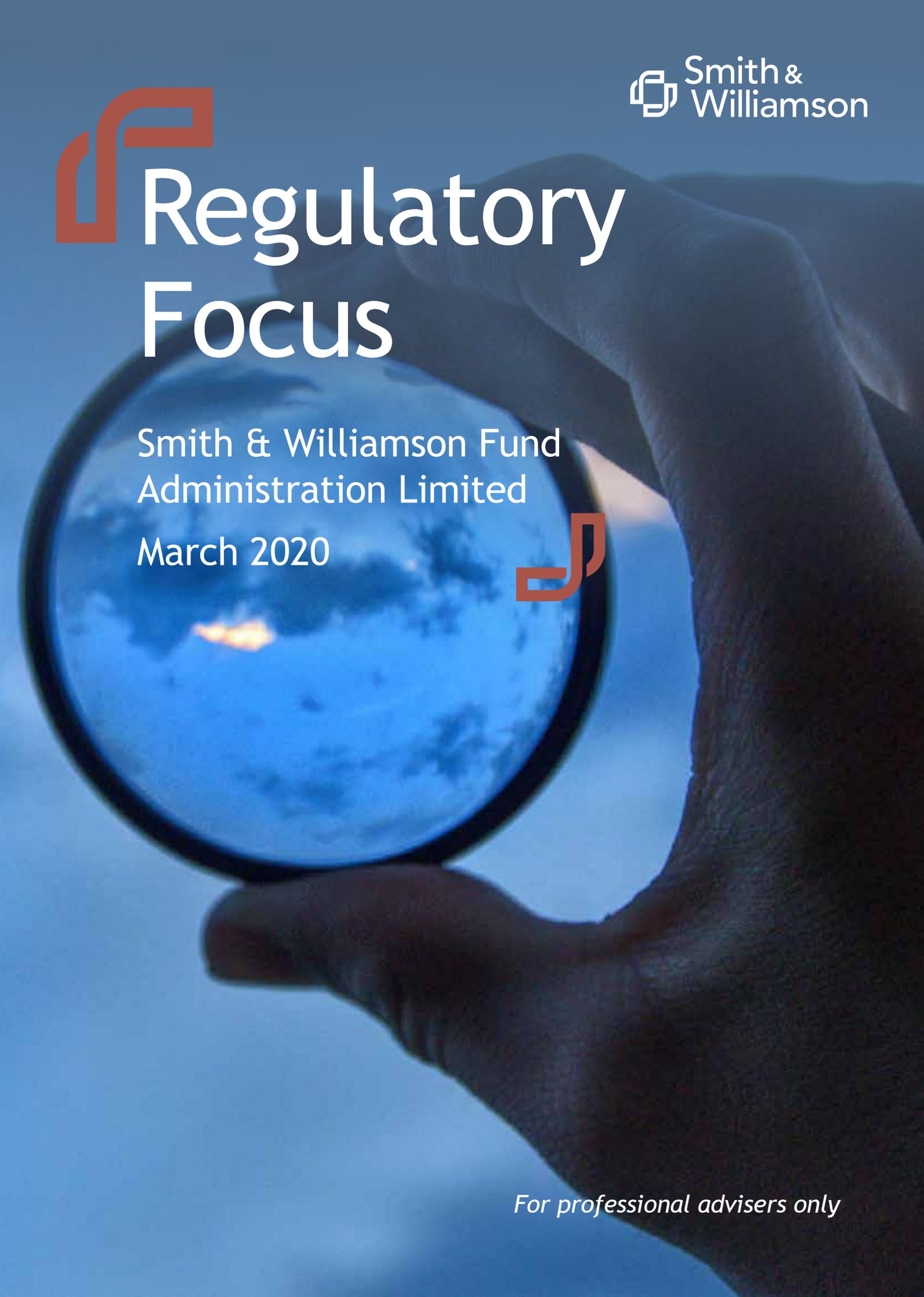


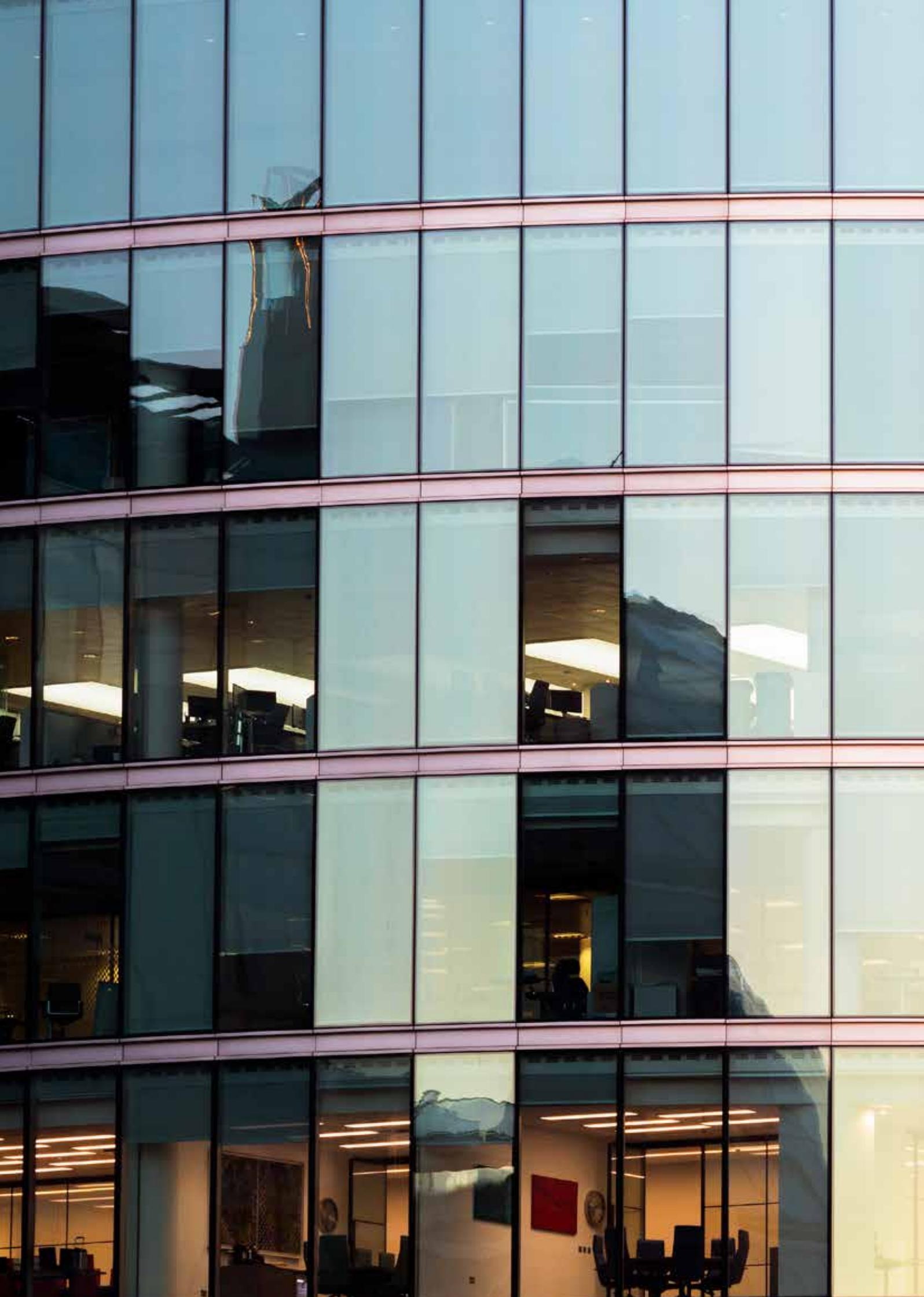


Regulatory Focus



Smith & Williamson Fund
Administration Limited
March 2020





Contents

Introduction	1
Regulatory Change Timeline	2
5 th Money Laundering Directive	4
Making transfers simpler	5
Building operational resilience	6
Illiquid assets and open-ended funds	7
Senior Managers & Certification Regime	8
Protection of whistleblowers	9
Dear CEO Letter, Our Alternative Supervision Strategy	10
Brexit	11
Financial Stability Report, Vulnerabilities in Open Ended Funds	12
FCA report on asset management portfolio tools	13
Assessment of Value	14
Risk Limit Mandates	15
Clarity of Fund Language	16
Product Governance	17
Dear CEO Letter - Asset management firms - prepare now for the end of LIBOR	18
European MiFID Template (EMT v3)	19
Closed Markets - Suspension and restart of dealings	20
Appendix 1 - References	21

Introduction

What is the SWFAL (Smith & Williamson Fund Administration Limited) Regulatory Focus

Our Regulatory Focus provides you with a summary of current and forthcoming regulatory changes that we feel may have an impact on our business partners over the coming months and in some cases into 2021! It also confirms the action, if any, that SWFAL will be taking in order to ensure that we and our business partners remain fully compliant.

This is the third time that SWFAL has published this update. Many thanks to those of you who provided feedback on the previous editions.

We hope that you will continue to find it useful however as always we would welcome your feedback. Please feel free to contact Brian McLean, John McWilliam or Graham Duns should you wish to discuss further any points that you may have.

Regulatory Change Timeline

Brexit
31 January 2020

Guidance on treatment of vulnerable customers GC19/3 released on the 4th October 2019.

Further consultation expected. Date to be confirmed.

Feedback and final rules for CP19/25 (transfer advice: contingent charging and other proposed changes)

Q1 2020

Feedback to DP18/04 and consultation CP19/32 (Building operational resilience).

(Consultation ends 3 April 2020)

FCA to publish findings of the second assessing suitability review

(H1 2020)

Feedback to CP19/12 and final rules PS19/29 (Making Transfers Simpler)

(31 July 2020)

Feedback to CP18/27 and final rules PS19/24 (Illiquid assets and open ended funds)

(30 September 2020)

2020

5MLD

Beneficial ownership for corporates to be set up

(10 January 2020)

5MLD

Beneficial ownership for trusts to be set up

(10 March 2020)

Publication of the FCA review of FAMR and RDR findings

(Expected early 2020)

5MLD

Identification measures for control payment accounts to be set up

(10 September 2020)

EMT Template - Deadline for use of v2, thereafter v3 must be used. 10th December 2020

(10 December 2020)

SMCR - Certified persons to be identified, assessed fit and proper and given roles and responsibilities certificate

End of the SMCR transitional period for solo regulated firms

(9th December 2020)

Q1 2020

Q2 2020

Q3 2020

Q4 2020

2021

EU Directive 2019/1937
(Protection of whistle-
blowers).

Laws, regulations and
provisions to comply
to be in force by 17th
December 2021

2020/2021 LIBOR transition

Q1 2021

Q2 2021

Q3 2021

5th Money Laundering Directive

The Fifth Money Laundering Directive (5MLD) came into force on the 10th January 2020 and has been transposed into UK law in the form of the Money Laundering and Terrorist Financing (Amendment) Regulations 2019. The new regulations supersede the Fourth Directive, 4MLD.

The Fifth Directive is a series of amendments to the structure of the Fourth Directive, adding various additional provisions that weren't included in the text of 4MLD. The main changes are focused on enhanced powers for direct access to information and increased transparency around beneficial ownership information and trusts.

5MLD will bring in changes including:

- Regulating virtual currencies and pre-paid cards to prevent terrorist financing
- Improving safeguards for financial transactions to and from high risk countries
- Ensuring centralised national bank and payment account registers or central data retrieval systems are accessible in all member states

Regulating Cryptocurrencies

Under 5MLD, virtual currencies such as Bitcoin will have a legal definition. Virtual currency platforms and wallet providers will also become regulated entities under the scope of the directive. While many already conduct due diligence and report suspicious transactions, the Fifth Directive will make it a legal requirement.

Prepaid cards

5MLD will lower the requirement for customer verification from €250 to €150, and even to €50 for some remote transactions. The use of anonymous prepaid cards issued outside the EU may also be prohibited unless the jurisdiction is considered to have equivalent money laundering legislation to the EU.

Registers of Beneficial Ownership

4MLD introduced the requirement for Registers of Beneficial Ownership. 5MLD proposes to allow public access to these records, even without having to demonstrate any kind of 'legitimate interest'. Trusts will also be required to meet greater transparency obligations, including the beneficial ownership requirements. Where an entity poses a significant money laundering or tax evasion risk, the threshold for identifying beneficial ownership may be reduced from 25% to 10%.

Enhanced due diligence

5MLD will require enhanced due diligence when dealing with transactions from high risk countries. As well as obtaining evidence of the source of funds and source of wealth, information on beneficial ownership and background to the intended transaction must also be recorded. The EU may also designate a 'blacklist' of high risk countries for money laundering.

5MLD also looks set to amend the 'reliable and independent source' requirement for verification of customer information to include 'where available, electronic identification means'.

Wider range

5MLD has been extended to cover all forms of tax advisory service, lettings agents and art dealers. Access will also be available to members of the public to request information on the real owners of firms operating in the EU, a measure aimed at quashing letterbox companies established solely to launder money and hide wealth. Whistleblowers who report money laundering will also have increased protection and the right to anonymity.

Key dates

- 10 January 2020 - Beneficial ownership for corporates to be set up by
- 10 March 2020 - Beneficial ownership of trusts to be set up by
- 10 September 2020 - Centralised automated mechanisms to allow identification of those who hold or control payment accounts and bank accounts to be set up by

Next Steps

Our S&W Group Financial Crime Team would be happy to answer any queries that you have. They can be contacted initially at financialcrime@smithandwilliamson.com

FCA - Making transfers simpler

feedback to CP19/12 and final rules (PS19/29)

Published

13th December 2019

Consultation ends

Ended

Proposed rules come into effect

31st July 2020

Results / further updates due:

In March 2019 the FCA published CP19/12 aimed at making it easier for consumers to transfer from one platform to another and found that competition was limited by the barriers facing consumers when they try to switch platforms, e.g. consumers are sometimes required to liquidate their holdings when switching.

In response the FCA introduced a package of rules on the transfer of investments to a new platform:

- Consumers must be offered the choice to transfer holdings that are common to both platforms via in-specie transfer,
- or request a conversion of unit class to enable an in-specie transfer to take place, The ceding party having to convert the units into an appropriate class if an “in-specie” transfer of that unit class is not possible.
- Consumers moving to a new platform must be given the option to transfer units into a cheaper unit class if these are available for them to invest in.

The FCA noted that generally the industry is exploring solutions to improve the switching process by:

- improving standards for transfer and re-registration times from an industry-agreed maximum timescale for each step in the switching process
- ensuring clearer customer communications at the start of the switching process, explaining the transfer process, timelines and giving a point of contact for any questions or complaints.
- publish transfer times data so consumers and third parties can compare platform performance

The rules introduced support these initiatives, providing clarity on what we expect of firms when carrying out transfers on behalf of consumers.

Next steps

The new rules come into force on 31st July 2020. Further consultation on exit charges is expected during Q1 2020. The FCA will also carry out a further review of the progress made by firms in embedding the rules in 2022, and will consider whether further regulatory action is required.



FCA - Building operational resilience: impact tolerances for important business services and feedback to DP18/04 (CP19/32)

Published

last updated 13th December 2019

Consultation ends

3rd April 2020

Proposed rules come into effect

2021

Key consultation points

The FCA are proposing changes to how firms approach their operational resilience. They build on the approach first outlined in the Discussion Paper (DP) 'Building the UK Financial Sector's Operational Resilience' published in July 2018, and included in the September Regulatory Focus Magazine.

This Consultation Paper (CP) aims to expand on and develop the ideas discussed in the DP based on the responses received and asks for firms to provide feedback on their proposals.

The FCA proposes that firms:

- identify their important business services that if disrupted could cause harm to consumers or market integrity
- identify and document the people, processes, technology, facilities and information that support a firm's important business services (mapping)
- set impact tolerances for each important business service (i.e. thresholds for maximum tolerable disruption)
- test their ability to remain within their impact tolerances through a range of severe but plausible disruption scenarios
- conduct lessons learned exercises to identify, prioritise and invest in their ability to respond and recover from disruptions as effectively as possible
- develop internal and external communications plans for when important business services are disrupted
- create a self-assessment document

The above aims to set new requirements that enhance operational resilience and are not intended to conflict with or supersede existing requirements to manage operational risk or business continuity planning.

Next Steps

Comments to the Consultation Paper are invited by the 3rd April 2020 with the finalised rules being published via a Policy Statement in 2021.

FCA - Policy Statement

on illiquid assets and open-ended funds and feedback to Consultation Paper 18/27 (PS19/24)

Published

30th September 2019

Proposed rules come into effect

New rules come into force on the 30th September 2020.

Results / further updates due:

The Policy Statement sets out the FCA's responses to the feedback when they consulted on changes intended to reduce the risk of poor outcomes to retail investors in open-ended funds, specifically non-UCITS retail schemes (NURS), that invest in illiquid assets. In addition to the feedback, the Policy Statement sets out its final rules.

The FCA reiterates that that it does not want to prohibit open-ended funds from investing in illiquid or less liquid assets where investors understand and are willing to accept the liquidity risk this can involve.

Under the new rules, where authorised fund managers managing NURSs choose not to manage the liquidity mismatch directly, for example by adapting the redemption arrangements to be more similar to the liquidity of the underlying assets, the fund will have to be classified as a Fund Investing in Inherently Liquid Assets (FIIA) and become subject to the additional requirements this brings.

This is summarised as follows:

- NURSs that are classified as an FIIA, will be subject to additional requirements, including enhanced depositary oversight, standard risk warnings on financial promotions, increased disclosure of liquidity management tools and liquidity risk contingency plans.
- NURSs must suspend dealing in fund units where the standing independent valuer (SIV) expresses material uncertainty regarding the value of 20% of the scheme property. However, an authorised fund manager will be allowed to continue to deal where they have agreed with the fund's depositary that this is in the best interests of the funds investors;

- further guidance is provided on the circumstances in which it may be appropriate to suspend dealing. For a fund investing mainly in illiquid assets, the fund manager may suspend dealing before running down the liquidity in the fund, if this is in unitholders' best interests. Guidance is also provided on the process for arriving at a fair and reasonable value for an immovable, where it needs to be sold quickly to ensure that the fund can continue to meet redemption requests as they fall due; and
- additional disclosure in a fund's prospectus of the details of their liquidity risk management strategies including tools they will use and the potential impact on investors plus a standard risk warning to be given in financial promotions to retail clients for such funds. This will apply to all firms communicating a financial promotion, not just the fund manager, i.e. it also includes the investment manager.

Following feedback to the Consultation Paper the FCA has confirmed that it will not proceed with two of its proposals, namely:

- the requirement for a manager of a Fund Investing in Inherently Liquid Assets (FIIA) to add an 'identifier' to the name of the fund. Fund managers are reminded however that fund names should be carefully chosen so they do not mislead, as set out in COLL 6.9; and
- guidance relating to limiting the accumulation of large cash buffers within NURSs and UCITS funds.

Other than the above the rules do not significantly differ from the proposed rules in the consultation.

Next steps

An assessment is currently underway on each asset for its liquidity profile to assess if each asset falls within the category of an "inherently illiquid asset" as per the FCA's definition. Once this has been done, then an assessment can be made of all the Non-UCITS Retail schemes (NURS) under SWFAL's administration to determine if such funds investments can be identified as FIIA's. For the avoidance of doubt, only the NURS funds are in scope of this policy statement.

Senior Management and Certification Regime (SMCR) - A Reminder

On the 13th December 2019 the FCA updated its website on the Senior Managers and Certification Regime (SMCR), which replaced the Approved Persons Regime (APR), for solo-regulated firms from the 9th December 2019. The updated website contains reminders and clarifications on ongoing requirements for firms and other considerations.

From the end of March 2020, a Directory Persons information will start to be published on the Financial Services Register, initially this would be for Banks, building societies, credit unions and insurance companies and by the end of December it would include all other solo-regulated firms.

Directory Persons consist of:

- All Certified staff (those holding a certification function under SMCR)
- Directors who are not performing Senior Manager Functions (SMFs) - both executive and non-executive
- Other individuals who are sole traders or Appointed Representatives (including those within ARs) where they are undertaking business with clients and require a qualification to do so.

In particular, by the 9th December 2020, the end of the transitional period for SMCR, the following should be considered by solo-regulated firms:

- to identify the individuals that need to be certified on an annual basis and that annual fitness and propriety checks for Certification staff and Senior Managers fit into the firm's existing HR processes;
- to the Statements of Responsibility (SoRs) that is required for all Senior Managers and must include their Prescribed Responsibilities.
- to applications that need to be submitted to the FCA, e.g. the responsibilities map, form K and SoRs
- to ensure that the firm has the appropriate processes to obtain Criminal Records Checks for new Senior Managers in place and ensure your firm is registered with the DBS, Disclosure Scotland or Access NI (as relevant);
- to understand the Conduct Rules Training and reporting requirements for Senior Managers and all other staff;

- that Senior Managers can delegate to others, however, this does not reduce their accountability for what they delegate. Senior managers should ensure that the delegation should be reasonable in itself, the individuals to whom they have delegated are appropriate and equipped with suitable skills, and they should retain an appropriate level of oversight;
- that senior management functions (SMFs) are not restricted to members of the governing body. However, Compliance Oversight (SMF16) and MLRO (SMF17) are examples of functions that will often be held by individuals who are not. One further point to note is that the SMF3 executive director function extends beyond members of the governing body to include 'a person in accordance with whose directions or instructions (not being advice given in a professional capacity) the directors of that body are accustomed to act'; and
- that SMFs appeared on the Financial Services Register on 9 December 2019. Firms should check the FS register to ensure they have the correct SMFs.

Next Steps

Please ensure that all Certified persons and Directors who are not performing SMF (both executive and non-executive) are identified, assessed as fit and proper and given a certificate of their roles and responsibilities by 9th December 2020. Your firm must submit their Directory Persons Data to the FCA by the 9th December 2020 deadline.

European Union - Protection of whistle-blowers (EU Directive 2019/1937)

Published

26th November 2019

Consultation ends

N/A

Proposed rules come into effect

Directive enters force on the 26th December 2019.

EU member states must bring into force the laws, regulations and provisions necessary to comply with the Directive by 17th December 2021.

Firms will require policies in place for:

- Protection for whistle-blowers if they disclose information publicly in certain circumstances, e.g. if the person first reported internally and externally but no appropriate action was taken.
- Safeguards to prevent whistle-blowers being suspended, demoted, intimidated, or subjected to forms of retaliation; and
- Standards ensuring that whistle-blowers have access to comprehensive and independent information, free advice on procedures and remedies, as well as legal aid during proceedings

Next steps

Firms should have the relevant policies in place to meet the new requirements in due course.



Dear CEO Letter - “Our Alternative Supervision Strategy”

Published

20 January 2020

Firms in scope:

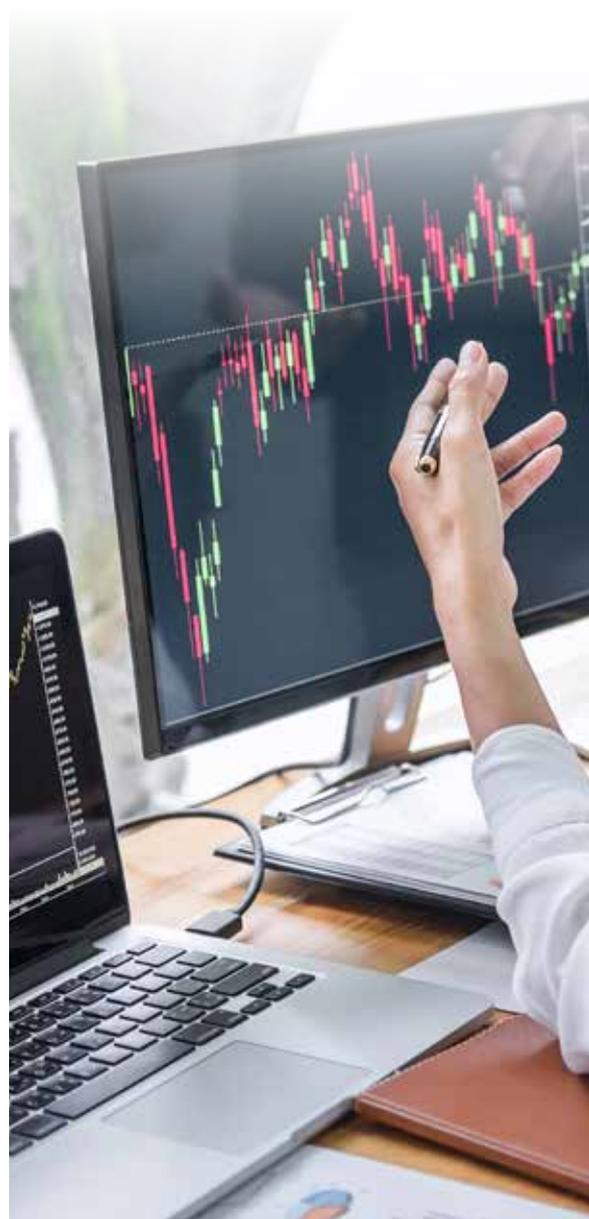
Applies to FCA authorised firms that predominately manage alternative investment vehicles (for example, hedge funds or private equity funds) or alternatives assets directly or advise on these types of investments or investment vehicles.

The Supervision Strategy addresses the following key issues:

- Investor exposure to inappropriate products or levels of investment risk - firms offering products and managing investments with exposure to alternative assets and strategies should consider the appropriateness or suitability of those investments for their target investors - in particular for retail investors who “opt-up” to elective professional client status in order to access these alternative investment products.
- Client money and custody asset controls - Do firms have permission to hold client money and safe custody assets and are they exercising those permissions under robust control frameworks to support the oversight of CASS operations; maintain adequate books and records; and operate in a CASS-compliant manner.
- Market Abuse - Firms in the sector must ensure their market abuse controls are robust enough to enable them to discharge obligations under the Market Abuse Regulation (MAR).
- Market integrity and disruption - Use of leverage and illiquid investments presents risk to their own portfolios and can also create risk for other market participants and the wider markets. Where firms use such high-risk investment strategies, the FCA expects firms to operate robust risk management controls to avoid excessive risk-taking.
- AML & Anti-Bribery & Corruption - Alternatives firms should be alert to the risk they could be used to facilitate financial crime and operate appropriate and proportionate systems and controls to mitigate this risk.
- EU Withdrawal: The FCA expect firms to consider how the end of the implementation period will affect you and your customers, and what action you may need to take to be ready for 1 January 2021

Next Steps

Since this letter is addressed to investment managers that directly manage alternative investment funds, SWFAL’s delegate investment managers will need to take note of this FCA letter and its requirements. Firms would be expected to address the FCA’s key issues highlighted in their letter in relation to the SWFAL Alternative Investment Funds (AIFs). Firms may consider conducting a gap analysis of its systems and controls against the expectations of the FCA and key issues highlighted in this letter.



Brexit

The Brexit Withdrawal Agreement Bill was ratified by the UK parliament earlier in January 2020, which meant the UK formally left the EU on 31 January 2020. The UK has entered an “implementation period” also known as the “transition period” from 31 January 2020 until 31 December 2020, during which time the UK will continue to negotiate the future relationship with the EU.

During the implementation period, all existing EU legislation would continue to apply in the UK. Existing EU Passporting rights would also continue, as would consumer rights and protections which have derived from EU legislation. New EU legislation that takes effect before the end of the implementation period would also apply to the UK. The UK transposed into UK law all existing EU rules through the EU Withdrawal Act 2018, therefore firms would still need to continue to comply with those rules when the implementation period has ended.

At the end of the implementation period, the UK will either leave the EU with a negotiated trade deal or leave in a no-deal situation. As it is not yet clear if the UK will leave the EU with a trade deal, thereby sealing a Free Trade Agreement (FTA) with the EU, or whether the UK will leave the EU on 1 Jan 2021 in a no-deal scenario, Brexit risk warnings will be required to be inserted into SWFAL fund Prospectuses, as and when Prospectuses are updated, over the course of the year by 31 Dec 2020. The S&W Legal team are liaising with external lawyers to finalise the wording of the Brexit risk warnings.

Previous advice from external legal counsel confirmed that in a no-deal scenario, existing EU investors should not be impacted. Where EU investors invested into SWFAL funds through reverse solicitation (unsolicited approach), or through the fund’s valid registration and UCITS passport in the EU jurisdiction, those EU investors could continue to top-up their existing subscriptions/investments under the reverse solicitation permissions of the particular EU jurisdictions.

Firms will now need to prepare for the 1 January 2021 deadline when the implementation period would have ended. Brexit risk warnings (for a potential no-deal scenario) will be confirmed in due course by S&W Legal team to be included in the SWFAL fund prospectuses.

We will watch out for further guidance and information from the FCA, from external legal sources and from the S&W Brexit Working Party (BWP) in particular, who will need to identify what the implications are for SWFAL and its funds after the implementation period has ended, by which time the UK will leave the EU having either negotiated a trade deal and a FTA with the EU, or leaving the EU in a no-deal scenario without a FTA.

Next steps

Firms will now need to prepare for the 31 December 2020 deadline when the implementation period ends. Brexit risk warnings (for a potential no-deal scenario) will be confirmed in due course by S&W Legal team to be included in the SWFAL fund prospectuses.

SWFAL will continue to watch for further guidance and information from the FCA, from external legal sources and will continue to liaise with its own internal S&W Brexit Working Party (BWP), to identify what the implications are for SWFAL and its funds once the implementation period has ended; by which time the UK will leave the EU having either negotiated a trade deal and a FTA with the EU, or leaving the EU in a no-deal scenario without a FTA.

Financial Stability Report – Vulnerabilities in Open Ended Funds

Published

December 2019

The paper was written by the Bank of England’s (BoE) Financial Policy Committee (FPC), as part of an FCA and BoE joint review of open-ended funds, and the FPC judges that the mismatch between redemption terms and the liquidity of some funds’ assets means there is an advantage to investors who redeem ahead of others, particularly in stressed market conditions. This has the potential to become a systemic risk.

As part of the ongoing review by the BoE and FCA of open-ended funds, the FPC has established that there should be greater consistency between the liquidity of a fund’s assets and its redemption terms. In that regard:

- Liquidity of funds’ assets should be assessed either as the price discount needed for a quick sale of a representative sample (or vertical slice) of those assets or the time period needed for a sale to avoid a material price discount. In the US, the Securities Exchange Commission (SEC) has recently adopted measures of liquidity based on this concept.
- Redeeming investors should receive a price for their units in the fund that reflects the discount needed to sell the required portion of a fund’s assets in the specified redemption notice period.
- Redemption notice periods should reflect the time needed to sell the required portion of a fund’s assets without discounts beyond those captured in the price received by redeeming investors.
- As regards liquidity assessment, the report refers to the SEC’s recent adoption of “liquidity buckets” and the possible formalisation of the liquidity management process.
- FCA research has shown that funds using swing pricing during periods of low liquidity or market stress did not experience significant outflows. The FPC actively encourages the greater use of swing pricing by funds holding illiquid assets that experience high volumes of redemption requests.

In addition to enhancing financial stability, the FPC believes these changes should also promote funds’ ability to invest in illiquid investments.

The FCA and BoE will now consider how these principles could be implemented and, in particular, the degree of market stress against which liquidity measures and redemption terms should be calibrated. Joint review’s conclusions to be published in 2020 and will inform further FCA work on liquidity in open-ended funds and the development of common standards.

The conclusions of the review will, where appropriate, inform the development of the FCA’s standards for open-ended funds and they will be used in UK regulators’ engagement with the industry.

Next Steps

SWFAL and investment managers to continue to watch our for further developments and publications by the FPC in this area, in 2020

FCA - FCA report on asset management portfolio tools

On the 13th January 2020, the FCA published a new website setting out its findings on how the asset management sector selects and uses risk modelling and other portfolio management tools.

The FCA believes that portfolio management tools and risk models are central to asset management activities. Therefore, any significant technological failure could cause serious consumer harm. If the service interruption affected a provider who supported a large enough group of asset managers, this could also damage market integrity.

The review followed earlier work, including the Technology and Cybercrime Resilience Questionnaire. The FCA wanted to assess how asset management firms select, use and oversee the tools and models they use to manage portfolios. The FCA wanted to see how firms identify and manage relevant risks and their capability to respond to system failures or service interruptions.

The FCA sampled a small number of firms (10) and found that they had different approaches in their use of portfolio tools. Some relied largely on a single provider offering an integrated package. Others used a suite of tools from different providers. The remainder built their technology in-house.

The report sets out its findings under the following headings:

- Vendor management
- Model governance
- Managing change
- Resilience and recovery
- Testing of software, and
- Consumer expectations

The FCA will continue to look at the operational resilience arrangements in place at firms, including those which were not included in their review.

Next steps

The FCA expect firms to ensure that their implementation, oversight and contingency arrangements in respect of these tools enable them to comply with their expectations as set out in the systems and controls handbook and elsewhere. These include expecting a firm's arrangements will 'ensure that it can continue to function and meet its regulatory obligations in the event of unforeseen interruption'.



Assessment of Value

The relevant regulations have been in place since September 2019. By the time that the Regulatory Focus Magazine is published, SWFAL will have performed 45 Assessments of Value (7 September 2019 year-end funds, 7 October year-end funds, 11 November year-end funds and 20 December year-end funds).

As a reminder, the FCA provided a “non-exhaustive list of elements prescribed for the assessment” of seven criteria: quality of service, performance, AFM costs, economies of scale, comparable market rates, comparable services and classes of units. Whilst the Investment Association provided some in-depth guidance on how firms should approach the new regulations, due to competition laws, they would not get drawn into providing an official template for how the Assessments of Value should be presented. SWFAL, like all other AFMs, has developed its own process and final annual statement. The rationale behind the seven criteria embedded in the new rules is to strengthen the duty of Authorised Fund Managers (AFMs) to act in the best interests of investors. The rules require AFMs to carry out an assessment of the funds to identify poor performing or uneconomical funds, particularly smaller share classes where the costs will naturally be high by comparison and looking at costs not just in isolation but in the context of fund performance. The assessment of value would also enable the AFM to take corrective action if the fund does not demonstrate value for money or where improvements need to be made. In preparation for the Assessments of Value, and in consideration of the wider Asset Market Management Study, SWFAL reviewed their fund range and this has already led to some consolidation of share classes, whereby investors have been moved from more expensive share classes in the same fund.

SWFAL believes the assessment of value will help investors make better informed investment decisions, by making it easier for them to evaluate their funds and the investment management of those funds.

Next Steps

SWFAL will continue to liaise with delegated Investment Managers in order to ensure that the best interests for the end investor are protected. This may include challenges around fees, fee structures and the performance of the fund against its stated objective.



Risk Limit Mandates

Background

As an AFM, SWFAL must establish, implement and maintain a risk limit system for each fund and ensure that that current level of risk complies with that risk limit system. SWFAL will use these for both UCITS and non-UCITS funds.

What is a risk limit system?

A risk limit system is a documented system of internal limits concerning the measures used by a management company to manage and control the relevant risks for each fund it manages, taking into account all the risks which may be material to the fund.

SWFAL must ensure compliance with the risk limit system, i.e. internal limits, which are soft limits (as opposed to hard 'regulatory' limits).

These internal limits were documented for your fund(s) either at launch / take-on, or during the original papering process going back to 2014. That template allowed SWFAL to monitor the maximum amount of leverage a fund employs, the range of count of securities it invests, its percentage exposure to a range of asset classes (e.g. equities, bonds, collectives), its exposure to currency, liquidity profile. SWFAL would have contacted you if the fund was materially outside those internal limits.

Next steps

As SWFAL's monitoring processes have evolved, combined with greater regulatory focus, Fund Oversight will be re-papering all funds' risk limits over the course of the next few months. The team will contact you to explain the new template with a view to it being updated with any soft limits and other investment strategies or techniques that are employed for the fund. These will allow the team to monitor these using our internal systems and/or via our ongoing due diligence



Clarity of Fund Language

Background

As part of its further remedies to the Asset Management Market Study, the FCA published its policy statement PS19/4 last year in order to improve the clarity and usefulness of fund objectives for consumers.

SWFAL focused on meeting the regulatory deadline of 7th August 2019 relating to benchmarks. We are now addressing the ‘clarity of fund language’ aspect of the policy statement.

Purpose of initiative

The Investment Association have advised “a key point is that it is best to avoid jargon. Industry jargon can be a useful shorthand for communicating with professional customers, but it frustrates many retail customers, who just want a clear explanation of what managers are aiming to achieve and how they plan to do it. While difficult to distinguish and define, industry jargon acts as a barrier to understanding and there is a level of technical language that even the most experienced customers struggle to understand, as the research shows. Furthermore, it is important to note that non-technical terms can also cause confusion or, at best, lack precision. Terms like ‘mainly’ or ‘predominantly’ are too open to interpretation and specific limits are more informative, e.g. ‘more than four fifths’.”

Furthermore, if it is not the manager’s strategy to invest in a particular area where the investment policy permits investment, this should be made clear.

Or, if it is the manager’s strategy to make specific use of one of the investment powers, e.g. around the use of derivatives, this should be made clear.

It is not necessary to set out investment policy and strategy under separate headings in a KIID. But the FCA has stated in PS19/4 that it would generally expect a KIID to include information about the investment strategy, so information about the strategy should be included where necessary, even if it is not specifically labelled as such. Including such information in the KIID will require the KIID to be updated as and when the strategy changes.

Updates may be required to the fund(s) prospectus and/or KIIDs as a result.

Next Steps

Fund Oversight will contact you to discuss the topic, with the end goal being to reduce jargon in fund documents, quantify subjective terms (such as primarily, mainly) and for SWFAL and investors to understand specific investment strategies being employed and disclose in the fund documentation where necessary.

Product Governance

(for joint-manufacturers of funds only)

Background

As you will be aware, MiFID II introduced new rules for product manufacturers. Both SWFAL and your firm outlined their mutual responsibilities in a joint-manufacturing agreement.

Next steps

As part of our ongoing due diligence, Fund Oversight will contact you to discuss your progress on our mutual responsibilities during the course of 2020.



Dear CEO Letter - Asset management firms - prepare now for the end of LIBOR

Background

The intention of UK authorities is that LIBOR will cease to exist after end-2021.

The Financial Policy Committee stated in its Financial Stability Report that 'The continued reliance of global financial markets on LIBOR poses a risk to financial stability that can only be reduced through a transition to alternative risk-free rates by end-2021.

The time to act is now

This is a critical year for LIBOR transition. As the Bank's Financial Policy Committee set out in December 2019, whilst good progress has been made, firms need to accelerate efforts to ensure they are prepared for LIBOR cessation by end-2021.

To help achieve this, Working Group on Sterling Risk-Free Reference Rates published its priorities and an updated roadmap for the year ahead to highlight important events and clarify actions market participants should take to reduce LIBOR exposure and transition to alternative rates, including:

- Ceasing issuance of cash products linked to sterling LIBOR by end-Q3 2020;
- Throughout 2020, taking steps that demonstrate that compounded SONIA is easily accessible and usable;
- Take steps to enable a further shift of volumes from LIBOR to SONIA in derivative markets;
- Establishing a framework for the transition of legacy LIBOR products, in order to significantly reduce the stock of LIBOR referencing contracts by Q1 2021; and
- Considering how best to address 'tough legacy' contract issues.

If your firm has LIBOR exposures or dependencies, but does not have a plan in place, you must act now. A transition plan should be prepared, including appropriate milestones, resourced adequately and devised holistically, across all relevant business functions.

Next Steps

SWFAL will be in touch to establish whether funds under your management retain material exposures to or dependencies on LIBOR and if required, discuss a proportionate transition plan.

European MiFID Template

(EMT v3.0)

Background

On Tuesday 10 December 2019, FinDatEx (Financial Data Exchange Templates) validated the new EMT (European MiFID template) v3 template. A few important changes have been made to EMT v1, the version currently used by investment funds, which include updates from existing EMT v1 fields as well as additional new fields. A one-year transition period has been recommended from validation date, i.e. from 10 December 2019 until 10 December 2020.

Please note that the EMT Version 2 was adopted by some national associations in 2018 and is used only for structured products. The template has not been endorsed by FinDatEx or by members of the FinDatEx Steering Group and for this reason was never adopted by SWFAL.

Next Steps

SWFAL are currently working on this project and will be in touch with you in due course with regards to the updates.

Closed Markets - Suspension and restart of dealings

In light of the current situation regarding COVID-19 and the effect that the pandemic is having on global stock markets we thought it prudent to remind you of the procedure for suspending dealing in a fund if, in the exceptional event, stock markets close for an extended period of time.

SWFAL closely monitors the day to day effect of the funds and employs a number of processes and controls to highlight potential issues and which may lead to discussions around the suspension of a fund; for example where any fund has over 10% invested in a closed market, and if the dealing is over 1% of the Net Asset Value (NAV) then the anticipated next relevant market opening will be reviewed to establish if we believe the market will move greater than 5% of the NAV. If this is the case then a geographic fair value calculation may be required to be adjusted within the fund.

In the exceptional circumstance where investors best interests will not be served, if fund valuation is not reliable and all alternative courses of action have been discounted, then the fund would suspend dealing accordingly until it could be resolved in accordance with FCA COLL 7.2 rules. SWFAL would seek the prior approval of the depository before taking the necessary steps to formally notify the FCA in writing as well as the fund's investors. SWFAL and the depository would also be required to formally review the suspension of the fund every 28 days and inform the FCA of the results of this review

While maintaining investors best interests, suspension of dealing in funds should only be temporary, of minimal duration and consistent with the provisions of the fund's prospectus and instrument/trust deed constituting the fund. Ultimately the reason for suspending dealing in a fund in line with the FCA's requirements would be to protect investors in the funds by restricting trades in units/shares where uncertainty over the valuation basis could result in potential unfair treatment of investors.

Next Steps

SWFAL will continue to closely monitor the situation and will contact investment managers where required.

Appendix 1 - References

- FCA Consultation Paper CP19/12 - Consultation on Investment Platforms Market Study.
- FCA Policy Statement PS19/29 - Making transfers simpler - feedback to CP19/12 and final rules.
- Bank of England / FCA Discussion paper (DP01/18 / DP18/04) - Building the UK financial sector's operational resilience.
- FCA Policy Statement (PS19/24) - Illiquid assets and open-ended funds and feedback to Consultation Paper CP18/27.
- FCA website - <https://www.fca.org.uk/firms/senior-managers-certification-regime> (last updated 09/12/2019)
- Financial Regulation Weekly Bulletin (issue 1037) - Protection of whistleblowers.
- FCA - Dear CEO Letter, Our Alternative Supervision Strategy.
- FCA Guidance Consultation - Guidance for firms on the fair treatment of vulnerable customers (GC19/3)
- FCA - Asset management reporting tools (last updated 14/01/2020) - www.handbook.fca.org.uk/handbook/COLL/7/2.html
- <https://www.fca.org.uk/news/press-releases/next-steps-libor-transition-2020-time-act-now>
- <https://www.fca.org.uk/publication/correspondence/dear-ceo-asset-management-libor.pdf>

Important information:

This publication is for existing clients only. This publication may only be distributed in the UK and in the countries where its distribution is legally permitted. This publication is not directed to any person in any jurisdiction where (by reason of that person's nationality, residence or otherwise) such publications are prohibited.

Views and opinions expressed herein are not intended to be and should not be viewed as advice or as a recommendation and are valid as at 28th February 2020. This document contains sources of information believed to be reliable but no guarantee, warranty or representations, express or implied, is given as to their accuracy or completeness. Smith and Williamson Fund Administration Ltd (SWFAL) accept no obligation to any recipient to update or correct any information contained herein.

This document is for your information only and does not constitute an analysis of all potentially material issues nor does it constitute a solicitation, an offer, a recommendation or an invitation by, or on behalf of SWFAL to buy or sell any investment. Documents published by SWFAL may contain future statements which are based on our current opinions, expectations and projections. SWFAL undertakes no obligation to update or revise any future statements.

Actual results could differ materially from those anticipated. SWFAL, any of its associated entities or other persons shall not be liable for any direct, indirect, special, incidental, consequential, punitive or exemplary damages, including lost profits arising in any way from the information contained in this communication.

This communication is for the use of the intended recipients only and the contents may not be reproduced, redistributed, or copied in whole or in part for any purpose without the prior express consent from SWFAL. This document has been issued by Smith & Williamson Fund Administration Limited, registered under company number 01934644, located at 25 Moorgate, London, EC2R 6AY and authorised and regulated by the Financial Conduct Authority under registration number 122401.

smithandwilliamson.com

Our offices: London, Belfast, Birmingham, Bristol, Cheltenham, Dublin (City and Sandyford), Glasgow, Guildford, Jersey, Salisbury and Southampton.

Smith & Williamson Fund Administration Limited Authorised and regulated by the Financial Conduct Authority.

We have taken great care to ensure the accuracy of this publication. However, the publication is written in general terms and you are strongly recommended to seek specific advice before taking any action based on the information it contains. No responsibility can be taken for any loss arising from action taken or refrained from on the basis of this publication. © Smith & Williamson Holdings Ltd 2020. Code 43520lw. Exp: 30/06/2021.