

# FCA Business Plan 2018/19 reveals regulator priorities and cost of focus on EU Withdrawal work

The UK's Financial Conduct Authority ('FCA') published on 9 April 2018 its Business Plan 2018/19 ('Plan'), a wide-ranging document detailing the areas of work the regulator will focus on over the coming financial year. The FCA's priorities include the delivery of the revised Payment Services Directive ('PSD2') in the UK and a number of measures around anti-money laundering ('AML') and tackling financial crime, including raising awareness of fraud and scams through the FCA's ScamSmart communications campaign and publishing its findings in regard to money laundering in the e-money sector.

Under the heading of 'Innovation, big data, technology and competition,' the FCA has announced *inter alia* that it intends to publish new crowdfunding rules for consultation in 2018, as the latest step in its work to further refine the UK's crowdfunding regime to address areas of concern. The FCA is also moving forward with its previously mooted global regulatory sandbox, noting in the Plan that it now intends to work with interested regulators in order to develop a blueprint.

"The chosen priority areas are the correct ones, however, given that the FCA has listed so many priority areas, and with its current resourcing concerns, it is difficult to see how it can adequately meet its objectives in relation to all of these priority areas," said Luke Scanlon, Head of Fintech Propositions at Pinsent Masons LLP. "It is understandable that the FCA wants to address all of the issues that it has identified - however, addressing even one of these issues in only a cursory way, may have negative impacts for the market."

"In relation to FinTech and innovation, much of the Plan is not rocket science - the greater application of RegTech to firms and reviewing cryptocurrencies alongside the Bank of England included," notes Fiona Ghosh, Partner at Addleshaw Goddard LLP. "However, it is interesting to see that the regulator is finally waking up to the obvious point that FinTech, by its nature, cannot be simply domestically bound - therefore, the FCA acknowledges that its regulatory sandbox should consider the benefits of cross-border testing which would increase the speed at which startups could grow and establish across many markets simultaneously. This approach truly would foster innovation and growth and should be encouraged, especially at a time when so much focus relates to the UK's position of extracting itself from its neighbours."

In the Plan the FCA flags as an objective the development of a 'payments sector strategy,' noting the need to identify the key

players and trends that have the potential to cause harm to the payments system as and when they appear. Although the exact shape of this strategy is as yet unclear, the FCA highlights that it will work to develop interventions in the area of preventing payment fraud, making use of evidence provided by consumer body Which? to the Payments Systems Regulator as part of this work. "It is not clear that the FCA is committed to developing an outward looking strategy that focuses on rationalising payment systems from a global perspective," comments Scanlon. "It is key that this piece of work integrates that of other supervisory and industry bodies in order for it to have a positive impact and takes into account the international perspective."

In his introduction to the Plan FCA Chair Charles Randell notes that the year ahead is a "challenging one for the regulator," while, also in writing an introduction to the Plan, FCA Chief Executive Andrew Bailey highlighted that the need to devote substantial resource to EU Withdrawal has resulted in limitations as to the work the FCA can carry out elsewhere.

"Clearly a balancing act has to be made given finite resource, money and time. The FCA has identified £30 million of additional costs due to Brexit, much of which will be funded by the sector. So-called non-critical areas, such as the proposal for a digital archive of UK corporate filings, will be dropped, or at the very least, postponed. The FCA's ability to take on new initiatives will also be challenged," believes Tim Wright, Partner at Pillsbury LLP. "To date, much of the immediate focus of financial services firms has, rightly, been planning for a 'cliff edge' - or hard Brexit - on March 2019; however the FCA, and the firms it regulates, have been handed some respite with the 'political' agreement reached for a short standstill period, through to the end of 2020, during which the current authorisation regime and passporting rights will be maintained. But, as European Commission President Jean-Claude Juncker is fond of saying, nothing is agreed until everything is agreed."