

Clients & Friends Memo

COVID-19 Update – FCA Sends “Dear CEO” Letter to UK Banks on Lending to SMEs and Responsibilities of Senior Managers

17 April 2020

On 15 April 2020, the UK Financial Conduct Authority (“**FCA**”) published a “Dear CEO” [letter](#) sent to the leaders of UK banks on lending to small and medium-sized enterprises (“**SMEs**”) during the COVID-19 pandemic.

The context for the letter is the package of measures announced by the UK Government and the UK regulators to support businesses and employees during the economic disruption caused by the COVID-19 pandemic. In particular, the letter references the critical role for the banking sector in providing support to SMEs through the Coronavirus Business Interruption Loan Scheme (“**CBILS**”)¹. There has been some criticism from SMEs and industry bodies regarding the low level of approvals under the CBILS and the amount of time it has taken for banks to process applications.

In its letter, the FCA notes that the activity of lending to an SME generally falls outside of its regulatory jurisdiction, but that the Senior Managers and Certification Regime (“**SMCR**”) defines Senior Managers' responsibilities and accountability in a way that applies to unregulated activities (such as corporate lending) conducted by a bank.

The letter sets out the FCA's expectations of CEOs and bank boards in respect of SME lending, including the following key points:

- Each bank should have at least one Senior Manager (as defined in the SMCR) with clear responsibility for the activity of lending to SMEs.
- The FCA will take into account the Lending Standards Board's Standards of Lending Practice for business customers when considering how Senior Managers and other relevant employees, under the SMCR, discharge their duties in relation to SME lending.
- Bank CEOs and boards should take reasonable steps to ensure that the Senior Manager with responsibility for small business lending is discharging their responsibilities suitably and effectively.

¹ For more details on CBILS, see our Clients & Friends memorandum dated 30 March 2020, available [here](#).

- The FCA will look for evidence that the CEOs and boards are collecting information on the banks' treatment of SME customers and, where appropriate, challenging the relevant Senior Manager(s) about that treatment.

The FCA warns that its objective is to ensure that there must not be a repeat of "well documented historic issues" in banks' treatment of SMEs. The FCA strikes a more emollient tone, however, in that it states it will recognise that banks may now be making different judgements, and adopting a different risk tolerance than they would before the COVID-19 pandemic to support SMEs. The FCA also recognises that controls in relation to the treatment of SMEs by regulated firms have strengthened in recent years.

The letter also notes that the FCA has established a new small business unit, in operation from 15 April 2020, which will co-ordinate the activities of the FCA across small business issues, support regulated firms operating in this sector during the COVID-19 crisis and gather intelligence about the treatment of SMEs.

The letter serves as important reminder that the FCA's Principles for Businesses apply across the business of a regulated firm, even where some of the firm's activities fall outside the regulatory perimeter. In particular, the letter highlights the importance of CEOs, Boards and relevant Senior Managers receiving timely and accurate information about a bank's treatment of SME customers and the need to be able to demonstrate that SME customers have been treated fairly during the COVID-19 pandemic.

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