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Preparing an Application for Authorisation

A series of guides addressing common issues in relation to preparing an application for authorisation.

Guide 2: What service developments should be described in an application for authorisation?

The previous Article addressed the subject of what permissions are needed and illustrated the importance of agreeing a clear and concise service description as the basis for an application for authorisation and establishing the regulatory permissions. The article outlined that whilst agreeing a service description seems like an obvious step it can be one that applicant firms often struggle with. Agreeing the initial service description was the first step towards identifying the required permissions. The second step is considering what developments should also be included in the application. Essentially, where to draw the line with regards to "blue sky" thinking and developments that not very well understood.

Agreeing near term developments for description in detail

I like to divide service the discussion on service developments into those that are "near term" and those that are not. This is where I draw an initial line. The near-term developments of the services, functionality, market segments and customer types should be reasonably well understood. By 'near term' I mean about 12 to 18 months from the expected time of authorisation.

The developments that are envisaged say 24+ months after authorisation are, more than likely, less well understood than those that are nearer term and therefore less likely to be capable of clear description in an application. For example, details of the forecast activity, financial projections, capital requirements and third-parties that will be used in relation to developments that are 24+ months out are going to be hard to establish with any degree of certainty. Applicant firms should strive to make their applications for authorisation as certain as possible - introduction of uncertainty should be avoided.

Describing less certain developments at a high-level only

Where there is uncertainty regarding future developments it may make sense to refer to them in the application at a high-level rather than attempt to go into detail. A high-level description of intended developments could be made which would justify not including associated costs

and revenues in the financial forecast (and other areas of the application). Attempting to provide the level of detail required in an application for aspirational developments always seems to come undone when subject to scrutiny (by the FCA or otherwise).

<u>Regulatory permissions</u>

Problems can arise with this approach where future developments require different or additional regulatory permissions. If an aspect of service develop is going to change the required regulatory permissions if would be worth carving out this potential development and investigating how it can be included and described with certainty in the application. These developments would not be related to new markets or customer verticals, rather the developments in intended functionality that will be offered.

Anything not applied for as part of an initial application could be applied for later in a later 'Variation of Permissions' (VoP) application submitted to the FCA. At the time of writing, a VoP application has been significantly simplified and should not be too onerous. Whilst a VoP application would involve further work, the details of the service developments should be much clearer at that point and therefore better withstand FCA scrutiny during their assessment.

To summarise….

A clear service description and detailed development roadmap will enable firms to correctly identify which regulatory permissions are required and the consequent implications for regulatory requirements, such as the initial and ongoing capital requirements, safeguarding, risk management, etc.

If you choose to get professional advice at this stage it will likely pay for itself in the long run, enabling services to be structured efficiently, permissions to be identified and regulatory implications to be understood.

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