

Insights

FCA PUBLISHES ITS 2022/23 ANNUAL REPORT AND ENFORCEMENT DATA

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SUMMARY

The FCA released its 2022/23 Annual Report last week together with data on its key enforcement trends. We consider below some of the key takeaways.

There are a number of areas on which we could focus but a notable (albeit unsurprising) statistic was that the average time it takes for the FCA to complete its investigations is 41 months. This is an increase from 25 months in 2020/21 and 34 months in 2021/22. If the case then proceeds to settlement or on to the RDC or Tribunal it takes on average a further 23 months to conclude. **64 months in total**. The FCA has long received criticism for the length of its investigations and this statistic is just the latest evidence we have of this. More unfortunately, the time an investigation takes appears to be increasing.

The foreword from the FCA's Chair includes the ambiguous statement that the two new directors of Enforcement "will review our approach to firms that do not meet our standards". We would suggest (as the Upper Tribunal has recently suggested) that any review should consider whether the FCA has the necessary resources to carry out its investigations in a timely manner.

Other points to note include:

- The FCA currently has 591 open enforcement cases, relating to 224 investigations. These consist of 385 cases open against individuals and 206 cases open against firms.
- The FCA is increasingly imposing Own Initiative Requirements to achieve faster and protective outcomes, in preference to a more formalised and lengthy enforcement process. This is borne out in the statistics, which show a 183% increase over the past two years in the use of these powers. In 2022/23 the FCA opened 51 cases where it considered the use of its own initiative powers. By comparison in 2021/22 it opened only 35 and in both 2020/21 and 2019/20 it opened only 18.

- The FCA continues to use its criminal powers. Of its open cases 162 were criminal and 138 were “dual track”, i.e. both criminal and regulatory. It commenced criminal proceedings against 16 individuals for a range of offences including insider dealing, money laundering and fraud.
- In total the FCA imposed 24 fines. While this was more than the 11 imposed in 2021/22, the total value of fines decreased to £199.3m from £313m in 2021/22. Of this £199.3m, £107m came from one fine for AML failings.
- The FCA continues to focus on financial crime. It opened 613 financial crime supervision cases, an increase of 65% from 2021/22 and an increase of 10% from 2020/21. However, the number of open financial crime enforcement cases fell from 47 in 2021/22 to 30 in 2022/23. One of the areas the FCA highlighted was its work on authorised push payment fraud an area that has seen increased activity in both the regulatory and litigation spheres. Its activities included: work with the PSR on the mandatory reimbursement proposals, extending the confirmation of payee requirements and slowing the payments process where fraud is suspected.
- The FCA has pointed to the Consumer Duty (in force from 31 July 2023) as one of the highlights of its three year strategy. It is looking to the Consumer Duty to drive firms’ behaviour and is seeking to embed the Consumer Duty “at each stage of regulation, from authorisation to supervision and enforcement”.
- There is the inevitable reference to Artificial Intelligence. The FCA are using it as a way to automatically triage high volumes of cases received by its Perimeter Teams.

[Read the Annual Report](#)

[Read the Enforcement Trends data](#)

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