

## 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

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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.
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During wind-down *firms* will need to continue to comply with the *Principles*, reporting requirements, financial resource requirements and any other relevant requirements.