

# Stop Press

**November 2023**

**In November, the FCA published its regulatory fees and levies Consultation for 2024/25, in which it proposes a widening of the FOS fees calculation and published two speeches focusing on culture and conduct and the benefits for culture of greater diversity.**

**As well as other key items, this edition also includes updates in relation to the FSCS November Outlook, and a background notes document published by the Prime Minister's Office in relation to the King's Speech.**

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### FCA delivers a speech: Consumer Duty is not a once and done exercise – FCA 1<sup>st</sup> November 2023

Nisha Arora, the FCA's Director of Cross Cutting Policy and Strategy, [gave a speech](#) marking three months since the Duty came into force. The FCA stressed that the Duty is not something where firms can tick the Consumer Duty box on a to-do list and move on, rather something that needs to become part of “who you are as a firm, your culture, and how you do business”, from Board to front-line delivery, and from product design to communications and customer support.

The FCA wants to see firms learning and improving continuously. If firms have not looked in detail at their customers' experience, and are not monitoring outcomes for customers, including different groups, on an ongoing basis, the FCA will see this as an indication that firms have not got to grips with the Duty.

Firms will need to make sure, and be able to show the FCA, that they are delivering good consumer outcomes. This will include firms' implementation plans, data and monitoring, internal assessments, and how firms are preparing for the closed products deadline of 31<sup>st</sup> July 2024. It will also include a firm's annual review and approval of an assessment of whether it is delivering good outcomes.

For more information, [click here](#).

### FCA confirms that the 'Approver Permission' application window is open and publishes several application-related forms – FCA 6<sup>th</sup> November 2023

The FCA has updated its [web page](#) in relation to the new 'Approver Permission' to confirm that the application window is now open, and has published a number of Forms and Notes documents in relation to applying for the Approver Permission.

The application window runs from 6<sup>th</sup> November 2023 to 6<sup>th</sup> February 2024. The documents published include:

- ⇒ a [VoP form](#) to add the Approver Permission:
- ⇒ a [Notes document](#) in relation to that form:
- ⇒ a [form to be used by applicants](#) who wish to add the Approver Permission to their existing new authorisation application:
- ⇒ a [Notes document](#) to accompany that form; and
- ⇒ a [spreadsheet](#) to detail financial promotions as part of new authorisation or VOP application.

**This will not affect authorised firms (referred to as 'authorised persons' in the [Policy Statement](#)) that only approve:**

- ⇒ **their own financial promotions (“FPs”) for communication by an unauthorised person (including their ARs and IARs) – so FPs about the authorised firm itself;**
- ⇒ **their own FPs that they intend to use and communicate themselves;**
- ⇒ **the FPs of their Appointed Representatives (ARs – including IARs) – so FPs about the AR or IAR, for the regulated activities the Principal firm has accepted responsibility for; or**
- ⇒ **the FPs of unauthorised persons within their corporate group.**

[Annex 2 of the Policy Statement sets out the question set that will be used in the VoP application form to add the 'Approver Permission'.](#)

An example of where the Approver Permission may be required is an authorised firm which is asked to approve a financial promotion for an unauthorised firm, where that financial promotion has been designed and produced by the unauthorised firm.

For more information, [click here](#) and [here](#).

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### **FCA publishes a transcript of its webinar on diversity and inclusion in the financial sector – FCA 3<sup>rd</sup> November 2023**

The FCA has [published a transcript of a webinar](#) which took place on 30<sup>th</sup> October 2023 “Diversity and inclusion in the financial sector – working together to drive change”. It was hosted by the FCA, and included representation from the FCA and the PRA discussing the diversity and inclusion consultations that the regulators published in September.

For more information, [click here](#).

### **FCA sends letter to banks, building societies and large investment firms to highlight areas to consider when setting their remuneration policies and practices – FCA 30<sup>th</sup> October 2023**

The FCA has sent a letter to Remuneration Committee Chairs for ‘level one’ (larger) firms, highlighting areas for them to consider when setting their remuneration policies and practices. Although this letter will not impact most insurance firms directly, the messages the FCA highlights are relevant across all sectors.

The FCA is reminding firms of their obligations to ensure that remuneration policies and practices continue to incentivise a consumer-centred approach that ensures good outcomes for consumers across all products and services.

For more information, [click here](#).

### **FCA publishes its financial promotions quarterly data for Q3 2023 – FCA 3<sup>rd</sup> November 2023**

The FCA [has set out a summary](#) of data generated between 1<sup>st</sup> July 2023 and 30<sup>th</sup> September 2023 from its actions against firms breaching financial promotion rules, and referrals and investigations into unregulated activity.

- The interventions in Q3 2023 resulted in 5,310 promotions being amended or withdrawn by authorised firms.
- The FCA issued 488 alerts on unauthorised firms and individuals; 11% of these were clone scams.
- 14% of the financial promotions reviewed for authorised firms were from the general insurance sector.

For more information, [click here](#).

### **FCA publishes a transcript of, and responses to unanswered questions from, its Annual Public Meeting – FCA 26<sup>th</sup> October and 17<sup>th</sup> November 2023**

The FCA has [published a transcript](#) of its Annual Public Meeting, which took place on 4<sup>th</sup> October 2023. The meeting is now [viewable on demand](#). The FCA [has also published](#) a 35-page document providing answers to questions from the Annual Public Meeting which were not answered on the day.

There were 101 questions in all, with many of them being grouped together with one response being provided to the group of questions.

The questions covered many topics and issues including the Consumer Duty, multi-occupancy buildings cladding issues, issues in relation to a number of failed firms, anti-money laundering, Appointed Representatives, FCA operations oversight, enforcement, fraud, the regulatory approach, and whistleblowing.

For more information, [click here](#) and [here](#).

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### FCA publishes the results of its fraud controls and complaints-handling review – FCA 7<sup>th</sup> November 2023

The FCA has published a [press release](#) and a [report](#) following a review of certain firms' fraud controls and complaint handling. Although the report found examples of good practice, the FCA was disappointed with the way some firms supported customers who were the victims of fraud. The review, and report, focus on Authorised Push Payment (APP) fraud, but several of the findings and FCA comments can be applied to any firm in relation to financial crime controls.

The review found:

- Firms can do more to strengthen their systems designed to detect and prevent fraud.
- Management information and actions are often focused on commercial risk appetite, rather than customer impact and treatment.
- There is not enough focus on delivering good consumer outcomes in many firms.
- Some firms could do more to improve the support they offer to victims of fraud.
- Poor complaint handling, including firms often taking too long to respond. Customers were provided with decision letters that were sometimes unclear, confusing, or included unhelpful and, on occasion, accusatory language.
- Firms are not fully considering characteristics of customer vulnerability when making decisions about fraud claims and complaints.

For more information, [click here](#).

### FCA publishes its latest Authorisations division operating service metrics – FCA 15<sup>th</sup> November 2023

The FCA [has published](#) its latest Authorisations division [operating service metrics](#) for Q2 2023/24. The data shows that:

- eight metrics are green, six are amber and two are red; and
- 96.8% of applications across all metric areas were determined within the statutory deadline.

For more information, [click here](#).

### FCA publishes its regulatory fees and levies Consultation for 2024/25 – CP23/22 – and proposes a widening of the FOS fees calculation – FCA 21<sup>st</sup> November 2023

The FCA [has published](#) its plans for how it will raise [fees for 2024/25](#), including proposed policy changes.

Each chapter in the Consultation Paper covers a specific policy area, and the Consultation includes a [table to illustrate which sections are relevant to which firms](#). In particular, firms paying levies for the Ombudsman Service (FOS) and the FSCS should read Chapter 6.

- The FCA is proposing to widen the key definition of 'relevant business' (for the purposes of calculating the FOS levy) to include **"business conducted with all customers eligible to complain to the Ombudsman Service, not just consumers (as currently defined)."**
- The FCA will provide some clarifications in relation to what will make up the 'annual eligible income' to be declared in relation to the FSCS levy.
- The FCA will consult next April on uprating all ten Application category fees – so application fees are likely to rise across the board.
- The FCA minimum fee will continue to increase in line with plans previously set out, and will rise by £250 to £1750 for 2024/25.

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- The minimum fees for Limited Permission consumer credit firms (based on regulated revenue bands) will increase by between £100 and £250, and full Permission consumer credit firms will see their minimum fees increase by £250 in all three revenue categories (see the Table 2.1 on pages 10 and 11 of the [Consultation](#)).
- Changes are proposed in relation to paying fees by cheque, and in relation to Primary Information Providers (PIPs).
- A change is proposed to the proxy income measure for certain consumer credit firms, with a planned removal of the Bank of England base rate element of the proxy measure percentage calculation. The result will be that the proxy measure percentage will be fixed at 5%.

The closing date for responses is **16<sup>th</sup> January 2024**.

For more information, [click here](#).

### **FCA publishes a speech: “Building firm foundations for healthy cultures” – FCA 20<sup>th</sup> November 2023**

The FCA has published a speech by Sheree Howard, FCA Executive Director of Risk and Compliance Oversight, delivered at the XLOD Global London event on 15<sup>th</sup> November 2023.

The highlights of the speech were:

- Heightened financial pressures mean making careful judgements around risk but this should not mean dropping standards.
- A firm's ‘three lines of defence’ should be separate but cohesive.
- Creating a culture of fearlessness, not fear, where employees can speak up and employers listen, is vital for healthy cultures.
- An organisation with a lack of diversity, equity and inclusion is at much greater risk of not having a healthy culture.

The speech urged firms to update their risk assumptions, outlining how risks can morph and transform. “What may start as conduct, operational, or reputational risk can swiftly transform into liquidity or solvency risk. And in the event of liquidity or solvency challenges, there are often new conduct, operational or reputational challenges to manage.”

For more information, [click here](#).

### **FCA publishes a speech: “How to flex your organisation’s power through culture and conduct” – FCA 23<sup>rd</sup> November 2023**

The FCA has published a speech (the second in a week in relation to firms’ culture) by Emily Shepperd, FCA Chief Operating Officer and Executive Director of Authorisations at, City & Financial's Culture and Conduct Forum held on 23<sup>rd</sup> November.

The speech addresses how to build a healthy culture, and makes the point (also made in the earlier speech by Sheree Howard) that one place to start is diversity and inclusion, particularly the ‘inclusion’ aspect. The speech references other recent DE&I work carried out by the FCA.

The speech goes on to address culture and conduct in the context of building an inclusive environment, putting customers at the centre, reducing costs and adding value, finding opportunities from new technology, and finishes with a summary of what conduct means to the FCA.

For more information, [click here](#).

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## FCA publishes a Call for Input: Potential competition impacts of data asymmetry between Big Tech and firms in financial services – FCA 24<sup>th</sup> November 2023

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The FCA [has published](#) a Call for Input, looking to gather focused information and evidence on whether the potential competition impacts of the data asymmetry that exists between ‘Big Tech’ (e.g., Amazon, Google, Microsoft etc) and firms in the financial services sector could lead to Big Tech firms gaining entrenched market power in financial services.

- Financial services firms typically have access to data related to individuals and their finances, which has traditionally been used to provide financial products and services to consumers.
- The increasing digitalisation of financial services, accelerated after the Covid-19 pandemic, has empowered data and technology to drive changes in financial services markets, producing new products and ways for firms to engage with their customers.
- Big Tech firms have access to a variety of customer data collected or stored on their platforms which, when used (including when they are combined with new sources of financial data facilitated by data-sharing policy initiatives) may place incumbent financial services firms and other new entrants at a significant competitive disadvantage that potentially reduces competitive pressure in the longer term to the detriment of consumers.
- The FCA is keen to understand the positive benefits that the use of ‘Big Data’ may bring.
- A full copy of the questions on which the FCA is seeking input can be found in Annex 1 of the [Call for Input](#).

The deadline for feedback is **22<sup>nd</sup> January 2024**. The FCA intends to report back on the Call for Input in Q2 2024, when it will set out its analysis of the evidence it receives and any subsequent action it may take.

For more information, [click here](#).

## PRA publishes a Discussion Paper DP 2/23 “FSCS General Insurance Limit” – PRA 2<sup>nd</sup> November 2023

The Prudential Regulation Authority (PRA) has published a Discussion paper DP2/23 about the FSCS general insurance (GI) limit. The DP seeks feedback on whether it would be appropriate to increase FSCS limits for some or all of the GI areas currently protected at 90%.

Currently there is no accompanying FCA publication.

This DP sets out the PRA’s analysis of those areas of GI where the PRA has identified that additional FSCS coverage could be warranted to secure an appropriate degree of policyholder protection, and possible options to remedy this. A number of scenarios, insurance products and potential options are discussed.

In carrying out its analysis, the PRA identified that the current definition of ‘small business’ set out in the Policyholder Protection Part of the PRA Rulebook may no longer be appropriate.

This DP outlines the issue with the current definition and a possible approach to changing it. If the definition is widened, then potentially more commercial customers will become eligible for FSCS protection and this will impact the eligible income on which firms’ FSCS levy is calculated, leading to higher regulatory fees.

For more information, [click here](#).

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## **FSCS publishes its November Outlook – no additional insurance distribution levy this year – FSCS 8<sup>th</sup> November 2023**

The [FSCS November Outlook](#) includes the [latest update on the annual levy for 2023/24](#). It [also provides an early indication](#) of the expected compensation costs for 2024/25 and the associated industry levy. The FSCS Outlook archive was also mentioned.

Currently, the FSCS expects total compensation payments this year will be £435m, a reduction of £36m from the last forecast published in May. **The initial levy forecast for the 2024/25 financial year** is £415m. This figure is an early indication and subject to change. It is based on FSCS expected compensation costs totalling approximately £457m during 2024/25.

Although the levy is expected to increase in 2024/25, due to the lower surpluses carried over from the previous financial year, compensation costs remain relatively stable. For the most recent three years, including the forecast for 2024/25, compensation is between £400m – £460m.

The implications of these details for insurance distributors are that there will be no additional levy requirement in the current 2023/24 financial year, and there is not expected to be any additional levy in 2024/25.

For more information, [click here](#).

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## **ICO publishes Data Security Trends for April to June 2023 – ICO 1<sup>st</sup> November 2023**

The ICO publishes statistics regarding data security breaches, and the information is published to help organisations understand what to look out for and help them to take appropriate action.

Data security incidents occur when organisations do not have “appropriate technical or organisational measures” to protect the personal data they hold. They are a major concern for those affected and a key area of action for the ICO. Organisations are required to report breaches within 72 hours of discovery.

The figures are reported in an embedded dashboard based on the number of reports of personal data breaches notified up to Q2 2023. The data is presented in calendar years and quarters.

- During April to June 2023:
  - 2,893 incidents were reported to the ICO.
  - Ransomware was the most common incident type reported (17% of incidents reported).
  - Finance, insurance and credit was the most common sector for incidents (17% of total reported).
  - 40% of incidents involved the personal data of fewer than 10 people.

For more information, [click here](#).

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**Prime Minister's Office releases a copy of the King's Speech and an accompanying 'background briefing notes' document – HM Government 7<sup>th</sup> November 2023**

The Prime Minister's Office has published a [background briefing notes document](#) in relation to the King's Speech, alongside a [copy of the speech itself](#). One item of note is the background information in relation to the Leasehold and Freehold Reform Bill, which has now been published.

The Bill is designed to meet the government manifesto commitments on leasehold reform. It will make the long-term and necessary changes to improve homeownership for leaseholders in England and Wales, by making it cheaper and easier for more leaseholders to extend their lease, buy their freehold, and take over management of their buildings.

The Bill seeks to require transparency over leaseholders' service charges – so all leaseholders receive better and more transparency information about the costs they are being charged by their freeholder or managing agents in a standardised compatible format and can scrutinise and better challenge them if they are unreasonable.

**Critically, the Bill will seek to replace buildings insurance commissions for managing agents, landlords and freeholders with transparent administration fees, to stop leaseholders being charged opaque commissions on top of their premiums (see page 45 of the notes).**

For more information, [click here](#).

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This information is a summary of matters which will affect the majority of firms involved in insurance distribution. However, each firm's requirements are individual and it is important to seek specific advice from ICS before acting on anything contained in this publication .

(SP November Issued 11/12/2023) ©2023 Insurance Compliance Services Ltd

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