

Wind-down Planning Guide

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Chapter 1

Introduction

1.1 Overview

- 1.1.1** **G** An effective wind-down plan aims to enable a *firm* to cease its *regulated activities* and achieve cancellation of its *permission* with minimal adverse impact on its *clients*, counterparties or the wider markets. This includes scenarios where the *firm* undertakes a strategic exit as well as unexpected crisis or insolvency that makes the *firm* unviable.
- 1.1.2** **G** A wind-down plan can also help a *firm* to assess if it would have adequate resources (e.g. capital, liquidity, knowledge and manpower) to wind down in an orderly manner, especially under challenging circumstances.
- 1.1.3** **G** The Quick Reference Guide at *WDPG* Appendices 1 to 12 is intended to help *firms* (especially those of a smaller size or a simpler operating model) to apply the concepts to develop an effective wind-down plan.

Chapter 2

Application and interpretation

2.1 Application and interpretation

- 2.1.1** **G** This guide aims to assist *FCA* solo-regulated *firms* authorised with a *Part 4A permission* with wind-down planning. It is not relevant where a *firm* is already in administration or liquidation, nor is it directly relevant to recovery strategies a *firm* may engage in as part of its recovery plan. While the guide does not impose any obligation on a *firm* to create a wind-down plan, it shows what an effective wind-down plan might include.
- 2.1.2** **G** This guide is general *guidance* given under section 139A of the *Act*.
- 2.1.3** **G** Interpretative provisions (including definitions in the *Glossary*) of the *FCA Handbook* apply to this guide in the same way they apply to the *FCA Handbook*. Where a definition is defined in the *Act* that definition applies in this guide.

Chapter 3

The concept and process of wind-down planning

3.1 What is wind-down planning?

- 3.1.1** **G** Wind-down planning is a process in which the *firm's governing body*:
- (1) identifies the steps and resources it needs to wind down its business, especially in a situation where resources are limited; and
 - (2) evaluates the risks and impact of a wind-down and considers how to mitigate them.
- 3.1.2** **G** The objective of wind-down planning is to help to reduce the risk of negative effects on *consumers* and market participants when a *firm* winds down its regulated business.
- 3.1.3** **G** The following list is not exhaustive, but an effective wind-down plan typically includes the following components:
- (1) The scenarios that could lead to a *firm* no longer being viable, adequate governance processes, management information monitoring and other control processes to support timely wind-down decision making.
 - (2) A plan to steer the *firm* to wind down its business in an orderly manner once exiting the business has been voluntarily decided or rendered unavoidable by external circumstances.
 - (3) An assessment of the resources, both financial and non-financial, that are needed to support an orderly wind-down.
 - (4) Processes for proactively identifying and mitigating any material risks or obstacles to winding down in an orderly manner, (e.g. issues that could lead to significant *consumer* detriment, or create a significant adverse impact to the financial market(s) or other third parties).
- 3.1.4** **G** The end product of this process is a documented wind-down plan that is approved by the *firm's governing body*, with a nominated person ensuring it is periodically reviewed as to its adequacy and remains current and relevant to the *firm's* operations.
- 3.1.5** **G** A wind-down plan is meant to be a living document, refreshed periodically and after any material change in business/operating model (e.g. addition of new major business line). It is good practice for the *governing body* to approve every material revision.

3.1.6 **G** We know that some *firms* may have carried out similar planning exercises under different but related regulatory processes (e.g. *ICAAP*, the *ICARA process*). This guide does not replace or re-interpret those processes. However, *firms* may want to take this guide into account to further strengthen their wind-down planning as well as to consider how consistent these processes are with one another.

[**Note:** the *ICARA process* is the process that *MIFIDPRU investment firms* are required to comply with under **■ MIFIDPRU 7.**]

Some commonly asked questions about wind-down planning

3.1.7 **G** **Q1: If a firm is running normally and is generating revenue/profits, would wind-down planning be of any relevance?**

Yes. There is no guarantee that a normally functioning *firm* will not fail in the future. Failure of a *firm* could occur suddenly. Without proper advance planning, a *firm* running into difficulties has an increased likelihood of a disorderly wind-down, potentially leading to *consumer* detriment and/or adverse effects in the market.

Q2: What is the difference between business continuity planning (BCP) and wind-down planning?

Most *firms* would have been asked to submit a description of business continuity plans as part of the *authorisation* process. BCP focuses on the *firm's* ability to continue to function or recover despite unforeseen physical and/or technical interruptions to its business. The *firm's* underpinning assumption is that it will continue to carry on its activities and so BCP focuses on resilience.

On the other hand, wind-down planning deals with situations in which the *firm's* regulated business is no longer viable or the *firm* makes a strategic/ business choice to exit their regulated business(es). The *firm's* assumption is that, for example, it will not be able to continue to carry on its activities or deliver the desired return on capital and so the focus is on how it can wind down its activities and relinquish its regulatory *permission(s)* in an orderly manner.

Q3: Which scenario is the most appropriate for the purpose of wind-down planning?

There are various scenarios which may lead to the wind-down of a *firm* (i.e. wind-down scenarios), such as loss of key *client(s)* or a severe economic downturn.

There is no single wind-down scenario that applies to all *firms*. The most useful scenarios to support forward planning are those that are severe, relevant to the *firm* and that may result in the regulated business not being viable.

Wind-down planning allows *firms* to plan ahead so that they have adequate financial and non-financial resources to:

- (1) formulate judgement if they have become unviable;
- (2) explore recovery options and/or mitigating actions (e.g. potential capital injections); and
- (3) wind down the business in an orderly manner if no other option is available.



3.2 Time horizon and the people involved in the planning process

- 3.2.1 **G** This section explains the time horizon (including the likely starting point and end point of the wind-down period), and some of the associated activities and costs *firms* may want to take into account during the wind-down planning process.
- 3.2.2 **G** The starting point of the wind-down period is when the *firm's* governing body (e.g. the Board of *Directors* of a company) makes the formal decision to wind down its regulated business.
- 3.2.3 **G** The end point of the wind-down period is when the *FCA* cancels the *firm's* *Part 4A permission*.
- 3.2.4 **G** However, wind-down planning is not just about the events during the wind-down period (i.e. between the start point and end point as described above). It also includes what precedes the actual wind-down process. In particular, as wind-down can be triggered by a range of scenarios, *firms* that proactively identify and monitor key management information, relevant metrics and early warning indicators are likely to be better prepared. It can also support more effective decision making and, where appropriate, timely initiation of the wind-down plan if needed.

Illustration of the time horizon

Considerations during Business as Usual	Wind-down period		
	Start point	During wind-down period	End point
<ul style="list-style-type: none"> •Consider a range of wind-down scenarios and possible mitigants •Identify relevant management information to be monitored •Governance process and <i>in</i> 	A <i>firm's</i> governing body makes a decision to wind down	A <i>firm</i> wants to close down its regulated business in an orderly fashion and needs sufficient financial and non-financial resources to do so. In parallel a <i>firm</i> may try to recover and/or pursue other mitigating ac-	Cancellation of <i>permission</i>

Internal controls are in place

tions (e.g. find a potential investor).

3.2.5

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Given the significance of wind-down planning, the *governing body* of a *firm* is most likely to be accountable for it, with appropriate engagement of relevant experts across the *firm* and, if required, externally. Senior individuals typically manage the wind-down process, ideally under the leadership of a designated representative, and are accountable to the *governing body*. The following table illustrates how different individuals or business areas could be involved in wind-down planning.

Illustration of who could be involved in wind-down planning

Governing body (e.g. Board of Directors)	Senior management	Front line business and support areas	Relevant external experts / third parties
The <i>firm's governing body</i> considers and approves the wind-down plan. This may include challenge from <i>non-executive directors</i> if relevant.	The planning process is likely to be most effective if it is led by an appropriate accountable person(s) reporting to the <i>governing body</i> . For a very large <i>firm</i> or <i>group of firms</i> , a further working group may be created to help coordinate and deliver the process. <i>Senior management</i> , e.g. the CEO, CFO, CRO, COO, provide valuable input to the review, validation and challenge, before the plan is presented to the <i>governing body</i> for deliberation.	Front line business and support areas are engaged to understand and mitigate potential operational issues and challenges from the wind-down process, e.g. redundancies, IT systems, access to third-party services, etc.	<i>Firms</i> may find it useful to consult external experts (e.g. an insolvency practitioner) and other relevant third parties to improve their understanding and management of key wind-down issues/scenarios.

[**Note:** The above table is an illustration, rather than a definitive list. *Firms* may need to analyse their organisational structure, business model and operating model to decide on the appropriate participants, bearing in mind that if a wind-down is actually triggered some of the original participants may no longer be present.]

3.3 Wind-down scenarios: what would make a firm no longer viable?

- 3.3.1 **G** There are many reasons why a *firm* may wind down, including a strategic exit where the *firm* makes a business decision to exit one or more markets and the decision is not due to it being unviable.
- 3.3.2 **G** However, our approach document focuses on dealing with scenarios in which a *firm* is no longer viable and is compelled to wind down its business. We refer to these as wind-down scenarios and these are typically used to inform a *firm's* wind-down plan. A *firm* will probably identify more than one wind-down scenario.
- 3.3.3 **G** To do this, *firms* may want to consider what events would be likely to make it no longer viable, which is often referred to as reverse stress-testing. A *firm* is not viable if it no longer has adequate financial or non-financial resources to carry on its *regulated activities*. This could happen for a variety of reasons, including:
- (1) significant financial losses with no signs of timely recovery;
 - (2) loss of key *clients* without realistic prospect of their replacement in good time; or
 - (3) loss of critical infrastructure (e.g. essential IT systems) with no signs of timely recovery.
- 3.3.4 **G** A *firm* may consider the following factors when formulating its wind-down scenarios:
- (1) business and operating models (business models show how a *firm* makes money, obtains funding and maintains healthy cash-flow while operating models look at the day-to-day operations of the business);
 - (2) key revenue drivers, *clients* and functions in its operating model; and
 - (3) vulnerable areas in its business and operating models.
- 3.3.5 **G** Ideally, *firms* would consider various scenarios which may lead to winding down (including stressed scenarios) and associated potential recovery

options. When a *firm* envisages that its regulated business is no longer viable (e.g. no recovery options remain available), it would start a wind-down process and our guide encourages *firms* to act swiftly and not wait until breaching *threshold conditions* to initiate a wind-down procedure.

3.4 Effective risk management

- 3.4.1** **G** A good wind-down plan is most likely to be supported by an effective risk management framework. This may include:
- (1) a clear risk appetite that has been approved and validated by the *governing body*;
 - (2) analysis of wind-down scenarios;
 - (3) appropriate reporting and monitoring of management information, risk metrics and early warning indicators; and
 - (4) any potential recovery options.
- 3.4.2** **G** A clear risk appetite, as well as an effective risk identification and assessment approach, are important parts of wind-down planning. They can help to identify the risk metrics that need to be monitored and to set the appropriate thresholds.
- 3.4.3** **G** Well-structured management information can help to identify emerging risks that could lead to a wind-down scenario. For instance:
- (1) funding institutions are reconsidering terms/conditions of credit facilities provided to the *firm*;
 - (2) approaching the date of contract renewal with a key *client*; and
 - (3) profit and loss account pressure due to poor market conditions.
- 3.4.4** **G** Good reporting processes can help ensure that the *firm* can assess emerging situations as soon as possible and intervene appropriately (i.e. in an attempt to recover).
- 3.4.5** **G** A *firm* may consider setting thresholds for relevant management information (e.g. profitability, capital adequacy, liquidity), so that if the data shows breaches of those threshold values it can trigger a report to *senior management* and prompt thinking on the next steps.

3.4.6

G *Firms* may consider potential options for recovery in the face of adverse business conditions, such as selling part of the business or seeking a capital injection. Even if a *firm* has taken these or similar steps aiming for recovery, wind-down planning can still be relevant as there is no guarantee that recovery options would save the *firm's* business.

3.5 Making a decision to wind-down

- 3.5.1** **G** In the event of a severe stress, a *firm* may have one or more potential options that might enable it to recover and return to a viable position, for example, finding potential investors to acquire or invest in the failing business. However, in spite of management actions, there may be no effective way to recover from a severe stress; at that stage consideration of the wind-down plan becomes relevant.
- 3.5.2** **G** The *firm's governing body* will need to make a formal decision to wind down in a timely manner. The wind-down plan can help the *firm's governing body* evaluate how viable any potential recovery options are against the risk of a disorderly *failure* if the decision to wind down is delayed or deferred for too long.
- 3.5.3** **G** Establishing clear indicators and thresholds can help a *firm's governing body* to make timely decisions. The *governing body* can also refer to the *firm's* wind-down scenario analysis to provide an indication of the minimum financial and non-financial resources needed to ensure the orderly winding down of the *firm's* activities. Deferring the wind-down decision to a point where that level of resources is no longer available would significantly increase both the risk and scale of a disorderly *failure*.
- 3.5.4** **G** *Firms* may identify what *regulated activities* they will cease once the wind-down decision is made. For instance, a *firm* should not normally take on any more new *clients* once that decision is made.
- 3.5.5** **G** We remind *firm's senior management* that they need to be aware of their *directors' duties* and what they must not do if the *firm* becomes insolvent.
- 3.5.6** **G** Before the *governing body* takes the decision to wind down, it may find it useful to check that:
- (1) the wind-down plan is up-to-date; and
 - (2) the *firm's* compliance with basic regulatory requirements.
- 3.5.7** **G** If the *governing body* takes the decision to wind down, we would recommend allocating a person or group within the *senior management* team with the role of coordinating, directing and implementing the wind-down process and ensuring prompt dissemination of information relevant to

decision-making at the *governing body* level. Many elements of these governance, oversight and operational arrangements can be established, in principle, in advance as part of a *firm's* wind-down planning.

3.5.8

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Firms should inform the *FCA* as soon as there are signs of a potential *failure* or any other causes for winding down, as well as of the actual wind-down decision. Early engagement with the *FCA* will help to deal with relevant regulatory issues. They should also consider whether to start communications with various stakeholders (see ■ WDPG 4.2 (Communications plan)).

[**Note:** See also *Principle 11* (Relations with regulators) (■ PRIN 2.1.1R).]

3.6 Impact assessment: who will be affected by a wind-down?

3.6.1 **G** It is important, given the *FCA’s consumer* protection and market integrity objectives, that *firms* seek to identify and mitigate any adverse impacts on *consumers*, counterparties and the wider markets that might arise as a result of a wind-down decision. A thorough analysis of all stakeholders will largely help a *firm* identify who might be affected if it winds down. It also helps a *firm* to understand how difficult it will be to wind down, for example, if it has many non-cancellable contracts in place which will inevitably increase the costs of winding down and prolong the length of the wind-down period.

3.6.2 **G** The obligation on *firms* to treat *customers* fairly continues to apply during the wind-down period. This includes, where relevant, considerations relating to *client monies* and *custody assets* (see ■ WDPG 4.3 (Client monies and custody assets)) or the needs of potentially vulnerable *customers*.

3.6.3 **G** *Firms* are required to keep up-to-date records. These will prove invaluable in assessing the number and types of *consumers* and counterparties that may be affected by the wind-down.

3.6.4 **G** *Firms* can support their impact assessment of winding down by a risk assessment of each stakeholder group along with the mitigating actions the *firm* would consider appropriate. Some factors that a *firm* may consider include:

- (1) How quickly can a *firm* conclude any outstanding transactions? Will there be any tax or other implications for *customers*?
- (2) Can the *firm* help transfer its *customers* to another *financial institution* or, where relevant, *firm* with a *permission* to carry on *regulated claims management activities*? If the *firm* has many *customers* to be transferred out, do other *firms* in the same sector have the capacity to take them on?
- (3) How quickly can *client monies* and *custody assets* be returned?

Market participants

3.6.5 **G** An orderly wind-down minimises the impact on the wider market. Some participants in the market may be more affected than others, for example if the *firm* is a major provider of products for a particular sector, in which case its winding down may cause a greater impact than would otherwise be the case.

Employees

3.6.6 **G** A *firm* may need to consider relevant employment legislation, especially if it has businesses that involve *overseas* jurisdictions. It may also choose to identify which *employees* need to be retained during the wind-down period to help with the wind-down operation, for example, compliance and contact centre *employees*.

3.6.7 **G** Although it may seem less critical to include consideration of other third parties such as landlords, creditors or trade payables, *firms* will need a prudent approach to wind-down planning that factors in the effect of winding down on third parties that have contractual relationships with the *firm*, such as the landlord of the *firm's* office. This ensures that essential needs, such as the need for premises, are still provided for during the wind-down period. It may also avoid a creditor, potentially facing the default of the *firm* on its obligations, triggering insolvency proceedings against the *firm* in anticipation of its exit.

3.7 Operational analysis: what happens during the wind-down period?

3.7.1 **G** The wind-down period can be considered as a timeline along which steps are taken, from making the wind-down decision, all the way to the *FCA* cancelling the *firm's permission*. A wind-down plan may be subject to last-minute changes arising from unforeseen external or internal circumstances.

3.7.2 **G** These steps are effectively a function of, and in turn affect, a *firm's* entire business. A *firm* may find it useful to assess the following non-exhaustive list.

- (1) The industry and the sector it operates in and the impact it may cause to the markets when it winds down.
- (2) Who its *clients* are and what processes are in place to maintain *client* records.
- (3) Dealing with *client complaints* and making adequate provisions for them, particularly post winding down.
- (4) Legal and regulatory status (including *FCA permission*).
- (5) Applicable legal, regulatory and insolvency requirements. These will include, among others, *directors'* duties under company law, data protection requirements, employment law and *FCA* filing requirements.
- (6) Organisational structure and operating model.
- (7) Internal processes, systems and human resources.
- (8) Processes or systems that are interconnected and/or outsourced.
- (9) Existing contractual commitments, such as with *employees* or third parties. In particular, there may be restrictions or penalty clauses for breaking contractual relationships.
- (10) Possible sale of all or part of the business and any applicable regulatory processes that may impact the timeline, such as a change in control application. It should also consider whether any arrangements need to be made for the migration of *clients* and how this will be communicated to these *clients*.
- (11) Orderly vacation of premises and disposal of fixed assets.

- 3.7.3** **G** After conducting its assessment a *firm* can work out an outline of sequenced actions in a wind-down scenario and how long each action will take. The specifics will vary from *firm* to *firm* but some possible considerations include the following.
- (1) How would the *firm* announce the wind-down decision and manage communication with stakeholders?
 - (2) How will the *firm* reconcile *clients'* business records and ensure their interests are not affected? For instance, a *firm* will have to return *client monies* and *client assets* during wind-down.
 - (3) How would the *firm* deal with *employee* redundancies?
 - (4) Who needs to be available to assist the winding down?
 - (5) What systems (e.g. IT systems) need to be available for the wind-down?
 - (6) When might the *firm* need to engage professional advisors, such as an insolvency practitioner, to support the wind-down process?
- 3.7.4** **G** The *firm's governing body* will need to take ultimate ownership of, and accountability for, the timely implementation of the wind-down plan. However, for each step or activity this analysis identifies, it may be helpful to indicate who will be responsible for that particular task.
- 3.7.5** **G** At the end of such an analysis, the *firm* will be better able to estimate the length of the wind-down period.



3.8 Resource assessment

3.8.1 **G** To achieve the objective of winding-down in an orderly manner, a *firm* needs to have adequate financial and non-financial resources to do this and may ask itself a range of questions.

Non-financial

3.8.2 **G** What non-financial resources, such as premises, IT, key *employees*, external advisors etc., does it need to carry out the steps identified in the operational analysis and for how long might it need them? (See ■ WDPG 3.7 (Operational analysis: what happens during the wind-down process?)) *Firms* that are part of a larger group may need to consider issues of inter-connectedness, and in particular between regulated and unregulated parts of the group.

3.8.3 **G** If a *firm* relies on outsourced services, will these services still be available during the wind-down period, or are contingency measures in place? When negotiating outsourcing agreements, *firms* may wish to consider the possible invocation of their wind-down plan and the impact this would have on the contractual relationship.

3.8.4 **G** If a *firm* is part of a larger *group*, and is depending on *group* resources, would it still have adequate resources to wind down in an orderly manner if the *group* failed?

Financial

3.8.5 **G** This guide does not provide any *rule* or interpretation in relation to the financial resources requirements applicable to a *firm*. Rather, it highlights some of the factors which a *firm* may want to consider in its wind-down planning.

3.8.6 **G** It is important that *firms* monitor their solvency on a regular basis to ensure they continue to be able to meet their obligations as they fall due. If a *firm* becomes uncertain of its ability to do so, it may seek professional advice, such as from an auditor or insolvency practitioner to assist.

3.8.7 **G** A *firm* in wind-down will likely have non-routine *cash* inflows and outflows, which are best monitored on a daily basis. These will include:

- (1) inflows, i.e. predicted revenue and other inflows that are likely to be limited after the triggering event and/or if a wind-down decision is made;
- (2) ordinary outflows, i.e. the cost of maintaining operational premises and systems; and
- (3) extraordinary outflows associated with winding down, such as extra closure costs, legal fees, professional services and insolvency practitioner fees, redundancy payments, retention payments, pension fund deficits, lease and other termination penalties and the costs of breaking contracts.

3.8.8

G A *firm* might then consider if it would have enough *cash* or cash-equivalent investments to meet operating expenses and any other obligations during the wind-down period.

3.9 Cancellation of permission

3.9.1

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A *firm* needs to have its *Part 4A permission* cancelled to complete the wind-down process. Before the *FCA* can grant a cancellation, we will review, among other things:

- (1) generally, whether it would be detrimental to *customers* or would cause market disruptions to cancel the permission;
- (2) whether there remain any long-term “tail” commitments for which arrangements acceptable to the *FCA* have not yet been made;
- (3) whether there are any existing unresolved *customer complaints* or any that might reasonably be expected in the future;
- (4) whether all *client monies* and client assets (if any) have been returned in accordance with *CASS rules*; and
- (5) whether there are any outstanding *fees* owed to the *FCA*.

[**Note:** Although we aim to complete a cancellation transaction as quickly as possible, we will need sufficient time to consider whether a *firm* meets the regulatory requirements or prerequisites for cancellation of permission.]

Chapter 4

Further topics

4.1 Anticipating reactions

4.1.1 **G** In **WDPG 3.6** (Impact assessment: who will be affected by the wind-down?) we explain how important it is for *firms* to assess the impact of a wind-down on *customers*, markets and other parties. In this section, we highlight the importance of anticipating the reactions of those parties.

Employees

4.1.2 **G** *Employees* may want to leave as soon as possible to secure new roles. *Firms* may therefore need to consider how to ensure they can retain the key *employees* needed to carry out a wind-down.

Clients or counterparties

4.1.3 **G** If a *firm* is winding-down, especially under challenging market conditions, there is a risk that counterparties or other *clients* may simply *default*. This may have consequences on anticipated revenues and costs, and the duration and/or impact of the wind-down.

Creditors, landlords and other suppliers

4.1.4 **G** When a *firm* announces its wind-down decision, this may affect its reputation and/or credit rating. Changes in these factors may cause concerns for creditors, landlords and other suppliers about the *firm's* ability to meet any outstanding liabilities and may trigger reactions such as margin calls or demands for full and final payment. It is therefore crucial that the *firm* communicates with these parties, and ensures there is sufficient liquidity to meet any liabilities when they fall due. This is a prime example of the importance of making a timely decision to wind down.

4.2 Communications plan

- 4.2.1** **G** An effective wind-down plan would include a predetermined communications plan that considers the contents and timing of communications, including website updates (and possibly a hotline), to a wide range of stakeholders, such as relevant regulators (e.g. the listing authority, stock exchange, *FCA*, *overseas* regulators etc.), *employees*, *customers*, *service providers*, *shareholders*, *bondholders*, relevant industry associations and trade bodies and the media. Some suggested elements the *firm* may want to consider for the communications plan include:
- (1) identifying the stakeholders to be engaged;
 - (2) determining who should engage those stakeholders;
 - (3) agreeing the internal process for drafting and approving any communication to the stakeholders;
 - (4) establishing guidance and procedures for a proactive vs a reactive communication strategy (or combination);
 - (5) preparing scripts in advance if appropriate, e.g. holding statements, acknowledging that detailed messaging may only be possible reactively; and
 - (6) recognising the potential need for the *governing body* to engage with legal advisors and communication experts (e.g. through media training).
- 4.2.2** **G** Good stakeholder contact during the wind-down period will support the *FCA's consumer* protection and market integrity *statutory objectives*. Communications should be carefully handled to avoid a lack of reliable information or leaks which could create concerns among *consumers* and, in more severe cases, an increased risk of detriment and disruption to the wider market.
- 4.2.3** **G** In line with Principle 11 (■ **PRIN 2.1.1R**), *firms* need to be mindful of their obligation to keep the *FCA* informed of material developments. This includes issues that might threaten the ongoing viability of the *firm* and any decision(s) to cease operations. Thereafter, a regular dialogue between the *firm* and the regulator needs to be maintained.
- 4.2.4** **G** It is important for the *firm* to identify one or more individuals who will be responsible for coordinating effective and timely communications during the

wind-down period. These individuals are likely to include senior decision-makers as well as those with specialist communications/technology skills, for example those with knowledge of financial disclosure requirements, web publishers etc. This is particularly relevant for a *group* of companies, or where *listed* entities are involved. In order for these individuals to effectively deliver communications in a wind-down they will need the appropriate training, tools, systems and resources.

4.3 Client monies and custody assets

- 4.3.1** **G** Any *firm* holding *client monies* or *custody assets* must ensure that it complies with all applicable *CASS rules*.
- 4.3.2** **G** In particular, all firms that fall under the requirements of **■ CASS 10.1.1R** must maintain a *CASS resolution pack*.
- 4.3.3** **G** The purpose of the *CASS resolution pack* is to ensure that a *firm* maintains and is able to retrieve information that would, in the event of its insolvency, help an insolvency practitioner achieve a timely return of *client* money and *safe custody assets* held by the *firm* to its *clients*.

4.4 Groups of firms and overseas businesses

- 4.4.1** **G** If the *firm* is part of a larger *group* and it decides to have its own individual wind-down plan the plan will almost inevitably be impacted by *group* activities. In particular, some or all elements of its governance, financing and operations may be dependent on the *group*. These dependencies have implications on the wind-down plan's cost, duration and simplicity.
- 4.4.2** **G** A *firm* preparing a wind-down plan at *group* level might be facing two possible wind-down scenario options:
- (1) the *firm* winds down its regulated business on its own in an event independent of its *group*; or
 - (2) the *firm* winds down its regulated business as part of a larger *group* failure/wind-down event.
- 4.4.3** **G** The following are some common questions which a *firm* could consider in a group scenario.
- (1) Does the *group*/parent need to be consulted before making the wind-down decision?
 - (2) If the *group* has entities that are *listed*, are there any actions to be taken in line with applicable disclosure regimes and *listing rules*?
 - (3) If there are *intra-group transactions*, how are they unwound and how do they affect wind-down costs?
 - (4) What support will the *firm* receive from the *group* during its wind-down?
- 4.4.4** **G** A *group failure* event is particularly serious, as it could mean the relevant *firm* no longer has access to *group* resources such as a central treasury function, financial resources, IT and administrative functions for its own wind-down operation. It would then need to consider alternative resources in its wind-down planning.
- 4.4.5** **G** Wind-down will trigger the closure of all regulated business undertaken by the *firm*, including *overseas* activities. Closure of *overseas branches* or *subsidiaries* could be complicated due to jurisdictional differences (e.g.

regulatory requirements, laws relating to employment and liquidation, etc.) and time differences (e.g. in relation to announcement of wind-down, closing out transactions etc.), which can add to the cost and duration of winding down.

4.5 Continuing regulatory requirements during wind-down

- 4.5.1** **G** Continuing requirements during wind-down: The wind-down plan does not create an exception for complying with *threshold conditions* or our *rules* during the wind-down period.
- 4.5.2** **G** During wind-down *firms* will need to continue to comply with the *Principles*, reporting requirements, financial resource requirements and any other relevant requirements.

Appendix 1

Quick Reference Guide (QRG)

1.1 Overview

- App 1.1.1** **G** This Quick Reference Guide (QRG) (*WDPG* Apps 1 to 12) may help solo-regulated *firms* to put the theory of wind-down planning into practice.
- App 1.1.2** **G** This QRG is **not** a definitive checklist for wind-down planning as no two *firms* are identical and the actual wind-down planning process will depend on a *firm's* specific business and operating model. This QRG highlights the various components a *firm* can include when building its wind-down plan.
- App 1.1.3** **G** This QRG is written for all solo-regulated *firms*, but it may be particularly helpful to those carrying out wind-down planning for the first time.

1.2 Main concepts

- App 1.2.1** **G** A *firm* will have to wind down if continuing its business is no longer viable. A business is no longer viable if the *firm* does not have adequate resources to meet its regulatory requirements (e.g. the *threshold conditions*) and contractual obligations.
- App 1.2.2** **G** Well-structured management information allows a *firm* to identify if there are any emerging risks that may make the *firm* unviable. This may allow a *firm* some time to try to recover. If the recovery options fail, then it is almost certain that it is no longer viable.

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- App 1.2.3** **G** A *firm* needs to be careful not to leave the decision to wind down so late that it no longer has adequate resources or liquidity to allow it to wind down in an orderly manner.
- App 1.2.4** **G** The obligation on *firms* to treat *customers* fairly continues to apply during the wind-down period. This includes, where relevant, considerations relating to *client monies* and *custody assets* or the needs of potentially vulnerable *customers*.
- App 1.2.5** **G** Early engagement with the *FCA* will help the *firm* to deal with relevant regulatory issues.

Appendix 2 QRG: leadership and responsibilities

2.1 Leadership and responsibilities

App2.1.1 **G** For successful wind-down planning, it is important that a *firm’s governing body* (e.g. the Board of *Directors* of a company or *partners* of a *partnership*) fully understand the purpose and process of wind-down planning.

App2.1.2 **G** The *firm’s governing body* is ultimately responsible for the effectiveness of wind-down planning, and so it needs to demonstrate leadership and set the strategy for the process.

App2.1.3 **G** Effective wind-down planning is more likely if it is prepared by a working group leading the process and reporting to the *governing body* via a designated representative.

Effective	Less effective
<i>Senior management</i> leads a wind-down planning project and secures the <i>governing body’s</i> agreement to the principles of wind-down planning.	Finance Department works out the estimated costs of winding down the business (i.e. without considering the associated governance and operational planning elements).

Appendix 3 QRG: business areas and workshops

3.1 Engaging all business areas and setting up workshops

App3.1.1 **G** All the *firm's* business areas, including the front line, are affected by winding down and will bring their unique perspectives to crafting a strategy and a documented plan.

App3.1.2 **G** A sensible approach might be to set up workshops with representatives from various business areas. Each workshop will explain the principles of wind-down planning to these representatives and work with them to analyse the processes and resources of each business area.

App3.1.3 **G** These workshops will provide the knowledge, expertise, insights and data to be used in the wind-down planning exercise.

Effective	Less effective
Each business area's needs and requirements are factored into the process to generate a wind-down plan.	Wind-down plan remains at a high level treating business processes in a one-size-fits-all approach.

Appendix 4 QRG: the business and operating models

4.1 Analysing the business and operating models

App4.1.1 **G** To analyse the business and operating models effectively, a *firm* should:

- (1) place emphasis on understanding how its balance sheet generates profit and loss and the details of operations;
- (2) carry out a review of the sources and uses of both its capital and liquidity by reviewing, among other items, revenue drivers, cost drivers and sources of *cash* inflows and outflows;
- (3) consider which areas may be difficult to wind down, e.g. due to longer notice periods of some *employees*, certain *transactions* or contracts with third parties that are subject to a longer cancellation period; and
- (4) consider internal and external connectedness, i.e. the dependencies the *firm* has on other parties or group members and the dependencies others have on the *firm*.

Effective	Less effective
The working group carefully studies the data gathered from the workshops, and assesses which areas may be difficult to wind down.	The working group does not draw out vulnerabilities and pinch points from the workshops.

Appendix 5

QRG: wind-down scenarios and relevant management information

5.1 Generating wind-down scenarios and identifying relevant management information to monitor

App5.1.1 **G** To generate wind-down scenarios, a *firm* may consider the following:

- (1) which are the critical revenue drivers and business lines for the *firm* to sustain;
- (2) which are the business areas subject to the greatest risks, e.g. if a sudden large volatility in the currency market will lead to great losses;
- (3) the infrastructure, resources or third parties upon which the *firm* heavily depends;
- (4) the *firm's* agreed (qualitative and quantitative) risk appetite and risk thresholds;
- (5) internal audit reports; and
- (6) compliance monitoring processes and reporting.

App5.1.2 **G** The above thinking will help a *firm* to find out its 'risk fault lines', i.e. those critical areas where *failure* would severely affect the business.

App5.1.3 **G** Based on the risk fault lines identified, a *firm* can decide the plausible scenario(s), i.e. the wind-down scenarios, under which its regulated business will likely no longer be viable. We give some examples in the table under **WDPG App 5.1.4G**.

App5.1.4 **G** After outlining the wind-down scenario(s), a *firm* identifies the key management information that is most directly related to those scenario(s) and the relevant indicators it will want to monitor for danger signs.

Effective

Sample wind-down scenarios (covering those that are fast and slow-moving, *firm* specific and macro-economic) might include:

Less effective

The *firm* takes the view that the *firm* is running well and will never fail. Even if it were failing, it believes that it could sell the business

- severe economic downturn leading to continual losses with no sign of recovery; and

- loss of critical IT infrastructure (especially if the *firm's* business is largely technology-based).

Some management information which a *firm* could constantly monitor:

- profitability; and
- net current and future cash-flow.

[**Note:** these are not definitive lists. *Firms* will need to analyse their business and work out their own scenarios.]

to another *firm* in short order or obtain generous *cash* infusions from a parent.

[**Note:** No business can categorically guarantee it will never fail. A failing business is not always able to find an acquirer/investor for the business and the process to effect due diligence and a change in control can be very lengthy.]

Appendix 6

QRG: the governance process for winding down

6.1 Formulating a governance process for winding down

- App6.1.1** **G** The *governing body* ultimately owns any documented governance process for winding down. It may stipulate a mechanism to determine when to invoke wind-down, typically via monitoring key management information to detect the early warning signs of a potential wind-down situation. The *governing body* may also specify a reporting line to ensure that *senior management* and the *governing body* are given this information without delay, as well as all further information and data once the wind-down is triggered.
- App6.1.2** **G** In a time of financial stress, clear-headed and prompt decision-making is essential. It is up to the *governing body* of a *firm* to make such a decision, but it may have to consult its parent if it is part of a larger *group*.

Appendix 7 QRG: impact assessment

7.1 Carrying out an impact assessment: who will be affected?

App7.1.1 **G** In an impact assessment, a *firm* may ask the following questions to identify the stakeholders who may be affected by the winding down.

- (1) How might *customers* be affected by the wind-down? For instance, how many existing *customers* will the *firm* have to deal with if it is winding down now? How will the *firm* close *transactions* with these remaining *customers* and will *customers* be diligent in responding to the *firm's* notices and ending their business relationship?
- (2) Does the *firm* have an effective system to maintain *client* and *transactions* records?
- (3) Does the *firm* need to execute risk-reducing trades and, if so, will it continue to have access to the right market counterparties to do so?
- (4) How will *employees*, trade suppliers, counterparties or other third parties be affected?
- (5) What are the potential tax implications of winding down?

Effective	Less effective
Take into account the possibility of <i>customers</i> disputing <i>transactions</i> when closing out.	Take the view that if a <i>firm</i> is insolvent the administrator will ultimately allocate the assets according to priority.

Appendix 8

QRG: operational analysis

8.1 Operational analysis

App8.1.1 **G** In an operational analysis, a *firm* may adopt the following structure to work out what steps may need to be taken in its winding down:

- (1) The starting point of the wind-down timeline is when the wind-down decision is made. The end point is when the regulatory *permission* is successfully cancelled.
- (2) Numerous actions need to occur after the wind-down decision is made and these populate the timeline sequentially.
- (3) The estimated length of the wind-down period can then be calculated from the sequence of the individual actions' durations.
- (4) This in turn allows an assessment of what resources (both financial and non-financial) would be needed to implement it.

App8.1.2 **G** Factors which a *firm* may consider:

- (1) How might the *firm* announce the wind-down decision and manage its communications policy? Will this be sufficient to deal with a "run" on the firm?
- (2) How will the *firm* reconcile *clients'* business records and ensure their interests are not affected? For instance, if a *firm* has to return *client monies* and *assets* when winding down, how would it do this?
- (3) Who needs to be available to assist the *firm* in winding down?
- (4) How would the *firm* deal with redundancies and, conversely, which *employees* need to be retained with special financial arrangements?
- (5) What systems (e.g. IT systems) need to be available to the *firm* during the winding down?
- (6) Will the *firm* need to engage professional advisors to wind down?

(7) Has the *firm* considered the implications for any *overseas* offices and *branches*?

Appendix 9 QRG: time and costs for wind-down

9.1 Estimating the time necessary and costs for wind-down

App9.1.1 **G** *Firms* may take into account the following to estimate the time and costs needed for wind-down.

- (1) *Firms* should not take on new *clients* after a decision to wind down the *firm's* regulated business is made, but there may be a continuing income stream from contracts with existing *clients* before the cancellation period is over. *Firms* may however want to consider how certain these remaining income streams will be in the context of winding down.
- (2) *Firms* then need to estimate the costs of winding down. These costs include redundancy payments, retainer premiums for essential *employees*, legal and other professional *fees*, or cancellation penalties with third party providers.
- (3) *Firms* may draw out these estimated revenue and costs on a month-by-month schedule covering the entire wind-down period.
- (4) The estimated wind-down costs may also take into account the possible need for an administrator and all other wind-down conditional costs such as tax, legal, specialist consultancy and audit.
- (5) *Firms* need to estimate, conservatively, the time necessary to wind down to the point that the *FCA* would cancel the *firm's Part 4A permission*.

Effective	Less effective
The <i>firm</i> sets out a month-by-month schedule of revenue and costs in the wind-down period. Costs are itemised and conservatively estimated.	The <i>firm</i> estimates costs on a quarterly basis. [Note: Though this is not necessarily wrong, this would make it difficult to assess if the <i>firm</i> would have enough <i>cash</i> or liquid assets to meet its expenses on a monthly basis.]

Appendix 10 QRG: adequacy of financial and non-financial resources

10.1 Assessing the adequacy of resources

App 10.1.1 G A *firm* may take into account the following to assess if it would have adequate resources to carry out an orderly wind-down:

- (1) A *firm* needs to have adequate financial and non-financial resources. A *firm* that leaves making the decision to wind down until it is too late risks breaching regulatory requirements, engaging in a disorderly wind-down, or even operating illegally while insolvent.
- (2) Whether the *firm* has sufficient *cash* to meet monthly expenses during the wind-down period.
- (3) The level of non-financial resources that are needed for wind-down and whether they are in place.

Effective Consider which key <i>employees</i> will be needed for an orderly wind-down but may want to leave the <i>firm</i> after the wind-down decision is made. An additional allowance to retain these <i>employees</i> during the wind-down period may be needed.	Less effective The <i>firm</i> only assesses its capital adequacy, and fails to assess its ability to meet monthly expenses during the wind-down period.
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Appendix 11

QRG: special considerations

11.1 Special considerations

App 11.1.1 **G** Please refer to **WDPG 4** to identify which factors might apply and consider incorporating them into the wind-down planning.

App 11.1.2 **G** In particular, if a *firm* has any dealing with *client monies* and *assets*, it needs to ensure it complies with the relevant *rules* in *CASS*.

App 11.1.3 **G** *Firms* should also consider having a communications plan in place.

Appendix 12 QRG: documentation, approval and maintenance

12.1 Documentation, approval and maintenance

App12.1.1 G *Firms* should keep a written record of discussion of the wind-down planning exercise, and most importantly, the wind-down plan as the final output from that process.

App12.1.2 G The final output – the wind-down plan – will be easier for its future users to implement if it is simply structured for ease of reference with sections such as:

- (1) governance process for wind-down scenario (■ WDPG App 6);
- (2) operational analysis for winding down (■ WDPG App 8);
- (3) estimated revenue/costs schedule of wind-down (■ WDPG App 9); and
- (4) resource assessment (■ WDPG App 10).

App12.1.3 G The *governing body* of a *firm* should review and approve a wind-down plan and then maintain it by designating an accountable individual to own the document. This maintenance will ensure its reliability as an effective resource for the *firm*.

Effective	Less effective
Wind-down plan is kept as a live document and is reviewed at least once a year.	Wind-down plan is left unrevised for years.

