

# Governance: A Focus for the FCA

January 2025



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Governance is a hot topic for the FCA, and has featured in a number of FCA Dear CEO letters in recent years. The FCA has a clear focus on operational resilience, risk management and Consumer Duty, as set out in its 2023/24 Business Plan. Non-compliance can result in a range of consequences including costly and time consuming interventions, adverse publicity, fines and sanctions against directors. **Act now to check your governance is in order.**

## How can we help?

Herrington Carmichael are trusted legal advisors to many FCA-authorized firms. We can help you to meet the FCA's governance requirements, to manage regulatory risks, deliver good outcomes for clients, and meet the FCA's standards.

Our regulatory and governance teams offer a full range of services to help safeguard your business, including:



### Governance Structures

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Robust Governance Arrangements include a clear organisational structure with well defined, transparent and consistent lines of responsibility. The FCA stressed the importance of robust governance in its 2023/24 Business Plan to ensure effective decision making and risk management, particularly concerning Consumer Duty and operational resilience. We advise firms on the setup, maintenance and responsibilities of effective boards, including regular effectiveness evaluations of boards and director training. We also perform "health checks" on current structures, providing concrete recommendations to support robust structures adopted by firms.



### Compliance Frameworks

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The FCA has repeatedly flagged weak compliance frameworks such as in its Dear CEO letter on Appointed Representatives (2022) where the requirement for better oversight of AR activities and compliance monitoring was flagged. We draft, review and update bespoke compliance policies, plans and procedures including Consumer Duty policies, anti-money laundering, financial crime prevention, data protections and whistleblowing.





## Internal controls

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With the FCA's focus on operational resilience outlined in its Policy Statement PS21/3, we assist firms by reviewing and enhancing internal control mechanisms to mitigate financial crime risks and improve operational resilience as well as creating bespoke policies/ processes for incident reporting, risk assessments and oversight of outsourced functions.



## Risk Management

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We design risk registers and mitigation strategies which are bespoke to your firm's business model and offer periodic risk assessments to assess the effectiveness of plans, policies, procedures and governance, and to address emerging threats, regulatory updates and FCA expectations that appear in Dear CEO letters such as the Dear CEO letter on Life Insurance Portfolios (2023) where firms were advised to enhance their governance and risk management capabilities.



## Operational Resilience

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We identify important business services and develop continuity plans to prepare for and mitigate the risk of service disruptions. We also ensure that appropriate contractual arrangements are in place in compliance with the FCA's requirements on outsourcing.



## Consumer Duty

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Consumer Duty remains a key topic for the FCA. Consumer Duty related questions crop up in the context of a wide range of FCA applications - for example, change in control and authorisation applications. The FCA updated its Consumer Duty guidance and has issued Dear CEO letters to firms setting out its expectations and explaining the importance of compliance in this area. We draft bespoke Consumer Duty policies and assist with gap analyses to ensure firms are compliant with the Consumer Duty.





## Senior Managers & Certification Regime (“SMCR”)

The SMCR framework facilitates effective governance. We assist firms with compliance by helping to define roles, drafting Statements of Responsibilities, drafting fitness and propriety assessments and ensuring the fitness and propriety assessments are conducted and documented. We also assist with training for senior managers on their regulatory obligations and compliance responsibilities.



## Financial Promotions

We advise on and draft financial promotions policies and review marketing materials to ensure they are “clear, fair and not misleading”. We also provide training and guidance to marketing teams on the requirements applicable to the marketing and promotion of financial services products.



*Mark Chapman is our go to contact for all regulatory matters. With strong technical knowledge and an unwavering eye for detail, Mark has a great ability to balance legal advice alongside commercial considerations, helping up to take a pragmatic approach to negotiations.*

**- Legal 500**

## Next Steps

Contact us to discuss how we can help ensure your firm is compliant and to avoid unwanted attention from the FCA.



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*This reflects the law and market position at the date of publication and is written as a general guide. It does not contain definitive legal advice, which should be sought in relation to a specific matter.*



## Relationship Lawyers

People and relationships are central to our ethos of providing solutions. Our growth over the last few years has arisen directly through taking the time to understand our clients' business before we commence any legal work. We facilitate regular contact with Partners, both online and offline, along with regular 'real time' reporting.

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