

COVID-19 PRESSURE POINTS: FCA PUBLISHES INFORMATION FOR FIRMS (UK)

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Legal Briefings

The FCA has [published](#) information for firms on COVID-19. Communication with the FCA will be key as the situation evolves, and we recommend that firms regularly monitor the FCA's website for news and developments.

Firms are expected to:

- take reasonable steps to ensure they are prepared to meet the challenges coronavirus could pose to customers and staff, particularly through their business continuity plans;
- be clear and transparent, and provide strong support and service to customers during this period (being flexible to meet retail customers' needs in unusual times is a core theme); and
- manage their financial resilience and actively manage their liquidity, and report to the FCA immediately if they believe they will be in difficulty.

The FCA is taking this opportunity to provide some high level guidance and to remind firms of their obligations as the consequences of this pandemic unfolds before us. For example, reminding firms to report their concerns to the FCA, notwithstanding existing reporting obligations on regulated firms. The COVID-19 situation is unprecedented and has already caused significant impacts on the financial system globally. It is encouraging that the FCA appears to be taking steps to assist firms, and themselves, to prepare for any future uncertainty arising from this situation.

The information published includes guidance on the following key areas:

- **Regulatory change** – The FCA is reviewing its own work plan so that it can delay or postpone activity which is not critical to protecting consumers and market integrity in the short-term. Immediate actions include: extending the closing date for responses to open consultation papers and Calls for Input until 1 October 2020; rescheduling most other planned work; and scaling back the programme of routine business interactions. The FCA does not elaborate on other areas of impact, so we will have to wait and see whether this includes, for example: enforcement investigations, processing day-to-day authorisations or change in control approvals, and issuing market studies etc.
- **Impact on consumers** – The FCA welcomes the flexibility some firms have introduced to support customers. Firms should notify the FCA when going beyond usual practices to support their customers so the FCA can consider the impacts and offer support as appropriate. The FCA also reminds firms of their obligations to deal with customer complaints promptly.
- **Mortgages** – The FCA is encouraged by the actions of some lenders in granting flexibility on mortgage repayments to protect customers, and will be discussing with the industry and updating the approaches which mortgage providers may take for assisting customers in the coming days.
- **Unsecured debt products** – Firms are encouraged to show greater flexibility to customers in persistent credit card debit. In light of the challenges customers are currently facing, until 1 October 2020 these customers should be given longer to respond to communications from their providers, which means their card will not automatically be suspended if escalation measures are offered by their provider (and not responded to) after 36 months of persistent debt.
- **Access to cash** – Firms should ensure vulnerable customers are protected when accessing their banking services online or over the phone, particularly for the first time, and should remind customers to be aware of fraud and protect their personal data.
- **Insurance products** – The FCA supports firms offering travel insurance in making consumers aware of the scope of their cover and any exemptions which may apply. This information should be made available online in a clear and concise way and consumers should have access to call centres. For health insurance, the FCA expects firms to make clear any time period restrictions when consumers take out a new policy.
- **Operational resilience** – The FCA expects all firms to have contingency plans in place to deal with major events and that the plans have been tested. Firms should consider whether their contingency plans are appropriate to the conditions which are currently unfolding and that these have been tested appropriately. Firms should also take all reasonable steps to meet the regulatory obligations which are in place to protect their consumers and maintain market integrity. For example, if a firm has to close a call

centre, requiring staff to work from other locations (including their homes), the firm should establish appropriate systems and controls to ensure it maintains appropriate records.

- **Market trading and reporting** – As firms are moving to alternative sites and working from home arrangements, the FCA wants them to consider the broader control environment in these new circumstances. Three particular areas are highlighted:
 - Call recording: Firms should make the FCA aware if they are not able to meet call recording requirements; and take mitigating steps (eg enhanced monitoring, or retrospective review).
 - Submission of regulatory data: If firms experience difficulties with submitting their regulatory data, the FCA expects them to maintain appropriate records during this period and submit the data as soon as possible. Where firms have concerns, they should contact the FCA as soon as possible.
 - Market abuse: Firms should also continue to take all steps to prevent market abuse risks (including enhanced monitoring or retrospective reviews). The FCA will continue to monitor for market abuse and, if necessary, take action.

Other considerations:

Short selling

On 17 March 2020, the FCA also temporarily [prohibited](#) short-selling of 129 financial instruments under Articles 23 (1) and 26 (4) of the Short-selling Regulation (SSR), following a decision made by another EU national competent authority (NCA). This prohibition lasted until the end of yesterday's trading day and followed a similar prohibition which took effect during the trading day of 13 March 2020.

The FCA has also [confirmed](#) that it will lower the thresholds for the notification of short selling positions under the SSR. This follows the [decision](#) of the European Securities and Markets Authority (ESMA) on 16 March 2020 to temporarily require the holders of net short positions in shares traded on an EU regulated market to notify the relevant NCA if the position reaches or exceeds 0.1% of the issued share capital. The amendment will require changes to be implemented to the FCA's technology so firms should continue to report according to the previous thresholds until further notice.

Senior managers / conduct

In light of the unprecedented nature of the current situation, the senior management of firms may find themselves having to make immediate and difficult decisions. Therefore, senior managers will want to pay close attention to being able to show that “reasonable steps” were taken and ensuring that appropriate records are maintained which document decisions and the rationale.

[More on Navigating the COVID-19 Outbreak](#)

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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