GLOBAL INVESTIGATIONS AND COMPLIANCE

NEW FCA ANNUAL FINANCIAL CRIME REPORTING

The FCA's Annual Financial Crime Report comes into force at the end of 2016, requiring many regulated firms to report on a broad range of financial crime related data covering customers, jurisdictions, compliance, staff and sanctions related information.

For those firms with an accounting reference date of the 31st December, the first reporting deadline to the FCA is the 27th March 2017.

This leaves little time for senior management to address a range of potential issues from design of the reporting solution, through data quality and governance to the basis of submission.

WHAT IS CHANGING?

With surprisingly little publicity or fanfare, the FCA's new Annual Financial Crime Report (REP-CRIM) comes into force on the 31st December 2016 under a new section of the FCA Handbook, SUP 16.23. This sets out in detail the reporting obligations, format, content and timing of submission of the new report.

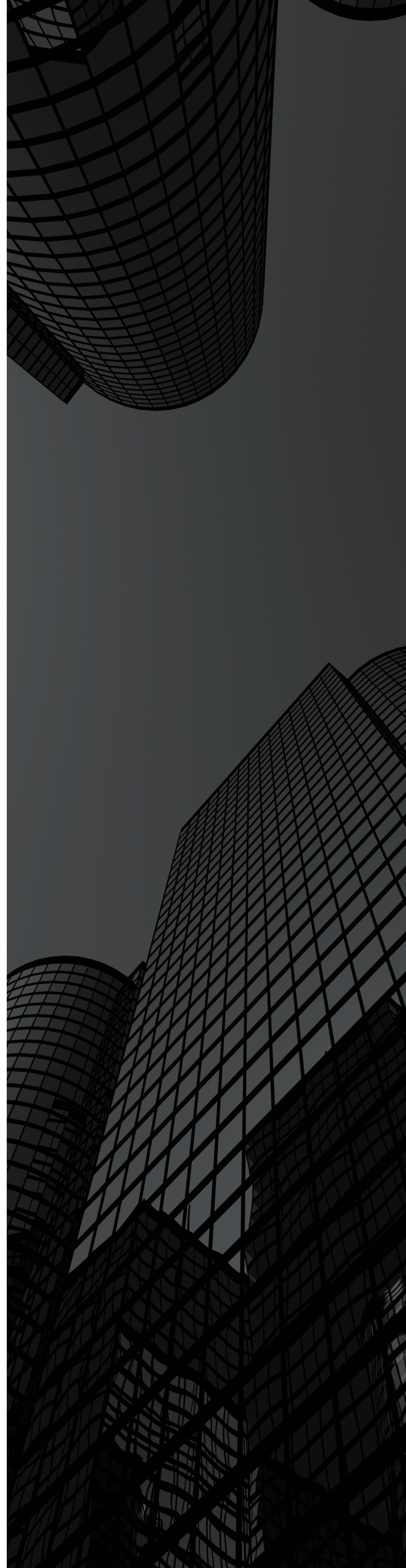
The lack of attendant publicity, however, belies the significance of REP-CRIM. Firms should not underestimate the effort required to identify, access, compile, reconcile and report the multiple data points required by the new report.

WHAT IS THE BACKGROUND?

The FCA initially set out their proposals for REP-CRIM in Chapter 6 of a much broader Quarterly Consultation document (CP 15/42) in December 2015. There the FCA explained that the overarching purpose of REP-CRIM was to support their financial crime supervision obligations:

"At present, our financial crime supervisory work relies on the use of ad hoc data requests to gather information about firms' systems and controls. We do not currently gather information from firms about financial crime regularly. This affects our ability to operate a truly risk-sensitive supervisory approach in line with global standards. Consequently, we propose to introduce a financial crime return for the first time."

The proposal goes on to explain that armed with this information the FCA will be better positioned to "identify financial crime risks and trends, as well as possible



emerging issues." In addition the access to more consistent and comparable data will help the FCA to more accurately risk-rate firms and target their scarce specialist resources at areas of highest financial crime risk. This will therefore reduce the burden on low-risk financial crime firms of an FCA visit and allow the FCA to deploy its resources more efficiently.

These proposals were confirmed, with some amendments, in FCA Policy Statement PS 16/19 in July 2016.

WHO IS AFFECTED?

SUP 16.23 applies to all FCA regulated firms subject to the Money Laundering Regulations (MLR), with only a limited number of exceptions based upon a "proportionality rule".

The proportionality rule exempts specific categories of organisation that have a revenue of less than £5m, as at the last accounting reference date, calculated from all regulated and non-regulated income. This calculation cannot be restricted to MLR relevant business. However, for those firms that are required to report, REP-CRIM only applies to those parts of the business that are subject to the MLR.

FIRMS SUBJECT TO THE PROPORTIONALITY RULE

- **Retail investment intermediaries**
- **Mortgage intermediaries**
- **Investment firms**
- **Consumer credit firms**
- **Electronic money institutions**

SUP 16.23, however, goes on to exclude a wide range of financial institutions from the proportionality rule.

FIRMS EXCLUDED FROM THE PROPORTIONALITY RULE

- **UK banks**
- **UK building societies**
- **EEA banks**
- **Non-EEA banks**
- **UK mortgage lenders**
- **UK mortgage administrator**
- **UK firms offering life and annuity insurance products**

The new reporting requirement will therefore impact well over 1000 UK firms.

WHAT ARE THE DEADLINES AND MECHANICS FOR REPORTING?

SUP 16.23 requires the report to be submitted annually "within 60 business days of the firm's accounting reference date". For those firms with an accounting year end of the 31st December the reporting deadline is the 27th March 2017.

The initial consultation had proposed that the report be submitted on an entity basis. This has now been amended to provide an option for a group submission for a set of firms as long as the underlying firms all have the same accounting reference date. The reference number for each firm must also be provided.

The FCA propose to automate the collection of the data by using their electronic reporting system, GABRIEL.

WHAT ARE THE FINANCIAL CRIME DATA ELEMENTS THAT NEED TO BE REPORTED?

SUP 16.23 and supporting Annexes 42 A and B set out the format of the new report along with Guidance Notes. This information is also available in Policy Statement PS 16/19.

The REP-CRIM report covers five broad areas:

REP-CRIM covers these 5 areas

- **Custom Information**
- **Operating Jurisdictions**
- **Compliance Information**
- **Staff Information**
- **Sanctions and Fraud Information**

Each of the five areas require the sourcing of a wide range of granular information:

AREA	REQUIRED INFORMATION
Customer Information	*The number of:* A. Politically Exposed Persons i. This covers both a customer relationship or a corporate entity that has been flagged as possessing a connected PEP ii. Firms are permitted to apply the PEP definition used by their internal policies iii. Firms should reported existing customer relationships that became a PEP or PEP-connected during the reporting period iv. Where a firm has multiple relationships with a PEP this should only be reported once B. Non-EEA correspondent banks C. All other High-Risk customers D. Customers in the following areas: i. United Kingdom ii. European Economic Area (EEA) iii. Other Europe iv. Middle East and Africa v. North America vi. Central America and Caribbean vii. South America viii. Asia Pacific ix. Oceania E. Customers linked to high-risk jurisdictions (as defined by the firm) F. Customer relationships refused or exited
Operating Jurisdictions	A. The jurisdictions in which the firm has a physical presence or markets its products B. The jurisdictions in A above that are considered by the firm to be high-risk

AREA	REQUIRED INFORMATION
Compliance Information	*The number of:* A. Suspicious Activity Reports (under Part 7, Proceeds of Crime Act (POCA) 2002) analysed by the number: i. Submitted internally to the MLRO ii. Disclosed to the NCA iii. Consent requests under s.325 POCA 2002 B. Suspicious Activity Reports (under the Terrorism Act 2000) C. Investigative court orders (including production orders, disclosure orders, account monitoring orders and customer information orders) D. Restraint orders (under sections 42 and 245A of POCA) analysed by the number: i. Being serviced during the period; and ii. New orders received E. Introducers analysed by the number of: i. Relationships maintained; and ii. Relationships exited for financial crime reasons F. Appointed Representatives where the relationship has been exited for financial crime reasons
Staff Information	A. The number of UK staff (FTE) with financial crime roles B. The percentage of A above who are dedicated to Fraud
Sanctions and Fraud Information	A. Does the firm use automated systems for sanction screening (Yes or No)? B. Does the firm conduct ongoing customer sanctions screening? C. The number of 'true' sanctions matches in the period D. The top three most prevalent frauds

What are the key considerations and challenges?

In responding to SUP 16.23 senior management will need to address a range of considerations, issues and challenges including:

1) STRATEGY – SHOULD THE SOLUTION BE STRATEGIC OR TACTICAL?

Where on the scale of 'Strategic' to 'Tactical' does the firm wish to invest?

- **A Strategic Solution** - that is both flexible and sustainable, and capable of adding real value to the firm through integration with the current suite of financial crime reports; providing a more detailed understanding the financial crime risks as they evolve, month on month, over the course of the reporting year; or a
- **A Tactical Solution** – designed to achieve rapid compliance, but is not capable of being adapted, scaled or adding value to the business.

2) BASIS OF SUBMISSION – GROUP OR ENTITY?

Will the submission be at a Group level or at the entity level?

- The firm must assess whether a Group or entity submission is most appropriate based on the accounting reference dates of the relevant entities.

3) DEFINITIONS – HOW TO ACHIEVE CONSISTENCY OF DEFINITION

Has each line of business and jurisdiction adopted the same financial crime definitions across the Group?

- The firm will need to identify and address any definitional variations in key financial crime reporting data points such as PEPs, High-Risk Customers, High-Risk Jurisdictions and Correspondent Banks before compiling, reconciling and submitting the report.

4) DATA STRATEGY – WHERE WILL THE DATA BE SOURCED?

Of the multiple data sources across the Group, which will the firm select?

- The firm will need to identify the set of systems, data repositories, current operational reports and MI across the Group that will provide the appropriate, accurate and complete data on a timely basis needed for the Annual Financial Crime Report.

5) DATA ACCURACY – IS THE SOURCED DATA ACCURATE AND COMPLETE?

What steps will be required to verify the data?

- The firm will need to consider a range of potential issues, including:
  - Ensuring that customers are not 'doubled counted' across the lines of business and geographies where the firm operates
  - Understanding the impact of the booking model and the legal entity matrix
  - Possessing sufficiently granular data, for example:
    - Members of staff dedicated to addressing Fraud risk
    - Appointed Representatives where the relationship has been exited for financial crime reasons
    - The jurisdictions where products are marketed.

6) GOVERNANCE – WHAT ARE THE PROCESSES, CONTROLS AND ASSUMPTIONS THAT HAVE BEEN APPLIED?

How will the firm demonstrate the veracity of the report?

- The firm should be able to demonstrate their documented approach to developing and generating the report and the supporting governance processes.

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