Financial Conduct Authority

Regulator Assessment: Qualifying Regulatory Provisions

Title of proposal: Wind-down planning guidance (FCA GC16/5)

Lead regulator: FCA

Date of assessment: 6 October 2016

Commencement date: Early 2017

Origin: Domestic

Does this include implementation of a Cutting Red Tape review? No

Which areas of the UK will be affected? N/A

Brief outline of proposed new or amended regulatory activity

In response to requests from industry practitioners, we have drafted guidance on wind-down planning. Wind-down planning is about considering actions and resources needed for a firm to close down its regulated business until its cancellation of permission.

The guidance is reference material aiming to help solo-regulated firms which are preparing new or revising existing wind-down plans. We are of the view that the guidance does not by nature impose costs on firms, rather it may create some compliance cost savings for smaller firms (as they would be able to prepare wind-down plans themselves rather than engaging a professional advisor).

There are two important features of the guidance:

- The guidance itself will NOT impose any obligations on firms to have a wind-down plan in place.
- It is NOT prescriptive. Firms that decide to have wind-down plans (maybe as part of their financial resources planning), can choose to adopt the approach in the guidance, follow other available formats or devise their own.

We completed the consultation for this draft on 22 July 2016. We have received only positive support to our proposal with some suggestions to improve the contents of the guidance.

Which type of business will be affected? How many are estimated to be affected?

Although the guidance could be used by any of our solo-regulated firms, it may be of particular interest to CRD IV investment business firms and crowd-funding firms. These two sectors in total cover about 1,600 firms.

Price base year	Implementation date	Duration of policy (years)	Business Net Present Value	Net cost to business (EANDCB)	BIT score
2016	2017	10	£2.24m	-£0.2m	-£1.0m

Please set out the impact to business clearly with a breakdown of costs and benefits

We do not envisage that this guidance will cause any increase in business costs. Given it does not impose any obligations on firms to have wind-down plan in place and it is not prescriptive, we believe the costs will be zero.

We further believe that the guidance may generate savings for some firms. Although the guidance is addressed to most solo-regulated firms, we believe it would be of most relevance (at the present) to two sectors: CRD IV firms and crowd-funding firms. There are no rules for them to have wind-down plans in place, but it has been customary for them to outline the basic wind-down steps and estimate the costs as part of governance and financial resource planning processes. Some of them are considering having actual wind-down plans to strengthen their governance processes. During consultation, we received positive feedback from representatives of these two sectors and they welcomed the issue of such guidance as an available toolkit to them.

The logic follows that the smaller firms in these two sectors may benefit from the guidance by being able to self-improve their wind-down considerations, without further seeking advice and assistance from external professional advisors. As such, cost-savings may be achieved. Although larger firms will still benefit from the guidance, we anticipate that they would have consulted professional advisors as part of the ordinary course of compliance anyway, so little cost-savings would actually be achieved for larger firms.

For practical reasons, we deem P3 firms as smaller firms, and P1/2 firms as larger firms. All crowd-funding firms will be smaller firms and we expect 45 of them. For CRD IV firms, there are 179 P1/2 firms and 1,391 P3 firms. This is based on data collected in early 2016. As such, we believe, 1,391 + 45 = 1,436 firms could achieve cost-saving because of the guidance.

We estimate that a smaller firm will save about £7,500 in professional fees or other costs in the first year of creation / major revision of a wind-down plan, based on professional consultation fees at £1500 a day and 5 working days of engagement in the context of smaller firms. Plans do not need to be re-created every year, but may need to be revised in subsequent years. Subsequent years' benefits are difficult to estimate, so we assume the benefits to be one-off.

Given the population and the non-mandatory nature of wind-down plans, we assume a take-up by 5% of firms (ca. 70) in the first year and a further 2% (ca. 30 firms) in all subsequent years, generating industry savings (as measured by the market value of wind-down planning) in the order of £525,000 in year 1 and £225,000 in all subsequent years.

Please provide any additional information (if required) that may assist the RPC to validate the BIT Score.

N/A