

## Regulator Assessment: Qualifying Regulatory Provisions

**Title of proposal:** Whistleblowing in deposit-takers, PRA-designated investment firms and insurers (FCA PS15/24)

**Lead regulator:** FCA; PRA

**Date of assessment:** 10 November 2016

**Commencement date:** 7 September 2015

**Origin:** Domestic

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

**Which areas of the UK will be affected?** Whole of UK

### Brief outline of proposed new or amended regulatory activity

Individuals working for financial institutions may be reluctant to speak out about bad practice for fears of suffering personally as a consequence. Mechanisms within firms to encourage people to voice concerns – by, for example, offering confidentiality to those speaking up – can provide comfort to whistleblowers.

We have implemented a package of rules designed to build-on and formalise examples of good practice of whistleblowing already found in the financial services industry. These rules aim to encourage a culture in which individuals raise concerns and challenge poor practice and behaviour.

Final rules were released in October 2015; with firms given until September 2016 to implement the new changes.

We now require relevant firms to:

- Put internal whistleblowing arrangements in place that are able to handle all types of disclosure from all types of person
- Tell UK-based employees about the FCA and PRA whistleblowing services
- Require its appointed representatives and tied agents to tell their UK-based employees about the FCA whistleblowing service
- Inform the FCA if it loses an employment tribunal case with a whistleblower
- Present a report on whistleblowing to its Board at least annually.

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

The rules affect:

- UK deposit takers with assets of £250m or greater, including banks, building societies and credit unions; and
- PRA-designated investment firms; and
- insurance and reinsurance firms within the scope of Solvency II (the EU Insurance prudential Directive), and to the Society of Lloyd's and managing agents.

These rules affect approximately 1,500 firms in total.

Price base year	Implementation date	Duration of policy (years)	Business Net Present Value	Net cost to business (EANDCB)	BIT score
2016	2016	10	-160.1	17.8	89.0

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

Many firms will already have whistleblowing services, although most will need to create the position of whistleblowers' champion.

Services like whistleblowing lines and escalation systems are activities that are for sale to financial firms from third-party providers; this gives a market value for such services' costs. We have spoken to several providers of whistleblowing lines, and, on the basis of these discussions, estimate that firms pay up to £15 per member of staff each year. According to data published by the British Bankers' Association, Building Societies Association and Association of British Insurers, deposit-takers and insurers in the UK collectively employ about 570,000 people. It follows it would cost about £8.5m annually to offer internal reporting arrangements to all these potential whistleblowers. This represents an upper threshold to the estimated collective cost to the industry of running whistleblowing arrangements. Because many firms already have whistleblowing arrangements in place, not all of these costs will be new.

Providing training on whistleblowing (including telling staff about the FCA and PRA whistleblowing services) will also lead to costs. If training were to occupy twenty minutes for each member of staff per year, and if one full-time member of staff costs £290 a day, then, across 570,000 people, that suggests training costs £7.9m a year. This can be seen as a conservative estimate because staff are likely to be trained on whistleblowing less frequently than annually.

Firms will incur other costs from overseeing whistleblowing procedures; the job of the whistleblowers' champion involves performing a number of duties that are not done at present. We estimate the champion and his supporting staff (performing tasks not captured above, and not performed already, such as preparing an annual report about whistleblowing) will, on average, collectively expend five man-days of labour a year. (This figure may be substantially higher in a large institution, but lower in smaller organisations). This amounts to 7,500 man days in total across the industry; this suggests the cost to these firms will amount to £2.2m a year.

One of our proposals is that firms inform the FCA when an employment tribunal they contest finds in favour of a whistleblower. A review of employment tribunal judgments at the public register found this to be an infrequent occurrence; consequently, we believe the requirement will have negligible ongoing costs.

Firms will face one-off set-up costs implementing our proposals. Firms will need to prepare training material for staff and include clarifying text in settlement agreements and employment

contracts; we anticipate the additional costs of doing this will not be significant in the context of ongoing work to provide training to staff and keep training material, internal procedures and template contracts up-to-date.

Our estimates so far apply to the industry as a whole, although costs will differ markedly between firms. Table 1 shows illustrative examples of how firms of different sizes may be affected. Note these are indicative and not based on any specific institutions.

**Table 1: Illustrative examples of costs for firms of different sizes**

	<b>Large firm (e.g. 10,000 staff)</b>	<b>Medium firm (e.g. 500 staff)</b>	<b>Small firm (e.g. 50 staff)</b>
Number of whistleblowing reports annually	Over one hundred	Over a dozen	One or two
Incremental annual cost of running whistleblowing arrangements	£140,000 (2 FTE)	£9,000 (30 man days)	£900 (3 man days)
Incremental annual cost of training staff	£125,000 (450 man days)	£6,000 (20 man days)	£1,000 (25 man hours)
Incremental annual cost of overseeing effectiveness of whistleblowing arrangements	£15,000 (0.2 FTE)	£6,000 (20 man days)	£600 (2 man days)
Total annual costs	£280,000	£21,000	£2,200
One-off set up costs (e.g. reviewing employment contracts, settlement agreements, staff handbooks, training material, etc.)	£70,000 (1 FTE)	£6,000 (20 man days)	Negligible

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

Please see the following link to CP 15/4 which has the CBA from which the above costs are estimated: <https://www.fca.org.uk/publication/consultation/cp15-04.pdf>