Chapter 3

The concept and process of wind-down planning

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.