



Front of mind Joanne Davis

The FCA's expectations on remote or hybrid working

The FCA have released details of its expectations so firms can plan and continue to meet their regulatory responsibilities. These expectations are expected to evolve as more is understood about how firms intend to operate.

However, for international firms they should continue to have an establishment or physical presence in the UK. The FCA have issued a note on their website on their approach for international firms.

What should existing firms be planning?

Where firms are considering remote or hybrid working, firms will be evaluated by the FCA on a case-by-case basis. Firms must consider the following:-

Firms should be able to prove that the lack of a centralised location or remote working does not or is unlikely to:

- A. Affect the firm's location in the UK, or its ability to meet and continue to meet the threshold conditions for its regulated activities it has or will have permission for – or any equivalent requirements, where these do not apply.
- B. Prevent the FCA receiving information about a firm.
- C. Reduce the accuracy of the Financial Services register for others if, for example, consumers are not able to contact the firm at the principal place of business shown on the FS Register.
- D. Affect the ability of the firm to oversee its functions including any outsourced functions.
- E. Cause detriment to consumers.
- F. Damage the integrity of the market.
- G. Increase the risk of financial crime.
- H. Reduce competition.

Satisfactory Planning

The FCA expect firms to be able to prove that there is satisfactory planning. The

list below is of course only an indicative and non-exhaustive list. The FCA state that it's important any form of remote or hybrid working adopted should not risk or compromise the firm's ability to follow all rules, regulatory standards and obligations, or lead to a failure to meet them:

1. That there is a plan in place, which has been reviewed before making any temporary arrangements permanent and is reviewed periodically to identify new risks.
2. There is appropriate governance and oversight by senior managers under the Senior Managers regime, and committees such as the Board, and by non-executive directors where applicable, and this governance is capable of being maintained.
3. A firm can cascade policies and procedures to reduce any potential for financial crime arising from its working arrangements.
4. An appropriate culture can be put in place and maintained in a remote working environment.
5. Control functions such as risk, compliance and internal audit can carry out their functions unaffected, such as when listening to client calls or reviewing files.
6. The nature, scale and complexity of its activities, or legislation, does not require the presence of an office location.
7. It has the systems and controls, including the necessary IT functionality, to support the above factors being in place, and these systems are robust.
8. It's considered any data, cyber and security risks, particularly as staff may transport confidential material and laptops more frequently in a hybrid arrangement.
9. It has appropriate record keeping

procedures in place.

10. It can meet and continue to meet any specific regulatory requirements, such as call recordings, order and trade surveillance, and consumers being able to access services.
11. The firm has considered the effect on staff, including wellbeing, training and diversity and inclusion matters.
12. Where any staff will be working from abroad the firm has considered the operational and legal risks.

Do the firm's details need updating with the FCA?

Firms should consider if their details on the FS Register need updating. For example, if a firm intends to use a private residential address as its principal place of business, it should consider the effect on any individuals and get necessary approvals. This includes those living at the property who aren't employees.

The FCA state that they should be able to access firms' sites, records and employees and that firms are prepared and take responsibility to ensure employees understand that the FCA has powers to visit any location where work is performed, business is carried out and employees are based (including residential addresses) for any regulatory purposes. This includes supervisory and enforcement visits.

Firms must notify the FCA

Any material changes to how a firm intends to operate may require the firm to notify the FCA first. Firms are reminded that under Principle 11, they are required to deal with the FCA in an open and cooperative way and to disclose anything relating to the firm which we would reasonably expect notice of.

Firms are also reminded of the FCA rules under SUP 15.3 on the FCA's expectations in providing notice of matters relating to a firm in that firms should continue to monitor any changes and speak to its supervisory contact with any questions.

And finally, the FCA have also issued guidance on information they require if you are applying for new permissions and wish to work remotely. ■

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