SUPERVISION MANUAL (SUPERVISORY PRINCIPLES AMENDMENT) INSTRUMENT 2019

Powers exercised

A. The Financial Conduct Authority makes this instrument in the exercise of the powers in section 139A (Power of the FCA to give guidance) of the Financial Services and Markets Act 2000.

Commencement

B. This instrument comes into force on 24 April 2019.

Amendments to the Handbook

C. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Citation

D. This instrument may be cited as the Supervision Manual (Supervisory Principles Amendment) Instrument 2019.

By order of the Executive Regulation and Policy Committee of the Financial Conduct Authority

16 April 2019

Annex

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1A.3 The FCA's approach to supervision

Purpose

1A.3.1 G …

1A.3.2 G ~~The overall approach in the *FCA* supervision model is based on the following principles:~~

~~(1) forward-looking and more interventionist;~~

~~(2) focused on judgment, not process;~~

~~(3) *consumer*-centric;~~

~~(4) focused on the big issues and causes of problems;~~

~~(5) interfaces with executive management/Boards;~~

~~(6) robust when things go wrong;~~

~~(7) focused on business model and culture as well as product supervision;~~

~~(8) viewing poor behaviour in all markets through the lens of the impact on *consumers*;~~

~~(9) orientated towards *firms* doing the right thing; and~~

~~(10) Externally focused, engaged and listening to all sources of information.~~ [deleted]

Supervisory principles

1A.3.2A G The following supervisory principles will guide the *FCA's* supervisory work.

(1) Forward-looking – the *FCA* will aim to pre-empt or address poor conduct so that risks do not arise and any associated harm does not materialise or if the harm is likely to materialise to ensure it does not cause significant harm to *consumers* or the *UK financial system.*

(2) A focus on strategy and business models – the *FCA* will assess a *firm's* business model to:

(a) identify emerging risks of harm and to ensure that the *FCA's* supervisory activity mitigates the risks identified; and

(b) develop a strong understanding of a *firm's* business model for the purposes of identifying whether there is poor alignment between a *firm's* profit incentive and the interests of *consumers* and the relevant markets functioning well.

(3) A focus on culture and governance – the *FCA* will:

(a) look at what drives behaviour within a *firm*: for example, the *firm's* purpose as it is understood by the *firm's employees*, the attitude, behaviour, competence and compliance of the *firm's* leadership, the *firm's* approach to managing and rewarding people (e.g. staff competence and incentives), and the *firm's* governance arrangements, controls and key processes (e.g. for whistleblowing or complaint handling);

(b) in relation to governance, assess effectiveness, and not merely design. The *FCA* will focus on a *firm's* conduct risk framework. For example, whether the *firm* has effective governance arrangements in place to identify the risk of harm to *consumers* or the *UK financial system* and whether the *firm* has a strategy in place to manage and mitigate those risks; and

(c) seek to address any drivers of behaviour which are likely to cause harm.

(4) A focus on individual as well as *firm* accountability – the *FCA* will:

(a) approve and hold to account the most senior individuals whose decisions and personal conduct have a significant effect on the conduct of their *firm*; and

(b) as part of the Senior Managers and Certification Regime, expect *firms* to take responsibility for certifying the competence and integrity of *employees* with the potential to cause significant harm.

(5) Proportionate and risk-based – the *FCA* will:

(a) use its understanding of the *UK financial system* and *firms'* business models to target *firms* where misconduct would cause the most harm (especially to vulnerable *consumers* or important markets) and *firms* where misconduct is most likely to be significant; and

(b) systematically use intelligence to target its engagement from a broad set of sources. This includes complaints data, whistleblowers, the *FCA's* contact centre, regulatory returns, other regulators and competitor *firms*.

(6) Two-way communication – the *FCA* will:

(a) engage directly with *consumers* and their representatives to understand issues they face and target *firms* that may be causing harm;

(b) engage with industry, *firms* and market participants to understand how they are responding to market-wide events, *firm*s-specific events and the regulatory framework and to adjust the *FCA's* opinions and approach where appropriate;

(c) be clear with *firms* and individuals about good and poor practice that the *FCA* observes; and

(d) be as transparent as possible about the *FCA's* work and its priorities for the coming year.

(7) Co-ordinated – the *FCA* will:

(a) ensure its Supervision teams work closely with those in its Authorisations, Market Oversight, Policy, Competition and Enforcement functions to reach robust decisions and share information and provide consistent messages;

(b) share intelligence with other regulatory bodies such as the Bank of England, Payment Systems Regulator, the *Financial Ombudsman Service Limited* and the Pensions Regulator; and

(c) as a supervisor of global firms and global markets, work with regulators overseas to supervise these firms and markets on issues which are common across national borders.

(8) Put right systematic harm that has occurred and stop it happening again – the *FCA* will:

(a) where it sees systematic harm, move quickly to stop harm occurring. For example, through imposing an Own Initiative Requirement (OIREQ) on the *firm* and, where appropriate, ensuring that the *firm* addresses the drivers of culture and its business model and strategy to prevent a recurrence;

(b) where it suspects serious misconduct, refer to its Enforcement Division for an enforcement investigation; and

(c) seek to obtain redress for affected *consumers*. The *FCA* may, for example, seek to put this right by requiring a *consumer* *redress scheme*, engaging directly with the *firm*, or by working with other authorities such as the *Financial Ombudsman Service Limited*.

The scope of the supervision model for firms

1A.3.3 G The *FCA* supervision model ~~risk assessment process~~ applies to all *firms*, although the ~~detail required~~ application of the model may vary from *firm* to *firm*. ~~For example, some *firms* may experience a highly intensive level of contact although others may only be contacted once every four years. *Firms* judged as high impact are likely to require a more detailed assessment. A peer review process within the *FCA* assists consistency and will be focused on *firms* and sectors of the industry that could cause, or are causing, *consumers* harm or threaten market integrity~~ For all *firms*, whether supervised with a dedicated supervision team or supervised as part of a portfolio, the *FCA* will complete analysis and assessment and communicate to *firms* on a regular basis its programme of work, view on the main risks of harm and the steps it, the *FCA*, will require *firms* to take.

1A.3.4 G The supervision model is based on three ~~pillars~~ types of work:

(1) ~~the Firm Systematic Framework (FSF) – preventative work through structured conduct assessment of *firms*~~ proactive – pre-emptive identification of harm through review and assessment of *firms* and portfolios: this includes business model analysis and reviewing the drivers of culture;

(2) ~~event-driven work – dealing with problems that are emerging or have crystallised, and securing consumer redress or other remedial work (e.g. to secure the integrity of the market) where necessary~~ reactive – dealing with issues that are emerging or have happened to prevent harm growing; and

(3) ~~issues and products – thematic work on sectors of the market or products within a sector that are putting or may put *consumers* at risk~~ thematic – wider diagnostic or remedy work where there is actual or potential harm across a number of *firms*.

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1A.3.6 G (1) The *FCA* intends to communicate the outcomes of its ~~pillars of supervision~~ supervisory work to each *firm* within an appropriate time frame. In the case of *firms* in which risks have been identified which could have a material bearing on the *FCA* meeting its *statutory objectives*, the *FCA* will also outline a remedial programme intended to address these.

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1A.4 Tools of supervision

1A.4.1 G …

1A.4.2 G These tools may be usefully grouped under four headings:

(1) ~~diagnostic: designed to identify, assess and measure risks~~ identify – identifying instances where the *UK financial system* or *firms* are harming *consumers*, have the potential to do so, or where the *UK financial system* is working poorly and not providing sufficient benefit to *consumers*;

(2) ~~monitoring: to track the development of identified risks, wherever these arise~~ diagnose – diagnosing potential harm, including its cause, extent and potential development;

(3) ~~preventative: to limit or reduce identified risks and so prevent them crystallising or increasing~~ remedy – assessing the range of the *FCA's* available regulatory tools and making a judgement about whether these tools can remedy or mitigate the harm cost-effectively; and

(4) ~~remedial: to respond to risks when they have crystallised~~ evaluate – for the *FCA's* largest interventions, the *FCA* will test how effective these were and publish analysis after the event.

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