



Financial Conduct Authority Changes to Threshold Conditions (COND) – April 2013

Introduction

The Financial Conduct Authority ('FCA') is due to replace the existing regulator, the Financial Services Authority ('FSA') with effect from 1 April 2013. Firms should be planning for this transition including carrying out a full review of the firm's Compliance Manual.

As part of this implementation, the FCA has proposed a number of rule changes. These are detailed in an FSA consultation paper, CP12/34, issued in November 2012. This is linked below and comments were requested by 29 January 2013. A policy statement with final rules will follow in due course.

Some of the new rules being proposed relate to the Threshold Conditions ('COND') that firms must satisfy both on application for authorisation but also on an ongoing basis.

<http://www.fsa.gov.uk/library/policy/cp/2012/12-34.shtml>

Changes to Threshold Conditions

All firms must be able to satisfy and evidence compliance with the Threshold Conditions of authorisation, both at application and ongoing. A number of the specific rules on the conditions remain broadly the same following FCA implementation, including such areas as 'Suitability' and 'Adequate Resources' (although this will become 'Appropriate Resources'). However, FCA guidance on their expectations on how these are satisfied is changing.

All firms need to ensure that their compliance manuals are updated to reflect FCA implementation, both in respect of general requirements but also in respect of Threshold Condition rules – and how the firm satisfies these. Firms should consider carrying out an analysis of their own systems and controls against the revised rules and guidance to ensure that no gaps exist and that appropriate evidence is available to satisfy these requirements.

A key area of change is that the FCA will assess a firm's 'business strategy'. Prior to this, the FSA would consider these areas as part of a firm's application however this was only identified internally within the assessment process. Going forward, these will be documented as guidance and firms will be expected to consider these issues at both authorisation and on an ongoing basis. Firms need to consider what sort of evidence should be maintained as an audit trail to reflect this.

The areas include, but are not exclusive to, the following:

- the assumptions underlying the firm's business model and justification for it
- the rationale for the business the firm proposes to do, its competitive advantage, viability, and the longer term profitability of the business
- the expectations of stakeholders for example shareholders and regulators,

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- the needs of and risks to consumers
- the expectations of stakeholders (for example shareholders and regulators)
- the products and services being offered and product strategy
- the governance and controls of the firm and of any member of its group (if appropriate)
- the growth strategy and any risks arising from it
- any diversification strategies
- the impact of the external macroeconomic and business environment

This note is intended as a summary only of the forthcoming changes, and is not full and / or firm specific advice. For further information, or for enquiries on support for FCA implementation or reviewing a firm's compliance with the Threshold Conditions, please contact Gillian Gallacher for further guidance.