

Chapter 4

Further topics

4.1 Anticipating reactions

- 4.1.1 **G** In **WDPG 3.6** (Impact assessment: who will be affected by the wind-down?) we explain how important it is for *firms* to assess the impact of a wind-down on *customers*, markets and other parties. In this section, we highlight the importance of anticipating the reactions of those parties.

Employees

- 4.1.2 **G** *Employees* may want to leave as soon as possible to secure new roles. *Firms* may therefore need to consider how to ensure they can retain the key *employees* needed to carry out a wind-down.

Clients or counterparties

- 4.1.3 **G** If a *firm* is winding-down, especially under challenging market conditions, there is a risk that counterparties or other *clients* may simply *default*. This may have consequences on anticipated revenues and costs, and the duration and/or impact of the wind-down.

Creditors, landlords and other suppliers

- 4.1.4 **G** When a *firm* announces its wind-down decision, this may affect its reputation and/or credit rating. Changes in these factors may cause concerns for creditors, landlords and other suppliers about the *firm's* ability to meet any outstanding liabilities and may trigger reactions such as margin calls or demands for full and final payment. It is therefore crucial that the *firm* communicates with these parties, and ensures there is sufficient liquidity to meet any liabilities when they fall due. This is a prime example of the importance of making a timely decision to wind down.

4.2 Communications plan

- 4.2.1** **G** An effective wind-down plan would include a predetermined communications plan that considers the contents and timing of communications, including website updates (and possibly a hotline), to a wide range of stakeholders, such as relevant regulators (e.g. the listing authority, stock exchange, *FCA*, overseas regulators etc.), *employees*, *customers*, *service providers*, *shareholders*, *bondholders*, relevant industry associations and trade bodies and the media. Some suggested elements the *firm* may want to consider for the communications plan include:
- (1) identifying the stakeholders to be engaged;
 - (2) determining who should engage those stakeholders;
 - (3) agreeing the internal process for drafting and approving any communication to the stakeholders;
 - (4) establishing guidance and procedures for a proactive vs a reactive communication strategy (or combination);
 - (5) preparing scripts in advance if appropriate, e.g. holding statements, acknowledging that detailed messaging may only be possible reactively; and
 - (6) recognising the potential need for the *governing body* to engage with legal advisors and communication experts (e.g. through media training).
- 4.2.2** **G** Good stakeholder contact during the wind-down period will support the *FCA's consumer protection and market integrity statutory objectives*. Communications should be carefully handled to avoid a lack of reliable information or leaks which could create concerns among *consumers* and, in more severe cases, an increased risk of detriment and disruption to the wider market.
- 4.2.3** **G** In line with Principle 11 (■ PRIN 2.1.1R), *firms* need to be mindful of their obligation to keep the *FCA* informed of material developments. This includes issues that might threaten the ongoing viability of the *firm* and any decision(s) to cease operations. Thereafter, a regular dialogue between the *firm* and the regulator needs to be maintained.
- 4.2.4** **G** It is important for the *firm* to identify one or more individuals who will be responsible for coordinating effective and timely communications during the

wind-down period. These individuals are likely to include senior decision-makers as well as those with specialist communications/technology skills, for example those with knowledge of financial disclosure requirements, web publishers etc. This is particularly relevant for a *group* of companies, or where *listed* entities are involved. In order for these individuals to effectively deliver communications in a wind-down they will need the appropriate training, tools, systems and resources.

4.3 Client monies and custody assets

- 4.3.1** **G** Any *firm* holding *client monies* or *custody assets* must ensure that it complies with all applicable *CASS rules*.
- 4.3.2** **G** In particular, all firms that fall under the requirements of **■ CASS 10.1.1R** must maintain a *CASS resolution pack*.
- 4.3.3** **G** The purpose of the *CASS resolution pack* is to ensure that a *firm* maintains and is able to retrieve information that would, in the event of its insolvency, help an insolvency practitioner achieve a timely return of *client* money and *safe custody assets* held by the *firm* to its *clients*.

4.4 Groups of firms and overseas businesses

- 4.4.1** **G** If the *firm* is part of a larger *group* and it decides to have its own individual wind-down plan the plan will almost inevitably be impacted by *group* activities. In particular, some or all elements of its governance, financing and operations may be dependent on the *group*. These dependencies have implications on the wind-down plan's cost, duration and simplicity.
- 4.4.2** **G** A *firm* preparing a wind-down plan at *group* level might be facing two possible wind-down scenario options:
- (1) the *firm* winds down its regulated business on its own in an event independent of its *group*; or
 - (2) the *firm* winds down its regulated business as part of a larger *group* failure/wind-down event.
- 4.4.3** **G** The following are some common questions which a *firm* could consider in a group scenario.
- (1) Does the *group*/parent need to be consulted before making the wind-down decision?
 - (2) If the *group* has entities that are *listed*, are there any actions to be taken in line with applicable disclosure regimes and *listing rules*?
 - (3) If there are *intra-group transactions*, how are they unwound and how do they affect wind-down costs?
 - (4) What support will the *firm* receive from the *group* during its wind-down?
- 4.4.4** **G** A *group failure* event is particularly serious, as it could mean the relevant *firm* no longer has access to *group* resources such as a central treasury function, financial resources, IT and administrative functions for its own wind-down operation. It would then need to consider alternative resources in its wind-down planning.
- 4.4.5** **G** Wind-down will trigger the closure of all regulated business undertaken by the *firm*, including *overseas* activities. Closure of *overseas branches* or *subsidiaries* could be complicated due to jurisdictional differences (e.g.

regulatory requirements, laws relating to employment and liquidation, etc.) and time differences (e.g. in relation to announcement of wind-down, closing out transactions etc.), which can add to the cost and duration of winding down.

4.5 Continuing regulatory requirements during wind-down

- 4.5.1** **G** Continuing requirements during wind-down: The wind-down plan does not create an exception for complying with *threshold conditions* or our *rules* during the wind-down period.
- 4.5.2** **G** During wind-down *firms* will need to continue to comply with the *Principles*, reporting requirements, financial resource requirements and any other relevant requirements.