

## SEPTEMBER 2022

### Welcome to our Autumn Newsletter!

Dear Clients and Partners,

Since our last newsletter, the world is moving on a pace, and no industry or society is untouched by global events. We wish the very best to all of our clients and partners in navigating these turbulent times to the calmer waters we all hope for.

Political change often has an immediate impact on regulation. In this newsletter we consider the [future of regulation](#) in the context of the natural tension between regulators' and politicians' contrasting view of the world. The new government's approach to regulation during a time of economic turbulence is as predictable a Donald Trump fib. But will regulators follow suit?

The FCA is also underway with major reform initiatives which will affect a wide number of firms in different ways. The [Consumer Duty](#) regulation is far reaching, and I fear the FCA expects to use it to 'free the market' of a number of firms it does not like who simply will not be able to comply with its onerous requirements.

Similarly, the reform of the [Appointed Representative regime](#), carried out under the shadow of the failure of Greensill Capital and the resulting investigation, will be equally far reaching for firms, should the FCA choose to follow through and enforce those not complying.

Wishing everyone the very best during difficult times.

Ben Mason  
CEO  
My Compliance Centre

Our newsletter considers the way in which a Compliance Management System can help all firms affected by these changes and looks more broadly at the contrasting future of regulation, depending on which regulator you look at.

The RegTech market also continues to develop at an encouraging rate. I have read various industry forecasts all predicting massive ongoing adoption of RegTech, and this reflects the interest we are experiencing ourselves in My Compliance Centre and the benefits it delivers.

There is a growing realisation that technology support is a requirement given the complexity and cost of modern-day compliance. Fans of management models can spend their weekends trying to apply the classic 'technology adoption lifecycle' to RegTech!

#### Our regular features include:

- [Regulator Watch](#) - highlights key themes we have picked up on while consistently tracking regulator activity over this last quarter.
- [Quote of the quarter](#) - John Edwards, Information Commissioner, and a look through the lens of an empowering regulator.
- Our [System Update is here](#) with new functionality and module version updates.
- Our featured article, [The Future of Regulation](#) and its effect on the development of the financial services industry.
- [Building The Return on Investment \(ROI\)](#) outlines how a Compliance Management System business case can be constructed.

## Regulator Watch

Written by Ben Mason, CEO, My Compliance Centre

28 September 2022



We like to keep an eye on our primary regulators and what they are up to and, of course, My Compliance Centre's automated data feed and Regulatory Change Management (RCM) module make this easy to do.

In summary, regulator activity, if measured purely by the volume of documents released, has increased slightly from the last quarter, which in turn was 10% higher than Q1 2022. This is across the eight regulators we track and for the documents in our scope.

The FCA remains the highest producer and with a significant increment from last quarter (up to 95 documents compared to 74 in the previous quarter), with ESMA 2nd and the EBA, EIOPA, HMT and PRA all between 20 and 30 documents, all of which is typical.

Of additional note was a raft of 'Dear CEO' letters, setting out the FCA's approach to the management of a number of different verticals for which they are responsible. If you have not checked out the FCA's stated approach to regulating your sector, now might be a suitable time to do so.

### Enforcement

For those that like the melodrama of fines and enforcement, it was a quiet quarter, with the primary enforcement actions taken, all being market abuse related. The fact that most of them related to the fallout of the Carillion scandal highlights the range of activities that can fall foul of market abuse regulations, although City Group's own impressive £12.5m market abuse fine leads the way in terms of the scale of the action. Look out for an uptick in enforcement activity from the FCA post summer break.

Having said that, while not UK specific, the DoJ's action against Neil Philips for manipulation of the Rand exchange rate will certainly raise eyebrows. As always, these investigations take years to conclude and in this case has resulted in an extradition from Spain to the US.

In the UK, what was most notable in the enforcement category last quarter was the enforcement NOT taken by the PRA and FCA into HBOS managers in relation to HBOS's collapse in the credit crunch. The investigation was concluded at, I would assume, huge expense with... no action being taken.

On a personal level, I am trying to work out which emotion is stronger; that of anger that a systemically important financial institution could do so much damage to the entire national and global economy, with no individual having action taken against them OR the relief, on a personal level for those involved, who have had this investigation hanging over them for 14 years. Take your pick. Either way, something feels completely wrong.

### Enforcement is Fascinating in Europe!

My favourite reads of the quarter have to be the two ESMA reports which summarise the fines imposed under the AIFMD and UCITS directives. AIFMD covers the regulation of hedge funds and private equity funds (amongst others) and UCITS covers retail funds. All fines were reported to the nearest cent!

The headlines are that under AIFMD 78 individual fines raised €42M and under the UCITS directive, 61 separate fines raised nearly €39M of revenue. In aggregate, that is roughly 140 fines for a total of roughly €80m in fines revenue. However, that does not tell the full story.

Of the total of roughly €80M fines raised, \$75M were from just 2 fines in France. The remaining €5M is not evenly spread out. Far, from it; while Germany imposed zero fines, Bulgaria imposed 30 under UCITS alone – at an average of €3000 each. Ireland, Malta and Cyprus, all off-shore financial centres, imposed 1 fine in total between them – whereas Luxembourg, also a financial centre, imposed 14 fines, raising approx. €1M.

What to conclude?

I hardly know where to start. As a minimum, it seems like a very uneven playing field across Europe from a regulatory enforcement perspective that is already heavily impacted by local culture and politics. I can't help but wonder what EU and ESMA policy makers think of such diverse actions by National Competent Authorities (the local regulators) to the same set of rules?

### Ongoing Regulatory Themes

Starting with the FCA, the theme that continues to stand out for me is the transition from Consultation to Guidance. Last quarter, I noted how over a period of years the FCA was consulting significantly less on rule changes and simply giving guidance on its existing rules, generally strengthening its interpretation of them. This continues, and the consultations that have been issued are generally of relatively minor importance. Why consult when you already know what you think? This aligns with the theme we have been noting since Nikhil Rathi's appointment of a more assertive regulator and its' ongoing consumer protection ambitions.

### ESG

Personally, I would find it quite easy to construct arguments that ESG should not be directly a regulatory issue. However, that is not the FCA's view, not least because it is charged with supporting the governments net zero by 2050 strategy.

Since 2019, the FCA has taken a proactive stance to ESG, appointing an ESG Director and publishing a strategy (in 2021). It also has a 'golden thread' approach, arguing that ESG should be integrated into all its activities. This quarter it released a strategy for enhancing ESG in capital markets, which mainly focusses on issues of ESG 'compliance' for bond issuers.

The challenge I perceive, is that there now seems to be as much criticism of ESG as there is praise for it. It may be the flavour of the month and align with everything 'green' that we all now support, but the practical implications are very challenging. All sorts of analyses show ESG funds underperforming, the companies they invest in do worse on ESG issues and compliance than those that don't claim ESG compliance. Specifically, challenges around the effectiveness of a system which includes many different methodologies for measuring three such challenging and unmeasurable issues as the environment, social impact and governance.

However, as far as ESG goes, the regulator is here to stay and this will not go away. Interestingly, I note none of the three main EU regulators mention ESG specifically this quarter, although 'Sustainability' reporting is front and centre – more to follow on this.

### Crypto

I like to monitor what is happening in the crypto space, as this acts as a good indicator of wider regulatory sentiments around innovation and competition. This is said at a time when the FCA still nominally continues to

promote innovation but is unwilling to authorise business models which it considers risky, such as those involving crypto assets.

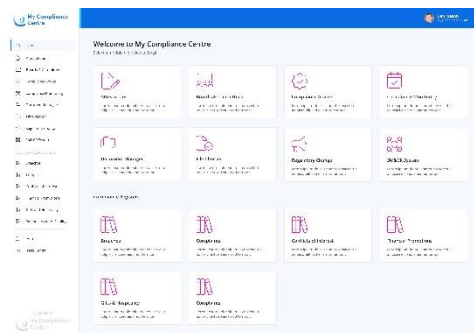
This has been another quiet quarter for crypto in terms of regulatory developments, something I still struggle to work out given the general noise, consumer risk and significant risk of all forms of financial crime which crypto assets create. Having said that, the FCA’s defence against these risks appears to be to keep firms out altogether. There are still only 37 crypto firms approved under the Money Laundering Regulations and just one in the last quarter. This is a tiny number – it is nearly three years since the relevant regulations came into force. The conflict between the FCA’s theoretical promotion of innovation and the natural suspicion the FCA’s authorisation team has of all innovative businesses continues to be difficult.

MiCA (forthcoming European Crypto Regulatory) framework, of course, continues apace in Europe with the EBA encouraging firms to embrace it early. I remain unconvinced that the UK is doing the right thing by refusing to develop its own equivalent.

## System Updates in Q3 2022

Jenny Kenlin, Head of Customer Engagement

27 September 2022



Central to everything we do at My Compliance Centre is, of course, the functionality of our system. This is something we work on day in, day out, in partnership with our fantastic clients who provide so much feedback, thoughts and fresh ideas.

We are excited to share that My Compliance Centre received a number of system updates in the last quarter, with some major developments planned over the next few months.

The new enhancements include:

### Compliance Monitoring Module

- Plan lockdown – Any given Monitoring Plan can be locked down, so only named users can access it and admin users cannot access it. This enhancement has been developed to facilitate use by Internal Audit Functions.
- Users can now save a series of comments for a testing activity, rather than continuing to overwrite the same one.
- The approvals process for testing activities has been made clearer. Testing activities awaiting approval are tagged in the table, and a banner is shown at the top of the testing activity pop-up screen.

### System Architecture and Layout

- We have implemented a substantial architectural change to the platform, removing screen loading delays and enhancing the login process.
- A new user interface look and feel has been implemented giving users a more intuitive experience and a system layout that is more pleasing on the eye and easier to use.

### Group Companies

- A number of enhancements have been implemented to the handling of Inactive Group Companies, ensuring consistency of data and processing.

### Teams Optimisation

- The Teams module has had a major rework, improving performance and processing of Teams and employees within them.

### FileChecker

- A Bulk Upload facility has been introduced for FileChecker, making it simple to create multiple File Reviews from 3rd party data.
- A new link has been added to the parent File Review within the Follow Up Task pop-up, so users can go directly to related files when completing tasks.
- The Custom Fields tab has been updated and optimised in line with other modules.
- Various other small features have been introduced to FileChecker, making it easier to use and improving performance.

### Personal Account Dealing

- Three new 3rd party security feeds have been added to the system to allow users to connect to 3rd party "hot lookup" services. This enables employees to search for specific securities and select from the third-party list to retrieve security type, currency, ISIN number etc.
- A new feature has been added to facilitate cancelling of trades.
- Some additional new functions have been added to the Security Register, to offer clients a multitude of ways to manage the Security Register and employee's holdings. Securities can be marked as private, employees can add unlisted securities and employee's holdings can optionally be hidden.
- Securities can now be added without a security ID.
- Admin Managers can now add attachments to a PA deal after the PAD request has been completed.

### Conflicts

- Administrators can now require user comments when selecting particular conflict types.
- A number of additional fields have been added to conflicts including custom fields.
- A Conflict Owner can now be added to each conflict.

Our sincere thanks to all those clients who provide such great feedback that enables us to enhance our system and make these improvements become a reality.

## Featured Article: The Future of Regulation

### Politicians vs Regulators: The Future of Regulation

Ben Mason, CEO, My Compliance Centre

27 September 2022

The future of regulation is of interest to us all; from the boards of regulated companies trying to work out a future strategy, to those with compliance responsibility wondering what the future holds and to people like me who have a strategic interest in the development of the financial services industry.

And, given current political developments, it is increasingly difficult to call. The conflict between the rhetoric of politicians and the carefully constructed statements of senior regulators are very much at odds.

But, if I was a betting man, I think I would back the regulators as being closer to the truth.

### What is the political landscape and its context?

It has been front page news over recent weeks. Liz Truss apparently supports a return to a single regulator and Kwasi Kwarteng has been meeting senior industry leaders to discuss dismantling the red tape holding the industry back. Alongside that, there is still a need to deliver a Brexit dividend to the financial services industry. The UK has lost jobs and trade to the EU, having exited the single market, while also not benefitting from reciprocity of access to EU markets that the UK has offered to EU companies wanting to trade in the UK.

The political principal is to promote growth by reducing the negative impacts of regulation. However, unless I have missed something, the only specific changes in regulation proposed to date are a dilution of the Solvency II rules, which ensure insurance companies maintain enough capital, and the proposal to remove the bonus cap for bankers. There may be merits in both proposals, but they are not going to change much.

The conversation about cutting red tape is one I always enjoy. You know the one, where someone says, “we should cut regulations!”, and you say in response “Absolutely! Which ones should we start with? The ones that ensure we have enough capital and liquidity in banks, so we can weather a pandemic and a war without a financial crisis? Or the ones that prevent mis-selling of financial products to vulnerable consumers? Or the ones that prevent our personal data from being stolen, traded and abused? Just list the regulations we should get rid of, and we can start straight away!”. Of course, it is easy to state a principal of reducing red tape but working out which regulations can be lost, while offering significant overall benefit to all parties, is not so easy.

Making it easier to do business via a reduction in regulation is the political angle. So, what do regulators think about that?

### The Regulators Angle

How do regulators, and the FCA in particular, see the future?

There are plenty of hints for us to go on, both observing how regulators are currently operating, as well as what they say and write.

Firstly, let me go back a few years to an interview I had at the FCA.

As an external stakeholder, I was being interviewed as part of a project to help the FCA understand how they were viewed. “State 3 words that describe the FCA” they said.

I had to think about it; I was not expecting the request.

After a period of reflection, I replied “‘dedicated’, ‘professional’ and ‘nervous’”. If I was asked the same question again today, I would give the same answer.

The dilemma for regulators is that there is very little positive appreciation for their work. No one ever says, “thank God for the regulators who have prevented mis-selling to vulnerable customers”. Or “aren’t our regulators good?, bank capital and liquidity standards are such that there is no financial crisis to make the pandemic even worse.” And so on.

Instead, what happens with every regulatory failing is a massive finger pointing exercise. In turn, this naturally has the impact of making regulators more careful, less open and tougher on firms they deal with.

So, while the FCA's staff are unquestionably dedicated and professional, in my opinion they are also, very nervous (quite understandably) about getting anything wrong. This impacts strongly on how they behave.

Given all of the above, what is the future of regulation in the UK?

Well, for innovative entrepreneurs and for those wanting to get new firms authorised, then life is simply more difficult and more expensive.

The FCA is preventing future harm by making authorisation for new firms far more challenging. It has been crystal clear about this and has even made increasing the number of failed applications one of its leading KPIs. The recent experience of firms applying for authorisation strongly underlines this position. Most frustratingly, consultants supporting applicants' firms report that the regulator simply is not predictable. The FCA's risk appetite can change mid-application, making it very difficult to invest in a new business with confidence.

For those already authorised, a more intrusive approach is where it is at (and how many times have we already said that in the last 20 years?). Everyone in a management position within regulated financial services should reflect on the FCA's stated measures of their own performance (reference FCA CEO Nikhil Rathi's speech in July 2021). One of the measures is:

"Increasing the number of firms whose permissions we remove either permanently or temporarily".

As I read it, the FCA is targeting itself with putting more firms out of business. Measures like Consumer Duty will facilitate this.

To do this, the FCA needs to intervene much earlier, meaning that where it sees the potential for a regulatory failure it will step in early – even if that failure would never have materialised in reality.

The implications for regulated firms are that they need to be forward looking, to test their business models against potential regulatory failures and to be able to accurately predict where the FCA's gaze will settle. Practically, this means compliance and risk functions need resourcing for monitoring against future risks as well as executing current compliance responsibilities and the ability to respond decisively to any FCA investigation or information request will prevent a lot of pain.

My apologies if this does not read very comfortably. I believe it is also at odds with our new politicians' position of deregulation to facilitate growth.

#### Politicians or Regulators – Who will "win"?

Unfortunately, I cannot see how our politicians can affect any major reduction in regulation without a real shake up and reversal of the policies adopted in response to the numerous regulatory failings over the last 15 years. The government may be desperate, but it will require a brave government to rip up the current playbook and abandon commitments to protect consumers, ensure the integrity of markets and reduce financial crime.



## Compliance Management – Building the ROI

"Implementing a Compliance Management System can be a life-changing experience for compliance teams swamped in e-mails, spreadsheets and the demands of vocal colleagues or a hi-touch Board. Nonetheless, justifying such an investment on purely financial grounds requires a considered process".

My Compliance Centre CEO, Ben Mason, outlines how a compelling Return on Investment (ROI) business case can be constructed.



(Note: the approach outlined below can be used to evidence the case both for and against a Compliance Management System, depending on your specific circumstances.)

### Compliance Management – Building the ROI

A Compliance Management System (CMS) offers many benefits. As a good starting point, consider dramatically increased control, having all your data in once place, better reporting and enjoying full transparency over the status of all compliance tasks across the business.

Regardless, some firms will require a financial assessment as part of their purchasing decision. A Return on Investment (ROI) calculation is required.

Typically, an initial ROI takes 1-2 hours to prepare (if you have a working methodology already) and can support the overall board proposal to implement a CMS.

### Principles of an ROI Calculation

It's vital that when you approach your CFO and then your Board, you do so credibly. That means being honest about the full costs of implementing and running the new system as well as identifying the costs it saves.

The ROI would normally be calculated by working out the time saved, both in the compliance function and across the business, compared to the implementation and ongoing costs of operating the CMS.

There are a few key data points you need before you start. What is the hourly cost of your compliance staff on average? And your wider staff? (A good starting point is in getting an independent reference point such as [the good calculators website](#).) What inflation do you expect for staff costs in the coming years?

### Cost Saving Calculation

From there it is a question of evaluating the processes that will save time and how much time would be saved respectively. The value of having a system with wide functionality starts becoming clear. The more processes you can save time on, the better the return. However, high volume processes, with lots of human touchpoints, are where the best returns are made. For example, the management of staff attestations generates a huge amount of administration and follow-up e-mails if done manually. Automation offers fantastic time savings. Post SMCR, attestations are used increasingly and so this is often a good starting point.

Some firms will have high volume flows of Financial Promotions or will get a greater benefit from efficiencies around automating Regulatory Change Management or the processing of File Reviews or Compliance Monitoring, for example. For many it is the time saved in writing reports. Processes like the management of Conflicts or Gifts



are often lower volume but having a configurable approval process can make these much quicker to operate. It's definitely a 'horses for courses' approach.

With each process, a typical approach would be to assess and break them down into the aspect of the process that can be automated (producing a cost saving) and the aspect that cannot (no cost saving). Part of this assessment includes the benefit of capturing data correctly at the point of entry. The first iteration of this exercise gives a very strong indication as to whether you are proposing the right course of action or not. It becomes obvious which processes, for your firm, are the ones which control the ROI case and you can focus on these to ensure accuracy of your analysis.

Analysing the time savings across all processes, for the compliance function and the business at large, leads to a financial saving which you can calculate as one annualised number.

There may be other cost savings such as costs of systems made redundant by the CMS.

Add all of these together and you have your cost saving.

That just leaves the much easier job of working out the costs of implementing and running the new system.

### **Costs of Operating a Compliance Management System**

The cost analysis is easier to do and will include licence fees, and the cost of implementation.

Once you have the annualised costs and savings you can work out the ROI both in the first year (which attracts a lower ROI due to implementation costs), ongoing each year and in aggregate over – say – a 3-year period.

You now have an answer to the question "what ROI does a Compliance Management System offer my company"?

### **Are there any downsides to calculating the ROI?**

Could it be that, as an example, the Board might start demanding staff reductions when the CMS is implemented?

We have never seen this. What is expected, is that compliance staff have more time to spend adding value because they are doing less administration. It is possible the rate of compliance staff acquisition may slow – simply because, if you spend much less time on spreadsheet administration and e-mails you may need less people.

However, that is a positive thing. Having an automated and efficient compliance function is likely to prove far more strategic and respected by the board in the long term and beneficial for all stakeholders.

For those without a CMS already, the ROI is typically high and it needs challenging for that very reason, or it may not be believed. It always makes sense to work through an ROI analysis with a trusted internal and independent party, like your CFO, before taking it to the Board.

## **Quote of the quarter**

29 September 2022

**"I want – we all want – a regulator who empowers."**

**John Edwards, Information Commissioner, July 2022**

We think this is a wonderful quote, that aspires for so much, and is so difficult for financial services regulators to deliver. It has got us thinking: is it possible that such an approach could possibly be adopted by the FCA and PRA? The implications would be far reaching.

## Consumer Duty

Written by Ben Mason

The FCA, Consumer Duty and Compliance Management Systems

**“Consumer Duty” is the next big thing in financial services regulation. In this article, Ben Mason, CEO and Founder of My Compliance Centre looks at how Compliance Management Systems will assist regulated firms to fulfil their obligations under the forthcoming Consumer Duty regulations.**

The FCA is “on it”. Every speech and article they produce seems to strengthen their ongoing efforts to improve consumer protection.

The next piece of the jigsaw, and something that regulated firms will get to hear a LOT about in the next year, is “Consumer Duty”. For those with a long memory, this is being called “TCF on steroids” (Treating Customers Fairly – the FSA’s customer protection initiative of the noughties).

The FCA will publish its final rules next month with few changes expected to the proposals published in the consultation. The implications for firms are significant. Really significant. I have no doubt that some companies will have the unfortunate challenge of breaching the rules or going out of business – which is probably exactly what the FCA expects and hopes for, given its statutory objective to protect consumers and the working assumption that many firms are making their profits by ignoring their obligations to consumers.

Jennifer Cahill of Compliancy Services has written an excellent article (read at end of article) about what Consumer Duty will mean to regulated firms and their Senior Managers in particular.

Which got me thinking: how exactly should a Compliance Management System support firms as they implement new controls to evidence Consumer Duty?

The answer is that there are many ways in which a Compliance Management System (CMS) will support regulated firms as they implement Consumer Duty. Here are just some of them:

### Evidence

Central to an effective Consumer Duty programme is evidence – evidence of compliance. We go into more detail below, but, in general terms, a CMS should hold evidence across a wide range of supporting information and in an easily accessible format. That is a fundamental starting point.

### SMCR

An effective SMCR regime will recognise the overlap of SMCR and Consumer Duty. It is likely that firms will define a specific responsibility or responsibilities (unless the FCA do it for them) within their SMCR in relation to Consumer Duty. This in turn makes Consumer Duty and SMCR fully co-dependent.

All CMS's have an SMCR module. This in turn allows all formal responsibilities to be assigned to named individuals and all [Reasonable Steps](#) to be noted, to enable the Senior Manager to evidence how they are fulfilling their responsibilities, including in relation to Consumer Duty.

The CMS, by structuring itself in this way, enables a Senior Manager to demonstrate the Reasonable Steps being taken to evidence Consumer Duty, the most fundamental part of their defence in the face of an FCA investigation.

### Compliance Monitoring

It is highly likely that all firms captured by the Consumer Duty rules will need to enhance their [Compliance Monitoring](#) Programmes (CMP) to capture Consumer Duty as a specific and named risk within their CMP.

This will enable ongoing monitoring of all Consumer Duty controls, with the results and corrective actions being stored in one area and easily accessible by all staff with responsibility for Consumer Duty, further supporting the need to provide evidence of Consumer Duty compliance.

### Financial Promotions

Marketing communications are a central aspect of all sales of financial products to consumers. The compliance surrounding them is key to prevent mis-selling. This principle is further strengthened within the Consumer Duty rules.

A CMS offers a robust [Financial Promotions](#) management system, so that firms can build their own review checklists and authorisation processes, ensuring the right level of protection for their business. Every Financial Promotion will therefore have a full audit trail of how it came into existence and how it complies with the firms Consumer Duty policies.

By using an automated system, these records are built automatically, and do not rely on collating any e-mail records and manually updating registers or other records.

### Sales File Reviews

After-the-event sales reviews are a central part of many firms existing conduct risk controls, and this requirement will also strengthen once the Consumer Duty rules are implemented.

An effective CMS has a [File Review module](#), which enables fully customisable file reviews to be designed and deployed, and thereby produce the corrective actions and the management information needed to evidence a firm's ongoing compliance with Consumer Duty rules.

### Implementation

Consumer Duty is a regulatory change with new and onerous obligation on firms. But it is just one of any number of ongoing regulatory changes a firm will be dealing with. Many firms will want to manage this change using a structured approach, assigning a set of actions to the project and working through them to completion.

A supporting CMS will facilitate the management of [Regulatory Change](#), including Consumer Duty, by enabling all related actions to be assigned to the relevant staff and executed in tandem with all other regulatory changes and compliance tasks, rather than as just a one-off discrete project. It will also hold an automatically generated library of historical and current regulatory changes to provide that perfect audit trail.

### Governance

Governance of Consumer Duty will be important both for the implementation of new controls and the ongoing oversight of them. Firms will need to demonstrate that Consumer Duty features in agendas, minutes and committee action logs and is an ongoing point of concern of the board and other relevant committees, such as risk or compliance.

A supporting CMS will incorporate a [governance style module](#) which defines committees, their terms of reference, agenda, action logs, minutes and so on. Again, this provides a really easy way to evidence that the company is taking its Consumer Duty responsibilities seriously.

## Reporting

The production of management information is a critical part of the Consumer Duty control framework.

While some MI will be produced by client facing systems, much of it will also be produced by the CMS, evidencing KPIs such as compliant levels of sales, financial promotions rejection rates and the number of corrective actions completed in relation to Consumer Duty.

Firms will also be required to carry out regular reviews of their products, services, pricing and customer service to ensure that they are all providing consumers with the right outcomes. Senior Management will be expected to demonstrate that they are doing this. And, that if something isn't right, they make changes, or even withdraw products and services. The outputs of reviews can also be stored and reported on through the CMS.

## Document Management and Attestation

A final and simple part of the jigsaw is the availability of all Consumer Duty related policies to staff. Once staff have been trained, they will need access to relevant policies. These can be found within the Document Library of the CMS and this in turn will facilitate easy [Attestation](#) by staff to having read them, and the subsequent evidence of those Attestations via system reporting.

[Read here:](#) Jennifer Cahill of Compliancy Services' article on what Consumer Duty will mean to regulated firms and their Senior Managers in particular.

## Appointed Representatives Regime

Written by Ben Mason

In this article, Ben Mason, CEO, My Compliance Centre, argues that Compliance Management Systems can play a very substantial role in assisting Principal firms manage the increased risk of their Appointed Representatives, both through the automation of processes and providing evidence to all stakeholders that compliance is being achieved.

### Managing Appointed Representatives using a Compliance Management System

The FCA has recently published its Policy Statement laying out a significant strengthening of its expectations of Principal firms' management of their Appointed Representatives. As often happens when rules are rewritten on the back of a substantial market failure, the changes are onerous. For Principal firms to manage their risk efficiently they need to establish a robust ongoing monitoring and compliance programme and have an effective way of delivering it.

Of critical importance is the practical reality that Principal firms will now need to treat all their Appointed Representative's employees as their own from a compliance perspective – if they were not already doing that. No

other approach will provide the requisite evidence that the network is compliance. The implications are significant.

Here are eight (of what could be many) ways in which a Compliance Management System help network Principals de-risk their management of Appointed Representatives.

### **1. Appointed Representative's Employee Attestations**

Having evidence that Appointed Representative's employees are aware of and say they are complying with compliance policies can be key both in establishing a compliant regime and as evidence when action needs to be taken when compliance is not achieved.

A Compliance Management System will make it easy to ensure that all of an Appointed Representative's employees have reviewed and are complying, and attested as such, with the compliance policies that they are obliged follow.

A good Compliance Management System will also offer the option of doing this on a policy-by-policy basis or on a consolidated basis.

Time is further saved when the Compliance Management System automatically sends follow-up e-mails to employees that have not attested, up until they are completed, with a full audit trail being available.

### **2. Compliance Monitoring and Task Management**

All regulated firms must carry out a proportionate level of compliance monitoring. For an Appointed Representatives network, this will involve some monitoring actions being undertaken by the Principal and some by the Appointed Representatives.

A Compliance Management System makes it easy to assign these tasks to named individuals, to see which tasks have and have/not been carried out and will automatically follow-up with non-responsive employees. Simple on-screen reporting shows exactly what tasks have not been completed, so escalation is much easier, and supports subsequent discussions with the Appointed Representatives should they not be completing their routine monitoring tasks.

### **3. Financial Promotions**

Many firms are obliged to manage their financial promotions as a regulated activity through an approval, logging and renewal process.

A Compliance Management System makes it easy for the principal to control this process. Appointed Representatives will enter all details of each Financial Promotions into the Compliance Management System, which will trigger an approvals process, providing full transparency to regulators and auditors that the Principal has proper oversight of their Appointed Representative's Financial Promotions.

### **4. Personal Account Dealing**

While Personal Account Dealing is only relevant to the investment sector, it is a critical process for those it affects.

A Compliance Management System makes it easy to control this process, by ensuring that the Principal has full clarity of every trade and every portfolio within their Appointed Representatives network, and thereby mitigates their own risk. An automated security lookup service makes it easy to confirm key details of the securities in question and the Compliance Management System will manage the approvals process.

## 5. Breaches and Incidents

Central to the Appointed Representatives regime is effective recording and management for all Breaches, to demonstrate to regulators that these are taken seriously and actioned and to record the evidence of an Appointed Representatives compliance or otherwise.

A Compliance Management System allows both Principals and Appointed Representatives to record all Breaches and the corrective actions taken, demonstrating transparency, control and a proactive approach to the management of problems as they arise.

## 6. Horizon Scanning and Regulatory Change

Regulations change; it is a fact of life. Changing regulations affect the business models of regulated firms and their Appointed Representatives, creating risks and opportunities.

An effective Compliance Management System flags up to the Principal the regulatory changes affecting both their own and their Appointed Representative's business models. It allows the Principal to distribute this to Appointed Representatives and to ensure they are aware of its implications. A set of actions can be created to ensure that the implications of the regulation change have been taken into account, planned and executed.

## 7. Compliance Advice

Appointed Representatives often need compliance assistance, and it is the duty of the Principal to provide it. Most often, this advice is given verbally or by e-mail, leaving a difficult to trace audit trail.

However, a Compliance Management System will offer a simple but interactive way to request and receive compliance advice, making it easy to catalogue what was asked and advised, and offering the capability of genericising the advice for the benefit of others.

## 8. Management Information and Decision Support

The management information provided by a Compliance Management System makes it easy to evidence that your Appointed Representatives are compliant. And, in the unfortunate event that one of them is not, and you need to take action, the Compliance Management System will make it very easy for you to establish and prove to them the reasons why you can no longer be their Principal.

## EducAid Charity – Maronka Primary School

**EducAid is a UK-registered charity established in 1995 to restore and strengthen education during and in the aftermath of Sierra Leone's devastating civil war.**

We believe in the power of values-based education to consistently chip away at poverty and the challenges standing in the way of a democratic, dignified and globally engaged Sierra Leone. At the heart of EducAid's strategy is running 5 free, high quality model schools on 3 sites for children and young people who would otherwise not see the inside of a classroom. The effectiveness of EducAid's student-centred approach to education is demonstrated by the fact that, despite many of our students coming from turbulent backgrounds, they regularly achieve some of the best exam results in Sierra Leone. Maronka Primary School is located in the Port Loko District. EducAid's Maronka Primary School is EducAid's only model primary school, serving 100 students in 2022 including 57 students who call Maronka home.



Maronka first opened its doors in 2003 after land was donated by the local community. Today Maronka is a model school and teacher training centre for EducAid’s school improvement work at primary level. In 2021–22, this included 60 schools across the 6 northern districts (Karene, Port Loko, Kambia, Tonkili, Bombali and Koinadugu), serving more than 20,000 students.

Teachers and school leaders at these schools were trained and came together at Maronka to work towards improving their schools and teaching with Maronka, a village school that looked like their own. In 2020, Maronka Primary School was one of 100 schools from around the world chosen for the inaugural World Education Week Showcase. In 2022, 11 boys and girls from Maronka’s Eagles Class sat their NPSE (National Primary School Examination) with all 22 students passing for an enviable 100% pass rate.

**Highlights of 2021–22 Year**

Maronka staff and students participated in the Global Climate Action Project and have worked to become a greener school, engaging in tree planting activities around the school and in the Maronka community. Maronka teachers painted numbers on buildings, stairs and trees to engage students in more active maths lessons around the school, strengthening numeracy and math confidence in a fun, accessible way. Developing more literacy and numeracy teaching strategies and games were activities highlighted by all Maronka teachers as an achievement for the 2021–22 school year.

Maronka’s Sports Day is always a highlight of the school year for students, staff and the surrounding community. This year was no exception with a range of athletic competition that included: football, ludo, balance ball, track and field events, skipping rope, volleyball and hand tennis.

This year’s Maronka Sports Day was observed by two members of the Fab Inc team – international development specialists with a key interest in education who work closely with the Sierra Leonean government. Maronka community members prepared the field and helped to organise Sports Day activities. Maronka teachers helped to development Ubuntu safeguarding stories and toolkits for use in not only Maronka, but in schools across EducAid’s projects.

