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Financial Regulation Monthly Breakfast Webcast

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LATHAM & WATKINS

Today's Topics

Our top 10 focus areas for 2026 Rob Moulton

HM Treasury's proposals to reform the UK Benchmarks Regulation Becky Critchley

The FCA's finalised guidance on Non-Financial Misconduct Ella McGinn

The FCA's Policy Statement on targeted support for retail investors Becky Critchley

Findings from the FCA's best execution multi-firm review Rob Moulton





Our top 10 focus areas for 2026

Rob Moulton

1. Deregulation: Myth or Reality?

- The policy direction is best characterised as regulatory recalibration rather than wholesale deregulation, with a focus on balancing growth with maintaining robust standards
- Some of the Leeds Reforms signalled bolder changes in historically prescriptive areas, especially retail markets and prudential requirements
- Certain reforms have proved ambitious, whilst others have only resulted in minor tweaks and adjustments
- Expect continued targeted simplification and supervisory pragmatism rather than broad deregulatory sweeps in 2026



2. The Enterprise-Level Impact of ESG Developments

- The global ESG regulatory and legal landscape continues to evolve at pace, but it is also becoming more fragmented and polarised, with uncertainty heavily influenced by developments in the US
- Navigating ESG regulation is increasingly complex, with firms needing to engage with both pro- and anti-ESG sentiment to meet investor expectations
- The UK is close to finalising the UK Sustainability Reporting Standards (SRS), with the FCA due to consult shortly on aligning its existing TCFD-aligned reporting requirements for listed companies with the UK SRS
- Agreement on the EU Omnibus package last December significantly reduced uncertainty in terms of EU reporting obligations
- However, continued federal and state “anti-ESG” scrutiny in the US may run counter to certain trends in the UK and EU

3. Changing Priorities in Product-Level ESG Disclosures

- Firms are experiencing similar issues to those seen at entity level, with regimes in flux and priorities changing
- De-prioritisation is emerging as an important theme in some areas, with policymakers choosing to postpone or review requirements in light of implementation challenges or current political sentiment
- The FCA's SDR and investment labelling regime continues to bed in, while extensions to portfolio management and overseas funds have been paused
- The European Commission's proposals to reform the SFDR will be a key area to watch in 2026
- 2026 is also an important year for ESG ratings regulation, with the EU regime coming into force, although divergence between the EU and UK regimes could prove challenging
- Greenwashing risk remains elevated, as the number of mandated ESG-related disclosures expands, and also because claims can come from a broader range of agencies

4. Artificial Intelligence — A Regulatory Stabiliser

- There remain no immediate plans to bring in specific regulation for AI in the UK financial services sector
- Instead, the regulators continue to consider that existing regulation provides adequate protections, acting “not as a brake but as a stabiliser”
- The FCA’s Supercharged Sandbox and AI Live Testing Service aim to help both firms and the regulator understand some of the risks and benefits, and explore new use cases
- However, while the regulators take a pro-innovation approach, many firms remain cautious about deploying AI solutions more broadly beyond the “safer” use cases, and still face numerous challenges in adopting AI
- In the EU, there seems to be a recognition that it could be behind the curve on AI innovation and investment, and it is taking steps to ensure “consistent interpretations and proportionate application of current regulations” in order to enable the use of AI in the financial services sector

5. Retail Markets — How the Consumer Duty and Motor Finance Redress Have Reshaped the Landscape

- There has been a notable shift towards softening some provisions and adding flexibility to retail regimes
- Key for 2026 will be work to streamline and clarify the Consumer Duty, in a marked change in approach
- There is significant work underway to help facilitate retail investment, including a review of investment risk warnings, and looking for areas in which risk can be rebalanced such as changes to the client categorisation framework
- Motor finance redress and reforms to the FOS will be important watch areas for 2026

6. Wholesale Markets — Secondary Markets Reforms Continue to Lag Those in Primary Markets

- Wholesale market reform over the past year has largely been characterised by the restatement of assimilated law and the methodical continuation of work on key files already in progress
- Primary market reforms go live 19 January 2026 (new Public Offers and Admissions To Trading Regime) and represent ambitious changes
- Ongoing MiFID II restatement and targeted reforms continue (e.g., revised SI regime, transaction reporting, consolidated tape regime), with further structural consultations ahead
- Recent proposals to reform the UK BMR signal a bolder approach to reform
- Meanwhile, the FCA continues to focus on various conduct of business issues; firms need to ensure they are getting the basics right

7. Prudential Requirements — The Tyranny of Basel 3.1 on Reforms

- The government now appears keen for the regulators to weigh the regulatory burden carefully and recalibrate elements of the framework to support the UK's global competitiveness and alignment with international norms
- Final Basel 3.1 policy materials are due early this year, with the market risk provisions set to be delayed to 1 January 2028
- The FPC has lowered its view of appropriate tier-one capital levels and will review leverage ratio requirements in 2026
- Prudential reform is not confined to banks, and the FCA has announced a longer-term vision to move to an integrated prudential sourcebook for solo-regulated firms
- Remuneration reform has shown a willingness to make substantive changes, with feedback on the regimes for solo-regulated firms eagerly awaited

8. Financial Crime Reforms

- Financial crime remains a top supervisory and enforcement priority, including where deficiencies identified do not result in actual money laundering or terrorist financing taking place
- The FCA carried out several pieces of supervisory work in this area in 2025, and imposed a number of fines for AML/CTF systems and controls failings
- Preparations are underway for the FATF mutual evaluation of the UK in 2027, and recent reforms are clearly mindful of that timetable and the scrutiny it will bring
- The decision to consolidate responsibility for AML and CTF supervision of legal, accountancy, and trust and company service providers within the FCA will significantly add to the regulator's workload

9. Asset Management Regulatory Trends

- Asset managers face a crucial year in 2026 in terms of regulatory change
- Reform of the UK AIFMD is one of the most consequential changes on the horizon, with detailed proposals due in the Spring
- Supervisory attention persists on valuation, conflicts, and risk management, with further FCA findings on conflicts expected in 2026
- Heightened regulatory attention on private credit markets will also remain a defining theme in the year ahead



10. Enforcement — The FCA's New Approach and Focus

- 2025 will likely be remembered for the FCA's climbdown on its proposals to name firms under investigation at an early stage
- The Enforcement Division is driving faster, fewer, and more impactful cases; open operations fell markedly, and completion times shortened in 2025
- Priorities include financial crime, market abuse, and transaction reporting systems and controls, with increased emphasis on criminal outcomes
- Non-financial misconduct may come back under the spotlight this year, with the FCA's new guidance taking effect

Some key timings for 2026

- January 2026:
 - Findings from review of risk warnings on investment products to be published
 - FCA to consult on disclosure requirements for UK listed companies against the UK Sustainability Reporting Standards, and on transition plan disclosures
- Q1 2026:
 - HM Treasury to report back on reforms to the ring-fencing regime
 - FCA Policy Statement on motor finance redress scheme (expected Feb/March)
 - FCA to consult on simplifying and consolidating its investment advice rules
 - PRA final policy materials for Basel 3.1 implementation expected
- Q2 2026:
 - FCA to provide an update on its review of the remuneration framework for asset managers and investment firms
 - FCA to review financial promotion rules for consumer credit
 - FCA to consult on changes to rules on the application and requirements of the Consumer Duty, including through distribution chains

Some key timings for 2026 (cont.)

- April 2026: FCA expected to publish final rules on UK short selling regime
- Spring 2026: FCA to consult on detailed rules on the future regime to replace AIFMD
- H1 2026:
 - FCA to consult on the SI regime for equity markets
 - FCA Policy Statement on the consolidated tape for equities expected
 - PRA and FCA Policy Statements expected on operational incident and third-party reporting
- Mid-2026:
 - PRA and FCA Policy Statements on the SMCR expected
 - FCA to consult on disapplying the Consumer Duty in respect of business with non-UK customers
- 1 September 2026: New FCA rules and guidance on non-financial misconduct to take effect
- H2 2026: FCA Policy Statement on the transaction reporting regime expected

The background of the slide is a complex financial chart. It features multiple candlestick price series in green and red, overlaid with various technical indicators. These include several blue and red moving average lines, a prominent red dashed trend line sloping upwards from the bottom right, and a blue jagged line that appears to be a volatility or volume indicator. The overall color palette is dark blue and black, with the chart elements providing contrast through their colors and line styles.

HM Treasury's proposals to reform the UK Benchmarks Regulation

Becky Critchley

Background

- HM Treasury published a consultation on 18 December 2025 setting out proposals to reform the UK Benchmarks Regulation (BMR). Closes 11 March 2026
- HM Treasury notes that:
 - Regulatory framework needs to remain proportionate, effective, and tailored to the UK market in order to support the UK's international competitiveness and growth agenda
 - Substantial elements of the regime now impose disproportionate burdens relative to the risks they seek to address, and HM Treasury no longer considers it proportionate to regulate the producers of all categories of benchmarks
- If the proposals proceed, HM Treasury expects that the number of UK-regulated benchmark administrators could decrease by up to 90%

HM Treasury's proposals

- A new Specified Authorised Benchmark Regime (SABR), regulating only those benchmarks or benchmark administrators that may pose systemic risks to UK financial markets
- Benchmarks and administrators would be designated by HM Treasury based on advice from the FCA
 - Can include non-UK benchmarks and administrators
- Publicly available register
- Designation based on potential impact on:
 - the integrity of the UK financial system and consumers; or
 - the market the benchmark seeks to measure
- ESG benchmarks not in scope per se

HM Treasury's proposals (cont.)

- No obligations on benchmark users
- Authorised contributors would be in scope with existing obligations retained
- Firm-facing requirements to be delegated to the FCA
- Consideration being given to what powers the FCA may need in the following key areas:
 - Emergency intervention and orderly wind-down
 - Restriction on use by authorised users where there is non-compliance by the benchmark administrator with the relevant rules or evidence of detriment resulting from use of an undesignated benchmark

Contrast with update to EU BMR

- Changes came into effect on 1 January 2026:
 - Critical and significant benchmarks
 - Certain types of commodity benchmarks
 - Paris aligned and climate transition benchmarks
 - Benchmarks that are designated
- EU will be an international outlier if these UK changes are made

The background of the slide is a complex financial chart. It features multiple overlapping candlestick charts in green and red, indicating price movements. Several moving average lines in blue, red, and white are drawn across the charts, showing trends. The overall color scheme is dark blue with vibrant green and red highlights from the chart elements.

The FCA's finalised guidance on Non-Financial Misconduct

Ella McGinn

FCA guidance on Non-Financial Misconduct

- On 12 December 2025, the FCA published a Policy Statement (PS25/23) containing the final version of its new guidance on non-financial misconduct (NFM) in financial services
- Followed a re-consultation in July 2025 (CP25/18) on proposed NFM guidance in COCON and FIT
- Updated guidance reflects responses to FCA's first consultation on NFM in September 2023 that raised issues with initial proposals
- The new guidance explains how NFM can be a breach of the Conduct Rules, and how it forms part of the Fit and Proper test

Key updates to previous proposed NFM guidance (1)

- New examples on the scope of COCON including flow charts to assist with application of rules
- Updates to ensure alignment with provisions of employment and equality law
- A clarification that managers' accountability is relative to their knowledge and authority
 - Managers won't be expected to stop NFM if they could not reasonably have known about it
- Deletions / updates to examples and factors that raised particular issues or imposed disproportionate burdens on firms
 - Removed COCON guidance on factors to consider when assessing seriousness relating to specific characteristics on vulnerabilities
 - Removed FIT guidance around needing to report unproven allegations to the FCA
 - Removed an example relating to minor motoring offences that respondents considered set unreasonably high standards for private life conduct

Key updates to previous proposed NFM guidance (2)

- A clarification that firms are not expected to investigate trivial or implausible allegations or breach privacy law
- Firms also not expected to investigate allegations not relevant to fitness and propriety (including in relation to a person's social media activity)
- No automatic assumption that NFM in a person's private life is at risk of being repeated in their professional life

Key elements of the new guidance – COCON

- New examples and decision trees to assist with the application of new COCON rules and guidance including:
 - Assessing the line between private and professional life for purposes of COCON
 - Understanding what type of activities are “SMCR financial activities” for COCON purposes
- Conduct that is forbidden by a firm can still be in scope of COCON
- FCA defers to a firm’s judgment as to whether NFM is sufficiently serious to amount to a breach of COCON – where firm’s judgment is reasonable
- Specific guidance on individual conduct rules

Key elements of the new guidance – FIT

- Conduct excluded from COCON (e.g., because it is part of private life) can still be relevant to fitness and propriety under FIT
- NFM in private life or in working life outside the regulatory system may be relevant to fitness and propriety even where little or no risk of it being repeated in work for firm
- No duty for firms to monitor the private lives of its staff to see if there is something relevant to FIT standards – only look into private life of person being assessed under FIT if there is good reason to (e.g., there is an allegation made)
- Guidance on assessing a staff member's use of social media (including messaging apps) – relevant to fitness and propriety where a person's social media activity in private life indicates a material risk that they will breach the requirements and standards of the regulatory system

Next steps

- New guidance takes effect on 1 September 2026 – not retrospective
- The final guidance is still lengthy and complex – firms will need to ensure they have considered the various elements of the guidance and understand FCA's expectations
- Ensure staff are aware of how the Conduct Rules apply to them, including the new guidance
- FCA has indicated that it continues to take forward its supervisory work on detective and preventative controls relating to culture and NFM in the wholesale brokers portfolio
- Potential for further similar FCA work in other sectors once new guidance has been implemented and embedded

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The FCA's Policy Statement on targeted support for retail investors

Becky Critchley

The FCA's Policy Statement on targeted support for retail investors

- 11 December 2025: FCA Policy Statement (PS25/22) with 'near final' rules
- New targeted support regime expected to take effect on 6 April 2026, and the applications gateway will open in March 2026
- New regulated activity of providing target support awaiting relevant legislation
- Key elements of targeted support:
 - Identify consumer segments with shared financial support needs or objectives and, where relevant, common characteristics, in order to deliver suitable ready-made suggestions
 - Communicate the nature and limitations of targeted support as well as the common characteristics of the consumer segment when delivering targeted support
 - Adhere to existing product governance rules
 - Regularly review and monitor the outcomes of the targeted support service

The FCA's Policy Statement on targeted support for retail investors (cont.)

- Key changes / clarifications made by the FCA following feedback to prior consultations:
 - Guidance making clear that suitability does not need to be assessed at the individual consumer level when providing targeted support
 - Clarifying that firms should not use a level of detail that equates to a comprehensive consideration of a consumer's characteristics or circumstances when defining consumer segments
 - Assumptions can be used to limit the number of common characteristics used to define a segment. However, firms must not make assumptions which are material to the suitability of the suggestion. For example, willingness to take investment risk could be assumed for a particular segment, but only if it is not material to the suitability of the suggestion
 - Simplifying the rules and guidance on firms' obligations for ongoing monitoring of the targeted support service, recognising the one-off nature of targeted support

The FCA's Policy Statement on targeted support for retail investors (cont.)

- Key changes / clarifications made by the FCA following feedback to prior consultations, continued:
 - Amending the rules on product monitoring so that firms should only consider whether mitigating action is needed in response to a significant adaptation to a product
 - Removing the requirement for firms to determine retrospectively whether a consumer acted on a ready-made suggestion and to take mitigating action for that consumer in light of a significant adaptation, recognising that identifying such situations would be difficult for firms
 - Requiring firms to explicitly call the service “Targeted Support” in any communications to consumers which contain ready-made suggestions
 - Adding guidance encouraging firms to keep a record of how they meet their disclosure obligations
 - Narrowing its rules on cross-subsidisation

The FCA's Policy Statement on targeted support for retail investors (cont.)

- FCA and Information Commissioner's Office joint statement:
 - Feedback raised concerns regarding direct marketing rules and offering targeted support
 - Joint statement discusses compliant ways of marketing
 - HM Treasury legislative changes
- FCA and Financial Ombudsman Service joint statement:
 - FOS may involve the FCA in *"cases may arise with particular facts or involve a set of circumstances where the interpretation of the FCA's rules as they apply to the provision of targeted support is unclear, and where that interpretation has wider implications"*
 - FOS may issue insights into the cases it has decided
 - Industry engagement once the regime is implemented



Findings from the FCA's best execution multi-firm review

Rob Moulton

Introduction

- FCA surveyed 8 large and mid-sized banks (amounting to 38% of volume)
- Overall analysis is that performance was better than in the last survey (2014)
- FCA considers further developments will be affected by technological changes and regulatory reforms (e.g., the SI regime)

Scope

- FCA says banks accept best execution applies when they have discretion to seek liquidity for a client
- FCA accepts best ex rarely applies in quote-driven markets
 - Four-fold test widely used
 - Best ex may apply in limited circumstances such as illiquid markets with clear reliance
- FCA accepts that client instructions may limit the scope of best execution
 - DMA and Sponsored Access are helpful here in limiting best ex
 - But merely selecting an algo does not limit best ex obligations of the algo
- Annual (at least) reviews of best ex policies is the minimum expectation

Governance and oversight

- Good practice – best ex committee investigated latency and hit rate performance
- Poor practice – insufficient involvement of Compliance (too focused on process, not outcomes)
- Poor practice – client retention is not evidence of achieving best execution

Monitoring and MI

- Monitoring generally “fit for purpose and proportionate”
 - E.g., use of implementation shortfall metric
 - Good performance – monitoring outlier trades
- MI performance much more varied
 - Criticism if MI only covers outliers
 - FCA has long list of suggested metrics

Conflicts when internalising

- Good practice – monitoring fill rates, mark outs, latency, reversion
- Good practice – traders cannot alter Smart Order Routing logic
- Good practice – annual training on order handling and conflict management

10 Key Focus Areas for UK-Regulated Financial Services Firms in 2026

We explore some of the core focus areas for UK-regulated financial services firms in the year ahead.



Report



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Podcast

In this podcast, London partners Rob Moulton and Nicola Higgs and counsel Becky Critchley discuss the key trends for financial services firms in 2026. Amongst other topics, they discuss the Leeds Reforms, the ESG landscape, and enforcement trends. Click [here](#) to listen to the podcast.

Recent Thought Leadership

- [HM Treasury Proposes to Significantly Reduce Scope of UK BMR](#)
- [New Guidance on Non-Financial Misconduct: FCA Confirms Position](#)
- [FCA Publishes Near-Final Rules on Targeted Support](#)
- [FCA Publishes Findings on Best Execution at Wholesale Banks](#)
- [FCA Confirms Retail Markets Disclosure Rules for Consumer Composite Investments](#)
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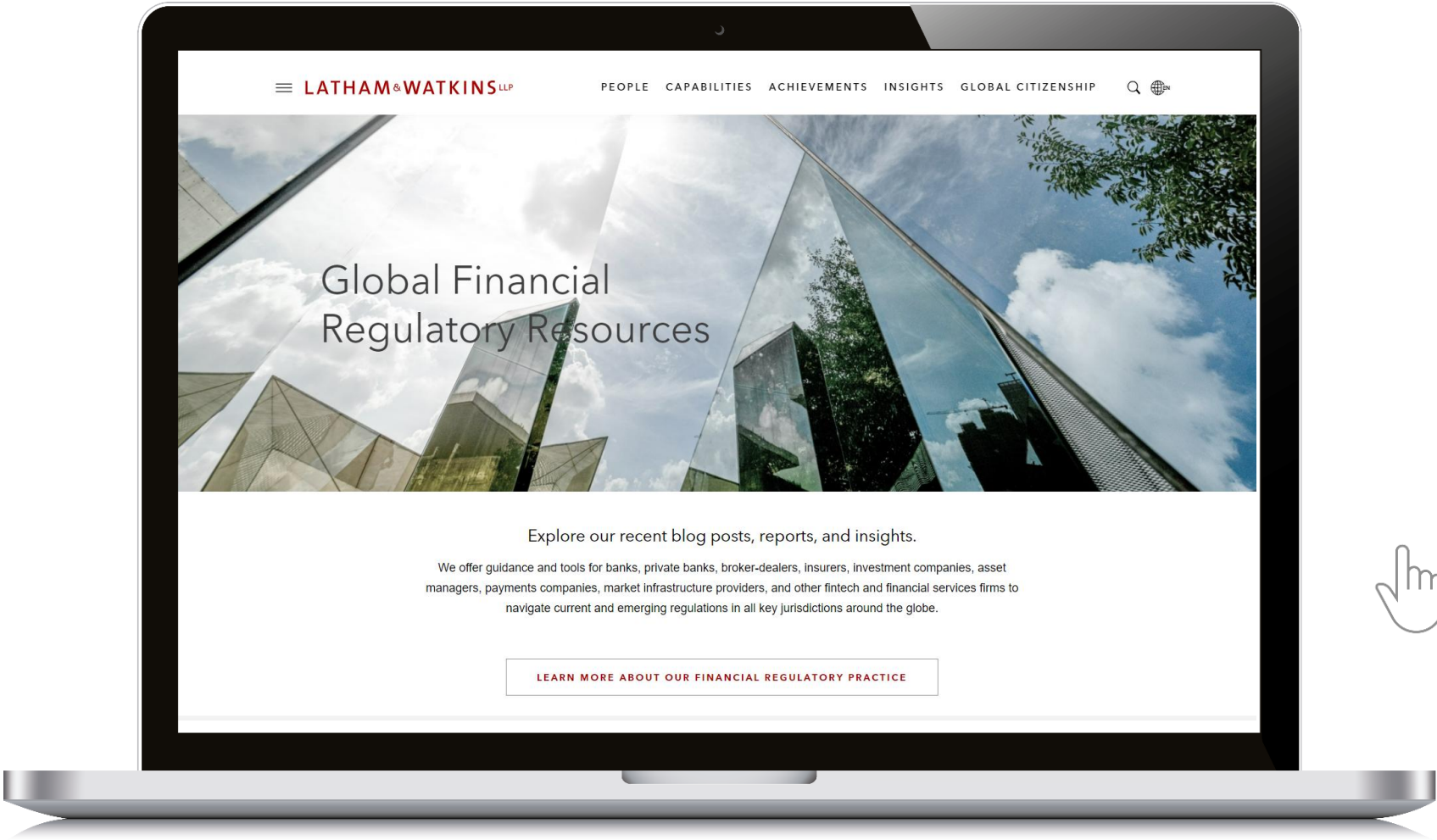
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