to meet, our minimum standards – and keep those that do not out of the financial services market.

We are making it more intuitive and easier for firms to prepare and submit complete applications. Firms will also be able to see where their application is in the process using the 'New Track My Application' facility. The statutory time limits for some applications differentiate between complete and incomplete applications. We currently receive far too many incomplete applications, which mean they take longer to assess.

We are also working to ensure a smoother transition for firms from becoming authorised to being supervised, by using, for example, the new Asset Management Authorisation Hub.

We have extended the role of our Contact Centre in the authorisation process, because it is often the first contact point that firms will have with us. We are developing our Contact Centre to ensure it has the capability and expertise to give more detailed and extensive support to applicants as they become authorised. The Contact Centre team is also undertaking analysis and research work to help inform how we develop and implement policies and processes.

Improve our service focus

This goal is about making it easier for firms and individuals to engage with us by adopting a service mindset in our approach to authorisation, and ensuring our decision-making is adaptive, transparent, timely and consistent.

We are improving our delivery within statutory service standards. Legislation sets out the formal time limits we must meet for some types of applications. They provide a basis for measuring our performance but do not offer an easy way for different types of applicants to know what to expect from us. We have developed internal service standards

to provide greater differentiation, particularly for straightforward applications where we aim to make decisions significantly faster than the statutory time limits.

This goal also includes enhancing the public service commitments that we have made to firms, and ensuring that we meet them consistently.

Digital and innovative:

This goal is about becoming more effective, efficient and insightful through the use of digital technology and innovation. We have made improvements to the authorisation pages on the FCA's website so that the information on how to become authorised is clearer, made the FCA Handbook easier to navigate, and we are using technology in the Customer Contact Centre proactively to provide or receive relevant information to and from firms.

As noted earlier, we are using technology to improve the accessibility of the FS Register. This includes, the 'beta' consumer search, which is designed to improve access and understanding. In early 2019, we will provide a free Application Programme Interface from the FS Register, which will allow developers to provide services that can integrate the FS Register data with other data that consumers use.

Our public commitments to firms

In July 2016, we published our public commitments to help firms applying for authorisation or to vary their permission to know when and how often they can expect contact with us. We published these details on the authorisation pages of the FCA website.

Having considered suggestions for clarification and improvement in our consultation, we now set out an updated set of commitments.

The commitments cover all types of application made for authorisation or to vary permissions. The same principles also cover all other types of application for authorisation that are not routinely completed in under a month. Some applications will be processed more quickly and will have more frequent contact than set out here, but our aim is that none will be slower.

The revised commitments:

- We will tell you that we have received your application within 3 working days.
- We will contact you again within 3 weeks, normally to tell you which case officer we have assigned to your application or to tell you the date by which we will assign your application. The assigned case officer will handle all communication about your application. We will also give you an alternative person to contact if your assigned case officer is unavailable.
- If we subsequently have to assign your case to a different case officer, we will tell you this within 3 working days of making the change and give you the new contact details. The new officer will carefully review the case file to avoid asking for information already held.
- We will acknowledge all communications from you within 2 working days of receipt. This may be by means of an automated response.
- We will usually give you a substantive response to a query within 10 working days of receipt. If this is not possible, we will reply within the 10 working day period to tell you when you should expect to receive a substantive response.
- We will give you clear deadlines when we ask you to send us additional information.
- The designated case officer will give you an update on the current status of your case at least monthly and often more frequently. You will be notified within a week once your application is considered complete, at which point you will also be given an indication as to by when your application is likely to be decided.

We aim to meet our commitments consistently but if you feel that they are not being met for your application, you can ask your case officer for the name of their manager who will ensure the matter is dealt with appropriately.

These commitments will apply until we approve your application or tell you of our decision that it should be refused, in which case we will apply the formal refusal process.

Measuring our operational performance

The service standards that we are required to meet are set out in statute; largely they define how long we have to decide on applications. Where we have received the necessary information from firms and individuals we always aim to do better than these standards.

Firms find it valuable to know when they will receive responses from us; it reduces uncertainties and ensures that those that meet the required conditions have rapid access to markets. It also helps unauthorised firms consider other options.

We are improving our operational performance and how it is measured. This includes: being clearer about the service standards and public commitments to firms, ensuring they are met consistently, reducing the average time we take to allocate and decide cases and improving the way we ask firms for feedback on our service.

We currently measure our performance in several ways. On the FCA website we publish information quarterly on the number of applications received, the number determined and the number in hand. We also provide data on the speed of those decisions and the percentage of applications that were decided within the relevant statutory service standard; and the number of applications that were approved, refused or withdrawn.

In addition to this, we conduct a quarterly firm feedback survey of all firms who have received an authorisation decision in the previous quarter. This allows us to track changes in the firm experience over time. It measures not only the overall satisfaction but also the firm experience on a variety of specific indicators, such as the process of submitting applications, interacting with the FCA during consideration of that application and experience on conclusion of the application.

We also conduct quality assurance on a sample of firm applications to the assess quality of judgements on decisions, as well as measure compliance with each of the public firm commitments. Our quality assurance procedures also test cases for adherence to our procedures.

Measuring our impact on markets and firms

It can be difficult to measure the deterrent effect of having a rigorous authorisation gateway but we believe that this exists. Our approach aims to block entry to firms that cannot meet the minimum standards. We also influence firms to change business models that pose risk of harm to consumers and the markets, and we provide support to firms to encourage competition in the market.

Once we have authorised firms and individuals, we do a range of things to improve our approach. For example, we also periodically monitor the number of new firms which trigger supervision or enforcement issues within a year of being authorised. And we have been looking at ways in which we can better engage with firms and individuals that have recently been authorised or approved. When we find issues, we assess the actual or potential harm to determine the course of action that is taken. We use any lessons to improve and evaluate our approach to authorisation. As noted earlier, our risk tolerance is periodically reviewed and updated using the inputs from sector views, and our experience with firms at the authorisation stage and once they are authorised.

We are also undertaking some work on firms who applied for authorisation and were either refused, or subsequently withdrew their applications. We are looking at the impact these firms would have had if they had been authorised, for example, the number of consumers who would have been affected, many of whom are likely to be vulnerable.

In addition, we have developed a set of indicators that will allow us to measure the success of our change programme. The intention is to ensure that:

- it will be easier for consumers to find out whether firms and individuals are authorised or approved by us
- firms will find it more straightforward to engage with us and be supported as they become supervised
- firms will find that we are clear about our expectations of them, transparent in our dealing, and timely and consistent in our decision-making

Annex 1
Feedback Statement for Our Approach to Authorisation consultation

Introduction

1. We published the 'Our Approach to Authorisation' consultation, in December 2017. This document set out how we authorise firms that want to provide regulated financial services. It also explained how we approve individuals who hold specific important functions within firms. We asked for feedback in a consultation that ran from 11 December 2017 to 12 March 2018. Following that consultation, we have published a revised edition of the 'Approach to Authorisation'. This feedback statement gives supporting detail.

2. We received 19 responses from a range of stakeholders who represent the interests of consumers and firms. We have reviewed and considered each response, passing on comments about specific areas to the appropriate FCA functions. While we are not able to respond to every comment individually, this feedback statement summarises the key points made in the consultation responses, and explains what we are doing to address them.

3. We have updated the following sections in the 'Approach to Authorisation' document:

- The current position and more information on key topics such as the Temporary Permissions Regime for EU firms that hold a passport to provide financial services in the UK; and the Senior Managers and Certification Regime (SM&CR), including the new public Directory.
- How we assess individuals - to align with the different regimes that apply to solo regulated and dual regulated firms.
- How we assess the drivers of behaviour that can create cultures likely to cause harm.
- Revoking authorisation, registration and approval - to include more examples of when this type of action may be taken.
- Challenging our recommendations - to include more information on the process and the role of the Regulatory Decisions Committee (RDC).
- Promoting effective competition - to include information on how we are providing a range of support to all firms.
- The current position on recent regulatory change such as Benchmarks and MiFiD II.
- Metrics such as the number of applications determined for 2017/18.
- Public Commitments - to include an improved set of public commitments we make to firms.
- Measuring our performance - to include information on how we measure our operational performance, and the effectiveness of our approach.

Questions we asked in the consultation

4. We asked 4 questions in the 'Our Approach to Authorisation' consultation:

Q1: ***Do you have a clear understanding of the Threshold Conditions that firms and individuals must meet for authorisation? If not, in which areas would you like us to be more specific?***

Q2: ***What are your views on our approach to supporting firms and individuals to meet the minimum standards and promoting competition? How could we improve it?***

Q3: ***Do you think we have suggested the correct commitments to make to firms making authorisation applications? If not, what other commitments could we make?***

Q4: ***Do you think we have prioritised the right strategic goals? If not, what additional goals do you think would add most public value to our work?***

Key themes to feedback

5. Most of the responses we received directly addressed the 4 questions in our consultation. Some respondents also made more general comments. This feedback statement addresses these more general comments first, and then moves on to the specific consultation questions. The general comments were about:

- how our approach considers the interests of consumers
- how we assess conduct risk
- how we assess individuals
- the efficiency of the authorisation process
- application completeness
- case officer knowledge of the financial services industry
- over-reliance on redress schemes
- tackling consumer harm outside our jurisdiction
- sharing concerns, evidence and options with Government
- regulatory change
- measuring the success of our approach

The interests of consumers

6. A respondent expressed the view that we seem to place more emphasis on the interests of firms than of consumers. They suggest that the FCA is preoccupied with making the process easier for firms to navigate, as if authorisation is an inconvenient administrative process rather than the high hurdle it should be. They asked us to embed the interest and protection of consumers in our work, and to set out how our approach to authorisation helps to improve outcomes for them.

7. Our approach to authorisation is focused on preventing harm to consumers and the market from occurring by ensuring that all firms that we regulate, and relevant individuals, meet our minimum standards. We will refuse to authorise a firm if it does not satisfy us that it meets, and will continue to meet these standards. We use the Threshold Conditions (TCs) to do this for firms and the Fit and Proper test (F&P) for individuals. For example, by assessing how firms operate and how they make their money, we get an understanding of the way the firm makes a profit and whether this will create increased risk of harm to consumers and the market. We also use authorisation to improve the conduct and culture in firms. We do this by looking at the drivers of behaviour that can lead to poor firm culture.

8. We use our risk tolerance framework to inform our prioritisation using several sources of intelligence to understand the risk of harm. We have deliberately designed our approach to be flexible in this way. For example, our direct interaction with consumers through our Contact Centre is a valuable source of intelligence.

9. We give greater scrutiny to, and therefore spend more resource on, firms and business models that pose the greatest risk of harm to consumers and the market.

10. We also believe that greater competition can protect consumers where it enables informed choices by consumers.

11. Consumer protection is, and will continue to be, the primary focus in our approach to authorisation.

12. In the consultation, we focused attention on firms and individuals who apply to be authorised, and how we test that they take consumers' interest into consideration. We want to ensure that they, and others with an interest in our work, understand the purpose of and our approach to authorisation, the public value it delivers and the changes we are making to improve our approach. This is consistent with our overarching focus on protecting consumers, as set out in our statutory objectives.

Assessing conduct risk

13. Some respondents asked how we assess conduct risk.

14. The information that we require from firms and individuals and the level of scrutiny that we give to their applications are proportionate to the actual or potential harm they could cause to consumers and to market integrity.

15. This is determined by a range of factors. It includes the sector in which a firm proposes to operate, its business model, customer numbers and vulnerability, financial metrics, scale and risk to market integrity, and any negative intelligence.

16. For example, in the retail lending sector we give greater scrutiny to applications from firms that wish to operate as high cost, short-term lenders or provide debt management services than to those that wish to act as credit brokers as an ancillary activity to their main business.

17. Where appropriate, we use interviews to assess an individual's fitness and propriety for the role they are seeking to hold. This includes their understanding of what conduct risk is, what the specific risks in their business are, whether they have effective governance arrangements in place to identify the risk of harm to consumers and markets, and whether they have a strategy in place to manage and mitigate those risks. If the firm is new to the market, we assess whether the individual has thought about what risks the firm is exposed to, and we assess the adequacy of the proposed plans to address these.

18. Where we identify the risk of potential or actual harm after authorisation, we will assess what course of action to take using our supervisory and/or enforcement tools.

Assessing individuals

19. Some respondents asked about what information and evidence we use to form judgements of individuals. Another suggested that we can improve how we assess individuals by, for example, considering the overall composition of Boards, and taking account of their track records.

20. Under the Approved Persons Regime (APR), firms regulated only by the FCA should carry out appropriate checks when appointing individuals into controlled function roles, but we do not specify what they should be. This allows firms the flexibility to undertake checks in a range of ways. As noted in our consultation, we use a range of intelligence sources to verify information from the firm and the individual. The FCA, often together with the PRA, will interview candidates for roles that pose the greatest risk of harm, for example, a Chair or Chief Executive of a dual-regulated bank or insurance company, to satisfy ourselves that the person is fit and proper.

21. The Fit and Proper test is a benchmark used to assess whether individuals are suitable to perform senior management functions or controlled functions. Firms subject to the SM&CR, ie the banking sector and insurers from 10 December 2018, are responsible for their own fit and proper assessment of individuals that are required to hold senior management and certification functions.

22. In implementing the SM&CR, the FCA and PRA have strengthened the checks that firms must undertake. This includes requiring a criminal record check and regulatory references. We also require each person to have a clear statement of the activities for which they are responsible (which we call a Statement of Responsibilities).

23. Our extension of the SM&CR to all insurers from 10 December 2018 and solo-regulated FSMA firms from 9 December 2019, will replace the APR. This means all the firms (except for firms not authorised under Part 4A of FSMA, for example, Appointed Representatives, Payment Services firms, recognised investment exchanges and the various entities subject to registration regimes) will be required to carry out these 'fit and proper' checks in specific ways.

24. Under the SM&CR, firms will be required to certify annually key individuals as fit and proper to hold specific financial services roles, although these individuals will not need to approved by the FCA. Some of these staff in scope of the Certification Regime may have previously been approved by us. We will not approve these people anymore. This is because an objective of the Certification Regime is to reinforce that firms, rather than the regulator, are responsible for making sure their staff are fit and proper on an on-going basis, and at least once a year.

25. We already consider the overall makeup of a Board (where applicable). Factors include among other things, an individual's industry knowledge and experience as well as their ability to provide challenge to the Executive Committee and other Board members. We also consider an individual's history. This includes, but is not limited to, an individual's employment and regulatory history and whether they have been involved in misconduct, or any criminal activity or adverse civil proceedings.

Efficiency of the authorisation process

26. Several respondents said inefficiency on our part caused unnecessary delay in assessing some applications for authorisation. They cited changing case officers as a cause of delay and inconsistency.

27. There have been delays in assessing some authorisation cases, largely in the consumer credit sector. There are 2 main reasons for this. The first is the high number of applications

that needed to be assessed when bringing the existing consumer credit sector into the remit of the FCA, alongside an unexpectedly high volume of new applicants to the market. The second reason is the unforeseen complexity of some of the business models. Unlike most applicants, many of these firms were already operating and this introduced an additional layer of complexity. As a result, business models often changed during the authorisation process. The FCA was also learning about sectors that were new to our remit. In many cases, we have worked with firms and allowed them the opportunity to improve and meet our minimum standards and, in some cases, we may have allowed too much time. Another common reason for delay is that applications are often incomplete. We address this point in more detail below.

28. In some applications, and not just for consumer credit firms, the time taken by the FCA to decide was too long and the statutory service standards were breached. We have taken steps to improve our performance, and bring greater clarity and transparency to the authorisation process.

29. While we have statutory deadlines that we must meet, our ambition is to make the right authorisation decision well within these deadlines. The statutory deadlines should simply be a backstop for a small number of the most complex cases.

30. Most applications are concluded in much shorter timescales. We now publish quarterly data on the FCA website showing the speed of our decision-making expressed in a variety of different ways, so that all applicant firms can gauge how long their application is likely to take.

31. We recognise the importance of continuous improvement. In our consultation, we outlined our major programme to improve the experience of applicant firms. For the first time, firms will be able to monitor the progress of their application through the 'Track My Application' facility. This facility will enable firms to see where their application is in the authorisation process. We are also creating tools to help firms submit complete applications the first-time round, which we discuss later.

32. Our public commitments to firms, launched in July 2016, are designed to help firms applying for authorisation to know when and how often they can expect contact with us. We use sampling to measure our performance in meeting these commitments to firms. As our performance against them matures, we intend to publish this performance data alongside the existing data we make available on the FCA website.

33. We use forecasting tools to predict application volumes and have started recruiting staff on a regular basis to ensure we manage staff turnover efficiently. We also now operate a Flexible Team, which covers short-term needs in specific departments. This will minimise the impact of unexpected increases in volumes or reduced resources.

34. We have also introduced a dedicated team that focuses on making processes and procedures more efficient, acting on the findings from decision quality assurance monitoring and analysing data to identify opportunities for performance improvement.

35. Wherever possible, an application will be dealt with by a single case officer from start to finish. If this is not possible, we aim to have an efficient case hand over. Responses to the consultation made it clear that this has not always happened. We acknowledge the feedback and have put processes in place to ensure that a robust standard approach is followed.

Application completeness

36. A respondent considers that the FCA is inappropriately assessing applications as incomplete to give the FCA the longest time possible to make a decision. For FSMA firms this is a maximum of 6 months from the point at which a firm provides all the information the application asks for or, if it contains some incomplete information, a maximum of 12 months from when we receive the initial application.

37. It would be unfair to firms to treat applications as incomplete when they are not. Unfortunately, a significant number of applications are not complete when they are submitted to the FCA.

38. We aim to assess applications efficiently and to make decisions as soon as realistically possible, and certainly within statutory deadlines, other than in exceptional circumstances. It benefits both firms and the FCA when firms submit complete applications. Sometimes, however, applications are far from being complete.

39. As noted earlier, our ambition is to make the right authorisation decisions well within statutory deadlines. To achieve this, we are implementing a range of tools to help firms submit complete applications. For example, we are working on a general approach to provide all firms with some form of pre-application support, as we recognise the challenge and cost to firms in getting everything done to be considered ready, willing and organised. This support ranges from more accessible information on the FCA website about the authorisation process to making it easier to navigate the FCA Handbook. We have also implemented direct support services for some sectors, such as the Asset Management Authorisation Hub (AMAH).

40. We are also creating more digital forms, and exploring systems that could be made available online that will help firms to understand whether they need to be authorised and, if so, which permission is required.

41. As noted earlier, the new 'Track My Application' facility will help firms to track where their application is in the authorisation process. In our revised commitments to firms, we say we will notify a firm within a week once we consider the firm's application to be complete. The application is deemed incomplete until this point.

42. The investment we have made in the range of pre-application support now available is designed to give all firms the best possible chance of preparing good quality applications.

43. We expect firms to take regulation seriously and plan how they will meet the standards of the regulatory system before they apply. In the past, we have worked with applicant firms and individuals that do not meet our minimum standards over extended periods to help them to do so. We will now reject such applications, rather than working with firms to improve them. This, for example, includes applications where even the most basic information is not included in the application form, and we are unable to do any form of assessment. We will continue to work with applicants we believe are likely to meet our minimum standards. However, we are more likely to refuse applications that we believe will not meet the minimum standards within the 12-month deadline.

44. Doing this will allow us to focus more effort on those applications from firms where we believe there may be potential harm to consumers. It will also allow us to focus our efforts on supporting firms who have genuinely tried to submit complete applications and can demonstrate that they are ready, willing and organised.

Case officer knowledge of financial services

45. Some respondents said that our case officers need to improve their knowledge of the financial services market and develop a better understanding of business models. Some respondents have offered their help to build our knowledge of new sectors and business models.

46. In our consultation, we noted the significant increase in the number and type of firms we regulate. A combination of consumer demand and technical innovation is driving new and often complex financial services, which are reflected in a broad range of emerging and evolving business models. This makes it challenging to ensure that case officers have the necessary market knowledge and can understand a range of very different and frequently complex business models.

47. We work closely with our Human Resources, Learning and Development and Finance functions to ensure we have sufficient, appropriately skilled staff to meet these demands.

48. We closely track the levels of capability across all areas, implementing training solutions where we have gaps. We are developing our induction process to incorporate more detailed training for our staff at an early stage.

49. In terms of the continuous improvement mechanisms, we secure feedback from many sources including Firm & Consumer Satisfaction Surveys, Complaints, MP Letters, Quality Assurance results, Public Commitments adherence and data analysis. We use this feedback to identify the root cause of problems, and formulate action plans to address them and resultant training needs.

50. We support this through a programme of formal training that we have recently refreshed and which all case officers must follow. This includes training on business model risk, financial analysis and prudential risk, the SM&CR and assessing conduct risk. We also use expertise from across the FCA using centres of excellence, for example, our sector teams in Supervision.

51. We have also hosted sessions with industry representatives to understand more about their business models and developments in the sectors. We continue to work closely with financial services compliance firms to help us resolve issues, and identify new and emerging themes. We will continue to work with industry stakeholders to build knowledge where appropriate.

52. Another key part of our approach lies in our pre-application support work where we can spot challenging, novel and innovative business models earlier to give ourselves more time to understand whether business models work in the interests of consumers and the market. We work with firms to address any issues that are identified.

Over-reliance on redress schemes

53. A respondent said we seem to over-rely on redress schemes to deal with customer complaints after poor behaviour, rather than applying rigorous standards at the point of authorisation to identify and address potential harm before it occurs. Another respondent said that they continue to see individuals who have acted inappropriately at a previous firm (which has since folded into the FSCS leaving significant mis-selling claims) become re-authorised by the FCA under a new guise.

54. We know that there is an issue with firms or individuals seeking to avoid liabilities by liquidating and transferring their assets to a new or different firm where they will continue to trade. This is often known as 'phoenixing'. The challenge here is that evidence of mis-selling and resultant liabilities to consumers can take a long time to emerge and is often not available when firms or individuals seek authorisation in new or different firms.

55. We are looking at how we can strengthen the quality and timeliness of the data we gather on firms and individuals, for example, in the financial advice sector. We are also rolling out a training programme to support our case officers to spot phoenixing by financial advisors using this enhanced intelligence.

56. Intelligence is an extremely useful source of information to the FCA. It helps us to identify and prioritise our work. We are working across the regulatory family and with industry to obtain relevant intelligence. We encourage the industry to continue to share it with us.

57. The past record of a firm or individual is an important factor in judging whether they will meet our minimum standards. Firms and individuals should carefully consider whether their past records will inhibit their ability to meet these standards.

58. While previous misconduct will be considered as part of an application for an individual

approval, it is not an automatic bar to being approved. The severity of the misconduct, the time that has elapsed, the efforts taken to rehabilitate, the nature of the role applied for and the controls in place to oversee individuals' conduct will all be considerations.

59. An authorisation process, no matter how effective, cannot guarantee that firms or individuals will not subsequently treat customers unfairly or engage in misconduct. If poor behaviour does occur post-authorisation, we will assess the extent of the potential or actual cause of harm, and its cause, then decide which of our supervisory or enforcement tools to use. We seek to make sure that affected customers are redressed appropriately, and we may put this right ourselves by requiring a redress scheme.

60. We recognise that we cannot address all potential harm. We have safety nets in place to ensure that, where possible, those affected by misconduct receive appropriate redress, either through our own actions with the firm or by working with others, such as the Financial Ombudsman Service.

Tackling consumer harm outside our regulatory perimeter

61. Another respondent welcomed our approach yet remained concerned that we do not do all we can to tackle consumer harm at the perimeter of our jurisdiction. The respondent's concerns were about firms acting as lead generators for debt management companies and insolvency practitioners.

62. In our 2018/19 Business Plan, we explain that our central focus is on the conduct of regulated activities. As well as regulated activities, authorised firms also carry out activities that are outside the 'regulatory perimeter' but can cause risk of harm to consumers and the market.

63. Where the perimeter is set is a matter for the Government and Parliament. However, where there is evidence that there may be problems outside the perimeter we raise this with the relevant authorities.

64. We have conducted rigorous assessments of debt management firms at the authorisation gateway, and refused authorisation of those firms that were not able to meet our standards.

65. Post authorisation, firms are overseen by Supervision, and where appropriate, we also carry out thematic supervisory work. In 2015, we did a thematic review on the quality of debt advice. There is currently a second thematic review on the quality of debt advice underway that we expect to complete in Q1 2019. We have also issued several Dear CEO letters setting out our expectations of firms around customer transfers, annual reviews and most recently our expectations of debt packager firms.

66. It is important to note that, where a customer reaches an FCA authorised debt management firm through a lead generator then the debt management firm is required to ensure the advice it provides to the consumer is in their best interest. The debt management firm also has a responsibility with regards to the sales leads it accepts, for example, taking reasonable steps to ensure the lead generator is not misleading customers.

67. In our Mission, we explain that we have powers to act outside the perimeter in certain circumstances. We will be more likely to do this when the unregulated activity could, for example, potentially undermine confidence in the UK financial system or have an impact on a regulated activity. Where we decide we cannot or will not act, we will publicly explain why and, for example, raise the matter with other bodies or regulators who are better placed to deal with it or with the Government.

Sharing concerns, evidence and options with Government

68. A respondent also calls on us actively to share concerns, evidence and options with Government to inform social policy, particularly where issues arise because of regulatory action.

69. In our Mission, we explain that many factors, such as an ageing population and developments in technology, have created new public policy challenges. We need to be clear about where we can serve the public interest as a regulator and where the issue falls outside our remit into an issue of wider public policy more suited to Government and Parliament. For example, the issue of consumers living in flood-prone areas who had difficulty getting property insurance was appropriately resolved by the Government working with the insurance industry to set up Flood Re, rather than by our regulatory intervention.

70. We will continue to work closely with the Treasury, the Competition and Markets Authority, the Pensions Regulator, the Financial Ombudsman Service, the Financial Services Compensation Scheme, the Prudential Regulation Authority and the Bank of England, other Government agencies and departments and international regulatory organisations to provide evidence and input into public policy thinking.

Regulatory change

71. Respondents ask us to do more to help firms prepare for regulatory change.

72. We agree that we have a role to play in helping firms prepare for regulatory change. It is a priority that we have been working on, and we will continue to do so. For example, in our consultation, we show that one way we help firms prepare for authorisation is by giving them enough notice of how they are likely to be affected by forthcoming regulatory changes.

73. We use a mix of conventional and innovative approaches, including written communication, press articles, webinars, and speaking at conferences to ensure that firms and individuals understand what we expect of them. Our Contact Centre also talk to firms about forthcoming changes when they contact us.

74. We will continue to tell firms about upcoming change and what they need to do to prepare for it.

Measuring our approach

75. One respondent asks how the FCA measures whether its approach is a success.

76. Our approach aims to block entry to firms that cannot meet our minimum standards. We also influence firms to change business models that pose risk of harm to consumers and the market, and we use authorisation to improve the conduct and culture in firms. We also provide support to firms to encourage competition in the market.

77. We measure the effectiveness of our approach in 2 ways. We measure our operational performance, and we are actively looking at ways in which we can measure whether our approach is effective. For example, we are undertaking some work on firms that applied for authorisation that were either refused, or subsequently withdrew applications. We are looking at the impact these firms would have had if they had been authorised. In addition, we periodically monitor the number of new firms that trigger supervision or enforcement issues within a year of being authorised. And we have also been looking at ways in which we can better engage with firms and individuals that have recently been authorised or approved. When we find issues, we assess the actual or potential harm to determine the course of action that is taken. We use any lessons to improve and evaluate our approach to authorisation.

Responses to consultation questions

Threshold conditions

78. We asked:

Q1: ***Do you have a clear understanding of the Threshold Conditions that firms and individuals must meet for authorisation? If not, in which specific areas would you like us to be more specific?***

79. While some respondents understand the Threshold Conditions, others are less confident and asked us to be clearer about what they mean, what we assess and what firms need to do to meet minimum standards. They also said we sometimes apply the Threshold Conditions inconsistently.

80. We recognise that firms preparing to apply for authorisation would benefit from clear explanations of what the Threshold Conditions mean in practice for them. This will help them not only prepare more complete applications, but will also help firms to understand what we expect of them.

81. As no two applications are identical it is difficult to be specific about the evidence firms or individuals need to provide to demonstrate they meet our minimum standards. We are working on how best to do this for the range of firms we authorise and will publish more information in the future.

82. In the meantime, we plan to publish a consultation in Q1 2019, which will set out what we look for from firms when assessing adequate financial resources, and what practices we expect firms to adopt in their own assessments of adequate financial resources.

83. In our consultation, we explained that we apply judgement, based on the facts of an application, to decide whether the Threshold Conditions are met. We also take a proportionate approach, mitigating the risk of inconsistent judgements through a range of internal quality assurance procedures and controls.

84. In response to the feedback we have received, we will continue to invest in our people and our monitoring capability to ensure that we are consistent in the application of Threshold Conditions.

85. A respondent called for a new threshold condition focused specifically on culture. They also said we should adopt a framework that focuses on a sense of purpose, the tone from the top, governance structures, and incentives and capabilities.

86. We place great importance on firms' cultures. In our 2018/19 Business Plan, firms' culture and governance is one of our cross-sector priorities. Culture has a major influence on the outcomes that matter to us as regulators, and there are several areas of work we are focusing on within this priority. For example, in March 2018, we published a Discussion Paper and held a well-attended conference on transforming culture in financial services to engage with the broader financial services community on this topic.

87. Our extension of the SM&CR to all financial services firms authorised under Part 4A FSMA aims to promote cultures at firms where staff at all levels take personal responsibility for their actions. We use authorisation and supervision to assess key drivers of behaviour that can create cultures likely to cause harm. These drivers are:

- a firm's purpose (as it is understood by its employees)
- the attitude, behaviour, competence and compliance of the firm's leadership

- the firm's approach to managing and rewarding people (eg staff competence and incentives)
- the firm's governance arrangements, controls and key processes (eg for whistleblowing and complaint handling)

88. Our assessment of whether a firm meets the Threshold Conditions provides us with information about these drivers of behaviour. We use this to inform our supervisory assessment of how effective those drivers will be in reducing potential harm. For example, determining whether an individual is fit and proper gives us information about the attitude, skills and capabilities of potential leaders of a firm. A firm's systems and controls, and how they intend to manage risk can give us information about how effective a firm's governance arrangements will be in reducing future harm. The capacity and capability of the resources the firm has put in place provides us with information about their approach to people that they employ. And the consideration of a firm's business model and strategy tells us about a firm's purpose and what it is setting out to achieve.

89. We prioritise culture and use a range of tools through authorisation and supervision to assess the likelihood of firms' cultures causing harm. So, we do not think it necessary, at this stage, to require a change to primary legislation to introduce an additional threshold condition specifically on culture.

Supporting firms and promoting competition

90. We asked:

Q2: ***What are your views on our approach to supporting firms and individuals to meet the minimum standards and promoting competition? How could we improve it?***

91. Respondents broadly support our approach to supporting firms and individuals. Some believe we strike an appropriate balance. Others ask us to do more to support firms. Some urge us to avoid creating barriers to entry. One says we have already created barriers.

92. The FCA has a statutory objective to promote effective competition in the interest of consumers.

93. In our consultation, we acknowledged that regulation can be a barrier to entry. It can be complex and hard for firms to understand. Regulation has not always kept up with market innovation, with some firms operating business models the rules did not foresee. Further regulatory uncertainty or complexity in the authorisation process could deter firms from entering the UK financial services market.

94. As noted earlier, we are working on a general approach to provide all firms with some form of pre-application support, thereby ensuring a level playing field.

95. To advance our competition objective, we will continue to support firms with genuinely innovative business models that are likely to provide clear benefit to consumers and markets, if they have a genuine need for support. We will continue to support specific sectors where we think it is important to actively encourage more competition in the interest of consumers, eg retail banking.

96. While we recognise the need to continuously improve the support we provide for firms, authorisation will continue to be a deliberate barrier to entry to those who cannot meet our minimum standards. We expect firms to take regulation seriously and plan how they will meet the standards of the regulatory system before they apply. When we consider the extent to which a firm has planned ahead, we ask ourselves whether the applicant is ready, willing and organised, as noted earlier.

97. A respondent said we have 'misinterpreted' our competition objective, and 'by inappropriately prioritising technology' we have 'created an anti-competitive market for new entrants.' They 'expect a regulator to adopt a neutral stance towards different business models and, as such, it would be reasonable for a regulator to ensure a level playing field. The FCA, however, continues to push a technology-driven agenda as part of a wider public relations exercise to further a global reputation for innovation.'

98. We take a neutral approach to business models and do not prioritise those that are technology-based. Initiatives such as the Regulatory Sandbox are designed to support genuinely innovative business models that are likely to provide clear benefit to consumers, if the firm has a genuine need for support. It has been the case that many are based on innovative use of technology.

99. A respondent expressed the view that the FCA is promoting the Regulatory Sandbox and Advice Unit channels as 'free' for firms to use, while failing 'to adequately answer how the costs for running these units are apportioned.' They are also concerned that 'inappropriate cross-subsidisation of fees' results in 'established regulated firms picking up the bill for technology-based entrants which may or may not end up being authorised'.

100. The FCA has an objective to promote effective competition in the interest of consumers and the discretion to decide how best to use its resources to achieve this. We introduced the Innovate initiative to encourage market entry and innovation in financial services, removing barriers where appropriate, while continuing to ensure that all firms adhere to the same high regulatory standards. Support from Innovate, including the Regulatory Sandbox, is open to all firms, new or established, that have or are proposing genuinely innovative business models that are in the interests of consumers, irrespective of sector.

Our commitments to firms

101. We asked:

Q3: ***Do you think we have suggested the correct commitments to make to firms making authorisation applications? If not, what other commitments could we make?***

102. Respondents generally welcomed the public commitments we have made to firms, although one said in practice they did not lead to real improvements. They asked to what extent we meet the commitments, as well as seeking a better understanding of them, and made various recommendations to improve them.

103. Having considered the feedback in our consultation, we have set out our commitments to firms in the revised 'Approach to Authorisation' document, and the FCA website. They remain voluntary service levels that firms should expect from us when applying for authorisation.

104. We have incorporated some suggestions that we believe will strengthen and clarify the commitments. For example, if we allocate new case officers, they will always carefully review the file to avoid asking for information we already have; and once we consider their applications complete, we will tell firms within a week.

105. We conduct regular sampling of how well we meet the commitments. In the early autumn of 2017, we were meeting the commitments in just over half of the cases. By Easter 2018, this was approaching three quarters. We recognise that we have further to go to meet these commitments and to do this consistently. We regard it as a high priority to do so.

106. These commitments will apply until we approve applications or until we are in a position to communicate our decision that an application should be refused. If this is the case, we will apply the formal refusal process.

107. A respondent suggested that the FCA should set out an equivalent commitment to consumers, in line with its consumer protection objective and obligation to serve the public interest.

108. The specific commitments on which we consulted should be seen in the context of improving how we interact with firms during the authorisation process, making us more transparent and efficient.

109. Our approach to authorisation is designed to focus resource on where we believe the risk of harm to consumers and markets is the greatest. We believe our approach to authorisation is appropriate and additional commitments to consumers within the authorisation process are not necessary. If poor behaviour occurs post-authorisation, we will assess the extent of the potential or actual harm and its cause, and then decide which of our supervisory or enforcement tools to use. See Our Approach to Consumers for more information.

Our strategic goals

110. We asked:

Q4: ***Do you think we have prioritised the right strategic goals? If not, what additional goals do you think would add most public value to our work?***

111. Respondents broadly supported our strategic goals. One suggested we should have an overarching strategic goal, to act as a robust gateway that applies rigorous standards to protect consumers and achieve good customer outcomes, and to maintain trust in the integrity of the market.

112. Protecting consumers, achieving good customer outcomes, and maintaining trust in the integrity of the market are important goals for the FCA and responsibilities for firms and individuals.

113. They are reflected in the operational objectives that Parliament set for the FCA: to secure an appropriate degree of protection for consumers; to protect and enhance the integrity of the UK financial system; and to promote effective competition in consumers' interests.

114. To deliver these objectives, Parliament gave us a range of tools, of which authorisation is one, and independent powers to decide how best to use them. We use authorisation primarily to prevent harm by ensuring that firms wishing to provide regulated financial services and relevant individuals in those firms meet common sets of minimum standards.

115. Our approach to authorisation is rigorous and proportionate. We do as much as we reasonably can to support firms and individuals to become authorised. We never lower the minimum standards that we expect them to meet. We consider the principles of good regulation, including proportionality, and recognise the differences in the businesses of regulated firms and individuals. We ensure that the information we require from firms and individuals and our level of scrutiny is proportionate to the size and risk of harm that they pose.

116. A respondent said we should seek to understand why firms and individuals who were authorised subsequently treat customers unfairly or engage in misconduct. We should

also consider systematically whether evidence was available at the time of authorisation that was overlooked or not acted upon and where this derived from (eg from an applicant's history or from interviews conducted with them). This would enshrine a culture of continuous learning and improvement within the approach to authorisation, making sure it learns lessons from the past.

117. We use the Threshold Conditions fit and proper test to ensure that all firms and individuals meet our minimum standards. We do this by considering a range of information sources and applying judgement based on these facts. We expect firms to take regulation seriously and plan how they will meet the standards of the regulatory system before they apply. When we consider the extent to which a firm has planned ahead we ask ourselves whether the applicant is ready, willing and organised, as noted earlier.

118. In our experience, some firms can be over optimistic in their business plans, and some activity they plan does not transpire. If firms are not generating the business they expected to, this can lead to them trying to generate business in a way that does not meet our expectations and is not in the best interests of consumers and the markets. New firms may not always understand their full regulatory obligations, for example, their obligation to continue to meet Threshold Conditions through to basic regulatory reporting. When things start to go wrong, or things are done in the wrong way, the people in the firms may not have the early warning indicators or the experience to know that it is going wrong, or the experience to deal with it. While we test as much as is feasible at the authorisation stage, this still may happen in a small number of instances.

119. To address these issues, we invest in making calls to all firms within the first month post authorisation to remind them about their regulatory obligations and to let us know if anything changes with their businesses. As noted earlier, we periodically monitor the number of new firms that trigger supervision or enforcement issues within a year of being authorised. The proportion that do so is extremely small. Where this does happen we will, where appropriate, liaise with the investigating Supervision or Enforcement team to determine whether there are lessons for Authorisation to consider. We have also been looking at ways to engage better with recently authorised or approved firms and individuals. When we find issues, we assess the actual or potential harm to determine the course of action that is taken. We use any lessons to improve and evaluate our approach to authorisation.

120. In addition, our risk tolerance is periodically reviewed and updated using the inputs from sector views and our experience with firms at the authorisation stage and once they are authorised. Sector views provide an assessment of the developments, performance and risks of each financial services sector. The sector views are refreshed annually. Our approach is designed to be flexible in this way so that we can respond to new and emerging issues promptly. For example, our approach to the authorisation of Contracts for Difference firms was enhanced by increasing the scrutiny of these applications, following emerging themes of poor practice and a lack of understanding by individuals who held controlled functions. These enhanced assessments included interviewing senior managers to ensure that they had the necessary skills, knowledge and experience to run these businesses in the interests of consumers and the market. A significant number of firms withdrew their applications because of these interventions.

121. Our ongoing policy development work delivers robust rules and frameworks to reduce the risk of harm to consumers and markets. We use our policy making powers to intervene where significant risk of actual or potential harm has been identified. For example, the 2008 financial crisis and subsequent significant conduct failings, such as the manipulation of LIBOR, showed standards in the financial sector needed to improve. Based on the recommendations of the Parliamentary Commission for Banking Standards in 2013, Parliament passed legislation leading to the FCA and PRA applying the SM&CR to the banking sector. The PRA also applied the Senior Insurance Manager Regime (SIMR) in the insurance sector. We are extending SM&CR to insurers on 10 December 2018 and all

other FSMA regulated firms from 9 December 2019. The aim of these regimes is to reduce consumer harm and strengthen market integrity by making individuals more accountable for their conduct and competence.

122. Where we identity actual or potential harm after authorisation we will move quickly to stop it occurring using our supervision and or enforcement tools.

123. Many respondents welcomed our intention to improve the Financial Services Register (FS Register). They called on us to make it easier to navigate and to understand, and to consider how we might make it more useful to consumers.

124. To support public trust and transparency we are required by law to maintain the FS Register. It is a public record of all the firms, individuals and other bodies that are, or have been, approved by either the PRA or the FCA.

125. The FS Register allows users to make sure that those offering financial products and services are regulated. Consumers can also check whether individuals or firms have been sanctioned or had other action taken against them. The historical nature of the FS Register ensures that firms remain traceable through changes such as mergers or name changes.

126. Improving the accessibility of the FS Register is a key objective. In July, responding to a Work & Pensions Select Committee recommendation, we made a change to the FS Register to make requirements, including suspensions, more prominent in the header of firm entries.

127. In September, we launched a 'beta' consumer search designed to improve understanding and accessibility of the FS Register. It introduces a new facility for users to search for financial advisers on mortgages, pensions, investments and debt near them. It presents existing key FS Register data in a clearer and more intuitive layout. It aims to cover the subjects consumers using the Register most commonly call our Contact Centre about.

128. In early 2019, we will provide a free Application Programme Interface from the FS Register, which will allow developers to provide services that can integrate FS Register data with other data that consumers use.

129. Also in 2018, as part of the SM&CR, we consulted on a new public register for individuals in financial services (the Directory). This will link in CP18/19 to the FS Register to give consumers and other users a more intuitive resource, which will make it more accessible and user-friendly. It will enable users to find information on individuals in a single public location. This consultation period closed on 5 October 2019, and we received more than 500 responses. We are working through the responses we received from both firms and consumers, and aim to publish our decisions in Q1 2019.

12 Endeavour Square London E20 1JN
Telephone: +44 (0)20 7066 1000
Website: www.fca.org.uk