



Helping clients, prospective clients and partners remain informed about compliance automation developments and how compliance management systems are bringing new benefits to firms regulated for financial services.

Welcome to the summer edition of our quarterly newsletter.



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As always, we are eager to share our achievements and developments that have made the last three months an exciting time to be part of the fast-growing RegTech landscape.

We kicked this quarter off with our biannual Client User Group, held in Mayfair in April. It was wonderful to be able to share (in person) our plans for the ongoing development of My Compliance Centre with our clients and most importantly to get their feedback on our ambitious timetable of future developments.

**Consumer duty** is the next big thing in financial services regulation. In this article, we look at how Compliance Management Systems will assist regulated firms to fulfil their obligations under the forthcoming Consumer Duty rules.

Another hot topic is **'The cost of compliance'**, where we revisit a favourite old subject but try to answer a rather weighted question – 'Is it really value for money?' In this article we look at how Compliance Management Systems will assist regulated firms fulfil their obligations under the forthcoming Consumer Duty regulations.

#### **Our regular features include:**

- **Regulator Watch** highlights a few key themes that I have picked up on while tracking regulator activity over this last quarter.
- **Quote of the quarter**, Nikhil Rathi, CEO of the FCA, and an insightful restatement of what companies are for.
- We continue to enhance our system, and our **Platform Update** is here with new functionality and module version updates.
- Our **SMCR software** is just one module of a much wider automated compliance management system. For your viewing, we have included a **demonstrative SMCR video** spotlighting how our SMCR module will save you countless hours and stress in tracking, managing, and reporting your firm's SMCR compliance.

## Regulator watch – June 2022

Ben Mason, CEO, My Compliance Centre

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 reduced from the equivalent period last year but is 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 (74 documents), with ESMA 2<sup>nd</sup> and the PRA has doubled its output to 20 documents in the quarter compared to Q1.

### Several themes continue to stand out

Most obviously, the FCA. There is a clear trend towards a reduction in Consultations and an increase in Guidance. So far this year we have seen just nine consultations of which only a couple might be called "real consultations", i.e., proposals for genuine changes to policy and rules. By way of comparison, in 2015 the number was 49 for the full year (i.e. >2.5 times the rate). However, we have seen a significant increase in Guidance; 20 this quarter if you include Consumer Guidance. In 2015 there was just four in the same period.

### What does that all mean?

I think it is clear: the FCA knows what it thinks, and broadly it thinks that the existing rules need applying more robustly rather than needing to consult on new rules. This is alongside its ongoing rhetoric on Consumer Protection and the numerous measures it is taking along those lines.

The FCA has been working against phoenixing for many years and this has recently been expanded to Claims Management firms, one the most recent industries to be brought into mainstream financial services regulation. For much of the industry, Claims Management will seem a long way away from mainstream financial services, but, as an industry, I suspect the 500+ regulated Claims Management firms have now been regulated long enough to work out what they have got themselves into!

I am always supportive of the regulators' attempts to simplify compliance. So, the PRA's attempts to simplify prudential requirements for the firms it supervises is admirable – it's "strong and simple framework". I just get the feeling that the process they have to go through to implement a new supervisory framework might mean it takes some time to achieve. Furthermore, it may only end up applying to a few firms once the complexity criteria are applied. This at a time when, conversely, the investment sector is experiencing much more complexity of prudential regulation under the new IFPR.



The mysterious case of crypto regulation, or lack of it, continues to grab the headlines. Despite the UK not having a proper crypto regulatory framework, the FCA continues to warn consumers about the dangers of crypto and has approved just six more firms this entire year. These are registered (not authorised) under the AML regulations. For those not in the know, the authorities are using AML regulation as a blunt tool to curb the activities of crypto firms despite a proper regulatory framework for crypto looking like an absolute necessity. (If it looks like a security and people trade it like a security... maybe simply regulate it like a security?) The UK's position looks increasingly untenable given that the EBA and ESMA appear to be close to finalising their MiCA regulations.

### **And now for the juicy bit...**

While the FCA has fined several firms in the last quarter, two significant fines in relation to financial crime control failings have come through in recent days. These are very strong markers being put down by the FCA. I would suggest that all MLROs (and Chairs of Risk Committees and Compliance Consultants) in the UK read every single word of the FCA's Decision Notice regarding AML failings at Ghana International Bank. The FCA, very helpfully, goes through the failings in the bank's documentation, in detail, in a 69-page notice document. This is extremely useful for anyone else involved in high-risk payments and banking services, AML control frameworks generally, and might possibly help others avoid the small matter of a £8.3m fine! (Reduced to £5.8m for early settlement).

Similarly, JLT's fine of £11.2m (reduced to £7.8m) for ABC breaches is a salutary lesson for anyone conducting overseas business in high-risk jurisdictions. That looks particularly painful on top of action already taken by the US authorities.

Other enforcement action in the quarter included a fine for a guarantor lender despite being in administration and patently unable to pay it, a refusal to a compliance consultant's application for authorisation and a number of censures in the pensions sector. The biggest fine (£13m reduced to £9.1m) for GAM was just the most recent of many for mismanagement of conflicts in the asset management industry.

*Away from MiCA, nothing from the European regulators caught my eye this quarter. The diet from Europe has been the usual and expected supply of guidance on various aspects of financial crime, existing rules and the Ukrainian war.*

## **Featured Article: 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.

## Featured Article: The cost of compliance

In this article, My Compliance Centre CEO, Ben Mason, revisits a favourite old subject: The cost of compliance. Ben attempts to calculate the cost of compliance with financial services regulations to the UK and asks, 'is it value for money?'

*The cost of Financial Services compliance has interested me for a long time. We know it is a big number – but what is that number?*

My interest in this topic has been rekindled by the FCA's recent announcement that for each £1 spent running the FCA £11 of benefit is derived for consumers, see page 3 [here](#).

I am a big fan of the FCA working through the various processes that they do to establish cost-benefit of their work. What I found interesting about that specific calculation, is the FCA counted the cost of running the FCA only, not the additional cost to firms of complying with the FCA's rules. This is an interesting and arguably slightly controversial position to take. Funding of the regulators themselves is a cost born by firms, but only one of the costs they experience. The FCA (and PRA) have an obligation to minimise the cost of compliance to those they regulate (under the Regulators' Code), and the increasing cost of compliance is a concern for all regulated firms and their service providers. However, it is difficult to find a reliable source of information on the subject, so, I have tried to take on working it out.

Much of the challenge is the significant differences across financial services sectors: from Capital Markets to Insurance; from Asset Management to Banking and so on. The dynamics vary by sector very significantly and so assessing the total aggregated cost is a challenge.

I should emphasise now that this is not the last word on the subject; much more of a 'starter for ten' in a debate in which I am interested. I have made a set of assumptions, a number of which I know are approximations or guesstimates, and I am interested in honing these over time.

### Before we get started, what am I expecting?

According to the government, the UK financial services industry employed 1.1m people and produced £164.8bn in 2020, which seems as good a start as any.

One very broad rule of thumb is that compliance costs 5% of output. 5% of £164.8bn is £8.24bn p.a. Intuitively, this feels too low.

### The cost of Financial Services compliance to UK Plc: Where do you start?

I am sure that there are many ways of costing compliance and others might adopt a very different methodology. My approach is to work from first principles and look at it from firms' perspectives, by aggregating costs across the whole industry.

On that basis, it seems that the compliance costs might be categorised as the following:

1. Direct regulator funding.
2. Compliance staff.
3. Non-compliance staff spending time on compliance activities.
4. RegTech (i.e. compliance related systems for AML, compliance management etc.).
5. Professional services.
6. Network costs for Appointed Representatives (arguably a branch of professional services.)

I have kept the scope of my calculation to financial services regulation and not leaked into the cost of financial crime compliance for non-financial services firms, for example, or Data Protection or IT compliance costs, which are not specific to financial services.

### What assumptions did I make?

- The cost of regulators, in which for convenience I include the ombudsman (FOS) and compensation scheme (FSCS), we know from their published business plans
- Starting from a population of 1.1m workers in financial services, I have assumed that just over 4% are compliance staff (from LinkedIn and personal experience of dealing with regulated firms) and non-compliance staff spend 2.5% of their time on compliance activities. These two assumptions, along with the cost of employment, are the primary drivers of UK compliance costs. (I asked a stockbroker friend how much of his time he spent on compliance, and he said '60%!'. He does complain about it a lot and I don't really believe him! There are many others whose direct compliance activities will be an hour a week or less)
- I assumed that the average financial services salary is as stated on reed.co.uk
- I have relied on the 'good calculators' website to advise that doubling a base salary cost is broadly an accurate way of reflecting employees' true employment cost
- Ironically, given my current and previous roles, estimating the cost of RegTech and professional services in relation to compliance specifically, I have found the most difficult. I made a set of assumptions by market sector and ended up with professional services coming in at roughly 10% of the total compliance cost and made a very broad RegTech assumption
- I've not tried to be too clever and include, for example, the costs to firms of specific FCA processes such as burning capital while waiting to get authorised, and so on. Some costs are too complex to work out.

### So, what is the answer?

My calculation is below, and the answer it throws out is that the UK's financial services compliance cost is approximately £10.02bn p.a. or 6.1% of the UK's financial services output.

### Is it worth it? Does this represent good value for money?

That is a debate that could rage, but my belief is 'yes'.

If you tried to add up the cost of the damage that hypothetically would be done if there were no regulations, both to the financial markets and consumers, it seems a no brainer.

Think of it like this: When regulation goes horribly wrong (think the credit crunch), or even just has the odd blip (think London Capital and Finance), then the costs are very high. Direct costs of such failures are in the £bns or hundreds of £mns, very easily.

If there was no regulation at all this damage would be ongoing. Consumers would not be able to buy financial products with confidence. The capital markets would suffer from ongoing manipulation. Investment firms, insurers and banks would go out of business much more regularly. Overseas investors would put their money

in another jurisdiction. And just look at the resilience of our systemically important financial institutions (SIFIs) in dealing with the shocks of the last few years. It seems the lessons of the credit crunch have been well learned, if judged by SIFI's apparent recent resilience.

(My fingers are firmly crossed as I write that!)

So, expensive though it is, I believe the cost of regulation is worth paying in return for a more stable country and financially resilient population.

### **Can the cost of regulation come down?**

I know many people running regulated financial institutions would feel that compliance should be less costly.

So, let me finish with a little regulator anecdote.

I once shared a conference platform with an FCA manager who proudly told the audience that her business was to disrupt my business (which at the time was compliance consultancy).

This literally made me laugh out loud: firstly, I am sure her business was really to protect consumers and financial markets. But secondly, the only reason that I had a flourishing consultancy business was the complexity introduced into regulation by legislators and regulators. It is that complexity that leads regulated firms to seek and pay for professional support.

And I think that is the answer: to make any significant reduction to the cost of regulation the authorities would need to significantly reduce its complexity.

### **So, where does that complexity come from?**

Various places:

1. The size of the rule book. Quite simply: there are lots of rules!
2. Different rules across jurisdictions multiplies that complexity.
3. The complexity of regulation reflects the complexity of financial services being provided.
4. The increased sophistication of 'the bad guys' means that last years' laws and rules are no longer adequate – they have to keep moving on.
5. The political angle: every time something goes wrong, something new must be done. The net effect, ultimately, is to load complexity and pressure on firms. Recent examples are the advent of crypto or the London Capital and Finance scandal. These, via the Dame Gloster report, have led to an increase in scrutiny from the FCA and more pressure on the cost to regulated firms.
6. The tension between principles-based regulation and detailed rules. The market tends to prefer rules based, because compliance can be automated rather than having to take and justify decisions on what the firm is doing. We generally use the more expensive principles-based approach in the UK.

When I look at this list, I don't see anything changing. Complexity will not reduce; compliance and the associated cost is here to stay.

### **And Finally**

And finally – in practice what can you do?

We agree you cannot do much about the cost of compliance to UK Plc.



However, what you can do is manage the cost of compliance within your own company. As for all other commercial functions, a significant part of the answer is to utilise a suitable management system, such as My Compliance Centre, to increase control, reduce administration and ensure costs don't rise as your company grows.

*(With many thanks to my ex-colleague, John Burns of Compliancy Services, for his supporting and insight in writing this this article.)*

Category	Cost	% of
	(£ms)	Total Cost
<b>Regulators</b>		
PRA	321	
FCA	640	
FOS	244	
FSCS	1,004	
	2,209	22.04%
<b>Firms Operating Costs</b>		
Direct staff (compliance)	3,500	34.91%
Indirect staff costs	2,376	23.70%
RegTech costs	500	4.99%
Professional services	1,439	14.36%
AR Costs	133	1.32%
	£mns	£bns
<b>Total</b>	10,024	10.02
<b>As a proportion of UK FS output</b>		6.1%

*Ben's Calculation of the UK's Cost of Compliance*

## Compliance quote of the quarter

Ben Mason, CEO, My Compliance Centre

My quote of the quarter is from no less a luminary than the CEO of the FCA himself, Nikhil Rathi.

I have picked this because if what lies behind it. The same message has been made time and time again over the last couple of years: the FCA is deadly serious about its statutory objectives.

But the way in which this one liner was phrased made me sit up. It is really stark.

Mr Rathi, as reported on the FCA website says ***"Post-Brexit, if you are a predominantly UK business, your regulated entity should be here to protect investors and the integrity of the markets."*** The implication is that the primary purpose of having a business in the UK is to protect investors and market integrity.

Mr Rathi was once CEO to the London Stock Exchange. He knows better than anyone that commercial organisations are here primarily to generate returns for shareholders. That needs to be done legally and compliantly and other stakeholders taken into account, but the primary purpose is to deliver shareholder returns (and regulators generally are fine with 'fair profits' being made).

And Mr Rathi is now CEO of the FCA, so he also knows that it is the FCA's purpose to protect investors and the integrity of markets.

By telling firms that the FCA's objectives and their own are the same, he is putting down a strong marker.

Am I nit picking? A few minor changes to Mr Rath's wording would fix this issue – so, yes, I am being pedantic, and I admit that normally I would not have picked up on this point. However, I just think that again the FCA is stating a clear message and never have firms been so much at risk if they do not take their obligations seriously. To see the FCA's CEO restate the purpose of regulated firms strongly underlines their position. We have all been warned!

## My Compliance Centre System Status and Update

Jenny Kenlin, Head of Customer Engagement

We continue to enhance and develop My Compliance Centre with major enhancements and smaller usability updates. The last quarter was no different and I am pleased to confirm that a number of significant developments were released.

### These include:

1. A major update to the Regulatory Change Management module, including:

- A new dashboard-based interface, with full 'drill down' functionality
- Advanced filters allowing more configurable searches
- Fully centralised control of the news feed to different group companies
- Optional delegated management of the news feeds to group companies
- A new multiple dismissals option
- Auto-filtering of the data feed by document type or sector (using the enhanced data feed)
- And several other usability enhancements

2. The Monitoring Programme module was enhanced with a range of Task related enhancements, new Custom Fields and customisable RAG selections.

3. We have completed our first HR system integration to support user management.

4. The Attestations module has had multiple language support added. This means that colleagues in non-English speaking jurisdictions can have Attestations screens presented to them in their native language.

5. Across the system, ongoing smaller improvements and usability in all modules. This includes additional reminder e-mails, workflow and performance improvements.

The next quarter looks to be equally busy. We look forward to the release of our new data warehouse and reporting module as well as enhancements to the PA Dealing, Conflicts, Gifts modules and an improved main interface for all system users.

Our sincere thanks to our clients who provide such great feedback to enable all of these enhancements to become a reality.

For more information about My Compliance Centre please contact us at [mycompliancecentre.com](https://mycompliancecentre.com) or call us on +44 (0)20 8017 8273.