

# The Challenge of Compliance in Smaller and Medium-Sized Firms

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# Contents

- What makes a smaller or medium-sized firm?
- The Ten Golden Rules of Compliance for Smaller and Medium-Sized Firms
- How to comply with those Golden Rules

# What Makes a Smaller or Medium-Sized Firm?

- Based on risk posed by the firm to the PRA's and FCA's objectives
- Authorised Firms that the FCA deems to present lower risk to its objectives are assigned to the Contact Centre
- Under this method, a Firm will engage with the FCA via the Contact Centre

“We divide the financial sectors we regulate into portfolios, each made up of firms with similar business models. Portfolios are fluid and adapt as business models change. For firms operating across different sectors or markets, we assign the portfolio which reflects their main business.”

Poll 1 – How effective is the Contact Centre?

# The Golden Rules

- You have to do virtually everything to comply that a larger firm does
- Resources are finite
- Smaller firms often lack the governance structure of larger firms
- Regulators have eyes and ears everywhere
- Owner managers have similar responsibilities to CEOs of larger firms
- Challenge is important between second line and senior management, but is often harder to effect
- Compliance risk is important
- Proportionality is important
- If you use external consultants, use the right ones
- Just because the FCA regulates over 50,000 firms.....

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# FCA Handbook

## FCA Handbook

Expand +	High Level Standards
Expand +	Prudential Standards
Expand +	Business Standards
Expand +	Regulatory Processes
Expand +	Redress
Expand +	Specialist sourcebooks
Expand +	Listing, Prospectus and Disclosure
Expand +	Handbook Guides
Expand +	Regulatory Guides
Expand +	Glossary

How many of these do not apply?

Or: If a firm is 10 times larger than yours, do 1/10 of the rules apply to you and do you have more than 1/10 of their resources?

# Financial Conduct Authority

NB1: there are a total of 50 sourcebooks (around 3000 rules) which provides rules and requirements to cover ALL financial services firms within the UK.

NB2: FCA expectations also given in speeches, Dear CEO Letters and other forms of communication.



## FCA Handbook

Collapse -

High Level Standards

Expand all +

Expand +

PRIN Principles for Businesses

Expand +

SYSC Senior Management Arrangements, Systems and Controls

Expand +

COCON Code of Conduct

Expand +

COND Threshold Conditions

Expand +

APER Statements of Principle and Code of Practice for Approved Persons

Expand +

FIT Fit and Proper test for Employees and Senior Personnel

Expand +

FINMAR Financial Stability and Market Confidence Sourcebook

Expand +

TC Training and Competence

Expand +

GEN General Provisions

Expand +

FEES Fees Manual



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# Resources are Finite

## ➤ Tips for the CEO:

- First v second line responsibility
- Take Compliance seriously
- Show cultural and compliance leadership
- Board v CEO v First line v Compliance

## ➤ Tips for Compliance Officer and MLRO:

- Market Compliance effectively
- Seek senior management sponsorship
- Compare numbers – not too artfully!
- Take a risk-based approach (more later)

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# Governance in Smaller Firms

- “Difference between ownership and stewardship”
- Internal Audit?
- Non-executive directors?
  
- For CEOs:
  - Source of challenge
  - Source of advice
  
- For Compliance Officers:
  - Source of advice
  - Possibility of escalation

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# Regulatory Intelligence

- Regulatory returns
- Thematic reviews
- Self-reporting
- Suspicious Transaction Reports
- Customer complaints
- Auditors
- Other firms!
- MPs????
- Whistleblowers

# Regulatory Intelligence

1. A firm must conduct its business with integrity.
2. A firm must conduct its business with due skill, care and diligence.
3. A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
4. A firm must maintain adequate financial resources.
5. A firm must observe proper standards of market conduct.
6. A firm must pay due regard to the interests of its customers and treat them fairly.
7. A firm must pay due regard to the information needs of its clients and communicate information to them in a way which is clear, fair and not misleading.
8. A firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client.
9. A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgment.
10. A firm must arrange adequate protection for clients' assets when it is responsible for them
- 11. A firm must deal with its regulators in an open and cooperative way and must disclose to the FCA appropriately anything relating to the firm of which the FCA would reasonably expect notice.**

# Regulatory Intelligence

## ➤ Conduct Rules – Senior Managers

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SM3

You must take reasonable steps to ensure that any **delegation of your responsibilities** is to an appropriate person and that you oversee the discharge of the delegated responsibility effectively.

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SM4

You must **disclose** appropriately any information of which the FCA or PRA would reasonably expect notice.



# Regulatory Intelligence

## ➤ Conduct Rules – All Employees

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Rule 1            You must act with integrity.

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Rule 2            You must act with due skill, care and diligence.

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Rule 3            You must be **open and cooperative** with the FCA, the PRA and other regulators.

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Rule 4  
(FCA)            You must pay due regard to the interests of customers and treat them fairly.

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Rule 5  
(FCA)            You must observe proper standards of market conduct.

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# Owner Managers v Senior Executives

- Whose money is it?
- “He’s running it like his own little kingdom!”
- CEOs: remember and respect the FCA’s statutory objectives
- Compliance Officers: remember that it is their name above the door

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# Challenge

## ➤ Tips for CEOs:

- Why do you recruit people?
- Invite and embrace challenge

## ➤ Tips for Compliance Officers:

- Respectful challenge is important
- Respectful disagreement is key

## ➤ Tips for everybody:

- It's all about trust and teamwork

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# Compliance Risk

- The importance of the risk-based approach
- AML
- What about other areas of Compliance?

# Identifying and Measuring Compliance Risk

	AML	GEAB	Conflicts of Interest	Sanctions	Whistle-Blowing	Rep Risk Total
Product development	I: 4 P: 3	I: 4 P: 4	I: 4 P: 2	I: 3 P: 2	I: 5 P: 4	62
Marketing	I: 5 P: 4	I: 2 P: 3	I: 4 P: 2	I: 4 P: 3	I: 3 P: 3	55
Sales	I: 4 P: 4	I: 2 P: 3	I: 4 P: 2	I: 4 P: 3	I: 3 P: 3	57
Operations	I: 1 P: 1	I: 5 P: 5	I: 4 P: 2	I: 5 P: 4	I: 2 P: 3	60
Research	I: 3 P: 3	I: 5 P: 4	I: 4 P: 3	I: 5 P: 3	I: 4 P: 3	68
Total	57	73	44	65	56	



# Compliance Risk

➤ A risk-based approach will inform your:

- Monitoring
- Training
- Policy work
- Advice

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# Proportionality

“We supervise around 58,000 firms serving retail and wholesale consumers as well as users of many of the world’s largest and most significant global markets. These firms vary greatly in size, complexity and in the risks of harm they pose to consumers and market integrity. To make the best use of our resources and deliver the greatest public value, we take a proportionate approach to supervising firms.”

Source: FCA Mission: Approach to Supervision

<https://www.fca.org.uk/publication/corporate/our-approach-supervision-final-report-feedback-statement.pdf>

Proportionality goes both ways!

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# Use of Consultants

- **If you need external support, you should consider:**
  - Using an appropriate level of service. Different firms have different requirements; do not purchase something you do not need
  - The relationship and extent of the services provided should be driven by you
  - How you will monitor the quality and appropriateness of the services provided
  - Ensure that you know specifically who will be assisting you
  - Who is more important? The firm or the consultant?
  
- **Compliance is your responsibility. If the FCA finds inadequate controls in your firm, they might take action against you.**

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# Conclusions

- Be proportionate
- Work with senior management
- Market Compliance effectively so that you are not on your own
- Be confident and be a trusted advisor – but also a gatekeeper
  
- Please guard against complacency
- Just because the FCA regulates over 50,000 firms.....

# Any Questions?

