

FCA Enterprise Act

Annual Report 2021/22

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1 Introduction

Our regulation affects consumers, businesses and the UK economy. We have a strategic objective to ensure that financial markets work well. We have operational objectives to protect consumers, maintain market integrity and promote competition in the interest of consumers. We serve the public interest by improving how markets and firms work to benefit those that use them – consumers and businesses.

Earlier this year, we published our 3 year strategy, where we set out how we are now focusing on results rather than being driven by processes. It sets out the outcomes we expect all firms to deliver across our markets and highlights our commitments in 3 key areas:

- reducing and preventing serious harm
- setting and testing higher standards
- promoting competition and positive change

We are required by the Financial Services and Markets Act 2000 (FSMA) to report to Parliament at least annually on our overall performance through our Annual Report. We published our 2021/22 Annual Report on 17 July 2022.

Our obligations under the Small Business, Enterprise and Employment Act 2015 (the Act), as amended by the Enterprise Act 2016 (the Enterprise Act), provide additional transparency over the cost of our regulation to business.

Under the Act, we have a statutory duty to publish a range of information. We are required to report on statutory provisions that we make which impose/ amend a requirement, restriction or condition, set/amend standards, give/amend guidance for business, or relate to securing compliance with, or enforcement of these requirements, standards and guidance. The Act classifies these activities as 'Regulatory Provisions' (RPs) under the Act. The information we are required to publish is:

- a. a list of qualifying regulatory provisions (QRPs) that came into effect or ceased to have effect during the relevant period
- b. impact assessments (IA) verified by the independent Regulatory Policy Committee (RPC) for those QRPs
- c. a summary of non-qualifying regulatory provisions (ie those regulatory provisions that fall within exclusions applying under the Act) which came into effect or ceased to have effect during the relevant period

This report covers the period 17 December 2021 to 16 December 2022.

Qualifying Regulatory Provisions (QRPs) and Non-Qualifying regulatory provisions (NQRPs)

There are 2 categories of regulatory provisions Qualifying Regulatory Provisions (QRPs) and Non-Qualifying Regulatory Provisions (NQRPs). We are required to publish an Impact Assessment (IA) for each QRP. These set out our assessment of the costs imposed on business by our regulatory provisions, according to a specified methodology, and must be validated by the RPC. There can be occasions where we amend a regulatory provision, and this creates benefits for business; these are assessed using the same methodology.

Most of the requirements we make fall within the scope of the Act. We treat these as qualifying regulatory provisions unless the requirements fall under one of the exclusion categories or the regulatory provision falls within one of the statutory exemptions listed in the written ministerial statement by the Secretary of State for Business, Energy and Industrial Strategy (BEIS). This allows us to have certainty about the exclusion categories for the following 5 years (unless an early General Election is called). Usually, BEIS release a new statement during the first year of a new parliament and it remains in place for the full term of the Parliament. Where a category of exclusion applies, the requirement is classified as a NQRP. The Government has set a net target of zero savings to business and voluntary or community bodies from qualifying measures that come into force or cease to be in force during this Parliament.

Cost benefit analysis (CBAs)

In addition to the IAs produced as part of the Act, we undertake CBAs. FSMA, as amended by the Financial Services Act 2012, requires us to publish a CBA of our proposed rules, subject to certain exceptions and exemptions. CBAs provide a broader perspective than Enterprise Act IAs. They analyse a broader range of costs and benefits, for example to consumers and society, in addition to the cost to business. Our CBAs also look at all direct and indirect effects of our interventions, whereas IAs focus only on the initial and direct impact on businesses.

2 Executive summary

Reporting under the Act provides an estimated cost to business created by regulation. This is captured by our QRPs. During this reporting period using the Government's specified methodology, our estimates indicate that a cost of £1,259.9m over the prescribed 5-year period has been created from our QRPs, as validated by the RPC. Of this £1,259.9m, £668.4m is a result of our Environmental, Social and Governance (ESG) sourcebook, which contains rules and guidance for asset managers and certain FCA-regulated asset owners to make disclosures consistent with the recommendations of the Taskforce on Climate-related Financial Disclosures (TCFD).

These rules form part of a broader strategic theme to promote transparency on climate change and wider sustainability along the value chain. As set out in our [Strategy for Positive Change](#), launched in November 2021, 'enhanced disclosures to clients and consumers will help them make more informed financial decisions – in turn enhancing competition between providers, protecting consumers from unsuitable financial product and encourage the flow of funds to more sustainable projects and activities'.

In developing our final rules and guidance, we also had regard to the Government's commitment to achieving a net zero economy by 2050. The transition to a net zero economy requires high-quality information on how climate-related risks and opportunities are being managed along the investment chain – from companies in the real economy, to institutional investors and to consumers. Better information will help clients and consumers make better-informed decisions about their investments. This should, in turn, help to enhance competition in the interests of consumers, protect consumers from buying unsuitable products, and drive investment towards greener projects and activities. There have been positive developments in climate-related disclosures. But the information needs of clients and consumers were not being met. We considered that regulatory intervention would accelerate progress.

By introducing disclosures consistent with the TCFD's recommendations, we intend to reduce potential harm arising from clients engaging firms that do not adequately manage climate-related risks and opportunities, and consumers buying unsuitable products. Without good transparency of how climate-related risks and opportunities are managed along the investment chain, competition may also be less effective and capital may be misallocated.

The estimated one-off costs are high; however, this equates to 0.002% of the £12.1 trillion in total assets under management of in-scope asset managers and asset owners; 0.001% on an ongoing annual basis.

The figures we provide by reporting under the Act do not give a complete picture of the costs and benefits of our interventions. Two examples of this are particularly relevant:

i. Wider costs and benefits

We concentrate our resources on markets and firms most likely to create consumer harm, damage market integrity or weaken competition. We consider both costs and benefits and seek to maximise the public value we provide to users of financial services.

The IAs we are required to complete under the Act give only a partial view of our work. They exclude the benefits our work provides to end users, and the trust this creates in financial markets. Similarly, our work on promoting competition and firm-specific supervision is not covered in this report.

In contrast, our published CBAs seek to capture our interventions' total costs and benefits. Our CBAs also look at significant direct and indirect effects of our intervention, whereas IAs focus on initial and direct impacts on businesses only.

With these important caveats in mind, this report only explains the costs and benefits created for business by QRPs during this reporting period as required under the Act. We do not report on the benefits our interventions have created for consumers, and, more broadly, for the standards and reputation of businesses and markets.

ii. Our use of NQRPs

Most of the work we do within the scope of the Act is recorded as NQRPs. This is because it will fall within one of the exclusion categories and is excluded from the requirement to complete an IA. The exclusions most relevant to our work are:

- de minimis threshold (annual net direct cost of less than £5m)
- regulator activities: regulator casework
- pro-competition measures
- European Union and international regulations, decisions and directives, including measures incorporating EU law into domestic law under the EU Withdrawal Bill and legislation made for the purpose of implementing the EU Withdrawal Agreement, including implementation of new EU law during the implementation period
- deficiencies in retained EU Law under the European Union (Withdrawal) Act 2018 and other legislation
- regulator activities: policy development
- systemic financial risk
- fines and penalties, and redress and restitution
- regulator activities: information, education and advice

While reporting under the Act does not require us to quantify the impact of NQRPs, most of the activities provide significant benefits to users of financial services and create costs for businesses. NQRPs during this reporting period include:

- regulator activities: regulator casework

- regulator activities: policy development
- falling under the de minimis threshold
- systemic financial risk
- fines and penalties, and redress and restitution
- regulator activities: information, education and advice

We summarise the NQRPs introduced during the reporting period later in this report. The number and size of NQRPs make it disproportionate for us to list them individually.

3 Qualifying Regulatory Provisions (QRPs)

We have produced 4 QRPs during the reporting period. These QRPs are summarised below and detailed information on each QRP can be found in the IAs published alongside this report. The costs and/or benefits of the QRPs validated by the RPC for this reporting period are in Annex 1.

The IAs will contain links to the relevant Policy Statements (PSs) and Consultation Papers (CPs), which contain more detailed information from the CBA that was conducted for each measure.

PS21/8: Regulation of funeral plans

In January 2021, the Government legislated to bring pre-paid funeral plans into our regulation following concerns raised about the conduct of some pre-paid funeral plan providers.

Our rules seek to address the harms associated with practices employed by some firms in the market, including:

- plans that do not meet customers' needs/ expectations eg: instalment plans that do not guarantee a funeral
- rise of high-pressure sales tactics by some intermediaries, including cold calling of potentially vulnerable customers
- high rates of commission & fees, leading to consumers paying high prices
- poor governance & controls within plan providers and conflicts of interest where an intermediary gets a high commission
- poor financial management of trusts, causing deficits and potentially poor outcomes for customers if firms fail
- plans going unclaimed because customers' families were unaware

The rules we introduced form part of the regulatory regime for the funeral plan sector. This should improve outcomes for customers in this sector, with better value products, sales practices and controls in place so consumers can be confident that will receive a funeral they expect.

Climate-related disclosures

In December 2021, we published 2 PSs confirming new climate-related disclosure requirements for standard listed companies and regulated firms. The rules are designed to help ensure that the right information on climate-related risks and opportunities is available along the investment chain – from companies in the real economy, to financial services firms, to clients and consumers. We expect this to strengthen competition in the interests of consumers, protect them from buying unsuitable products and drive investment towards greener projects and activities.

PS21/23: Enhancing climate-related disclosures by standard listed companies

For accounting periods beginning on or after 1 January 2022, issuers of standard listed shares and standard listed issuers of Global Depositary Receipts representing equity shares must now include a statement in their annual financial reports setting out whether their disclosures meet the recommendations of the Taskforce on Climate-related Financial Disclosures (TCFD). If they do not, they need to explain why. This follows the introduction of our rule for premium-listed commercial companies in December 2020 ([PS20/17](#)).

PS21/24: Enhancing climate-related disclosures by asset managers, life insurers and FCA-regulated pension providers

FCA-regulated asset managers and asset owners must make disclosures about how they take climate-related risks and opportunities into account in managing investments, and about the climate-related attributes of their products. These rules are being phased in and this started with the largest firms as from 1 January 2022.

PS22/11: Improvements to the Appointed Representatives regime

Our rules seek to address potential risks of harm to consumers and markets arising from the Appointed Representatives (AR) regime. This regime allows self-employed representatives to engage in regulated activities without having to be authorised. Our rules seek to ensure:

- principals understand their responsibilities in relation to ARs and maintain stronger and better oversight of them
- we can better challenge firms with, and those looking to appoint, ARs
- principals address problems with their ARs that are, or have the potential to, cause harm to consumers or markets
- consumers can access better quality information on principals and ARs and make good decisions when choosing products or services

4 Non-qualifying regulatory provisions (NQRPs)

As noted above, there are a number of exclusions which mean our work is considered an NQRP. These exclusions cover interventions that may create significant costs for businesses.

This chapter summarises our activities which are considered NQRPs and key examples of the exclusions we have applied.

There are 9 regulatory provisions that are recorded as NQRPs because they are covered by the de minimis rule. This means they have an estimated equivalent annual net direct cost to business of less than £5m. These measures include standalone policy changes, letters to firms, handbook notices etc. See Annex 2 for a full list of the NQRPs which fall under this exclusion.

Regulatory activities: regulator casework

By number, casework was the most common category of NQRP during the reporting period.

Our work means that we process applications for authorisation. For example, in this reporting period we have processed 3,056 applications for authorisation from firms (this includes applications which were approved, rejected and withdrawn). During this reporting period, we also processed 1,597 applications for approval of a change in control, 4,170 cancellations of permission and 644 individual waivers. We also varied 2,011 firms' permissions and processed 18,766 mutual societies' returns and applications.

Once firms are authorised, we undertake a range of supervisory activities. For example, during the reporting period we held approximately 2,610 meetings with our larger – fixed-portfolio – firms. While not all of these meetings would have resulted in RPs, the wide definition of guidance under the Act means individual guidance may often have been given.

In addition, as part of our supervision of our largest firms, we proactively intervene at an early stage where appropriate to make sure issues do not unnecessarily escalate. Since 17 December 2021 we identified 144 new Firm Specific Risks at our larger, fixed portfolio firms. Not all of these interactions would have involved giving specific guidance or imposing a requirement however, as above, it is likely many of them would have amounted to RPs under the Act.

Firms and individuals can phone, email and write to our us for individual help and guidance on regulatory processes, application of rules and other regulatory matters. For example, between December 2021 and November 2022, the contact centre took 116,175 phone calls from firms, answered 45,314 emails/web forms/ webchats and 581 letters

Over the period from 17 December 2021 to 31 October 2022, we closed 52 investigations about firms, and we opened 59. We also commenced 14 proceedings against firms (case moved to resolution stage). At the end of the period, we had 218 live investigations, of which 150 were at investigation stage and 23 were in litigation (referred to the Regulatory Decisions Committee, Upper Tribunal or Courts). Of these 68 cases:

- 18 at legal review stage
- 23 at litigation stage
- 1 on hold
- 3 post litigation stage
- 23 resolution stage

During the period, as a result of enforcement action, we cancelled the permissions of 157 firms, imposed a Public Censure on 2 firms, and issued 10 fines to firms.

'Own Initiative Requirements' (OIREQ) are part of the FCA's 'early intervention' programme. These initiatives are designed to eliminate or reduce an ongoing risk to consumers or markets. An OIREQ imposes a restriction on the firms' business activities. An 'Own Initiative Variation of Permission' (OIVOP) under section 55J FSMA enables the FCA to deal with fundamental failings in standards and culture by varying a firm's permission. Since 12 December 2021, we have achieved 18 OIREQs and 6 OIVOPs.

These figures exclude threshold conditions cases, where the firms against which we take enforcement action do not satisfy the FCA's minimum standards to remain authorised by the FCA to carry out regulated activities. They also exclude cases against individuals. This gives only some of the background of our work where we suspect serious misconduct has occurred. For more detailed information on our enforcement action, please see our 2021/22 [enforcement data](#).

For the first three quarters of 2022 we reviewed 1,170 promotions by authorised firms. Our engagement resulted in 4,609 amends/withdrawals. The majority of cases we receive are in the retail lending sector. We received 19,487 reports about potential unauthorised business and issued 1,351 alerts about unauthorised firms and individuals.

We have classified all this work as NQRPs on the basis that it falls within the exclusion for regulator casework. These figures also only relate to Sanctions/Restrictions/Requirements imposed in the reporting period due to enforcement action via published Press Release, statutory Final Notice, First Supervisory or Second Supervisory Notice.

Pro-competition measures

We have an operational objective to promote competition in the interests of consumers, a competition duty and powers to enforce against breaches of competition law. As a result, some areas of our work are usually covered by the pro-competition measures exclusion.

Our Competition work focuses on (i) in-depth, evidence-driven market studies, usually leading to remedies, and (ii) competition enforcement. In addition, competition issues cut across much of the FCA's work programme – we consider the competition implications of all our policy interventions.

Completed market studies

Market studies generally take 12-18 months. Following a market study, we typically make rules or take other action to make the market work better in the future.

In the 9 years since we gained competition powers, we have published 10 market studies final reports. These studies cross both retail and wholesale markets: the former in areas such as mortgages, general insurance, credit cards and retail banking; and the latter in areas such as investment and corporate banking, asset management and investment platforms.

In 2020 and 2021, our work was heavily reprioritised due to the coronavirus (Covid-19) pandemic, with a strong focus on protecting consumers during the challenging times. This significantly affected our competition work and led to some pieces of competition work being paused (for example, our Credit Information Market Study).

Our last completed market study was our General Insurance Pricing Practices Market Study and resultant remedies requiring firms to price renewing customers of motor and home insurance on the same basis as they price new customers. These changes came into effect on 1 January 2022. We are monitoring this intervention closely and will evaluate it fully in 2024. We estimated benefits of £4.2bn – £11.2bn from lower average prices for renewing customers.

Market studies underway

Having paused it due to the pandemic, we restarted our Credit Information Market Study in Summer 2021 and published the interim findings in November 2022. Credit information provides insight on a consumer's financial standing. It supports public policy objectives such as responsible lending and reducing financial crime. The credit information sector needs to work well to help ensure consumers receive fair value and access to appropriate and affordable credit. In our interim findings we said that we want to see higher quality and more complete credit information, so that lending decisions better reflect people's underlying financial circumstances. This should help make sure that consumers are not denied credit they could afford or given credit they can't afford. We have invited comments over three months on a range of industry-led changes, supported by regulatory intervention, to deliver these changes.

Following our 2022 Feedback Statement on accessing and using wholesale data, we launched a review of wholesale trade data in June 2022 and expect to launch a market study of benchmarks, credit rating data and market data vendors in January 2023.

Other pro-competition measures

Our wider competition work over the reporting period has included:

Strategic review of retail banking, in which we continued to monitor key competition trends in retail banking. We found that there is increased competition and innovation in the market, which have improved outcomes for consumers and small businesses. Digital challengers increased their market share of Personal Current Accounts by account numbers from 1% in 2017 to 8% in 2021. This work is informing our work on access to cash, open banking and the implementation of the FCA's overdrafts intervention, which is being evaluated this year.

Shaping the FCA's approach to competition in digital markets, including helping establish the Digital Regulation Cooperation Forum and shaping its agenda.

Developing the FCA's approach to Fair Value, which has become a cornerstone of the New Consumer Duty.

Review of investment platforms costs and charges, following our 2019 intervention. Our focus on the transparency and accessibility of platform costs and charges highlighted examples of good and poor practice, to help improve market outcomes further.

Regulator activities: policy development

We launched 21 consultations during the reporting period. This includes quarterly consultation papers, guidance consultations, discussion papers and calls for input. Under the exclusion for policy development, we classify these as NQRPs. We report separately on QRPs for final policy rules and guidance made in the same period.

Systemic financial risk

We are the prudential supervisor for approximately 48,000 firms. Within these, 18,000 firms have a prudential regime, which provides more detail on the standards that need to be met. We focus on the prudential soundness of these firms to avoid disorderly failure and minimise harm to consumers, the real economy and the UK financial system itself. We exclude most work undertaken in this area because it addresses systemic financial risk.

In March 2021 we published PS21/3 Building operational resilience, in partnership with the Bank of England – in its capacity of supervising financial market infrastructures (FMIs) – and the Prudential Regulation Authority (PRA) to improve the operational resilience of the UK financial sector.

Operational disruptions can cause wide-reaching harm to consumers and pose a risk to market integrity, threaten the viability of firms and cause instability in the financial system. The disruption caused by corona virus (Covid-19) has shown why it is critically important for firms to understand the services they provide and invest in their resilience.

Our rules and guidance came into force on 31 March 2022. Our rules require firms to identify their important business services, set impact tolerances for the maximum tolerable disruption and carry out mapping and testing to a level of sophistication necessary to do so. Firms must also identify any vulnerabilities in their operational resilience.

By no later than 31 March 2025, firms must have performed mapping and testing so that they are able to remain within impact tolerances for each important business service. Firms must also have made the necessary investments to enable them to operate consistently within their impact tolerances.

Fines and penalties, and redress and restitution

Our enforcement activity requires firms to provide redress and restitution. This is mostly done on an individual firm basis and therefore is caught under the casework exclusion. We also set policy for penalties and redress. If there are any changes resulting from this work, they are also included in the exclusion for fines and penalties, and redress and restitution. In January 2022, we issued a [policy statement](#) setting out the new structure for authorisation application fees that comes into effect from 24 January 2022.

Regulator activities: information, education and advice

This exclusion was used in February 2022 when we published [FG22/2: Primary Market Bulletin No. 38](#), as it provides information to help issuers and practitioners interpret these rules.

Annex 1

List of QRPs validated by the RPC

Full title of measure	Date	BIT ¹ Score (£million) burden to business ²
PS20/17: Proposals to enhance climate-related disclosures by listed issuers and clarification of existing disclosure obligations	December 2020	306.0
PS21/8: Regulation of funeral plans	July 2021	120
PS21/23: Enhancing climate-related disclosures by standard listed companies	December 2021	165.5
PS21/24: Enhancing climate-related disclosures by asset managers, life insurers and FCA-regulated pension providers	December 2021	668.4
Total		1,259.9

One QRP in this table applies to the last reporting period (December 2020 to December 2021). This impact assessment had not been validated by the RPC in time for the last annual report and was excluded from the total BIT score for that reporting period. This was PS20/17: Proposals to enhance climate-related disclosures by listed issuers and clarification of existing disclosure obligations. A summary of this QRP is set out in our [2020/21 annual report](#).

Further detailed information can be found in the IAs that have been published alongside this report for the above measures and these will include links to the relevant policy statements containing the CBAs that were completed.

There are two impact assessments that have not been validated by the RPC and the costs associated with these have not been included in this report. These are; PS20/10: Prohibiting the sale to retail clients of investment products that reference cryptoassets that applies to the December 2020 to December 2021 reporting period; and PS22/11: Improvements to the Appointed Representatives regime that applies to this reporting period. These impact assessments will be published as soon as they are validated by the RPC and the costs will be included in our 2022/23 Enterprise Act Annual Report.

1 Business Impact Target in respect of the economic impact on business of regulation which comes into or ceases to be in force for this Parliament, along with related matters as required under section 21 of the Small Business, Enterprise and Employment Act 2015 ("the Act").

2 The BIT Score only reflects costs to business; it does not reflect benefits or burdens to consumers. When making regulatory decisions the FCA considers both costs and benefits to businesses, consumers and the wider economy

Annex 2

List of de minimis NQRPs

This section provides a list of the 9 NQRPS which are covered by the de minimis exclusion as they have an estimated cost or benefit of below the de minimis threshold.

PS21/13: LIBOR transition and the derivatives trading obligation
PS22/3: Diversity and inclusion on company boards and executive management
PS22/4: Temporary asset retention requirement for certain firms subject to the proposed British Steel Pension Scheme consumer redress scheme
PS22/6: Preventing claims management phoenixing by financial services firms
PS22/8: Protecting investors in authorised funds following the Russian invasion of Ukraine
FG22/1: The FCA's approach to the review of Part VII insurance business transfers
FG22/3: Finalised Guidance (non-Handbook) on parts of the UK MMF Regulation
FG22/4: FCA's approach to compromises for regulated firms
FG22/6: Branch and ATM closures or conversions

Annex 3

List of Abbreviations

Abbreviation	Description
CBA	Cost Benefit Analysis
IA	Impact Assessment
BIT	Business Impact Target
FSMA	Financial Services and Market Act 2000
NQRP	Non-Qualifying Regulatory Provision
QRP	Qualifying Regulatory Provision
RP	Regulatory Provision
RPC	Regulatory Policy Committee
the Act	Enterprise Act 2016
BEIS	Department for Business, Energy and Industrial Strategy
EU	European Union
FCA	Financial Conduct Authority
UK	United Kingdom
PS	Policy Statement
FG	Finalised Guidance
CP	Consultation Paper
PCA	Personal Current Account
IGC	Independent Governance Committees
GAA	Governance Advisory Arrangements
ESG	Environment, Social and Governance

Annex 4

Glossary

The Act	The Small Business, Enterprise and Employment Act 2015 as amended by the Enterprise Act 2016.
Cost Benefit Analysis (CBA)	We are required to create and publish a cost benefit analysis on certain initiatives under Financial Services and Markets Act (2000). In addition to the cost to business, they also analyse the public value resulting from the intervention.
Impact Assessment	The Act requires us to carry out impact assessments that assess the costs to business.
Non-Qualifying Regulatory Provision (NQRP)	Any change the FCA makes that imposes a requirement, sets standards or gives or amends guidance for business or relates to securing compliance with such standards, guidance etc. that falls under one of the exclusion categories listed in a written ministerial statement by Secretary of State for Business, Energy and Industrial Strategy.
Qualifying Regulatory Provision (QRP)	Any change the FCA makes that imposes/amends a requirement, set/amends standards or gives/amends guidance for business or relates to securing compliance with such standards, guidance etc. unless they fall under one of the exclusion categories listed in a written ministerial statement by Secretary of State for Business, Energy and Industrial Strategy.
Regulatory Policy Committee (RPC)	An independent, advisory, non-departmental public body who rate the quality of evidence and analysis supporting new regulatory and deregulatory proposals, and check the estimates for the equivalent annual net cost to business of new regulations.
Regulatory Provision (RP)	Any change the FCA makes that imposes a requirement, set standards or gives or amends guidance for business or relates to securing compliance with such standards, guidance etc.

