

FCA Mission: Our Approach to Authorisation

December 2017



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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 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 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 large 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 three 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 consumers' interests

The aim of our regulation is to serve the public interest by improving the way the UK financial system works and 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

This document explains the purpose of, and our approach to, authorisation, the public value it delivers and changes we are making to improve our approach.

It sets out:

- the legal basis for authorisation and the conditions that firms and individuals must meet to be authorised
- the difference between authorisation and registration
- how we evaluate whether firms and individuals meet the conditions 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, and
- some questions on how we can improve our approach

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. Through authorisation and then supervision we ensure that firms and individuals meet minimum standards and, importantly, understand that they must continue to meet them for as long as they are authorised. Our forthcoming 'Approach to Supervision' document will explain the FCA's approach to supervising individuals and firms once they have been authorised.

In 2016-17 we received almost 75,000 applications from firms wanting to provide regulated financial services. This includes applications from regulated firms wanting to change the range of services for which they have authorisation or appoint individuals into key roles. 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.

Other entities we authorise

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

Investment Funds

The FCA authorises certain types of investment schemes under the Financial Services and Markets Act 2000 (FSMA). These are investment schemes open to retail investors (Undertakings in Collective Investment in Transferable Securities (UCITS) and Non UCITS Retail Schemes (NURS)) as well as Qualified Investor Schemes (only open to professional investors), Authorised Contractual Schemes (only open to specific types of investors) and European Long Term Investment Funds (open to both professional investors 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 investment¹. 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 authorisations focus on funds that are available to retail, as well as institutional, investors.

We make decisions on over 1,000 new funds, or those seeking significant changes, a year. However, not all funds that operate in the UK need our authorisation²; the FCA Financial Services Register³ holds details of all the funds we authorise.

Recognised Investment Exchanges (RIEs)

We also grant Recognition Orders⁴ to investment exchanges, such as stock exchanges. We assess applications against the specialist FCA Sourcebook's Recognition Requirements⁵. 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.

1 www.handbook.fca.org.uk/handbook/COLL/

2 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)

3 <https://register.fca.org.uk/>

4 www.handbook.fca.org.uk/handbook/glossary/G960.html

5 www.handbook.fca.org.uk/handbook/REC



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

These are trading venues that are alternatives to traditional stock exchanges, and offer trading in a variety of financial instruments. Applications to operate an MTF or an OTF from an investment firm are an example of a complex application. Authorising them requires involvement from many specialist areas across the FCA. This includes assessing whether the applicant meets the specific rules for MTFs or OTFs⁶, that its systems, resilience and outsourcing 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 a number of critical ways, from evaluating a fund's performance to assessing the value of assets. Many products that consumers buy use a benchmark so they can offer a variable interest rate, which makes benchmarks important to a wide range of UK consumers.

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 a complex application which requires assessment and support from specialist areas across the FCA.

We currently regulate eight 'specified benchmarks' and authorise those who administer them. From 1 January 2018 the scope of the regulatory regime will be broadened and more benchmark administrators will be regulated.

New EU legislation being introduced on 1 January 2018 means that relevant regulators will now authorise the benchmark administrator.

How we take 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 publically explain how we made them.

The framework has four 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

We use authorisation primarily to prevent harm from occurring. We do this by ensuring that all regulated firms meet common sets of minimum standards at the start. We refer to these standards as the Threshold Conditions, (the 'conditions') and explain them in detail later. When we have authorised firms who meet the conditions and approved individuals, we publish their details on the Financial Services Register to help ensure consumers can have trust in financial services.

At authorisation we take a view on whether firms meet the conditions and under supervision we expect them to continue to do so for as long as they are authorised.

The harm that we seek to prevent includes harm to consumers, both individually and collectively, and threats to effective competition and to market integrity.

6 www.handbook.fca.org.uk/handbook/MAR/



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 a number of challenges. One of these was how to ensure that consumers, some in vulnerable circumstances, were dealing only with firms that met our minimum standards. For example, commercial debt-management firms generated a high level of consumer complaints. We assessed the business models and charges of these firms, and the vulnerability of many of their customers, and identified the risk of harm as high.

As a result, we required more information and evidence from these firms at the point of authorisation 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, many debt management firms were unable to meet our minimum standards. Our assessment of some firms in this sector was that they were highly likely to cause harm, particularly to already-vulnerable consumers, 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 creditor 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 signpost consumers to them whenever our intervention meant that a debt management firm would have to leave the market. For example, in a recent case involving a debt management firm, MAS arranged a translation service for the firm's customers who do not speak English. So far, around 90,000 consumers have been helped through our partnership arrangements with MAS.



Promoting competition and innovation

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 and when valuable, innovative products are unable to reach the market.

We recognise that firms and individuals can find regulation complex and hard to understand, and that the authorisation process itself can be burdensome. Both these issues can be more problematic for some firms, such as those who are new to financial markets or with new and innovative business models or products.

If there is a level playing field for both smaller and innovative firms then competition will be enhanced.

We will always maintain our requirement for firms to meet the minimum standards. However, we also have a range of initiatives we use to support firms to understand and meet the conditions.

We provide a tailored approach to authorisation for innovative firms. This includes, for example, providing pre-application support to firms or authorising them with restrictions so that they can test their business models and products in a controlled environment. We explain how we tailor our approach in more detail in the 'Promoting effective competition' section of this document.

Financial services are constantly evolving. Our authorisation work also helps us improve our understanding of how they are changing so we can ensure our regulation keeps pace. 'Our Approach to Competition' document explains why we support and encourage innovation in certain markets. We are keen to remove unnecessary barriers to new firms and products entering the market, while ensuring we always maintain our minimum standards.





Chapter 1

The basis for and purpose of authorisation

Parliament has explicitly stated that firms that want 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.

The legislation governing our role comes primarily via the Financial Services and Markets Act 2000, and also, for example, through the Payment Services Regulations 2009 and the Electronic Money Regulations 2011.

Accordingly, we will only authorise or approve a firm or individual where they meet the conditions 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 conditions 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 consider whether a firm has adequate financial resources for the regulated activities that it wishes to provide. When assessing a firm's financial resources, we expect it to meet a number of requirements; for example, it must be able to meet its liabilities as they fall due and the controllers of the firm must 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 which mitigates potential harm to consumers and the market.

In 2016/17 we received 4,612 applications for authorisation from firms. In total we have authorised, and now regulate, over 56,000 firms, ranging from large banks to single independent financial advisers. This includes around 1,550 banks, building societies, credit unions, insurers and large 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. We are carefully considering what the UK's withdrawal from the EU will mean and are working to make sure that any risks to consumers, market integrity and effective competition, including any operational challenges, are identified and addressed.

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.

The PCBS recommended a new accountability framework that focused on senior management. It also recommended that firms take more responsibility to ensure their employees are fit and proper and that all levels in banking firms required better standards of conduct.

Based on these recommendations, in 2013 Parliament passed legislation leading to the FCA and PRA applying the Senior Manager and Certification Regime (SM&CR) to the banking sector and the PRA applying the Senior Insurance Manager Regime (SIMR) 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, and
- ensure firms and staff clearly understand and can demonstrate where responsibility lies

Parliament made further changes to legislation in May 2016, requiring us to extend the scope of the SM&CR to include insurers (which are dual regulated by FCA and PRA) and all solo-regulated firms (firms regulated by the FCA only). 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.

The FCA and PRA have approved more than 140,000 individuals under the Approved Persons Regime and the SM&CR to operate in key roles in authorised firms, from Chair and Chief Executive to Money Laundering Reporting Officer and Financial Adviser. In 2016/17, around 24,000 of these individuals were approved⁷.

Conduct rules for financial services staff

A key element of SM&CR will be extending the five conduct rules to all solo-regulated 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, and**
- **observe proper standards of market conduct**

Improving culture and governance

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

In assessing whether firms and individuals meet our standards, we look at a variety of factors. These include factors that have an impact on governance and culture, which are central to improving individual accountability and conduct standards.

The typical patterns of behaviour and ways of thinking of individuals in a firm create its culture and are embedded over the lifetime of a firm. We use authorisation to test the most significant drivers of behaviour that can create cultures which lead to harm. These include a firm's purpose, its leadership, its approach to rewarding and managing people and its governance arrangements.

The difference between authorisation and registration

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

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

// **The typical patterns of behaviour and ways of thinking of individuals in a firm create its culture.**



⁷ Includes applications in relation to approved persons and senior managers moving from one role to another for which approval is required.



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

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There are several types of registered firms. Mutual Societies⁸ have to 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 states and will not be allowed to provide Account Information Services or Payment Initiation Services, when these services become regulated in 2018.

Appointed Representatives

An Appointed Representative (AR) is generally an unauthorised firm that enters into an agreement with an already-authorised firm. Under this agreement, the AR is able to 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 effectively oversee 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 Financial Services Register. This 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. As well as allowing consumers to check that those offering financial products and services are regulated, the 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 Register ensures that firms remain traceable through changes such as mergers or name changes.

Under the SM&CR, firms will be required to annually certify key individuals as fit and proper to hold specific financial services roles, although these individuals will not have to be approved by the FCA. As part of our proposal to extend the SM&CR, we are considering whether these records should be collected and published.

⁸ 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.



For financial markets to operate effectively, consumers need to be able to trust that they will work well for them.



Chapter 2

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

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

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

Central to authorisation is how we decide whether applicants meet our Threshold Conditions, which are designed to prevent harm from occurring, and will continue to meet them for as long as they provide regulated financial services.

These conditions are⁹:

- **For authorised firms:**

- The location of offices – the firm must have its head offices (and its registered office, if it has one) in the UK¹⁰
- Our ability to supervise them effectively. If, for example, an authorised firm is part of a wider group, we must be able to understand the wider group's impact on the specific firm.

- Appropriate resources – the firm must have the right people, financial resources and systems to deliver the products or services, and
- The firm's suitability to conduct the business and its business model – the firm must have suitably qualified people, an appropriate business model, controls and governance systems. The firm should also have a well thought through conduct risk framework: a clear definition of conduct risks, systems and controls for mitigating them and risk indicators for monitoring them.

- **For individuals:**

- Honesty, integrity and reputation. We will refuse to approve an individual if we are not satisfied they are honest and have integrity, for example, if they have knowingly sold inappropriate services or defrauded customers.
- Financial soundness, and
- 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, the nature and size of its customer base and, for an individual, their proposed level of responsibility.

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 customer contact centre, complaints data from external sources such as the Financial Ombudsman Service
- our experience of supervising already-authorized firms that provide similar financial services, and
- specific information we have and judgments we make about the firm or individual, which may include an interview with them

⁹ This is a summary of the FCA Threshold Conditions in Schedule 6 of FSMA and our guidance in the 'COND' part of our Handbook

¹⁰ 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.



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 which 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 are looking into both firms as part of a larger Enforcement Investigation into Pension scams.

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.

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

Assessing firms and individuals

In assessing firms and individuals 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 must 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 a number of tests; for example, it must be able to meet its liabilities as they fall due and the controllers of the firm must 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 at all times 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. 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.

When considering if those in key roles are suitable, we assess if the people that will manage the business have the right skills and experience to do this without harming consumers or market integrity. We would also 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.

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. So it is particularly important that they are fit and proper – that they act with integrity and have appropriate skill.

The FCA, together with the PRA in some cases, approves the appointment of senior managers. Depending on the firm's size and business model, we may interview these managers as part of our assessment. After authorisation, we will hold them to account if there is misconduct at their firms.



Assessing individuals' suitability

In most cases, regulated firms are responsible for assessing whether a person they intend to appoint in a key role is fit and proper for that role. 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. We use other intelligence sources to verify information from the firm and the individual.

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 Chair, Chief Executive and Chair of the Audit Committee. In implementing the SM&CR, the FCA and PRA have strengthened the checks that firms must undertake, including requiring a criminal records check. We also require each person to have a clear statement of the activities for which they are responsible. Extending the SM&CR to all solo regulated firms, as we propose, would mean all the firms we regulate will be required to carry out these 'fit and proper' checks in specific ways.

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. 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.

Assessing culture and business models

We also look at the drivers of culture of the firm, including its governance, and the priority and importance its business model gives to customers, as this directly links to the firm's suitability to conduct business.

When assessing this 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.

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?

A proportionate approach

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 are proportionate to the size and risk of harm. We take into account a number of factors. These include the sector the firm sits in, based on 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, among others.

We will only require firms to provide us with information that we reasonably require to help us assess whether it meets our conditions.

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 services 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 the minimum standards.

When we have authorised a firm, it moves into the regulated population of firms for supervision. In subsequent supervision, like authorisation, we give greater scrutiny to those firms that pose a higher risk of harm to consumers and to market integrity.



Preventing the spread of poor practice

Motor Group X was already authorised in its own right 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-authorized 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 deadline which Parliament put in place. This is a maximum of six 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, although 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 of the conditions 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 the conditions for authorisation, although we will provide as much assistance as is reasonable, given our resources.

Staff in our customer contact centre provide online and telephone help, often to small firms who cannot afford to pay for consultancy services, discussing what applicants want to achieve and explaining 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 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 it to decide.

Once the firm makes these changes, we will determine whether it now satisfies the conditions for authorisation. If it still does not, we will again explain why. The onus then switches back to the firm to make further changes.



Chapter 3:

Refusing and cancelling authorisation

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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 also shows us that some firms are simply not ready to meet the conditions for authorisation or registration. In these circumstances, we will formally refuse to authorise or register a firm. More 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 or at interview. Again, this is not an open-ended process.

Historically, we have tended to work with applicant firms which do not meet our Threshold Conditions 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 these conditions. So, while we will continue to work with applicants we believe are likely to meet the Threshold Conditions, we are more likely to refuse the applications of those that do not well within the maximum 12-month deadline.

Authorisation is the gateway to providing financial services to UK consumers. If a firm or individual does not meet the conditions, then we will not allow it to operate in the market.

Revoking authorisation, registration or approval

Unless we have mitigating evidence, we will revoke authorisation or registration if a firm no longer meets the conditions. Examples could include a firm not using its permission in the previous 12 months or where we decide that cancelling the firm's permission will protect consumers, promote effective competition or protect market integrity. We may also revoke approval for an individual to work in a role if we have evidence that they are no longer fit and proper, for example, if they are convicted of 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. 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'.

There are various circumstances which could lead to the cancellation of a firm's authorisation or registration. They include, for example, where a firm cannot meet its liabilities as they have fallen due or fails to pay FCA fees or submit



regulatory returns, despite repeated requests. The same holds where a firm fails to pay the amount due to a consumer under a final decision of the Financial Ombudsman Service.

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

Challenging our recommendations

A recommendation not to authorise a firm or approve an individual will be taken by FCA experts who have not been involved in assessing the application, sitting as the Regulatory Transactions Committee (RTC).

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 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 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.

Asset Management Authorisations hub

The UK's asset management industry is the second largest in the world, managing around £6.9 trillion in assets. Given the industry's importance in the wider UK financial services market, in October 2017 we launched the Asset Management Authorisations Hub (AMAH).

The aim of the Hub 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, along with a new dedicated part of the FCA website, to better help firms 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 4: Promoting effective competition

One of the FCA's operational objectives is to promote effective competition in the interest of consumers, as ineffective competition can cause harm.

However, 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. And 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 for firms that are new to the market, innovative or both. We will always maintain our requirement for firms to meet minimum standards, and have put in place a range of initiatives to support firms to understand and meet the Threshold Conditions.

Our tailored approach to authorisation can include providing additional support at the pre-authorisation stage or authorising with restriction (see 'Supporting newly established or innovative firms' below) to allow firms to test business models and products in a controlled environment. So, for example, we help firms by being clear about how our expectations and standards specifically apply to them, such as requiring high-cost, short-term lenders to explain how they carry out adequate affordability assessments. This approach never involves lowering standards for firms.

Supporting newly established or innovative firms

We also 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, in order 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 attract.

We also provide direct support to both regulated and unregulated businesses to bring innovative ideas that will benefit consumers to 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.



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. Four banks control 75% of the UK's current account market. New entrants have found it difficult to meet the high regulatory and capital requirements and the costs of implementing and maintaining branch infrastructure.

Since 2016, the FCA and PRA have worked closely together to encourage competition in retail banking through the New Bank Start-up Unit. A dedicated, jointly-staffed team supports potential entrants, explaining the regulatory requirements, helping them through the authorisation process and providing support for two years after authorisation to help them adapt to the requirements. By the end of June 2017, ten new banks had been authorised.

A safe space to test innovative services

Our regulatory sandbox is open to both start-ups and established businesses that meet our eligibility criteria¹¹. 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.

¹¹ www.fca.org.uk/firms/regulatory-sandbox/prepare-application



Types of innovative firms we support

We have published eligibility criteria showing 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.

We also provide direct support for firms through initiatives which include the Regulatory Sandbox, the Advice Unit, the New Bank Start-up Unit and our recently-introduced Asset Management Authorisation Hub.

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

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?

Using technology to extend the reach of financial advice

The 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 criteria¹² with specific feedback on their model, and support which 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, and
- 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.

¹² www.fca.org.uk/firms/advice-unit/prepare-application



Chapter 5: Helping firms respond effectively to regulatory change

The number and type of firm 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 also carry potential risks of harm. There is a high volume of legislative change coming 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.

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 the conditions for authorisation. And 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) takes effect from 3 January 2018. It will require hundreds of firms to either extend their permission with us or become authorised for the first time.

The legislation is complex and the timetable for implementation has been relatively short. So, over the past year, we have undertaken a major programme to enable firms to send us their applications before the January 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, over half of the affected firms had submitted their applications by July 2017. So far we have authorised the key infrastructure providers and we expect to approve the majority of trading venues and liquidity providers, ensuring there will not be market disruption from implementing MiFID II. We continue to consider the complex obligations MiFID II places on firms and the extensive work firms have already undertaken in preparing for MiFID II; we are working closely with the applicant firms to help them meet the 3 January deadline and be fully authorised on time.



Chapter 6:

Improving our approach and measuring our performance



We have a major programme underway to improve our approach to authorisation.



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 four strategic goals:

- **Act where we make the most difference:** prioritising focus on areas which can have the biggest impact on outcomes in the market and preventing harm where possible.

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

- **Improve the support we provide to firms to enable them to meet minimum standards:** continue to make good quality regulatory decisions while supporting firms and individuals to meet, and continue to meet, our rules and conditions – and keep those that do not out of the financial services market.

This goal includes improving our 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 they do not offer an easy way for different types of applicants to know what to expect from us. We will develop our internal service standards to provide greater differentiation, particularly for straightforward applications where we will aim to make decisions significantly faster than the statutory time limits.

We will make it more intuitive and easier for firms to prepare and submit complete applications. 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, such as through the new Asset Management Authorisations Hub.

And we are extending the role of our customer contact centre in authorisation, which is often the first contact point that firms have with us. We will develop our contact centre to ensure it has the capability and expertise to give a more detailed and extensive support to applicants as they become authorised. The customer contact centre will also undertake analysis and research work to help inform how we develop and implement policies and processes.



Our public commitments to firms

In July 2016 we launched 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 Authorisations pages of the FCA website, and they have now been in operation for over a year. We have recently reviewed them and now propose some changes to improve them, which we give below. These changes aim to give applicants more certainty about the maximum times they will wait to hear from us at each stage of the process. They are more time-bound, measurable and introduce a commitment in relation to an original acknowledgement of an application, as we know that firms often make contact to enquire if applications have been received.

The commitments cover all types of application made for authorisation or to vary permission. The same principles also cover all other types of application for authorisations which are not routinely completed in under a month. Some applications will be processed more quickly and 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 three working days.
- We will contact you again within three 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 three working days of making the change and give you the new contact details.
- We will acknowledge all communications from you within two working days.
- We will usually give you a substantive response within 10 working days. If this is not possible, we will send you an update 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.

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.

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?



- **Improve our service focus:** making it easier for firms and individuals to engage with us by fully adopting a service mindset in our approach to authorisation, and ensuring our decision-making is adaptive, transparent, timely and consistent.

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

- **Become more digital and innovative:** in our approach to authorisation, become more effective, efficient and insightful through the use of innovative digital technology and data.

This includes improving the clarity of the Authorisation pages on the FCA's website, making the FCA Handbook easier to navigate and using technology to improve the public register.

Q4.

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

Measuring our performance and impact

The service standards that we are required to meet are set out in statute; largely they define how long we have to decide on applications¹³. 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 are developing a set of indicators that will allow us to measure the success of our change programme. They include:

- 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 enter the FCA system of supervision
- firms will find that we are clear about our expectations of them, transparent in our dealing and timely and consistent in our decision making

We are also considering how we might better measure the impact that we have on the market, for example, reducing harm to consumers, increasing confidence in financial markets and encouraging innovation and effective competition.

¹³ See the latest publication at www.fca.org.uk/publication/corporate/service-standards-may-2017.pdf



Annex 1: Questions

How to respond

We are asking for responses to these questions and comments on the paper by 12 March 2018.

You can send them to us using the form on our website at: www.fca.org.uk/approach-authorisation-form

Or in writing to:
Authorisations Division
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Email:
approachtoauthorisation@fca.org.uk

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 strategic goals do you think would add most public value to our work?



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