# A NEW DAY, A NEW DAWN:

# FCA BUSINESS PLAN

Cicero/amo Analysis

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## FOREWORD

#### A NEW DAY, A NEW DAWN: FCA launches Business Plan to address post-Pandemic realities

As Covid 'Freedom Day' approaches, financial markets must adapt to the new realities. So too must the Financial Conduct Authority (FCA), as the market regulator. The new dawn will not simply mean a return to business as usual. The FCA's new business plan, published today, creates some clear guidelines in navigating the still-choppy economic waters.

Better outcomes for consumers and ensuring market integrity will be the key cornerstones in the FCA's new approach.

First, let's look at consumer impacts. 3.2 million people have taken mortgage deferrals since March 2020, but millions more have suffered income shocks, with over 10 million experiencing furlough. The FCA highlights some 14.2 million people in the UK lacking financial resilience. Protecting the most vulnerable is an essential part of our nation's efforts to bounce-back and rebuild. This means all regulated firms must treat diversity and inclusion with greater importance. For its part, the FCA will protect consumers by taking forward the four priorities outlined in the 2020 business plan. It will also take forward a new consumer duty, with clear signaling from Nikhil Rathi, the new CEO, that this is not simply window dressing but will form a strategic priority for the regulator.

Secondly, we have market impacts. We have seen high growth in business volumes across several retail markets, including unsecured credit (the subject of a separate review at the end of 2020) and crypto markets (where a new approach is being mapped out). High growth can attract unscrupulous new market entrants hence the regulators' focus on fraud and financial crime. The Wholesale Markets Review also provides a nod to the post-Brexit realities with the UK taking a more pragmatic and proportionate approach to market regulation in areas like the Markets in Financial instruments Directive (MiFID). In preventing consumer harm, the regulator must be vigilant in maintaining market supervision across all these areas, which also means evolving a more agile regulatory perimeter to help capture the new markets and the associated consumer risks.

And then there's the longer-term. We must look to the future and anticipate new risks and opportunities. Growing and mainstreaming sustainable finance is key to mobilising capital markets in the UK's efforts to mitigate climate risks. Likewise, fostering innovation and new technology will become the lifeblood in delivering modern financial services. Open finance and data sharing will become essential architecture.

Technology is already making markets more efficient and improving decision making. The FCA has already established an international lead through the development of the Regulatory Sandbox, but this approach will evolve as digital risks become more diffuse in driving wholesale changes in regulated firms' operational risk profiles, including data protection, business continuity, outsourcing and third-party concentration risks, in areas like cloud computing and AI.

Taken together, it's an ambitious agenda. It needs to be. Identifying and focusing resources on the key risks will be perhaps the FCA's biggest challenge. The regulator will need to work differently and more intelligently. The FCA has already taken a strong lead in overhauling the composition of its Board earlier this year. A new culture and way of working is on the way.





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# **CHANGING ROLE AND CHANGING PRIORITIES**

### **66** An organisation that runs towards the fire of complex, difficult issues. **77**

The FCA Business Plan outlines how the regulator is shifting its operating posture to become more innovative, assertive and adaptive going forward. To achieve this ambition, its belief is that **data must become the 'lifeblood of a modern regulator'**, with Nikhil Rathi's vision that the FCA will become as much a data regulator as a financial regulator over the next 5 years.

This requires the FCA to undergo its own digital transformation, investing £120m over the next three years and moving its operation to the cloud. In the last few years, there has been a 200% rise in the volume of data the FCA regulates and in the long term it will have the capacity to collect, store and triage data in a way that allows regulators to make more robust, evidence-based decisions.

With an increasingly data-led approach will come greater transparency in how the regulator operates. From April 2022, it will start to report on measurable progress against seven strategic outcomes and metrics about how the FCA is performing against its ambitions.

The Business Plan mainly emphasised the existing priorities of the FCA as opposed to unveiling substantive new policy. The key question facing UK regulation is not appearing from within the technical remit of regulators but instead the political decisions of the Government Key priorities within the Business Plan include:



## **PRIORITY #1: DELIVER FOR CONSUMERS**

- Consumers in the UK have more choice and freedom on where to invest their money than ever before. However, this needs to be balanced with the expectation to provide a safety net when they fall or are misled by firms, particularly for vulnerable customers.
- The current consultation paper 'A New Consumer Duty' is asking firms to demonstrate how they take account of consumer experience and needs across the product lifecycle.



## PRIORITY #2: ENHANCE MARKET INTEGRITY

- Ensuring that firms authorised to operate in the UK start and continue to meet the high standards the FCA sets. The regulator is currently trialing a 'use it or lose it' approach to regulated activities, removing permissions if firms aren't carrying out regulated activity.
- Greater scrutiny of newly regulated firms, with a more extensive assessment of firms before authorisation and the establishment of a 'regulatory nursery' for newly authorised firms.



## **PRIORITY #3: TACKLE FRAUD FURTHER**

- The scale and style of fraud in the UK is growing, with technology increasing the routes that fraudsters have to enter the market. The FCA is looking to work more closely with partner law enforcement agencies to help drive down the incidence and impact of fraud.
- Simultaneously, the FCA will be more proactive in raising consumer awareness of the risks through its SmartScam campaign and through an £11m marketing campaign aimed at young investors aged 18-30 about the risks of crypto currency and high risk investments.





## **PRIORITY #4: IMPROVE DIVERSITY & INCLUSION**

- The FCA wants to continue to improve its own diversity. 43% of the FCA's senior leadership team
  are now women. By 2025, it has set itself the target of reaching 50% women and 20% from ethnic
  minority backgrounds.
- In seeking to reflect the whole of the UK, the FCA is increasing its presence in Edinburgh and adding new offices in Cardiff, Belfast and Leeds.
- The FCA sees improving diversity as a growing supervisory issue. It wants regulated firms to have
  more diverse representation at all levels and to foster cultures that are inclusive so that staff can
  share experiences and design products that reflect diverse needs of consumers. The current joint
  Discussion Paper with the Prudential Regulation Authority (PRA), 'Diversity and inclusion in the
  financial sector working together to drive change' is looking at the role the regulator can play to
  support this change.



### **PRIORITY #5: STRENGTHEN FINANCIAL & OPERATIONAL RESILIENCE**

- While the FCA will never be a 'zero failure' regulator, it wants to be better aware of firms that
  are likely to fail so it can reduce harm from their failure. To support this, firms will need to have
  appropriate capital, liquidity and reserves to cover liabilities and hold resources proportionate to the
  potential harm caused if they do fail.
- On operational resilience, the continued functioning of the financial markets throughout the pandemic has been a success story. In March, the FCA published its policy statement on Operational Resilience and over the next year the regulator will assess firms' progress in implementing these new operational resilience requirements and identify areas for improvement.



## **PRIORITY #6: ENABLE A SUSTAINABLE FINANCIAL FUTURE**

- The FCA recognises it has a role to play if the Government is to meet its net-zero economy target by 2050, which will only happen through a market-based transition of capital allocation.
- So far, the FCA has been a world-leader in implementing disclosure rules based on Task Force on Climate-related Financial Disclosures (TCFD) recommendations. It is currently consulting on an expanded scope of firms that will follow the rules. There will be greater standardisation on climaterelated disclosure from 2022 and the FCA will continue to work with international partners on global standards.



### **PRIORITY #7: CONTINUING COOPERATION**

- The FCA recognises that on many of the issues it faces, it cannot solve them alone. Both nationally and internationally, it will strengthen its partnerships with other organisations.
- Nationally, the annual regulatory perimeter review is welcomed. Where the FCA cannot act, it will be assertive in supporting other partners to 'step in and step up' in taking action.
- Internationally, post-Brexit cooperation with other supervisors and global standard-setting bodies is seen as more important than ever in meeting the FCA's objectives.





# SECTOR DEEP DIVES

### CONSUMER MARKETS Enabling consumers to make effective investment decisions Consult to strengthen rules for firms to approve financial promotion 5-year campaign to inform consumers on high-risk investments Publish Consumer Investment Strategy Ensure consumer credit markets work well Monitor how firms support customers in financial difficulty and review rules on debit advice Work with Treasury on new rules for the Deferred Payment Credit Sector Making payments safe and accessible Identifying at-risk payment services firms as a priority Supervising bank branch closures and maintaining access to cash Delivering fair value in a digital age Implement pricing and automatic renewal remedies in January 2022 • The new Consumer Duty Consider responses to consultation that ends on 31st July, with rule changes by the end of 2021 WHOLESALE MARKETS Reviewing listing rules in primary and secondary markets Listing Rules for SPACs in Q3 and further Listing Rules by end of 2021 Listing Rules amended based on TCFD disclosures across economy Work with HMT to simplify complex rules on trade transparency in securities and derivatives markets Completing the transition from LIBOR Work with PRA to monitor transition plans and coordinate with overseas authorities around transitions and legacy issues Tackling market abuse and financial crime Improving asset management and non-bank finance Increase supervision on whether asset managers present ESG properties fairly Design LTAF fund structure that investors can invest in less liquid assets Ensuring people can choose the appropriate pension products Seek views on how to best increase value for money in pensions and consult • on changes for non-workplace pension providers to ensure appropriate default solution Implement the 'nudge' to Pension Wise and support pension dashboard creation

Raising standards in the Appointed Representatives regime



# **REGULATORY ANALYSIS**

### NIKHIL RATHI'S FCA TRANSFORMATION PLAN: BALANCING PRIORITIES

Today's Business Plan was launched alongside a set piece webinar, with Chief Executive Nikhil Rathi detailing his vision for how he plans to transform the FCA in to a "forward-looking, proactive regulator" by being "more innovative...more assertive...more adaptive". Alongside this three-pronged approach to transforming the FCA, he also pledged to improve the way the FCA measures its own success.

### **Transformation Plan Approach**



**INNOVATIVE** 

Recognising the need for the regulator to "raise our game considerably" Rathi emphasised the importance of the FCA utilising data as part of its transformation describing "data as the lifeblood of a modern regulator". As part of this, he said that in the next five years the FCA will become a "data regulator as much as a financial one". Regulatory decisions will increasingly be underpinned by evidence-based data insights according to Rathi and they will be stored in a way that can be used collaboratively across the regulator. While the FCA is already at the forefront of financial regulator too.

ASSERTIVE

Under Rathi the FCA's instinct will be to "test our powers to the limit" but it will not "turn a blind eye" to issues that it does not have powers over with Rathi referring to this regulatory perimeter as a "perennial challenge". He committed to continuing to call out gaps in legislation and the potential for harm while praising the Government for agreeing to jointly assess the perimeter each year. Indicating a more forceful approach from the FCA towards companies, he highlighted how the FCA "constantly" faces "very determined and well-resourced individuals and companies" and said firms should expect the FCA to be "even more rigorous on upholding high standards".



Discussing his aim to ensure the FCA continues adapting and working at pace he recognised that "we know that on issues such as fintech or sustainability what we say one day might become quickly outdated". For this reason, the FCA will move its "entire operating posture" to focus more on the "problem in front of us" rather than being split between different sectors. Alongside focusing on "breaking down silos" within the FCA, Rathi also pledged to build on existing relationships between organisations such as the Financial Ombudsman Service and the National Economic Crime Centre for collaboration on multifaceted issues.



# **REGULATORY ANALYSIS**

### What does the Transformation Plan mean for industry?

This three-pronged approach to transforming the FCA – alongside changes to the way the FCA measures its success – is being driven by both the carrot and the stick.

### Attracting non-traditional financial services

On the one side, the UK has seen a huge increase in the number of large technology firms surging into financial services. Post-Brexit, the FCA wants to keep attracting these non-traditional financial services firms to the UK, highlighted by the permanent introduction of the digital sandbox for testing innovative ideas and the 'regulatory nursery' being introduced to support newly authorised firms in the UK as to grow and scale in a sustainable way.

#### Enforcement

While the FCA wants to ensure the UK remains 'open to business', including by attracting non-traditional financial services to the UK mentioned previously, the FCA will also be adopting a more "rigorous" approach to enforcing the UK's standards according to Rathi. How this balance will be struck going forward is currently unclear and businesses should remain vigilant to the potential for a far more assertive approach from the FCA that cuts across the different financial services sectors.

#### **Corporate Governance**

As the FCA looks to improve its own conduct, governance and accountability on issues including Diversity & Inclusion and ESG, the call to industry is to embrace the standards it is seeking to roll out. Through pushing itself forward as ambitious regulator, the FCA seeks to become not only purposeful, but fit for purpose and it will expect the same from financial services companies.

#### **Balancing consumer freedom**

This priority of attracting technology firms into the UK financial sector collides with increased consumer freedom leading to the FCA recognising that it will have to make decisions not faced before. These are not just questions for the regulator to tackle, but society more widely. For example, of concern to the regulator is the growth in young people investing in crypto currency and high-risk investments. The FCA's more innovative approach to this fast-changing landscape has already been shown by its announcement of a digital marketing campaign to warn consumers about the risks posed in this area.

However, where the consumer safety net is set remains unclear with consumers currently holding the greatest freedom, but also risk, for where to invest their money. This is an issue the FCA will have to contend with as part of its transformation plan and the current consultation paper on a 'Consumer Duty' is the start of the process in understanding where this line is. The ask on industry is to demonstrate how they are taking account of consumer experience across the entire product lifestyle. Now is the time for firms to feed into this debate, with the FCA looking to bring rules in on this consultation by the end of 2021.

### **GET IN TOUCH...**



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