

Regulator Assessment: Qualifying Regulatory Provisions

Title of proposal: Thematic Review 15/13: Flows of Confidential and Inside Information

Lead regulator: FCA

Date of assessment: September 2016

Commencement date: 2016

Origin: Domestic

Does this include implementation of a Cutting Red Tape review? No

Which areas of the UK will be affected? N/A

Brief outline of proposed new or amended regulatory activity

The FCA made an information request and conducted on-site visits to firms to assess how well and consistently they were implementing existing FCA rules and guidance. In order to support firms in their annual reviews and improvement programs for their infrastructure, we subsequently wrote to each firm telling them if they were meeting the existing rules and noting any areas considered to be weak. We also published a general report to industry reminding them to adhere to existing rules and describing some good and poor practice that we observed across the peer group.

We found that the degree of adherence to the rules was good with no serious breaches requiring significant action. Senior management was reminded to consider periodically whether their existing processes continued to be sufficiently robust and take their own decisions as to whether they wished to strengthen one area or another in response to external market developments or to internal expansion or change of their business model.

Firms were very interested to know how their practices compared to those of their immediate peers and this was addressed in a generalised manner via our private and public feedback.

Which type of business will be affected? How many are estimated to be affected?

Generally, all business activity in wholesale financial services that entails the handling of private (i.e. non-public) information would be mindful of the FCA rules. We estimated that about 500 firms might be sufficiently engaged in debt capital market activity to prompt a careful reading of our Thematic Review.

Price base year	Implementation date	Duration of policy (years)	Business Net Present Value	Net cost to business (EANDCB)	BIT score
2016	2016	10	-4	-0.4	2.0

Please set out the impact to business clearly with a breakdown of costs and benefits

The intention of the thematic review and report was to (a) provide a status report to firms on their implementation of existing rules, (b) remind firms of the need to periodically review their business in the context of existing rules and (c) provide comparative feedback to individual firms as to how their infrastructure compared to their immediate peers. No new rules or additional Guidance was introduced by this work as regards the FCA's approach and requirements. All feedback was consistent with existing requirements and what the FCA had already communicated directly to industry and individual firms.

No particular systematic breaches were identified that would trigger a need for significant direct investment across the industry or at any individual firms. Conducting a gap analysis on existing processes versus best practice standards would not be burdensome. Firms may choose to continue with their existing processes or strengthen existing systems as they deem appropriate.

Examples of how firms might reasonably respond to our observations include: emphasising in their next staff communication the importance of handling confidential information carefully; emphasising several more aspects of confidential information processing or updating policy manuals to make some references less legalistic and more user friendly. The incremental costs of these optional changes would be de minimus.

Although the relevant rules require reviews of the documentation there will be a cost to firms to consider whether they are complying with the rules, and our report is likely to involve firms in additional activity beyond BAU. This would include familiarisation with the reports contents and a gap analysis of their existing processes plus any rectification required.

We assume impact for 500 firms, as a proxy for the mid-size advisory industry. We estimate that familiarisation with the report or feedback letters (if received) and a gap analysis versus existing procedures would cost an average of £8,000/firm (20 days @£400/day). We considered 20 days @ £50/hour for a middle level contractor as an appropriate amount of time for reading, some policy updating, checking and training/communication. There are no other material, salient factors that can be reasonably quantified. It should be noted that firm senior management has a responsibility to periodically review systems and controls and the effort noted above is part and parcel of such a review rather than supplementary work. Incremental changes arising from our report would be de minimis.

From a qualitative standpoint, it can reasonably be expected that, with relation to confidential information, firms will undertake periodic if not annual reviews to assess and improve the quality of processes, controls and related staff training as well as apply renewed vigour to the oversight of confidential information. This is to reflect changes in the industry, target markets or the firm itself (e.g. expansion, new products) rather than regulations. This effort will have the wider impact of helping to improve overall integrity of the UK market.

Please provide any additional information (if required) that may assist the RPC to validate the BIT Score.

<https://www.fca.org.uk/publication/thematic-reviews/tr-15-13.pdf>