

31 March 2020

**Dear CEO Letter to firms providing services to retail investors about coronavirus (Covid-19)**

In the last few days the UK, and the world in general, has faced an unprecedented set of circumstances linked to the coronavirus (Covid-19) emergency.

The FCA has received hundreds of requests for adaptations to our regulatory approach from trade associations and firms, in addition to the range of measures we have taken in close co-ordination with the Bank of England and HM Treasury. In the first few days of the crisis we have focussed on essential support to the medical emergency, for example, ensuring mortgage forbearance works properly so people keep a roof over their head.

Within the first week of the crisis we announced a significant package of reprioritisation and deprioritisation of regulatory work designed to allow firms to concentrate their efforts on responding to the crisis and the consumers they serve. We will continue to update our firm-facing coronavirus webpages. We will also regularly update on our further amendments to help firms and consumers adjust to the current crisis.

In approaching these requests we have taken a three-fold approach:

- changes we have the power to make that we believe will support firms and consumers. We will make changes in order of harm or urgency. This is the bulk of the points raised with us and we will work in partnership with trade associations and firms to make the necessary changes;
- changes requested which we believe will support firms and consumers but require co-ordination with HM Government or European authorities. We will pursue these but they may take more time; and

- in a small number of cases requests that we believe are not in the interests of consumers, or would hamper us in managing the crisis situation, which we will refuse. In the case of requests that we consider to be opportunistic and designed to undermine consumer protection, we will reflect on what this tells us about the firms involved or conduct in the sector.

This latest update centres on firms providing services to retail investors. We recognise that this is a challenging time for all firms, particularly small and medium sized firms. The impact of the pandemic affects the operational resilience of firms in this sector, with staff working from home in volatile market conditions. It also brings with it the need to protect consumers.

As we have already made clear, we expect firms to provide strong support and service to customers during this period. Firms should be clear and transparent and provide support as consumers and small businesses face challenges at this time. We also expect firms to manage their financial resilience and actively manage their liquidity. Firms should report to us immediately if they believe they will be in difficulty.

We want to support firms operating in this environment. The information below sets out our approach to a number of issues in order to help firms.

### **Client identify verification needs to continue, but firms have flexibility within our rules**

Restrictions on non-essential travel have affected firms' abilities to use traditional methods to verify a customer's identity. This is an obligation under the Money Laundering Regulations 2017 (MLRs) and we still expect firms to comply. But firms can be flexible.

During this period, we expect firms to continue to comply with their obligations on client identity verification. The MLRs and Joint Money Laundering Steering Group guidance already provide for client identify verification to be carried out remotely and give indications of appropriate safeguards and additional checks which firms can use to assist with verification. For example, firms can:

- accept scanned documentation sent by e-mail, preferably as a PDF;
- seek third party verification of identity to corroborate that provided by the client, such as from its lawyer or accountant;
- ask clients to submit 'selfies' or videos;
- place reliance on due diligence carried out by others, such as the client's primary bank account provider, where appropriate agreements are in place to provide access to data;
- use commercial providers who triangulate data sources to verify documentation provided;
- gather and analyse additional data to triangulate the evidence provided by the client, such as geolocation, IP addresses, verifiable phone numbers;
- verify phone numbers, e-mails and/or physical addresses by sending codes to the client's address to validate access to accounts; and

- seek additional verification once restrictions on movement are lifted for the relevant client group.

### **Supervisory flexibility over best execution until the end of June**

Firms have asked us questions about how they should be fulfilling their best execution obligations in the current climate. We understand these concerns. We have been working with [ESMA who have today issued further information](#).

We expect firms to continue to meet their obligations including their obligations on client order handling. We expect firms to take into account current market conditions when determining the relative importance they place on the different execution factors when meeting their obligations, and the venues or brokers they rely upon to achieve best execution. We would expect firms to consider their use of different types of orders to execute client order and manage risk during market volatility.

However, we have no intention of taking enforcement action where a firm:

- does not publish RTS 27 by 1 April 2020, provided it is published no later than 30 June 2020
- does not publish RTS 28 and Article 65(6) reports, provided they are published by 30 June 2020

### **Supervisory flexibility over 10% depreciation notifications until the end of September**

Firms providing portfolio management services or holding retail client accounts that include leveraged investments are currently required to inform investors where the value of their portfolio or leveraged position falls by 10% or more compared with its value in their last periodic statement, and for each subsequent 10% fall in value<sup>1</sup>. Firms have raised concerns about the impact on consumers and the operational burden of this in a highly volatile market.

We have no intention of taking enforcement action where a firm:

- has issued at least one notification to a retail clients within a current reporting period, indicating their portfolio has decreased in value by at least 10%; and
- subsequently provides general updates through its website, other public channels (such as social media) and/or generic, non-personalised client communications. These communications should update clients on market conditions, explain how clients can check their portfolio value and invite clients to contact the firm if they wish; or
- chooses to cease providing 10% depreciation reports for any professional clients

We will adopt this approach for a period of 6 months (to 1 October 2020).

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<sup>1</sup> see COBS 16A.4.3 EU

## **FCA Policy and implementation - pause on implementation of investment pathways and other measures**

Firms and trade associations have asked for clarification on the implementation deadlines for a number of initiatives. In two cases (investment pathways and platform switching provisions) rules are already made and we are referring these to our Board for further consideration. We will update our website as soon as possible on this.

Our ongoing work with firms providing defined benefit transfer advice will continue. Our policy statement on pension transfer advice, including on contingent charging, has been delayed to Spring 2020. We have paused our follow up work on assessing the suitability of advice, which was focused on retirement income advice. We have already notified the firms involved.

## **Financial resilience**

Some firms have asked for clarification on how government schemes should be treated. We have published (26/03) guidance (<https://www.fca.org.uk/news/statements/fca-expectations-financial-resilience-fca-solo-regulated-firms>) on financial resilience and prudential issues.

For firms in this sector, we want to clarify:

- Government schemes to help firms through this period can be used to help firms plan for how they will meet debts as they fall due and help firms remain solvent in the immediate period.
- Government loans cannot, however, be used to meet capital adequacy requirements as they do not meet the definition of capital.

Firms have asked how they can be updated on developments and trade associations helped to support their members. We encourage firms and associations to sign up for our alerts on scams and updates to the website and to subscribe to our regulatory new roundup.

We are working closely with our regulatory partners, including the Financial Ombudsman Service and the Financial Services Compensation Scheme as well as the Bank of England, HM Government and our international regulatory partners, throughout this period to provide joined up support across financial services, ensuring markets function well and we protect consumers.

We want to continue working with firms and consumer organisations to understand how the impact of the pandemic is affecting markets and the harms that consumers may face. We will keep these measures under review especially as new issues arise.

We welcome the continuing open engagement we have had with firms and trade associations on these matters.

Yours sincerely

Christopher Woolard

Interim Chief Executive