



## FCA/TA Quarterly Meeting 25 March 2024 Readout

### Attendees:

FCA

Trade Associations (**TAs**): Payments Innovation Forum (PIF), E-Money Association (EMA), Association of Foreign Exchange Providers (AFEP), UK Finance, Association of Professional Compliance Consultants (APCC), Open Finance Association, The Payments Association (PA)

### Meeting Summary:

#### Action for TAs/TA members highlighted

Item no.	Topic
1.	<p data-bbox="354 1031 776 1062"><b><u>Operational Resilience Update</u></b></p> <p data-bbox="354 1079 1211 1110">Rebecca Jackson, Technical Specialist, Cybersecurity Team, FCA</p> <ul data-bbox="402 1163 1385 1797" style="list-style-type: none"><li data-bbox="402 1163 1385 1346">● The FCA is focused on firms' readiness for the March 2025 deadline. IBS (Important Business Services) and ITOLS (Impact Tolerances) annual reviews should have taken place since 2022. Firms should now focus on testing severe but plausible scenarios.</li><li data-bbox="402 1367 1385 1549">● Firms should consider third party reliance. The FCA will not be prescriptive in terms of how far down the supply chain firms should go, but firms need to understand their supply chain and the impact of a third party on the firm's activities: "You are only as good as your weakest link"</li><li data-bbox="402 1570 1385 1703">● The FCA wants firms to be open and honest in self-assessments about their ability to stay within ITOLS. Firms should think creatively if they are not within their ITOLS, i.e., with Plans B, C, D, etc.</li><li data-bbox="402 1724 1385 1797">● The TAs asked if the FCA is planning to share good practice/areas for improvement. The FCA intends to do this at some point this year.</li></ul>



2.

**Policy Update**

Nina Nguni and Jane Moore, Payments Policy Team, FCA

- HM Treasury is intending to transfer the firm facing requirements in the current regulatory framework in the EMRs/PSRs into the FCA Handbook. This is part of HMT's activity on the National Payment Vision and in parallel with the FCA's own programme of activities. The FCA is dependent on HMT in terms of the timings but is alive to the complexities.
- The FCA is at early stage thinking regarding the implementation of the rules into the FCA Handbook and will engage with the TAs over the course of the next few months. The TAs suggested that it would be helpful for the FCA to establish stakeholder liaison groups to engage with industry as they did for the PSRs. The FCA will consider this approach.
- The TAs urged the FCA to consider the extent to which payment services have evolved and the now much broader range of providers. There was a suggestion for the FCA to consider generic rules for all but some more specific rules for certain types of PSP. **The FCA asked the TAs to provide details of where the current rules are problematic and/or what the FCA could do differently, and which are specific to a particular area, e.g., commercial cards or acquiring, so that plans are cognizant of different areas.**
- The FCA confirmed that the Open Banking elements of the PSRs have not been deprioritised but are outside the scope of this work and will be dealt with separately as part of JROC. They will be considered in parallel.

**Safeguarding:**

- The FCA confirmed that it will consult on safeguarding, which will follow a CAAS style regime, within the next few months. The FCA's intention is



to enable the return of funds as quickly as possible to payment service users in the event of insolvency.

- The FCA has concerns about firms, e.g., lack of documentation showing procedures and identification of funds subject to safeguarding. There is lingering uncertainty following Ipagoo and Allied Wallet regarding the status of safeguarded funds.
- Generally, the FCA proposes to:
  - Create a statutory trust which would require firms to have steps in place with banks to protect funds;
  - Identify when the obligation to safeguard starts and ends, which will require firms to improve their books and records;
  - Codify the existing safeguarding guidance into perspective rules;
  - Introduce rules around resolution packs, improved controls and governance, an obligation to undertake annual audits, and explicit diversification steps that must be taken when funds are held as investments.
- As part of the consultation, the FCA will be seeking views from banks on the proposed regime.
- There was a comment from the TAs on needing to keep an eye on the shrinkage of safeguarding providers, especially with the introduction of statutory trust, and the need for more viable alternatives.
- The FCA confirmed that it has no intention of removing the choice for firms to use high quality investments/insurance as an alternative to holding funds in an account. The FCA will consider the interplay between different safeguarding methods.
- The TAs asked if the FCA could provide clarity regarding the approach firms can take when using bank account alternatives for reconciliation. There was a comment that in the absence of clear guidance, firms are often overholding funds to cover safeguarding funding obligations.
- The FCA confirmed that it will not provide emergency safeguarding accounts for firms who have had their accounts closed, e.g., in situations



	<p>such as Nvayo, which lost its safeguarding account when the FCA took enforcement action against them.</p> <ul style="list-style-type: none"><li>• There was a comment from the TAs about the potential for FSCS (Financial Services Compensation Scheme) cover. The FCA confirmed that it will not cover the application of the FSCS to funds held by firms as part of this work.</li></ul> <p><b>APP Fraud Regime:</b></p> <p>Andrew Clemo, Senior Policy Adviser, Payments, FCA</p> <ul style="list-style-type: none"><li>• The FCA is working with HM Treasury on the Statutory Instrument (SI) that will implement the permitted delay to outbound transactions.</li><li>• The FCA reminded the TAs that the delay can only be used to contact law enforcement and the payer regarding the payment in question. The SI is expected to be published in August 2024 and come into force in or around October 2024.</li><li>• For the FCA’s review of the SCA Technical Standards, the TAs were asked to provide information on any SCA or TRA solutions that cannot be implemented at present, but which could be beneficial and the FCA should consider.</li></ul>
3.	<p><b><u>Supervision Update</u></b></p> <p>Nicholas Webb, Technical Specialist, Supervision, FCA</p> <p><b>De-risking by banks:</b></p> <ul style="list-style-type: none"><li>• The FCA gave an update on why banks are de-risking. The feedback the FCA has received is that the primary reason is in connection with financial crime. The TAs suggested that imposing more rules on EMIs/PIs would not solve anything and that a stalemate was close to being reached; there is a need for banks to better understand EMI/PI business models.</li></ul> <p><b>APP Fraud:</b></p>



	<ul style="list-style-type: none"><li>● The FCA wants firms to be more innovative in detecting and warning users about potential fraud, such as early flags using AI or other transaction monitoring tools. The FCA views static warnings as insufficient and more needs to be done.</li><li>● The TAs asked if fraud prevention was still a priority as it appeared to have taken a 'back seat'. The FCA confirmed it is starting to undertake skilled person reviews on firms regarding who is managing their fraud prevention.</li><li>● The TAs commented that the FCA <a href="#">Dear CEO letter</a> (Mar-23) highlighted a "lack of engagement with industry information sharing bodies" but the FCA has not clarified which bodies were being referred to. The FCA confirmed that there are a number of groups the FCA wants firms to join to engage further but anecdotal evidence from the TAs is that there are barriers for firms to join. The FCA will look into this.</li></ul>
4.	<p><b><u>Consumer Duty Update</u></b></p> <p>Christopher Preston, FCA</p> <ul style="list-style-type: none"><li>● The Consumer Duty remains a key focus and the FCA recommends watching the speech given by Sheldon Mills at the end of February for the FCA view on the Consumer Duty: <a href="#">Consumer Duty: the art of the possible in a year   FCA</a></li><li>● The FCA confirmed that work is ongoing to ensure the Consumer Duty is applied across all parts of a firm and the FCA sees a mix of good/less good practice. Areas of good practice include where firms see the Duty as an opportunity to build in better customer service. These firms segment properly and consider the application of the Duty through the entire product journey. The FCA will set out findings later in the summer.</li><li>● The TAs requested clarity and/or guidance on factors for firms to take into account, e.g., when considering what constitutes a good customer outcome, or how you can evidence a good customer journey when the customer has been using the product for a long time.</li></ul>



<p>5.</p>	<p><b><u>Authorisations Update</u></b></p> <p>Gary Hurst, Authorisation Team, FCA</p> <ul style="list-style-type: none"><li>• The FCA acknowledges that there is a high rejection rate, but the pass rate is improving. The pass rate at the end of 2023 was 15%, with the lowest approval rate among SPIs at approximately 4%.</li><li>• The FCA is seeing fewer but better-quality applications and that the hiring of key individuals is improving.</li><li>• The FCA operates an early/high growth hub where it provides increased supervision and education on the FCA's expectations for applications. Additionally, the FCA is providing more online information for applicants - which the FCA expects applicants to read - including dedicated webpages for EMI and PIs, information in the Approach Document, and dedicated webpages for the Consumer Duty.</li><li>• The FCA invited the <b>TAs to provide details of items that would be helpful for applicants for the FCA to include and/or clarify on the dedicated webpages.</b></li></ul> <p><b>Outsourcing:</b></p> <ul style="list-style-type: none"><li>• The FCA's view is that there is no prohibition on, e.g., intra-group outsourcing, but firms must show the UK entity can adequately oversee and hold the outsourced provider to account in intra-group outsourcing arrangements. As a rule of thumb, decision makers must be in the UK, e.g., CEO and MLRO and there must be an effective leadership/operational board in the UK.</li></ul>
<p>6.</p>	<p><b>TA members' current concerns/issues</b></p> <ul style="list-style-type: none"><li>• Policy statement of changes to the SCA/RTS Perimeter Guidance: ASPSPs were given 18 months to implement dedicated interfaces but a number of firms have not done so and therefore are not complying with FCA requirements. The FCA will look into this.</li><li>• Does the FCA have any plans to undertake an AML thematic review? The FCA confirmed no.</li></ul>



	<ul style="list-style-type: none"><li>● JROC recently sent a letter seeking funds from firms, which came as a surprise. The FCA confirmed to follow up on this and will provide more information.</li><li>● Senior Managers Regime: the TAs asked if this will be considered as part of the Smarter Regulatory Framework (SRF)? The FCA confirmed not now but it may be considered at a later stage of implementing the SRF.</li><li>● Oversight of appointed representatives: - e.g. where a firm relies on agents, the FCA will require steps to be taken to adequately manage them.</li><li>● The TAs suggested clarification from the FCA on the cryptoasset promotion regime, and its extra territorial effect, would be helpful.</li><li>● The FCA asked if TA members could <b>complete the FCA survey on stablecoins, EVEN if they are not intending to engage in this activity.</b> The survey closes on 16 April 2024 and FCA will provide TAs with the link.</li></ul>
7.	<b>A.O.B.</b> <ul style="list-style-type: none"><li>● <b>The FCA would like to hold bi-lateral sessions with each TA and will contact the TAs with further information.</b></li></ul>