

Threshold Conditions

Chapter 1

Introduction

1.3 General

- 1.3.1** **G** The *guidance* in ■ COND 2 explains each *FCA threshold condition* in Schedule 6 (threshold conditions) to the *Act* and indicates how the *FCA* will interpret it in practice. This *guidance* is not, however, exhaustive and is written in very general terms. A *firm* will need to have regard to the obligation placed upon the *FCA* under section 55B (The threshold conditions) of the *Act*; that is, the *FCA* must ensure that the *firm* will satisfy, and continue to satisfy, the *FCA threshold conditions* in relation to each *regulated activity* for which it has, or will have, *permission*.
- 1.3.2** **G**
- (1) The *FCA* will consider whether a *firm* satisfies, and will continue to satisfy, the *FCA threshold conditions* in the context of the size, nature, scale and complexity of the business which the *firm* carries on or will carry on if the relevant application is granted.
 - (2) In relation to *threshold conditions* set out in paragraphs 2D to 2F of Schedule 6 to the *Act* in respect of *firms* which are not *PRA- authorised persons* and paragraphs 3C to 3E of Schedule 6 to the *Act* in respect of *firms* which are *PRA- authorised persons*, the *FCA* will consider whether a *firm* is ready, willing and organised to comply, on a continuing basis, with the requirements and standards under the *regulatory system* which apply to the *firm*, or will apply to the *firm*, and for which the *FCA* is responsible, if it is granted *Part 4A permission*, or a variation of its *permission*. These matters will also be considered if the *FCA* is exercising its *own-initiative powers* (see ■ COND 1.2.3 G). *Guidance* to *firms* on the implications of this is given under each of those *threshold conditions*.
- 1.3.3** **G** Although the *FCA* may consider that a matter is relevant to its assessment of a *firm*, the fact that a matter is disclosed to the *FCA*, for example in an application, does not necessarily mean that the *firm* will fail to satisfy the *FCA threshold conditions*. The *FCA* will consider each matter in relation to the *regulated activities* for which the *firm* has, or will have, *permission*, having regard to its *statutory objectives*. A *firm* should disclose each relevant matter but, if it is appropriate to do so, it is encouraged to discuss it with the *FCA*. This will enable the *FCA* to consider fully how material or significant the matter is and how it affects the ability of the *firm* to satisfy, and continue to satisfy, the *FCA threshold conditions*.
- 1.3.3A** **G** In determining the weight to be given to any relevant matter, the *FCA* will consider its significance in relation to the *regulated activities* for which the *firm* has, or will have, *permission*, in the context of its ability to supervise the *firm* adequately, having regard to the *FCA's statutory objectives*. In this

context, a series of matters may be significant when taken together, even though each of them in isolation might not give serious cause for concern.

1.3.3B **G** In determining whether the *firm* will satisfy, and continue to satisfy, the *FCA threshold conditions*, the *FCA* will have regard to all relevant matters, whether arising in the *United Kingdom* or elsewhere.

1.3.3C **G** When assessing the *FCA threshold conditions*, the *FCA* may have regard to any *person* appearing to be, or likely to be, in a relevant relationship with the *firm*, in accordance with section 55R of the *Act* (Persons connected with an applicant). For example, a *firm's controllers*, its *directors* or *partners*, other *persons* with *close links* to the *firm* (see **COND 2.3**), and other *persons* that exert influence on the *firm* which might pose a risk to the *firm's* satisfaction of the *FCA threshold conditions*, would be in a relevant relationship with the *firm*.

1.3.3D **G** In making its assessment, the *FCA* will consider the individual circumstances of each *firm* on a case-by-case basis.

1.3.3E **G** Notes on the contents of a business plan are given in the business plan section of the application pack for *Part 4A permission* on the *FCA's* website.

Statutory quotations

- 1.3.4** **G**
- (1) For ease of reference, the *FCA threshold conditions* in or under Schedule 6 to the *Act* have been quoted in full in **COND 2**.
 - (1A) Paragraphs 2A and 3A of Schedule 6 of the *Act* have not been quoted. These set out the application of the *FCA threshold conditions* to *firms* which do not carry on, or are not seeking to carry on, a *PRA regulated activity* and *firms* which carry on, or are seeking to carry on, a *PRA regulated activity* respectively. This application is summarised in **COND 1.1A**.
 - (2) As the *FCA threshold conditions* impose obligations, they are printed in bold type. The use of bold type is not intended to indicate that these quotations are *rules* made by the *FCA*.
 - (3) [deleted]
 - (4) Paragraph 1A of Schedule 6 of the *Act* sets out interpretative provisions that apply to the *threshold conditions*. These are repeated in **COND 1.3.5 G** below for ease of reference.

1.3.5 **UK** Paragraph 1A of Schedule 6 to the *Act*

- (1) "assets" includes contingent assets;
"consolidated supervision" has the same meaning as in section 3M(a);
"consumer" has the meaning given by section 425A(b);
"financial crime" is to be read with section 1H(3)(c);

"functions", in relation to either the FCA or the PRA, means the functions conferred on that regulator by or under this Act;

"liabilities" includes contingent liabilities;

"relevant directives" has the same meaning as in section 3M;

"Society" means the society incorporated by Lloyd's Act 1871(d) by the name of Lloyd's;

"subsidiary undertaking" includes all the instances mentioned in Article 1(1) and (2) of the Seventh Company Law Directive in which an entity may be a subsidiary of an undertaking.

- (2) For the purposes of this Schedule, the "non-financial resources" of a person include any systems, controls, plans or policies that the person maintains and the human resources that the person has available.
- (3) In this Schedule, references to "integrity of the UK financial system" are to be read with section 1D(2)(e).
- (4) The reference to the failure of a person is to be read in accordance with section 2J(3) and (4)(f).