AFEP

Association of Foreign Exchange
and Payment Companies

AFEP Risk and Compliance Executive Committee

Updated Confidential Feedback on FCA Contact and Safeguarding

Following the October R&C Exec we approached members to understand what further contact members had had from the FCA and specifically regarding Safeguarding. Many members responded that they had had no further contact from the FCA since Summer, either regarding Safeguarding or otherwise. Some others who had gave the feedback below numbered 1-3 below.

During the course of November, a number of members had more detailed contact with the FCA concerning Safeguarding and were asked to provide a response to the following range of questions. Not all firms were required to answer all these questions, this is a full list of all the questions that were asked across all member firms.

1. Have you been meeting your regulatory capital requirements throughout the last 12 months?
2. Do you expect to be able to continue to meet your regulatory capital requirements for the next 12 months? If not, please explain why.
3. What is your current surplus or deficit of eligible capital resources over capital requirements? Please provide an up-to-date calculation of requirements, noting the method(s) used, and any relevant scaling factors applied. Please also provide an up-to-date calculation of your eligible resources, detailing the components of total capital resources, and any necessary deductions (such as for intangible assets, goodwill, deferred tax assets and investments in subsidiaries).
4. Do you expect to generate a profit in the current financial year?
5. Do you expect to generate positive cash in the current financial year?
6. Do you have a capital raising plan in place?
7. Latest audited financial statements.
8. Up to date management accounts including the income statement, cashflow statement, and balance sheet.
9. Fundraising plans (if required).
10. Financial projections for the remainder of the year and for 2020.
11. Detailed list of creditors and debtors by type, amount owed, term, and repayment schedule.
12. Please provide details regarding your liquidity risk management framework (including how you manage cashflows mismatch and how you model/manage/forecast prefunding volumes).
13. Copies of your firms' safeguarding and reconciliation policies.
14. Statements from your safeguarding accounts between DATE and DATE.
15. Evidence of the appropriate designation of these accounts as safeguarding accounts.
16. Detailed records of the reconciliation carried out on your safeguarding arrangements from DATE to DATE to ensure that the correct sums were segregated.
17. Internal or external assurance reports, including Audit reports and (if applicable) compliance monitoring reports, produced in the last 2 years.

Registered address c/o Dentons, 1 Fleet Pl, London EC4M 7RA. Company No. 07917853

Feedback 1
We received a request from the FCA in September which somewhat came out of leftfield. There has been a lot surveys and requests from the FCA we received of late, Operational Resilience and Vulnerability Guidance being two various entities in the Equals Group has had to answer but this seems a lot more targeted.

We answered within the timeframe. I was surprised to see a follow up question with just over a week to respond.

Feedback 2
They have approved phase 1 of our Safeguarding for EMI's which is to use company funds to fund the treasury leg of the transaction – we are still talking to them but they seem to want us to use company funds, which means remaining fully capitalised and have sufficient capital to fund any adverse market movement in that respect.

Feedback 3
From our contact with the FCA I think it would be good to have in the guidance that when what a firm considers safeguarded funds should be that is reflected in what a client can see on their online portal & if a firm is going to show funds that aren't in their safeguarded calculation they may need to be very clear about the "state" of this money. Linked to this would the firm's terms & conditions they need to reflect the business model. In relation to the insurance policy firms need to make sure that they have one policy per legal entity & that any claim on those funds would settle into a client account (in line with the regulations) in the name of that legal entity, we were also asked about liquidity & how we manage that especially in the circumstance where the insurance policy isn't renewed.

As a part of the safeguarding questions we were asked about our regulatory capital so it might be worth firms to do gap analysis of it making sure that they are making the correct deductions & for e-money firms are calculating average E-Money correctly.

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