



# payments and crypto network

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## **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 2: Developing a Compliance Manual**

### **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”).

In addition, following the UK’s exit from the EU, the FCA continue to expect the firms that they regulate to comply with, to the extent that they remain relevant, guidelines published by the European Banking Authority (“EBA Guidelines”).

In order to ensure compliance with regulatory requirements, an EMI or PI will need to maintain a number of policies and procedures which will need to be appropriately documented, e.g. in a Compliance Manual. In this context ‘compliance’ refers to the FCA requirements of authorisation and relevant guidance – financial crime, i.e. AML / CTF arrangements, would typically be considered separately (e.g. in an ‘AML Manual’).

### **Purpose of a Compliance Manual**

A Compliance Manual is a document that outlines the policies, procedures, and controls that an EMI / PI has in place to ensure compliance with relevant regulations and guidance. The Compliance Manual is typically the top-level document in a compliance framework, being used for reference purposes by staff, and would detail supporting documents with increased operational detail (where relevant).

A Compliance Manual would typically describe the firms’ compliance policies, provide a description of the procedures, and reference supporting documents. In order to provide context, the manual should also provide details on the relevant regulations and guidance that apply to the EMI / PI. The Compliance Manual would also be used as part of the training arrangements required to ensure that staff are aware of their responsibilities to ensure the firm maintains compliance with the regulatory conditions of authorisation.



## Responsibility for the Compliance Manual

Overall, the responsibility for compliance with regulatory requirements rests with the Board. Day to day responsibility for the firms' compliance arrangements would typically be delegated to a suitably qualified and experienced individual, performing a role such as the 'Compliance Manager'.

The Compliance Manual would typically be the responsibility of the Compliance Manager (or similar role that has been allocated with responsibility for the regulatory compliance arrangements). Policies should be approved by the Board and procedures, insofar as they implement the approved policy, could be designed and implemented by the Compliance Manager without seeking Board approval for each new procedure or procedural change.

## Compliance framework

A compliance framework is a set of policies, procedures, and controls that an EMI / PI has in place to ensure compliance with relevant regulations and guidance. The compliance framework should ensure that the EMI / PI meets its compliance obligations and works to prevent, detect, and correct any compliance issues that may arise.

A compliance framework typically includes the following elements:

1. **Compliance policies:** These are written policies, agreed by the Board, that specify the firms' approach to meeting compliance obligations.
2. **Compliance procedures:** These are the specific procedures that describe how policy will be implemented by the firm.
3. **Compliance training:** The training provided to staff to ensure that they understand their responsibilities with regard to the firms' compliance arrangements.
4. **Compliance monitoring:** The processes operated by the firm to ensure that the compliance arrangements are periodically reviewed, specifically the review of (i) policies, to ensure that they reflect regulatory requirements and guidance, and (ii) procedures, to ensure that they implement policy (and are being operated as intended).

The compliance monitoring activities would typically involve the use of a Compliance Monitoring Programme ("CMP"). The activities of the Compliance Manager and internal audit function would form part of the compliance monitoring activities.

The subject of developing a CMP is addressed in the guidance document ***Compliance Arrangements Guide 3: Building a Compliance Monitoring Programme***.

5. **Compliance reporting:** The reporting of compliance management information to the Board is required to enable their oversight of the business (given that the Board holds ultimate responsibility for oversight of the business). Compliance reporting information will also need to be provided to the FCA as a condition of authorisation (there are pre-defined reports that must be submitted at certain intervals).
6. **Compliance incident management:** A process to address any compliance issues or incidents that may arise will also need to be operated by the firm to ensure that the EMI / PI continues to meet regulatory requirements and addresses incidents to resolve the underlying root cause(s).

Having a compliance framework, including a Compliance Manual, in place can help the EMI / PI ensure that it is adhering to all relevant regulations and guidance, which is essential for

maintaining the trust of both its customers and stakeholders, avoiding regulatory penalties and protecting the Board and company staff.

### Structure of a Compliance Manual

The Compliance Manual should provide the reader with an overview of the compliance arrangements that are operated by the firm. In this context, ‘arrangements’ would include the compliance policies and the procedures that are maintained by the firm.

In order to provide context, the Compliance Manual could also include an overview of the regulations and guidance applicable to each area. The full scope of the regulatory requirements should be covered, in reasonable detail, in the Compliance Manual (i.e. cover all of the areas addressed by regulation in different chapters – see below).

Where the level of procedural detail is significant, rather than trying to include full procedural detail in the Compliance Manual, an alternative approach would be to include references to additional supporting documents which can cover the procedures in the required level of detail (otherwise the Compliance Manual could rapidly become a very large and unwieldy document, and be constantly in need of update). It would be unlikely that an EMI / PI could reasonably document all of its procedures in a Compliance Manual and keep the manual to a manageable size.

A Compliance Manual structure that works well, addresses each area of the regulatory requirements in a separate chapter, for example, separate chapters for governance arrangements, risk management, internal controls, capital requirements, safeguarding etc. Note that financial crime (i.e. AML and CTF) arrangements should be addressed in a separate document, e.g. in an ‘AML Manual’. The focus of a Compliance Manual should be the FCA requirements of authorisation.

Within each chapter of the Compliance Manual the content could be structured into four broad sections:

- **Regulatory requirements** – extracts from the PSR and EMR in order to provide background to the regulatory requirements
- **Guidance** – extracts from FCA guidance and EBA Guidelines to provide additional context to the regulatory requirements
- **Policy** – the policies developed by the EMI / PI to meet the above requirements; and
- **Procedures** – detail on the procedures that are operated to enact the policy.

Supporting documents can be prepared and referenced in the Compliance Manual. As described above, supporting documents would be used to document procedural information that is too detailed for inclusion in a ‘top-level’ Compliance Manual. There are several advantages to this approach, including:

- Reducing the size of the Compliance Manual to keep it manageable
- Allocating responsibility for the production and update of the supporting documents to operational roles (other than the Compliance Manager)
- Ensuring that changes in procedures (which are likely to happen frequently) can be addressed by updating the supporting documents and thereby reduce the frequency of updates to the Compliance Manual; and
- Ensuring that sensitive information is contained in the supporting documents, rather than in the Compliance Manual which would be available to all staff as a reference / training document.

### Compliance Manual update and approval

Once developed the Compliance Manual will need to be periodically reviewed and, where necessary, updated. The review process should be coordinated through the use of the Compliance Monitoring Programme (“CMP”). Updates will need to be made when there has been a change in regulations or guidance or where the business needs to change policy, procedures or references to supporting documents.

The Board should approve changes in policies and would typically approve each new version of the Compliance Manual before it is made available for use within the firm.