

COMPLIANCE & GOVERNANCE SUPPORT FOR FIRMS

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COMPLIANCY SERVICES LTD

24 January 2019



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INFORMING ACTION · INSPIRING CONFIDENCE

Compliance Services

What we do

Offering compliance consultancy and regtech services to firms that are regulated by the FCA and PRA. Focus on sectors where we can make a difference.

Crypto Assets & DLT

One of our focus sectors that includes fintech, STOs and crypto. “Cryptocurrency: an insight into regulation” – report launched in October 2018



We have successfully managed more than 1,000 new FCA applications and over 600 firms rely on our ongoing compliance support and guidance



What I am going to cover

Do I need to be regulated?

The process of getting FCA authorised

Engaging regulators

Some Context

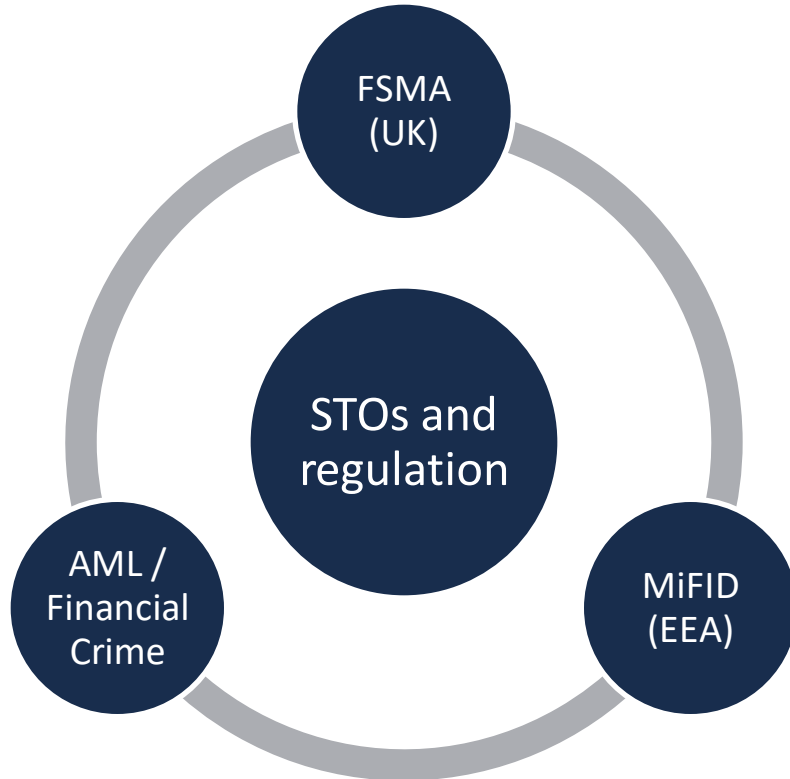
Market Context

- ICO providers trying to avoid being regulated
- Crypto firms want to be regulated
- STOs – appear much more clear cut

People Context

- Tempting to think “regulatory issues not my concern – will get some advice and move on”
- Would you get in a taxi with a driver that doesn’t know the highway code?

Regulatory Environment



Ask yourself three questions:

1. Are you doing it “by way of business”?
2. Is the activity you are carrying out regulated?
3. Is the asset with which you are dealing regulated?



**How do you know if you
need to be authorised?**



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Do you need to be regulated?

- Criminal offence to carry out a regulated activity if you are not authorised
- But, you can not “opt in”

Do you need to be regulated?

- Two questions:
 - **Is the asset with which you are dealing regulated?**
 - Is the activity you are carrying out regulated?

Regulated Financial Instruments - FSMA

- Certificates representing certain security
- Commodity Future
- Commodity option and option on commodity future
- Contract for Differences
- Debenture
- Future
- Government and public security
- Life Policy
- Non-investment insurance contracts

- Option
- Personal pension scheme
- Rights to or interests in investments (Contractually Based Investments)
- Rights to or interests in investments (Security)
- Rolling spot forex contract
- Share
- Unit
- Warrant



Do you need to be regulated?

- Two questions:
 - Is the asset with which you are dealing regulated?
 - **Is the activity you are carrying out regulated?**

What activities are regulated?

- Advising
- Arranging
- Dealing (Executing)
- Own Account Dealing
- Investment Management
- Fund Management
- Safeguarding and Administration of Assets
- Etc....



Both UK and European view of this



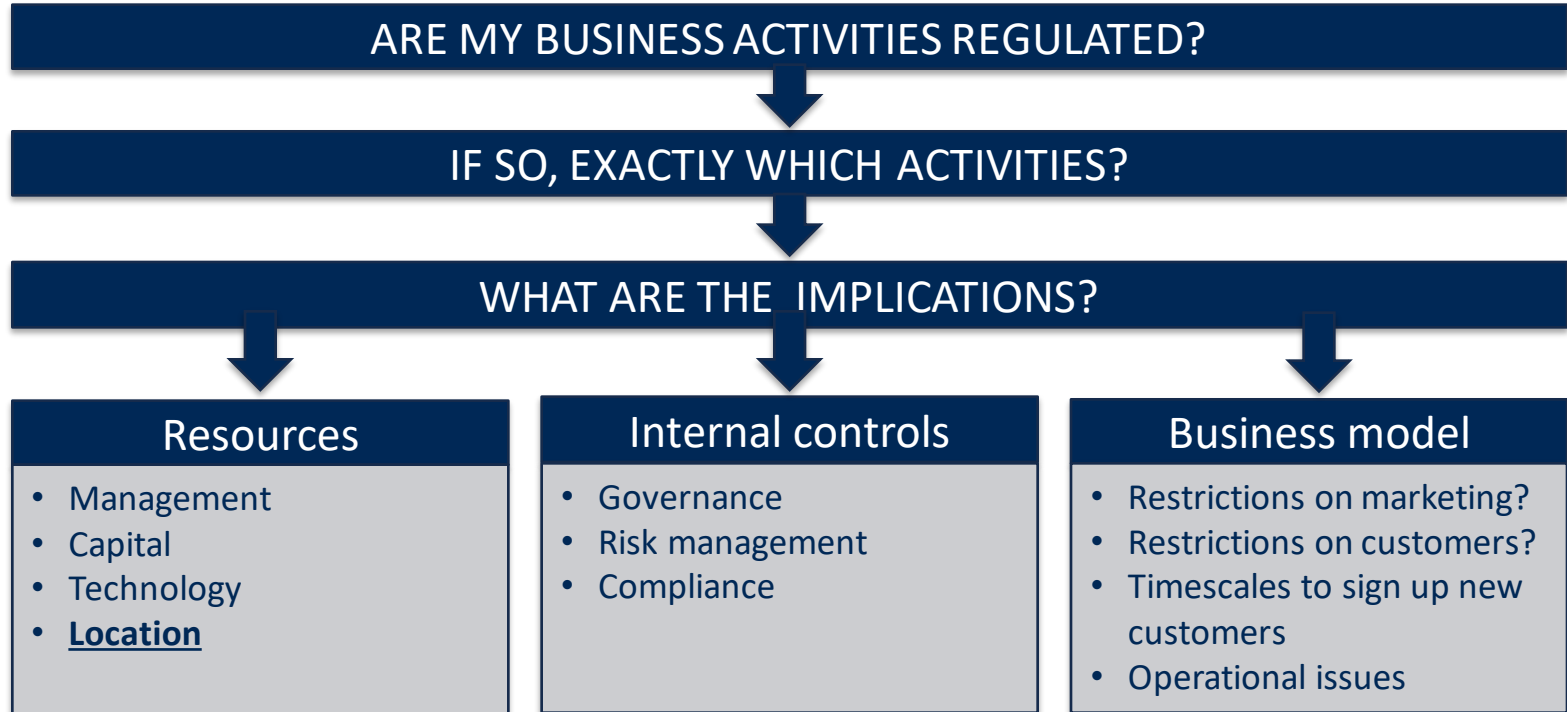
Four stages of authorisation:

1. Planning and scoping
2. Preparing your application pack
3. Submitting your application
4. Being ready for authorisation



Key questions

Prior to developing your application pack, you MUST know the answer to these questions



Some examples

Business Model	Minimum Capital	Resourcing
Adviser/Arranger (e.g. STO issuer)	£5k + PI insurance	<ul style="list-style-type: none">• Can sometimes be as little as one person
Executing Broker	(Typically) higher of €125k or 25% of annual fixed costs	<ul style="list-style-type: none">• Strong management team (min 2 senior managers?)• Robust compliance controls
Crypto Custodian	Higher of €125k or 25% of annual fixed costs	<ul style="list-style-type: none">• Strong management team (min 3 senior managers?)• Robust operational custody procedures, primarily IT driven and compliance controls
Crypto Exchange or Market Maker	Min €730k, but likely to be higher depending on assets held and market risk appetite	<ul style="list-style-type: none">• Strong, experienced management team across all disciplines, including risk and compliance• Robust governance, risk and compliance frameworks• Extended application period

Four stages of authorisation:

1. Planning and scoping
- 2. Preparing your application pack**
3. Submitting your application
4. Being ready for authorisation



Varies by application type

Likely to include:
(for most
investment
firms)

- Regulatory Business Plan
- Financial Forecasts
- Company application forms
- Individual (management) application forms
- Controller application forms
- CVs
- Compliance Monitoring Programme
- Descriptions of primary business processes – sales, operational, transactional
- Descriptions of relevant internal and compliance controls
- Client terms of business

And for some
firms:

- Sample marketing materials
- Investment strategy
- Risk Management Framework
- Governance Framework
- ICAAP



- Payments and e-Money vs FSMA
- Scale, risk and complexity of the business



How to go about it

1

Try and think like a regulator

Understand their objectives and rules and how they mitigate the risks those pose

2

Write the contents page first

That is your project plan

3

Regulatory business plan is critical

Business model and 'sniff test'

4

Allocate tasks to the project team

5

Follow up with colleagues

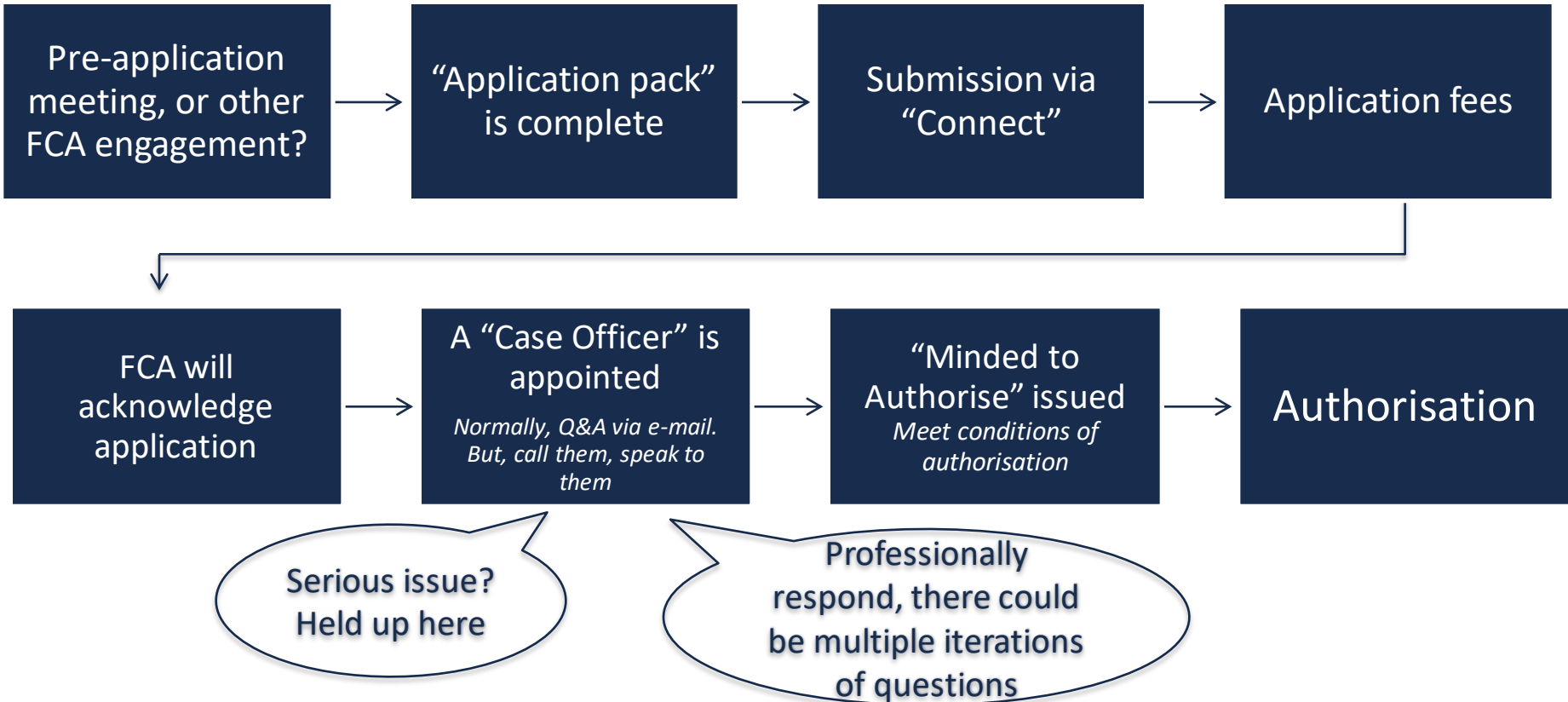
Senior people do not like filling in forms!

Four stages of authorisation:

1. Planning and scoping
2. Preparing your application pack
- 3. Submitting your application**
4. Being ready for authorisation



FCA submission



Four stages of authorisation:

1. Planning and scoping
2. Preparing your application pack
3. Submitting your application
- 4. Being ready for authorisation**



Being ready for authorisation

- The FCA cannot authorise unless the applicant is “ready, willing and organised”
- This means the business must be ready to go in all aspects prior to authorisation, as described in the application pack:
 - Staff recruited
 - Systems implemented
 - Governance structure and internal controls implemented

Where does it go wrong?



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Where does it go wrong?

- Lack of awareness/knowledge of regulatory requirements
- Disclosure – personal applications
- Insufficient resources
- Changes in FCA appetite
- Business model misunderstood by the FCA
- Regulation not built into the business model

Engaging with the FCA



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Four different approaches

Just send in
your application

Pre-application
meeting

Innovation
hub

Sandbox

'Golden rules' for engaging the regulator

1. Recognise and understand their objectives, and constraints
2. Don't discredit yourself
3. (If you want a predictable answer) ask them a question they have been asked before
4. Does your business plan pass the sniff test?
5. "Principle 11": deal with them honestly
6. Provide right level of information

Once you are authorised...

- Under strict FCA supervision
- Wide range of internal controls
- Must have ongoing internal monitoring of compliance, strict onboarding and client monitoring procedures
- Training, regulatory reporting, transaction reporting etc. etc.
- Financial crime is a huge issue (AML, fraud, market abuse, data theft etc.)
- Proportionate (to the risks in your business model) risk management and governance

Find out how we can help you

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