payments and crypto network

Compliance Arrangements

A series of guides addressing operational compliance issues for UK authorised Electronic Money Institutions ("EMI") and Payment Institutions ("PI").

Guidance is provided for firms and is not intended as legal advice.

Guide 8: Notifications and Reporting

Background

UK authorised EMI and PI businesses must adhere to the regulatory requirements defined in the Electronic Money Regulations 2011 ("EMR") and the Payment Service Regulations 2017 ("PSR") as well as and associated guidance from the UK's Financial Conduct Authority ("FCA").

EMI and PI businesses are required under the PSR and EMR to provide certain data and information to the FCA either periodically (i.e. reporting) or under specified circumstances (i.e. notifications). The periodic reporting of information and data to the FCA takes place in accordance with defined timelines, i.e. a reporting calendar, whereas notifications are event driven (and usually proactive).

Why are regulatory reports required?

The FCA require firms to submit regulatory reports to facilitate their objectives of protecting consumers from bad conduct, protecting the integrity of the UK financial system and promoting effective competition in the interests of consumers.

The information provided by firms in their regulatory reports will enable the FCA to form a view on the specific firm as well as issues that are relevant to the payments industry. The FCA may then follow up with firms to address issues or perceived risks as well as conduct industry-wide work to gain further insights ("Thematic reviews"). Reported information therefore provides valuable insights into firms and for further work to be conducted by the FCA within the industry.

FCA EMI and PI reporting requirements

Firms should maintain, for reference purposes, a calendar of reports that are required to be submitted to the FCA; this would usually be the responsibility of the Compliance Manager in addition to their responsibility for submitting the actual reports.

The following periodic reports are required to be submitted to the FCA by PI firms. The list includes the main reports at the time of writing (and will be subject to change).

FCA reporting requirements for Payment Institutions		
Report	**Frequency**	**Submission deadline**
FSA056 (Authorised Payment Institution Capital Adequacy Return)	Annual	Within 30 business days of the accounting reference date
DISP 1 Annex 1AD Payment services and electronic money complaints report	Annual	Within 30 business days of the accounting reference date
REP017 Payments Fraud Report	Twice yearly	Within 2 months of the reporting end date (the reporting period runs from 1 Jan – 30 Jun and from 1 Jul - 31 Dec)
REP018 Operational and Security Risk reporting form	Quarterly	The end of the quarter following the date of the of the return
REP020 Statistics on the availability and performance of a dedicated interface	Quarterly	Within 1 month of every publication on the ASPSP's website of the statistics required to be published
REP001 Close Links Report	Annual	Within 4 months of the firms' accounting reference date
REP002 Controller Report	Annual	Within 4 months of the firms' accounting reference date

The following periodic reports are required to be submitted to the FCA by EMI firms. The list includes the main reports at the time of writing (and will be subject to change).

FCA reporting requirements for Electronic Money Institutions		
Report	**Frequency**	**Submission deadline**
FIN060 (EMI Annual Return)	Annual	Within 30 business days of the EMI's accounting reference date
Audited annual financial statements	Annual	Submission to the FCA at the same time filed with Companies House
DISP 1 Annex 1AD Payment services and electronic money complaints report	Annual	Within 30 business days of the accounting reference date
REP017 Payments Fraud Report	Twice yearly	Within 2 months of the reporting end date (the reporting period runs from 1 Jan – 30 Jun and from 1 Jul - 31 Dec)
REP018 Operational and Security Risk reporting form	Quarterly	The end of the quarter following the date of the of the return
REP020 Statistics on the availability and performance of a dedicated interface	Quarterly	Within 1 month of every publication on the ASPSP's website of the statistics required to be published

REP-CRIM Annual financial crime report	Annual	Within 60 business days of the EMI's accounting reference date
REP001 Close Links Report	Annual	Within 4 months of the firms' accounting reference date
REP002 Controller Report	Annual	Within 4 months of the firms' accounting reference date

Regulatory reporting and the schedule of reports required to be submitted could be included in the firms' Compliance Manual, for further guidance on developing a Compliance Manual see, ***Compliance Arrangements: Guide 2 - Developing a Compliance Manual***.

Copies of the reports made should be retained for record keeping purposes.

The FCA's RegData system

Reports are generally submitted using the FCA's RegData system. User access will be granted to authorised firms to enable submissions of reports and to view a schedule of reporting requirements and due dates. Some reports may still need to be emailed to the FCA but most appear to be moving across to the RegData system.

The method of submitting reports to the FCA has been subject to changes and the FCA's website should be referred to for the latest reports and methods of submission.

Late submission of returns

Firms that fail to meet the reporting deadlines will be reminded by the FCA that they have missed a reporting deadline and be subject to an administrative charge (at the time of writing a £250 fee is charged).

Notification requirements for EMI and PI firms

The PSR and EMR include a requirement for firms to provide notifications to the FCA in relation to certain events as well as a general notification requirement where there is, or is likely to be, a significant change in circumstances relevant to the conditions of authorization. Notifications are event driven rather than provided to a set timeline (as is the case for reporting to the FCA).

The duty to notify changes in circumstances is general and the FCA expect firms to notify of any significant changes in circumstances which are relevant to the continued fulfilment of the conditions for authorisation.

The notification should provide the FCA with details of the change in accordance with required notification timelines, which are typically in advance of the proposed change taking place.

Why are notifications required?

The FCA need to assess significant or substantial changes in an EMI / PI against the initial conditions of their authorisation – these conditions are either defined in the EMR / PSR and may also be directly specified to individual firms if bespoke in nature.

Notifications will also enable to the FCA to ensure that their records are up to date and may provide information that could result in further enquiry by the FCA.

Notifications of proposed events that are provided in advance of the event happening, e.g. the notification of a proposed new shareholder with a qualifying holding, will provide the FCA with opportunity to block the proposed change if it is contrary to the conditions of authorisation (and might therefore be considered detrimental to the firm, the financial market or the reputation of the FCA as a UK regulator).

Timelines for notifying

The general requirement is to make a notification where it becomes apparent to the firm that there is, or is likely to be, a significant change in circumstances, which are relevant to the firms' fulfilment of the conditions for authorisation, and to do so without undue delay. The FCA generally consider 'without undue delay' to mean within 28 days of the change occurring at the latest.

In the case of a substantial change which has not yet taken place, firms must provide details of the change in good time before the change takes place.

A 'substantial change' is one that could impact on either the firm's ability to meet the conditions for remaining authorised, or the way the FCA would supervise the firm.

To give the FCA time to assess substantial changes they consider that a period of 28 days before the change takes place would generally be 'in good time'. However, in some circumstances this period may be longer and would depend on the circumstances of the change.

In general, advanced notification of planned changes would seem reasonable (in most cases) given that changes in firms should be well anticipated if the firm is operating sound governance arrangements, risk management and internal controls.

Notifiable events

Firms should maintain a schedule of notifiable events for reference purposes; this would usually be the responsibility of the Compliance Manager as well as having responsibility for making / coordinating the actual notifications.

The subject of notifications and the schedule of notifiable events could be included in the Compliance Manual, for further guidance on developing a Compliance Manual see, ***Compliance Arrangements: Guide 2 - Developing a Compliance Manual***.

A schedule of notifications and copies of each notification made should also be retained for record keeping purposes.