INVESTMENT MANAGEMENT CERTIFICATE

Volume I

Summaries

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This content is based on the
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Refer to the Appendix on the IMC website to see amendments on following versions.

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TOPIC 1 – FINANCIAL MARKETS & INSTITUTIONS

Financial Services – 4 Main Functions:
- Financial Intermediation;
- Pooling & Managing Risk;
- Payments & Settlement Services;
- Portfolio Management.

Central Bank – Setting monetary framework, short term interest rates to meet inflation targets and last resort lender for banking sector.
Deposit Institutions – accepting deposits from economic agents; deposits become liabilities of these institutions which lend funds as direct loans or investments.
Investment Institutions – invest funds they raise in tradable securities:
Life Insurance (Long Term) vs. General Insurance (Short Term)

Government – 4 Functions:
- Provide services that private firms are unwilling/not allowed to provide;
- Regulate markets to protect consumers;
- Intervening in the distribution of income generated by private market transactions;
- Stabilizing Economy.

Real Assets – physical like gold, land & buildings;
Financial Assets – claims representing the right to a return or ownership of physical asset (Debt & Equity).
- Debt: loans made by lenders & borrowers. Bank Deposit is a claim the lender has on the bank and is not tradable. Whereas, tradable claims are securities.
- Equity: shares, tradable securities. No obligation to pay dividend or money invested.

Indirect Investment is a reduction in risk due to: Greater Diversification, Reduced Transaction Costs, Specialist Expertise, Invest in assets that would not be available to individual investor.
Unit Trust → Pooled investment vehicle → Open Ended: when investors want to invest the fund issues new units in exchange for cash and when withdraw, fund redeems (repurchases) the units and pays out cash. Fund can grow or shrink according to demand. Use of derivative contracts to manage risk.

Securities Markets – 4 Functions:
- Raising Capital - Transferring Risk - Price Discovery - Creating Liquidity.
Markets are Primary & Secondary.
Buy vs. Sell – Side.

Price Transparency – 2 Price Disseminations:
- PRE-Trade if publishes real time data of quotes and orders.
- POST-Trade if publishes trade and size shortly after trade occurs.

Liquidity – Bid/Ask Spread: wide in opaque markets, transparency reduces it and benefits investors. In Oder-Driven markets, can be judged by the difference between best buy and sell prices in the order book.
Liquid also if there are a lot of buyers & sellers → Market Depth: measure of size of the order that Is needed to move the market by certain amount.
- Deep Stock Market has sufficient volume of pending orders on both Bid & Ask sides preventing a large order to significantly move the price.

Transaction Costs
> Explicit:
- Brokerage Commission: from 10/20 bp to 100/150 bp. No VAT Applied.
- (SDRT) Stamp Duty Reserve Tax: 0.5% rounded up to nearest 1p for CREST Settled, otherwise 5£.
- PTM Levy: to finance Panel Takeovers & Mergers- 1£ for transactions > 10.000£ (Mkt-Makers are exempt from SDRT & PTM).

> Implicit:
- Bid/Ask Spread: set by the dealer to cover costs;
- Price Impact of the Trade: imbalance in supply/demand created by a large trade, moving the price up. This deviation VWAP (Volume-Weighted Average Price)
- Opportunity Cost: "of waiting" or spread a trade over days having adverse price impact.

UK EQUITY MARKET
3 Order Execution Venues: Regulated Markets, MTFs, Systematic Internalizes.
London Stock Exchange offers 2 Market Models: SETS and SETSqx.

> SETS: Electronic order book to trade stocks. Liquidity is provided by market maker electronically executable quotes, ensuring traders can trade at least one (EMS) Exchange Market Size, which is set by LSE, being the "normal market size" where a Mkt Maker is obliged to quote B/A Px that are Firm for order sizes up to EMS.
Auctions at Opening/Closing establish the O/C Px + 1 auction at 12PM (2 Mins).
Liquidity Benchmark Prices.

> SETSqx: for less liquid stocks, combines a periodic electronic auction book with non-electronic quote-driven market making. Four crossings allowing order book execution through auctions at 8, 9, 11, 12 and closing.
Investors can trade in Quote Driven or Order Book auction service.

> SEAQ: Quote driven display system, price reference for phone execution. Used for

Fixed Interest securities and AIM Securities.

> LCH.Clearnet: central counterparty ensuring clearing members acting on behalf of firms trading on SETS are not exposed to member default risk. LCH Assumes the risk itself and manages it by collecting margins from members.

International Order Book: electronic order book for trading international securities in the form of Depository Receipt on LSE.

(EQS) European Quoting Service: quote driven market making and trade-reporting platform to support EU liquid securities. Mkt Mkrs enter non-electronically executable quotes during the mandatory quote period.

European Trade Reporting Service: provided by LSE to meet Post Trade reporting obligations by:
- On-exchange off-book trade publication for all trades under exchange rules;
- OTC trade Publication any regulated trades executed away from exchange markets.

UK GILT & CORPORATE BOND MARKET
LSE operates (ORB) Electronic Order Book for Retail Bonds – Oder Driven Service with continuous 2-way pricing provided by market makers.

Gilts: semi annual coupon, (DMO) Debt Management Office issues via auction, settlement via CREST.
(GEMMs) Gilt Edged Market Makers are obliged to "Make on demand and in any trading condition, continuous and effective 2-way pricing in gilts at which they stand committed to deal" – means they must continually quote bid and ask for gilt issues and must trade at these prices so investors have liquidity.
GEMMs Association provides Gilts data to DMO.

Corporate Bonds: can be sold as Open Offer or Private Placement.
A Syndicate of Banks or a Lead Manager buys the bonds and resell to investors.
Sale is underwritten by banks.
"Bought Deal" when the lead buys all the bonds and resells to the syndicate → Syndicate then sell them at various prices.
More usually Lead & Syndicate buy them together and offer them at fixed price for a certain period.
Corps are traded in decentralized, dealer-based, OTC Markets.

DUAL LISTING

(DLC) Dual Listed Companies: where 2 corporations function as single operating entity through legal equalization agreement but retain separate legal identities and listing. Cross border and have tax advantages. Equalization agreement specifies how ownership of the corporation is shared and equal shareholders treatment.
Usually share a single board of directors and integrated management.
Capital gains tax could be payable if an outright merger took place but not in case of DLC. Shares of DLC parent represent claims one exactly the same underlying cash flows so prices should be the same.

MTF: Trading platform organized by investment firms or market operators, which bring together 3rd party buyers and sellers. Can be operated by the operator of a regulated market and an investment bank. The distinction is quite blurred as they both follow same regulatory standards.

(SI) Systematic Internalisers: investment firm, which deals on its own account by executing customer order flows in liquid shares outside a regulated market or MTF. This firm has to publish and honor buy/sell prices up to standard market size: not able to improve the price when dealing in retail.

(OTF) Organized Trading Facility: multilateral system, not regulated marketing which multiple third party buying and selling are able to interact in the system in a way which result as contract.

Dark Pools: electronic crossing networks providing liquidity not displayed on a conventional order book of an organized exchange. Neither the price or identity of the trader is disclosed.

Dark Pools & MTD → No PRE Trade transparency.

SEAQ → Quote Display
Quote Driven System: requires Mkt Makers to maintain liquidity and trading efficiency. Mkt Makers must indicate a price up to a required volume (LSE sets min vol).
For volumes greater, maker can give indicative price. MM input their prices to a central system that participants can monitor. Broker dealers identify the best price and call the maker to get a deal.

SETS → Order Book
Order Driven System: highly liquid → orders can be Market or Limit and are input into an electronic order book. Orders are automatically matched and then settled.
Matched first by price, then time: first-in-first-out basis.

SETTLEMENT: Equity T+2, via CREST, Gilts T+1.

UK LISTING AUTHORITY

FCA decides on the admission to Official List → Listing rules → Power comes from FSMA200, Prospectus Directive, Transparency Directive.

2 categories for the admission to Official List:
- Premium: meet standards over and above those set by EU Directives, UK Corporate Governance Code. Can be included in FTSE Indices
Only available to equity shares issued by commercial trading companies.
- Standard: only EU Legislation requirements.

Prospectus: required for public offering and admission to listing;
Not required for private placements but listing particulars still need to be approved and published by listing authority;
Required for securities to be admitted to trade on regulated markets.
Prospectus Directive → Passport: can raise capital in any EU state if approved in one.
>> Content: asset, liabilities, financial position, profits, losses, prospects, rights attached to the securities.

Listing Conditions:
- Published accounts covering at least 3 years - (Premium).
- A sponsor is required - (Premium).
- Sufficient working capital to cover next 12 Mo - (Premium).
- 25% listed securities must be held by public by the admission date.
- Expected aggregated market value of securities to be listed must be £700.000 for shares, £200.00 for debt.

Listing on AIM:
No minimum criteria.
Need a nominated adviser (nomad) from an approved register who makes sure applicants are suitable for admission – companies must produce and Admission Document including info about company's directors, promoters, business activities and financial position.
Required to disclose financial performance through scheduled interim and full year results.
AIM is not Official List, nor EU-Regulated market but is an MTF.

(HGS) High Growth Segment – larger than typical AIM:
- EEA Incorporated;
- Commercial company, issuing Equity only;
- Minimum 10% Free Float at IPO;
- Historic revenue of 20% over 3 years.
Prospectus, disclosure and transparency apply.

NEX Exchange

Eligibility, same as Official List.

NEX Exchange Growth Market – admission criteria:

- Appoint and retain NEX Exchange corporate adviser.
- At least 12 Mo audited accounts.
- At least 10% Free float.
- Appropriate levels of corporate governance: one independent non-ex director.
- Audited financial reports not older than 9 Mo.
- 12 Mo working capital.
- No restrictions on shares transferability.
- Issue shares, eligible for electronic trading.

Exemption from producing prospectus:

- Offer made to qualified investors (Professional Clients, Eligible Counterparties or Retail elect to become professional).
- Offer made to less than 150 persons per EEA State.
- Minimum consideration per investor is €100.000 or more.
- Total consideration of the offer is €5mover 12 Mo.
- Less than 10% shares are already admitted in the same regulated market.

CORPORATE GOVERNANCE & DISCLOSURE

(DTR) FCA Disclosure and transparency rules that listed companies are subject to.
DTR3 → reporting transactions by (PDMR) Person Discharging Managerial Responsibilities and their connected must notify transactions within 4 biz days.
Company must notify asap, no later then next biz day.

DTR applies to substantial individual interest in shares carrying unrestricted voting rights, to ascertain who is buying shares aiming to control the company.
Investor must notify the company within 2 biz days when acquires more than 3% and further for any additional 1%.

Concert Parties Provision → group of individuals acting in agreement in order to acquire interest in shares, all acquiring < 3% threshold individually and then takeover.
Each individual in such agreement must have the interest of the others added to their own → if Tot > 3% disclosure has to be made.
Public company must keep a register of interest in shares disclosed.
A person who is known to have had interest in the previous 3y have to indicate if they hold or have held such interest.
(PSC) Person with Significant control must be registered in a statutory register – aim to combat tax evasion, money laundering, terrorist financing.
Applies to all UK companies except for those under DTR5.

Remuneration Reporting:
- Policy Report: company's remuneration policy and key factors that were taken into account insetting that policy.
- Implementation Report setting actual payments and details on the link between company performance and pay for financial year.

These must be put to shareholder vote during annual meeting – binding vote.

If shareholders do not approve, company can:
- continue to operate previous policy;
- seek again approval;
- seek separate approval for specific remuneration.

UK CORPORATE GOVERNANCE REGULATION

A) LEADERSHIP
- Should be headed by a effective board.
- Clear division of responsibilities between running the board and running the business.
- Chairman's responsibility for board effectiveness.
- Non-Ex directors should challenge and help develop proposals on strategy.

B) EFFECTIVENESS
- Committees to have appropriate balance of skills, experience, independence and knowledge of the company.
- Formal, rigorous and transparent procedure to appoint new directors.
- Directors should allocate sufficient time to the company.
- Receive induction on joining the board and regularly update skills.
- Supplied with timely and relevant information.
- Formal and rigorous annual evaluation of own performance, committees and individual directors.
- All directors submitted for re-election at regular intervals.

C) ACCOUNTABILITY
- Present balanced and understandable assessment of company position and prospect.
- Determine nature and extent of the risk willing to take to achieve strategic objectives, board to maintain sound risk management and internal control systems.
- formal and transparent procedure to apply corporate reporting risk management, internal controls and appropriate relationship with internal auditors.

D) REMUNERATION
- Designed to promote long term success, with performance related elements transparent, stretched and rigorously applied.
- Formal procedure defining director's remuneration, fixing the package and not involving directors.

E) SHAREHOLDERS RELATIONS
- Satisfactory dialogue based on mutual understanding of objectives.
- Board to use AGM to communicate with investors an encourage participation.

UK CGC applies to all companies with a premium listing based or not in UK.
Not rigid rules, rather principles and provisions. Listing Rules require to apply main principles and report to shareholders on how they have done so:
"Comply of Explain" Approach.

(FRC) Financial Reporting Council → UK Stewardship Code: set of principles and guidelines for institutional investors holding voting rights in UK companies.
Same "Comply or Explain" approach. Investors should:
- Publicly disclose policy on how to discharge stewardship responsibilities.
- Conflict of interest policy.
- Monitor investee companies.
- Clear guidelines on when and how will escalate their activities.
- Willing to act collectively with other investors when appropriate.
- Policy on voting and voting activity disclosure.
- Report periodically on stewardship and voting activities.

Listed company → Continuing obligations → Keep shareholders informed:
- Submit draft to UK listing authority for approval of all meetings and circulars;
- Notify the market of profit announcements, dividends, acquisitions, management changes, and any other information to apprise position of the company.

Announcement → use a 3rd party firm which can distribute in accordance with Transparency Directive → if so, no need to make annual declaration to FCA.
If not using approved firm, has to record how every communication complies with Directive and report to FCA.

Price Sensitive Info → release on a regular basis, have consistent procedure to determine what is price sensitive and release. If relevant info is inadvertently released, must take actions to make sure everyone has access; also, correct public forecasts if the outcome is significantly different.

Companies Act 2006 → ANNUAL GENERAL MEETINGS.
Required to hold AGM within 6 Mo of the end of financial year – interval between AGMs no more than 15 Mo. Directors must call the meeting – no less than 21d written notice.
No defined items, but by convention: dividends, financial statement, reports, directors election, appoint & remuneration of auditors.
Other meetings are called GENERAL MEETING: no less tan 14 days notice which can be electronic. Directors call it whenever they see a fit or bound when 5% or more of shareholders request it given 12Mo elapsed since the last general meeting.
If directors fail to call the meeting within 21 days from request, shareholders can organize themselves (within 3Mo from request)
Board Chairman = Meeting Chairman
Resolution: decided on first instance by showing hands or take a poll which can be demanded by 5 members with voting rights, one or more having 10% voting rights, by the chairman.

2 kinds of Resolutions: Ordinary (simple majority) or Special (75% vote).

Proxy → any member can appoint it. Can be: General or Special (for a specific resolution). Each voter is sent Proxy form: if returned with no indication is General. Chairman decides on validity of proxies.

EUROBONDS: denominated in a currency other than that of the issuing county.
Not regulated by the country of currency denomination.
BEARER BONDS: Not registered centrally – holder is owner – anonymous.

Issues/Borrower approached a bank → Bank is Lead Manager → Bank asks other banks to for help in issuing the bond → Group sells the bonds to Underwriter or Selling Group
Syndicate = Managers + Underwriters + Sellers.
Underwriter purchases bonds at minimum price, assuming risk → Sells to a Sellig Group → Selling group places to investors.
(ICMA) International Capital Markets Association.

Settlement systems are national and each country has its own for different types of instruments.
Govt, Semi-Govts, Bonds, Notes → Traded OTC and settled via Central Banks settlement systems → not linked to clearing company or central counterparty.
Corp → listed and traded via central clearing depository associated with exchange.
Some countries settle on a rolling basis of T+1 to facilitate Delivery-Versus-Payment.
G30 recommends a practice of T+3 settlement.

2 Eurobond settlement systems: Euroclear and Cearstream, both providing: Clearance, Settlements, Money Transfers, Banking Services, Custody Services, Security Lending, Borrowing Services.
ICMA specifies settlement as T+2 but should be confirmed T+1.

TOPIC 2 – ETHICS & INVESTMENT PROFESSIONALISM

Ethical Behavior is important because builds public trust, encourages participation by promoting trust in investment professionals and instilling trust in other stakeholder and the regulator.

Unethical Behavior – 2 school of thoughts:
- result of environment and situation;
- result of attitude or personality.

Environment is the most important factor, corporate ethics are critical, so a senior role can have a strong influence.
Independent Directors + Strong Internal Procedures + Fair Remuneration Package.

Motivations for unethical behavior: Pressure or incentives to perform, Ability to rationalize unethical behavior, Conflict of Interest, Lack of rigor, Disregard for Clients, Omission and Cultural Issues.

CFA Code of Ethics – ethical obligations to clients: fiduciary duty, requiring a firm to:
- Act with loyalty with their clients, reasonable care and prudent judgment.
- Deal fairly and objectively with all clients.
- Provide suitable recommendations.
- Provide fair, accurate and complete information.
- Preserve confidentiality.

Employee has a duty to its employer and act for his benefit, not depriving him for this skills, abilities, information and must not accept gifts that might create a conflict of interest.

Compliance: complying with law or regulation;
Ethics: doing what is right, regardless of regulation.

Industry Impact - When practitioners behave unethically, become vulnerable to government intervention:
new/higher taxes, regulation, restrictions and disclosure. Central regulation replaces Self-Regulation by practitioners.

Firm Impact – fines, prosecution, loss of license and compensation payments to clients, reputational risk.
To avoid that, strong and consistent internal procedures to address conflict of interest.
Ethical standards should be written clearly and communicated clearly to all employees.
Breaching regulation lead to investigation, criminal proceedings and unethical conduct: disciplinary action, client disapproval, negative publicity, loss of a job.

Consumers Impact – where negligent advice generates: taking on too much risk, purchase inappropriate investment, lack of diversification, excessive trading, incommensurate fees.

A) FCA Code of Ethics & Standard of Professional Conduct

Code of Ethics uhas 6 elements:
1) Act with integrity, competence, diligence and respect.
2) Integrity of the profession and client interest comes above everything.
3) Use reasonable care and judgment when engaging in professional activities.
4) Practice and encourage others to act in a ethical and professional manner.
5) Promote integrity and viability of capital markets.
6) Maintain and improve professional competence.

STANDARDS OF PROFESSIONAL CONDUCT

1) PROFESSIONALISM

A – Knowledge of the Law
In the event of conflict, comply with the strictest law. If suspects standard has been violated, report to the supervisor or compliance department and if not remedied should dissociate himself and resign if necessary.

B – Independence and objectivity
Decline lavish gifts and only accept modest. Corporate relationships between colleagues/superiors have to be disclosed.
If brokerage company does not want to publish a negative opinion on a company that is also a client, the company should be put on a restricted list and only factual information should be released.

C – Misinterpretation
Not knowingly make any misinterpretation, recommendation and actions.
Not misinterpret aspects of their practice, qualifications, services, performance record.
Plagiarism: not copy or use material from another without acknowledging; analyst should keep copies of sources and statistics.

D – Misconduct
Not conduct activities involving dishonesty. Fraud, deceit commit any act that reflects bad on reputation integrity or competence.

2) INTEGRITY OF CAPITAL MARKETS

A – Material Non Public Information
which could affect the value of an investment must not act or cause others to act on the information.
Reliability of the source determines materiality and "non-public" refers to the fact that

has not been disseminated.
Mosaic Theory: get to the same conclusion by analyzing public and non-material non-public information.

B – Market Manipulation
Not engage in practices to distort prices, artificially inflate trading volumes to mislead market participants.
This can be achieved by carrying on transaction which artificially distort prices or volumes, taking dominant position in a security to manipulate price, disseminate false or misleading information to inflate price.

3) DUTIES TO CLIENTS

A – Loyalty, Prudence and Care
Duty of loyalty to clients acting with reasonable care and exercise prudent judgment.
Act for the benefit of their clients and place their interest before employer's or own.
Soft Commissions → Used to buy research → belongs to client and should be used for his benefit. Also, Voting for Proxies = Fiduciary Duty – cannot be ignored unless client instructs otherwise.

B – Fair Dealing
Deal fairly with all clients when engaging in professional activity.
Do not favor anyone and treat all equally. If a new issue is oversubscribed or block trade, must be distributed on pro-rata basis.

C- Suitability
- When in an Advisory Relationship, must:
> Inquiry client's investment experience, risk & return objectives and financial constraints prior any recommendation and reassess/update regularly.
> Determine an investment is suitable according to the above criteria.
> Judge suitability in the context of client portfolio.
- When managing a portfolio, must make only investments consistent with stated objectives and constraints.
Know Your Client before giving any advice, undertaking fact-finding to establish type, nature, investment objectives, attitude to risk, constraints, performance measurement benchmarks.

D – Performance Presentation
Fair, accurate and complete, based on (GIPS) Global Investment Performance Standards.

E – Preservation of Confidentiality
Unless law requires regards illegal activities, disclosure, client permits disclosure.
Can disclose Non-Confidential information if relevant to the work being performed and if enables a better service.
4) DUTIES TO EMPLOYER

A – Loyalty
Act for the benefit of the employer and not deprive of the skills or divulge confidential information. Employer's interest comes above employee's. Not enter in conflicting independent practice. Can still have a side business but should get employer's permission.

B – Additional Compensation Arrangements
Not accept gifts, benefits, compensation or consideration which could create conflict of interests with employer unless obtaining written consent form all parties involved.

C – Responsibilities of Supervisors
Anyone subject to supervision complies with applicable laws, rules, regulations and Code & Standards. Supervisor is responsible for subordinates' ethical behavior.
If compliance system is not in place, investment professional should not accept the supervisory responsibility until reasonable procedures are in place.
Compliance procedures should be clearly written, accessible, outline permissible conduct, scope of procedures, implement a system of checks and balances, designate a compliance officer, outline procedures for reporting violations, sanctions and document and test compliance procedures as well s describe hierarchy of supervision and assign duties to supervisors.
Compliance procedures to be communicated to all and periodically updated.

5) INVESTMENT ANALYSIS, RECOMMENDATIONS and ACTIONS

A – Diligence and Reasonable Basis
Exercise diligence, independence, thoroughness in analyzing investments, making recommendations and taking actions. Have an adequate basis supported by appropriate research and investigation for any investment analysis, recommendations or action. Research has to be sound and if suspected to not be accurate, shouldn't be used.

B – Communication with clients and prospective
Disclose to them the general principles of investment process used to analyze investments and disclose any change; disclose significant risks and limitations; use reasonable judgment in identifying important investment factors and distinguish facts and opinions.

C - Record Retention
Develop and maintain appropriate records to support any investment-related communications with clients, maintaining files to support their work, sources of information and methodologies.

6) CONFLICT OF INTEREST

A - Disclosure of Conflicts

Full and fair disclosure of all matters that could reasonably be expected to impair independence and objectivity or interfere with duties to clients. Disclosure is prominent, delivered in plain language and communicated effectively.
Professional cannot decide himself if the conflict exists: employer and client decide so.
Also, report any beneficial ownership that could be producing conflict of interest.

B – Priority of Transactions
Transactions for clients and employers must have priority over those where the member is a beneficial owner (owning shares directly or indirectly).
IPO → Blackout Period – cannot front-run clients.

C – Referral Fees
Disclose any compensation, consideration or benefit received from or paid to others for the recommendation of products and services.

7) RESPONSIBILITES AS CFA MEMBER

A - Conduct as Participant – not compromise reputation of CFA.
B – Reference – Not misinterpret or exaggerate.

TOPIC 3 – REGULATION

B) INTERNATIONAL REGULATION

Measures focused to harmonize the financial services legislation of EU member states to promote single market.
1999 – (FSAP) Financial Services Action Plan with 3 specific objectives:
1) Create EU single market ;
2) Achieve open and secure retail market;
3) State of the art prudential rules and supervision structures.
Leading to Removing Barriers and Increase Competition.

EU Harmonization is based on **DIRECTIVES** issued under Art. 58 EU Treaty.
EU Members have to ament their law to comply with Directive if necessary.
Directives can be implemented by Primary Legislation or Delegated Legislation, which may only alter a statute so far as is necessary to implement a directive.
When the Directive has no been implemented by the due date OR the implemented does not comply with the Directive.
→ "Vertical-Direct Effect": EU State vs. Individual / EU State vs. Company the Directive has precedence over national Law.
→ "Horizontal-Direct Effect": 2 companies or 2 individual.
In applying EU Directive, Court should interpret in a way to achieve the result required by EU Directive.

REGULATIONS are the most direct EU Law. Once passed they have binding effect in every member state on a par with national laws.
- DIRECTIVES are addressed to national authorities that must take an action to then part of national law;
- DECISIONS apply in some specific cases only.

The crisis has highlighted supervisory failings:
- Accumulation of excessive risk;
- Surveillance & Supervision not effective
- No coordination.

3 SUPERVISORY AUTHORITIES:
- (ESMA) European Securities & Market Authority.
- (EBA) European Banking Authority.
- (EIOPA) European Insurance and Occupational Pension Authority.

ESMA
It aims to ensure Integrity, Transparency, Efficiency and Orderly Functioning of securities market in Europe and enhancing Protection. Main powers are:
> Draft technical standards that are legally binding in EU member states;
> Launch Fast-Track to ensure consistent application of EU law;
> Resolve disagreement between national authorities;
> Consumer Protection: can prohibit a product for 3 months;

> Emergency powers;
> Participating in Colleges of Supervisors and onsite inspections;
> Monitoring systemic risk of cross-border financial institutions;
> Enter administrative arrangements with supervisory authorities and administrations.

ESMA Set high level standards → Day-2-Day National Supervisory Authority.

The Harmonization legislative procedure:
- *Level 1:* Directives and Regulations set the high-level political objectives and ESMA may be asked for technical advice;
- *Level 2:* drafting "Subordinate Acts"
> Delegated Acts, substantive content of the legislative requirement;
> Implementing Acts, executive measures giving effect to the substantive requirements.
- *Level 3:* ESMA Develops guidelines and recommendations to establish consistent, efficient and effective supervisory practices within the European System of Financial Supervision to ensure common and consistent application of EU law.
Guideline and Recommendation are not legally binding but the competent authority has to make every effort to comply and if do not intend to do so, must explain.
- *Level 4:* national competent authority can request a fast track procedure for ESMA to inquiry and issue a recommendation within 2 months from the investigation start.

(ISD) Investment Services Directive created a **Single Passport** where an authorized firm incorporated in one EU member state can engage in investment services throughout EEA without separate authorization by other EU member (Host) State.

UK → ISD → **MIIFD:**
- Widened the range of Core services can be passported;
- Upgraded advice to be a core investment service that can be passported;
- MTFs are covered by passport;
- Extend passport to Commodity/Credit Derivatives and Contracts for Difference;
- A firm offering services through a branch in another state follows Home-state rules;
- A firm operating from a branch in a member state has to apply the Host-state rules.

MIFID2
> Introduces a (OTF) Organized Trading Facility to capture unregulated trades executed on non-regulated platforms;
> Strengthening transparency requirements;
> Limiting size of positions held in Commodity Derivatives;
> Avoid risks and creation of disorderly markets from high speed technologies;
> Investor protection: increased information on products and ensure staff remuneration and performance assessment are not organized against clients' interest.

+ Investment Services → Subject to MIFID2 and can use Passport.
Services: Reception, Transmission, Execution, Dealing, Portfolio Management, Investment Advice, Underwriting, MTF, OTF, Placing Instruments without firm commitment basis.

Securities: Transferable Securities, M-Mkt, UCITS, Option/Futures/Swaps on any Deriv, Comdty, Physically and non Settled, Contracts for Difference, Emission Allowances.

+ Ancillary Services → Not MIFID2 and Not Passport.
Services:
- Safekeeping, Admin, Custodianship, Cash/Collateral Management.
- Granting credits or loans;
- Giving advice to undertakings on capital structure, industrial strategy and undertakings.
- FX Services connected to investment;
- Research or Recommendation;
- Underwriting;
- Investment Services related to derivatives.

Authorization may cover investment services but cannot cover SOLELY services.
→ Can ask authorization to extend services.

MIFIR

Related regulation that does not need to be implemented in national law, setting out reporting requirements and disclosure of trade data to public and authorities. Discretionary PM who currently rely on report made by their EEA sell side brokers' report may find that they will need to report in their own name to FCA under MIFIR

UCITS Directives

(UCITS) Undertakings for collective Investment inn Transferable Securities. FCA gives automatic recognition to certain CIS constituted in a member state other than UK. 1985 Directive → CIS compliant and authorized in any EU member state can be marketed without further authorization in any other EU member state subject only to local marketing laws.

FCA is responsible to recognize UCITS. UCITS I → 2002 UCITS III split in 2 parts:
1) Management Directive:
- Increases the companies' activities that can be passported;
- Protect investors insuring that management companies are suitably capitalized and that have appropriate measures for risk management and reporting;
- Introduce Simplified Prospectus then replaced by KIID from UCITS IV.

2) Product Directive:
- Expanded range and types of financial instruments permitted, allows investment in derivatives for investment and risk reduction; Increases the investment limits for some financial instruments and puts in place a combined investment limit on all funds' exposure to any one group of companies.

UCITS IV:
- Passport for management companies;
- Procedure for cross-border fund managers;
- Master feeder structure to permit asset pooling;
- Replacement of Simplified Prospectus with (KIID) Key Investor Information Document;
- Notification procedure for cross border marketing
- Strengthening of supervisory cooperation.

AIFMD

Alternative Investment Fund Managers Directive covering management, administration and marketing of Alternative Investment funds (AIFs).
And AIF is a collective investment undertaking not subject to UCITS, including HF, PE Retail Inv. Funds, Investment Companies and Real Estate Funds.
AIFMD focus is on regulating managers rather than AIF themselves.

Authorization.

AIFM has to be authorized by home regulator if has AUM above
- €100 Mln if uses leverage;
- €500 Mln if no leverage and no right or redemption within 5y to investors.

If AIFM has AUM below these 2 thresholds → Sub-Threshold → Light Regulation.
2 types of Sub-Threshold:
- Small Authorized UK AIFM → is FCA Authorized and not opted into AIFMD.
- Small Registered UK AIFM is:
    + internal of a Corp body;
    + unauthorized manager of property funds operated by an FCA-auth operator;
    + fund manager who applied for registration to EVCFR or ESEFR.

STAIFM apply SYSC, COBS and no Passport, thus comply with local private placement regimes.

Other AIFMD requirements.

Capital obligations, Organizational, Governance Requirements, Regular Disclosure of info to investors. Each AIF should be named by a series of codes and they have to select only brokers and counterparties that:
- subject to regulatory supervision;
- financially sound;
- have operational structure.

AIFM must submit Quarterly, Semi-Annual, Annual reports to state regulator and an annual report with Financial Statement, Activities and Information about Remuneration. They have to disclose the amount of leverage employed and show is a reasonable amount.
Scope of AIFMD requirements differ based on whether the AIFM is engaged in Portfolio Management OR Risk Management within EU or markets the funds to EU investors.
Each Fund can have only 1 AIFM then through the AIFM can delegate functions to other

entities.

EMIR

2012 – Covers OTC Derivs, Central Counterparties and Trade Repositories.
Anyone who enters a Derivs contract has to report and risk manage their Deriv position.
UK → EMIR implemented via (FSMA) Financial Services Markets Act.
3 Requirements:
- Clear OTC Derivs with clearing obligation via central counterparty;
- Put in place risk management procedures for OTC Derivs tha are not cleared;
- Report Derivs Transactions to Trade Repository.

FATCA

Foreign Accountant Tax Compliance Act, US Law to prevent tax evasion by US citizen using offshore banking facilities. Tax information, reporting and withholding regime to gain info on US persons.
Applies to non-US financial institutions, imposes 30% withholding tax on US source income paid to non-US financial institutions.
Non-UK FInst can enter agreement with (IRS) US Internal Revenue Service and disclose info about their US account holders.

2012 UK & US Intergovernmental agreement → UK FInst can meet the reporting obligation by reporting to HRMC. then HMRC → IRS.

FATCA requires all (FFIs) Foreign Financial Institutions to provide info about their US customers to IRS in accordance with the terms of FFI agreement.
- If enters the agreement is "Participating FFI"
- If does not enter agreement is "non-participating FFI" → 30% Withholding Tax

FFIs are entities that accept deposits, hold financial assets, conduct business as insurance company and engage primarily in Managing Portfolios, Trading or Administering Funds or Money.

Basic Obligation: disclose reportable accounts when the holder is a US person or a non-US entity where the control includes one or more US person.

Reporting to IRS is ad annual report on each US reportable account: name, address, tax number, year-end balance, gross interest credited, gross amount paid/credited.
(CRS) Common Reporting Standards → for the automatic exchange of tax/fin information. Overseas FInst have to provide HMRC details of any UK resident with foreign investments. Finst have to notify clients that HMRC will get this data. Banks are not under any obligation to notify clients the info will be disclosed to IRS.

C) <u>UK REGULATION</u>

Financial Services Act (FSA) 2012 created:

> (FPC) Financial Policy Committee, a macro-prudential regulator within BoE to monitor and respond to systemic risk;
> (PRA) Prudential Regulation Authority, within BoE
+ (PRC) Prudential Regulation Committee, PRA governing body;
> (FCA) Financial Conduct Authority, a focused conduct of business regulator to regulate both retail and wholesale market, promoting consumer protection.

FCA – Financial Conduct Authority
To ensure relevant markets function well.
3 Objectives:
- Appropriate consumer protection;
- Protect & Enhance UK financial system;
- Promote effective competition.

Scope of FCA Activities:
- Conduct of business regulation for retail, wholesale, PRA-Authorized and Passporting in UK firms;
- Acting as lad regulator for firms other than PRA-Auth → FCA Authorized firms.
- Market regulation, except settlement systems and (RCHs) Recognized Clearing Houses; Also, Exchange and Central Clearing Counterparty Services are regulated by BoE as RCHs and FCA as RIEs.
- Regulatory oversight of client assets, countering financial crime.

PRA is responsible for Prudential Supervision of Banks, Insurers, Investment Firms;
FCA is responsible for their Conduct Regulations, for smaller also Prudential.
FSA2012 → HM Treasury can place boundaries between PRA & FCA.
→ PRA power to require FCA not to take a certain action
→ Required to consult each other, other regulators, panels and public.
FCA uses Rule-Making and Supervision Toolkit and can ask (CMA) Competition Market Authority to consider competitive inefficiencies.
FCA can impose requirements and enforcements against firms.
Can ban misleading promotions by Removing or Preventing.
2014 FCA took over Office of Fair Trading and the activities:
- Lending/brokering credit;
- Credit reference agency;
- Debt collection, debt admin;
- Hiring contracts.

PRA – Prudential Regulation Authority
Legal entity within BoE, Prudential Regulator, who's core objective is to ensure the safety and soundness of the firms it regulates.
To achieve this, supervise and regulates firms' resilience (capital/liquidity/leverage) and where these fail, is responsible for resolution.
Takes Judgment-led approach to supervision, determined by the risk posed by each firm: every firm has a baseline supervision, with additional focus on Systemic Risk.
PRA coordinates with FCA and FPC – also other jurisdictions' authorities.

FPC – Financial Policy Committee
Monitors financial system as a whole and identifies risks to its stability.
Can make recommendations and advice to FCA and PRA and intervene to make sure appropriate action is taken to ensure stability when needed.
This a Committee within BoE, composed by:
- Governor (chair).
- 3 Deputy Governors.
- 2 BoE Exec Directors.
- FCA's CEO.
- 4 External Members.
- 1 non-voting Treasury Rep.

FPC primary role is to identify and monitor Systemic Risks and take action to address.
Published 2 financial stability reports each year and record of its meetings.
Meet at least quarterly – Has formal power over FCA and PRA.

FCA and PRA share a single admin process for ***Dual Regulated Firms.***
DRFs apply t PRA unless directed otherwise applications are considered by PRA and FCA and follow 1 of 2 processes:
1) CONSENT - Firm applies to PRA for authorization/variation
→ FCA gives/refuse consent. If refuse, PRA has to refuse.
Here: PRA focus on Financial Soundness; FCA focus on issues with conduct implication.

2) CONSULT - firm applies for: change in control, FCA materially important, pssporting, insurance transfer, cancellation of permission → PRA consult FCA but not bound by it.

Both have threshold conditions → PRA require firms to have an appropriate amount and quality of capital and liquidity, appropriate resources to measure, monitor and manage risk, to be fit and proper, to conduct business prudently.
DRFs have to meet both FCA & PRA's thresholds.

Enforcement: FCA consult PRA, if the issue is relevant for both they can act joint as well as separate investigation.
DRFs → Senior Management Regime.

FSMA 2000/2012 – Financial Services Markets Act
Framework for the regulation of investment business in the UK.
Anyone undertaking investment business in UK, is required to be **Authorized Person** or **Exempt Person**.

Authorized Person:
1) Authorized under PART 4A Permission, who must apply to FCA.
2) Person who qualifies for authorization, who is from another EEA state, authorize in his home state and wants to carry on in UK via passport.

Factors determine need for Authorization:
1) investments within the scope of system regulation;
2) activity carried out in relation to those investments is regulated;
3) exemption is available.

Criminal Offences:
1) Someone saying is Authorised/Exempt when is not;
2) Misleading or dishonest statements f promise;
3) Create false impression with the purpose of gain and/or causing a loss;
→ SECTION 91: misleading statements/impressions in relation to benchmarks:
- False/misleading statements;
- False/misleading impression to price/value of investment/interest rate.

FCA investigates and prosecutes these offences-->Prison 7 years/fine/both.

(RAO 2001) Regulated Activities Order

- SPECIFIED INVESTMENTS: all investment instruments and rights to chose instruments, but exclude physical assets.
Provision of Credit and Regulated Mortgages are Spec. Inv. But regulated by FCA; MIFID2 included as Spec. Inv. Also structured deposits and emission allowances.

- REGULATED ACTIVITIES: where auth/exemp is required if the activity is carried out in relation to one or more specified investments:
Accepting Deposits;
Issue e-money;
Effecting/carrying out contracts of insurance as principal;
Dealing, Arranging Deals, Managing Investments;
Arranging Mtge, Other home-finance transactions;
MTF/OTF.

(PSR) Payment System Regulator
Subsidiary of FCA; Adopts a utility-style approach regulating systems designated by HM Treasury: BACS, C&C, CHAPS, FPS, LINK, Master Card, VISA.
Securities trading systems, clearing houses, central counterparties are excluding from PSR as BoE is responsible.

PSR Objectives:
- Ensure Payment systems are operated and developed to promote interests of business and consumers;
- Ensure effective competition;
- Promote development & innovation of payment systems infrastructure.

(CMA) Competition Markets Authority
Takeovers and acquisitions → (ERRA) Enterprise and Regulatory Reform Act 2013, involves CMA acting as independent competition authority.

CMA investigates all M&A that meet *Turnover Test* of *Share of Supply Test*:

- Turnover Test: target company has UK turnover > £70 Mln
- Share of Supply: merging parties will supply at least 25% of UK As whole.

40 Days to study → if lessening competition can prohibit/impose remedies.
+ **Dept of Biz, Energy & Industrial Startegy** → Public Interest = National Security.

PANEL ON TAKOVERS and MERGERS

Operating and enforcing The City Code. Partly financed by levy on transactions, applies to all publicly quoted companies and gets additional funding by charging fees on docs.
PTM Levy is payable on trades in securities of companies that re incorporated in UK, Channel Islands, Island of Man and shares admitted to trading o a UK-regulated market/MTF.
Levy Rate = 100p per contract where total consideration is > 10.000£.
PTM Levy IS payable in:
Equities, Convertibles, Transferable Securities (warrants, allotment, rights) US Depository Receipts and Global DR;
PTM Levy IS NOT payable:
Covered Warrants, Debentures, Preference Shares, Permanent Interest Bearing Securities, Contracts for Difference, Spread Bets, Options.

Panel acts as referee of fair conduct of takeover bids, that all shareholders are treated fairly. DOES NOT consider competition policies or public interest.
PTM has statutory basis → The Code has statutory force: regulates conduct of bids, restricts predatory actions, protects shareholders and allows a reasonable period in which bid may be considered. PTM cannot impose sanctions retrospectively.

PTM Fundamental Principle: equal treatment of all shareholders in a particular class.
Any bidder who acquires 30% or more of voting rights, is required to make a cash offer to all the other shareholders at the highest price they pain in the previous year.
An offer document must be sent within 28 days of the announcement.
Unless "extension", an offeror is subject to 28 days "Put Up or Shut Up" deadline following the announcement date.
Any offer must be open for a minimum of 21 days.
The target company's director must advise shareholder within 14 days the offer document is sent.
If the bidder stake reaches 50%, the company has to keep offer open for acceptance by remaining shareholders.
If the predator reaches 90% can force minority to sell.
Management should not deny shareholders to bid for the company.

(ICO) Information Commissioner's Office

(DPA) Data Protection Act 1998 → Anyone who handles personal information, has to comply with 8 principles:
1) Fairly and lawful processed;
2) Processed for lawful purposes;
3) Adequate, Relevant, Not Excessive;
4) Accurate, Kept up to date;

5) Not kept longer than necessary;
6) Processed in line with individual rights;
7) Secure;
8) Not transferred to other countries without adequate protection.

Anyone handling data, must notify ICO → Failure is criminal offence.
Details must be provided which ICO to compile the Public Register of Data Controllers.
Written "Subject Access Request" → max £10 charge / response by 40 days.
ICO evaluates if data controller is in breach → Serves enforcement notice → Fails to comply → fine up to 500.000£.

TRUSTEE ACT 2000
Trust deed allows overall investment policy to be left to the discretion of trustees in consultation with investment advisers.
Trustee Act 2000 allows trustee to make any kid of investments, land and property.
Trustee must obtain proper advice and regard the Standard Investment Criteria: Suitability, Need to Diversify, Review if are varied.

PENSION FUNDS REGLUATION (Acts)
Pensions Act 2004:
> Created (TPR) Pensions Regulator:
- Protect benefits of embers of occupational schemes;
- Reduce risk of need to call for (PPF) Pension Protection fund;
- Promote good administration.

> Introduced PPF: to provide compensation where a sponsoring employer becomes insolvent and scheme can't pay liabilities. PPF covers 100% for retired and 90% for non-retired. PPF is funded by levy on all defined benefit pension schemes.

> Introduced Scheme-Specific Funding requirements (for trustees):
- Prepare statement of funding principles specific to each scheme, setting how the statuary objective will be met. Reviewed every 3 years;
- Periodic actuarial valuations and actuarial reports;
- Schedule of contributions;
- Recovery plan if object is not met.

Pensions Act 2008:
Requires all eligible job holders to be enrolled into a qualifying scheme.
(NEST) National Employment Savings Trust so that all employers have access to a suitable scheme.

Pensions Act 2015:
Benefits in a contribution pension can be accessed in more flex ways from age of 55:
- (UFPLS) Uncrystallised Funds Pension Lump Sum – Money is drawn from fund without purchasing Annuity or use Drawdown plan.
25% of UFPLS will be tax free and one or more UFPLS payments can be taken;

- Lifetime Annuity – Pay income until death;
- Flexi-Access Drawdown Plan – any drawdown payments are taxed as income.

Pension Act 1995 - Statement of Investment Principles:

Trustee's ability to act independently from employer. Given power to appoint own Actuary, Auditor, Financial Adviser and responsible to produce
(SIP) Statement of Investment Principles setting out how decisions on investments are made and must include policy on:
- Choosing investments;
- Kinds and balance of investments;
- Risk, how to measure, manage and expected RoI;
- Realizing investments;
- Social/Ethical considerations;
- Use of attached rights;

Before SIP is drawn up, trustee must:
- Get written advice from a person with knowledge and experience;
- Consult Scheme sponsor → Consider, does not mean agree.

SIP has to be reviewed every 3 years or whenever change the investment policy.
Investment Manager can be appointed but Trustee will be liable.

D) FCA – Objectives & Standards

FCA regulates conduct in Retail and Wholesale Markets and the Prudential Regulations of firms not regulated by PRA.
Strategic Objective: ensure regulated markets function well.
Operational Objectives:
- Consumer Protection.
- Protect & Enhance Financial System.
- Promote effective Competition.

FCA HANDBOOK is divided in:

1) HIGH LEVEL STANDARDS
For Authorized/Approved persons.
- (PRIN) Principles for Business: obligations of FCA regulated firms - FCA 11 / PRA 8;
- (SYSC) Senior Management Arrangements, Systems and Control.
- (COND) Threshold Conditions.
- (APER) Statement or Principle and Code for Approved Persons.
- (FIT) Fit and Proper Test for Approved Persons.
- (TC) Training and Competence.

2) PRUDENTIAL REQUIREMENTS

3) BUSINESS STANDARDS
Requirements on a day-to-day basis.
- (COBS) Conduct of Business Sourcebook.
- (MAR 1/2) Market Abuse (1) and Price Stabilization (2).
- (CASS) Client Assets Holding – money, segregation, safe custody, statutory trust, insolvency event.

4) REGULATORY PROCESS
- (SUP) Supervision.
- (DEPP) Decision Procedure and Penalties Manual – FCA Decision Making Procedures and FCA Policy in imposing penalties and conduct of interviews.

5) REDRESS
Handling complaints and compensation.
- (DISP) Dispute Resolution and Complaints – Firm's Process/Ombudsman.
- (COMP) Compensation- FSCS Eligibility.

6) SPECIALIST SOURCEBOOK
- (COLL) Collective Investment Schemes: Authorize/Constitute/Manage ICVC and AUT.

7) LISTING, PROSPECTUS and DISCLOSURE
Requirements for UKLA Official Listing, Transitional Provisions, Prospectus Rules, Disclosure Documents Requirements.
- (EG) Enforcement Guide
- (PERG) Perimeter Guidance Manual
- Financial Crime Guide.

(PRIN) – PRINCIPLES FOR BUSINESS - Fundamental obbligatos of a firm, being the main dimensions of the fit and proper standard test to be Suitable. 11 Principles:
1- Integrity.
2- Skill, Care & Diligence.
3 – Management & Control – Adequate systems.
4 – Financial Prudence - Adequate resources.
5 - Market Conduct – Firm must observe proper standards.
6 - Customer's Interest.
7 – Communication with Clients (Clear, Fair, not misleading).
8 – Conflict of Interest
9 – Relationship of trust with Customers.
10 – Client's Assets.
11 – Relations with Regulators.

Breaching a Principle does not enable a Person to initiate court action against FCA-Regulated firm, but will be taken into account by FCA for its disciplinary/intervention powers. Onus on the regulator to prove fault. PRIN can be used by FCA, not Privates.

(SYSC) SENIOR MANAGEMENT ARRANGEMENTS, SYSTEMS e CONTROLS –
Purpose:
- Directors to take appropriate practical responsibility for firms arrangements on matters of FCA interest.
- Increase Certainty by amplifying PRIN3: Firm to have control, effective and adequate risk management systems.
- Vest responsibility for effective and responsible organization to specific directors/senior managers.
- Create a Common Platform of organizational/systems/control requirements for all firms. This is a unified set in SYSC 4-10 → Applies to all except: Insurers, managing agents, Lloyds → SYSC 2-3 applies to all these falling outside.

>> SYSC 4: General Organizational Requirements
- Firm Governance, Internal Controls, Organization, Accounting Controls, Audit Committee: well defined org. structure, lines of responsibility, identify, manage and report risk.
- At least 2 Persons controlling the firm, experienced and good repute.
- Senior Management Responsibility: compliance with regulation and frequent reports.
- Firm Management body to have clear allocation of responsibilities.

>> SYSC 5: Employees, Agents and Relevant Persons.
Skills/Knowledge and Expertise, Segregation of duties, Awareness of procedures, General requirements.

>> SYSC 6: Compliance, Internal Audit, Financial Crime
Firm must establish policies to ensure compliance with regulator, appoint a Compliance officer responsible for oversight function who reports to governing body.
→ Maintain systems to identify, asses, monitor, manage Money Laundering. FCA will assess if firm followed guidance from JMLSG.
System & Controls must include: Training for employees, provide info to Governing body & Senior Management, Risk Policies/Risk Profile documentation, Measures to account AML risk and measures to make sure KYC does not impede business.
- Appoint a Director to have overall responsibility for AML
- Appoint a MLRO

>> SYSC 7: Risk Control
Appropriate measures/systems…

>> SYSC 8: Outsourcing
A firm outsourcing critical/Important functions has to retain responsibility under the regulatory system. A senior manager must not delegate responsibilities.

>> SYSC 9: Record-Keeping
Enable FCA to monitor. MIFID records for 5 years.

>> SYSC 10: Conflict of Interest

- Take appropriate steps to identify conflict of interest.
- Maintain arrangements to prevent conflicts of interest resulting in a material damage to client interest
- Disclosure as last resort measure.

Write a Conflict of Interest Policy which must include:
- specific services and activities carried out and what could raise conflict of interest;
- specify procedures to manage this conflict.

__>> SYSC 11-17:__ Risk Management, Prudential Requirements, Systems for Liquidity Risk, Operational Risk, Group Risk, Credit Risk, Market Risk, Insurance Risk.

__>> SYSC 18:__ Whistleblowing
(PDIA) Public Interest Disclosure Act 1998 protects employees in case of whistleblowing via internal procedures. Detriment → Questions firm's fit.
The firm must:
- Have internal whistleblowing agreements, inform UK Based employees. Actual arrangement is at discretion of the firm, who should:
Written Procedures, Respect Confidentiality, Assess/Escalate Appropriately, Track Outcome, Ensure no one victimizes whistleblower.
- Offer Protection
- Contract provision clarifying nothing impedes employee to make a disclosure.
- Appoint a "Whistleblower Champion" responsible for:
Oversee Effectiveness Policy, Prepare annual report to the board, report to FCA.

__>> SYSC 19__: Remuneration Codes
MIFIDII → Firms cannot pay remuneration directly linked to Sales.
"Code Staff": applies to Senior Management, Risk Taker, Staff in control functions:
- Bonus deferred over 3 y: 40% for code staff, 60% senior management (or >500000).
- 50% of every bonus made in Shares, Share-Lkd or Non-Cash instruments. & Retention.
- No guaranteed bonus of more than 1 year.
- Remuneration policy to promote sound and effective risk management.
- Ensure policy is periodically reviewed and updated.
- Disclose policy detail annually.

PERMISSION TO CARRY ON REGULATED ACTIVITY.
Person needs to be authorized unless exempt. Exempt: professional firms, solicitor, accountants, appointed representatives of authorized firms.
UK Investment Firm has to apply for FCA Part 4A Permission and needs to determine the precise scope , activities and investments. FCA can specify limitations (specific to activity) or requirements (non specific to activity). Granted once, to add/modify, need to apply again.

Applicant must satisfy COND (TC) Thresholds and FMSA200 redistributed these TC between FCA and PRA: some FCA, apply to all firms; PRA TC only to Banks, Insurance and PRA Authorised.

Dual Regulated apply to PRA to vary/cancel authorization. But PRA only determines with FCA authorization.

Exempt Person do not need authorization: representatives of an authorized person, RIE, RCH, Members of the profession, Members of Lloyds.

(APER) APPROVED PERSONS AND COTROLLED FUNCTIONS
Need approval from FAC/PRA who grant such to:
- those dealing with customers or property;
- those with significant influence in the organization.
APER Replaced by Senior Management and Certification Regime.
7 Principles apply to approved person, first 4 to customer role.

Firms only FCA regulated – 5 Categories of controlled functions:
1) Governing Functions – C Suite.
2) Required Functions – Apportionment, Oversight, Compliance, AML.
3) System Control Functions – Reporting, Financial Affairs, Risk Controls, Internal SYSC.
4) Significant Management Functions.
5) Customer Dealing Functions.

All SIF (Significant Influence Function) person has to be Apporved.
2 new required functions: CF40 and CF50: submission and administration of benchmarks.

If you want both PRA and CFA SIF, you have to apply to PRA, not CFA – PRA approval will expand to FCA. But if taking different roles/changing, has to apply to both separately. When applying to both, PRA will need FCA consent.
FCA grants individuals are fit and proper based on:
Honesty/Integrity/Reputation, Competence/Capability, Financial Soundness.
Firm to inform regulator within 7 Biz days if person ceases to perform approved role.

FCA Statements of Principles apply to all Approved Persons and +3 with significant Influence.
1) Act with Integrity
2) Due Skill, Care and Diligence.
3) Proper standards of market conduct.
4) Open and cooperative with Regulators.
5) Take reasonable steps to ensure business is organized and controlled effectively.
6) Due Skill, Care and Diligence (SIF focused)
7) Ensure Biz complies with requirements and standards.

Regime allows those who breach to be disciplined without affecting firm as whole.

(SMCR) SENIOR MANGERS AND CERTIFICATION REGIME
Replaced APER for UK Banks, Building Societies, Credit Unions, PRA Firms.
Holding individuals accountable is key component of effective regulation:

- SMR allocates responsibilities to approved individuals, to regularly vet their fitness.
- Certification Regime that requires firms to asses fitness and property of employees who could pose a risk of significant harm to the firm or any customers.
- Conduct rules to all staff.

3 Main types of Responsibilities:
1) (SMFs) Senior Management Function:
person must be approved and subject to SMR – involve or might involve a risk of serious consequences for the authorized person or business or other interest in the UK.
Both regulators will be able to engage with and take enforcement against SM.

2) Prescribed Responsibilities:
Important functions other than SMF, must be allocated to one of existing SMF.
A list of functions that has to be assigned to one of the SMF.
PRA may require to allocate other responsibilities to a specific senior manager.
> "Significant Responsibility SMF" to bring Non-board members in charge of areas under SMR – applies to individuals the board delegated overall responsibility for a Key Function, Identified Risk.

Different approvals = different applications, can be combined.
SMF determines to which regulator the application has to be made.
When applying a firm has to submit:
- Statement of responsibility and the overall fit in organization.
- Responsibilities Map.
- Other Information.

Regulator can take individual actions against a senior manager, who have statutory duty of responsibility so that can be held individually accountable if the firm breaches is responsibility area BUT is not accountable if demonstrates he had taken all reasonable steps.
Enforcement action, triggered by 3 directions:
- individual breach;
- "knowingly concerned" in a contravention by the firm;
- contravention of the rules in the assigned area.
It is a criminal offence to cause firm's default.

3) Key Functions, important functions other than SMFs and prescriber responsibilities.

Certification Regime is a level of regulation below SMR, covering "significant harm functions" where a person carries out activities that involve significant risk to harm the firm. Individuals here are not subject to approval, instead, is the firm that certifies they are fit. This applies to:
- Functions that were "significant influence" under APER but not falling under SMR.
- Customer facing roles subject to qualification requirements.
- Anyone who supervises or manages a Certified Person.

Conduct Rules → new section of FCA Handbook.

All Staff must be **Trained & Competent**: has been assessed as competent, is supervised. Firm should have criteria and procedures to define when is competent and if she gives advice on packaged products, must ensure that: the supervisor has passed appropriate examination, employee had adequate knowledge and skill.
Firm must review on regular/frequent basis and ensure she maintains competence of: technical knowledge, skills and expertise, changes in the market.

(RDR) Retail Distribution Review establishes professionalism requirements for retail investment advisers: subscribe to code of ethics, appropriate qualification, 35h CPD per year of which 21h structured, (SPS) Statement of Professional Standing.
No met standard → Cannot make personal recommendations.

… Ethical Standards, Modernized Qualifications…

Accredited bodies: ensuring all advisers subscribe code of ethics, hold appropriate qualification, recognize CPD activity from range of providers, random 10%CPD Sample check.

E) <u>FCA BUSINESS STANDARDS</u>

<u>ACCEPTING CUSTOMERS FOR BUSINESS (COBS)</u>
Client: a person to whom the firm provides, intend to or has provided a service in the course of regulated activities or an ancillary service. Clients can be potential, those to which a financial promotion was communicated, client of a representative appointed by the firm.
Before doing business, firm must assess client status and define if is:
Retail – Professional - Eligible Counterparty → Different regulation to each category, as gets tailored to knowledge and experience of clients.
Flexibility to move between categories:
- Professional/Retail can move generally or in relation to specific service/transaction;

- Eligible counterparty generally or on a trade-by-trade basis.
Professional cannot become Eligible Counterparty.
Retail clients have the most regulatory protection.
Local Authority start as Retail then can become Professional if invest on behalf of pension scheme.
Professional → Experienced → Fewer Regulatory protection.
Eligible Counterparties → Investment Firms → Light Touch regulatory regime.

Per-Se Professional Client is:
- Entity required to be authorized or regulated.
- MIFID Biz → Large Undertaking meeting 2/3 following requirements:
    - Balance Sheet Tot €20Mln
    - Net Turnover €25Mln
    - Avg Epmployees 250
- Public Entity.
- Institutional Investor.

Firm can treat client as Elective Professional if meets Points 1, 3and where applicable 2:
1) Qualitative Test - Firm undertakes adequate assessment of expertise and gives assurance the client is able to make is own investment decisions.
2) Quantitative Test – at least 2:
- Carried out significant size transactions, 10 per Q over last 4 Qs;
- Portfolio Size 500.000€ or more;
- Worked in financial industry for at least 1 year;
3) Followed Procedure:
- State in writing wants to be treated as professional;
- Firm give clear written warning of the protections he will loose;
- Client states in writing he is aware.

Eligible Counterparty: client Per-se eligible or Elective eligible counterparty.
Art 24 MIFID permits authorized firms to:
- execute orders on behalf of clients;
- deal on own account;
- receive/transmit orders;
- enter transactions with eligible counterparties;
Investment Institutions → are automatically recognized as per-se counterparties.
"Light touch" counterparty regime, limited to specific businesses:
- executing orders on behalf of clients;
- dealing on own account;
- receive/transmit orders.

Firm treat client as Elective Counterparty if:
- Is an undertaking and is per se professional client / requests such categorization.
- Firm has obtained express authorization to be treated as eligible counterparty, but this does no enable to get FOS protection.

MIFID2 requires to enter into a basic written agreement with professional and retail clients and must be done for each investment service or ancillary service, and should cover: terms of such agreement, info about the firm, services and must keep a record of such arrangements.

PROMOTION & COMMUNICATIONS (COBS)

Financial Promotion is an invitation or inducement to persuade recipient to engage in investment activity.
- Enter an agreement, making or performance of which by either party constitutes a controlled activity.
- Exercise rights to acquire, dispose of, underwrite or convert an investment.

Unauthorized person cannot communicate Finanacial Promotions in UK unless:
- content approved by authorized person;
- subject to exemption under FPO.
→ 3 categories of exemption under FPO:
1) Applicable to all controlled activities:
- To Overseas recipient (receive outside UK or based outside UK);
- Follow-up of an earlier compliant promotion;
- Introductions;
- Exempt Persons promoting exempt activities.
- Generic Promotions not relating to controlled investment or person;
- Investment Professionals;
- Journalists for non-real time promotions, and the publication must not advise buy/Sell.
2) Applicable only to controlled activities concerning deposits, contracts of insurance;
3) Applicable to any other type of controlled activity.
- Certified high-nets worth individuals;
- Sophisticated investors.
Rules apply to all media of communication.

PRIN7 – Communication is Fair, Clear and not Misleading.
Rule does NOT apply to:
- Excluded communication: one off promotion which is not a cold call;
- Promotions communicated only to Investment Professionals or Eligible counterparties;
Compliance with this rule Is achieved by ensuring the promotion:
- Makes clear that places client's capital at risk.
- Quotes a balanced long & short-term yield figure.
- Contains sufficient info on complex charge investments.
- Names FCA as regulator.
- Does not give distorted view of the packaged products manufacturer.

→ Communication with Retail Clients includes:

Name of the firm, indication of relevant risks, understandable, does not obscure important items, equal font size, presented in the same language and is up to date. Where comparisons are made, have to be meaningful, balanced and sources to be specified. If any info relates to a specific tax treatment this has to be highlighted.

→ Past Performance:
- Cannot be the main feature.
- Has to cover precedent 5 years or the whole period if less.
- Reference period and source must be clearly stated.
- Warning that's past performance and not a reliable indicator of future.
- If in another currency, must highlight currency fluctuations warning.
- If indicated in Gross performance, the effect of commissions, fees and other charges must be disclosed.

→Simulated Past Performance:
- based on performance of instruments that are substantially the same.
- warning that is simulated and not reliable indicator.

→ Direct Offer:
- offer by the firm to enter into a controlled agreement with any person who responds the communication;
- invitation to make an offer to the firm or enter into a controlled agreement specifying the manner of response;
A promotion addressed to retail client, contains information disclosure rules and additional info about relevant business and investment .
These info do not have to be included in the offer but the client can refer to another document(s).

→ Cold Call:
Promotion made in the course of a personal visit, phone conversation or dialogue which was not initiated by the recipient, does not respond to a specific request and was not clear from the initial call that would have been an offer.
Firm should not make a Cold Call unless: has existing relationship, is a general marketable packaged product not/not linked higher volatility fund, is carried out by an authorized firm involving regulated investments.
Where a firm communicates a non-written financial promotion it should be at appropriate time of the day, purpose stated in the outset, clarify whether wants to continue or terminate and a PoC should be given.

Must provide customer with distance marketing communication before a distance contract offer bound him.

FCA Advice on "Fair and not misleading":
- Promotion for investment products should be identifiable as such;
- Stand-Alone compliance for any communication;
- Risk warnings and other required statements to be included;

- Image advertising should be clear and not present difficulties with character limits.

Cross-Border communications should comply with local law and in the UK observe FCA Handbook requirements.

>> SYSC in relation to Financial Promotions:
1) Adequate record keeping:
- Indefinitely for a pension transfer, opt-out or FSAVC;
- 6 years for life policy, occupational pension scheme,self admin scheme, pension;
- 5 years MIFID business;
- 3 years other cases.

2) Firm must provide adequate information: contacts, methods of communication, authority authorization statement, representative, nature & frequency of reports on performance, conflicts of interest.
If the firm manages investments for a client, must provide: method and frequency of valuation, delegation of discretionary management, comparison benchmarks, limits to investment types and limits, management objectives and discretion constraints.

Investment Advisor charging and remuneration.
Firm making personal recommendation cannot earn commission set by the product provider, instead is paid an adviser charge agreed with client in advance.
Applies to Independent and Restricted advice, not to basic advice, where adviser can still earn commission on sale.
Non-advised or execution only fall outside the adviser charging regime.
Firm providing personal recommendation can only be paid adviser charges ad not accept commissions.
Product provider cannot offer to pay commissions but are not prevented from facilitating the payment of adviser charges from client's investment or paying admin or other charges to 3rd parties.

>> COBS 6.1B "… a firm that offers to facilitate directly or through 3rd paty the payment of adviser charges, must obtain and validate instructions from a retail client, offer flexibility, not pay out or advance adviser charges to the firm.
Firms have to work out an appropriate charging structure which can be a standard list or a tailor-made one and client should pay on-going fees only if on-going value add is provided.
Charging structure must be disclosed to client in good time, clear and plain language and if the actual payable differs materially from charging structure must be disclosed as early as practicable.
Firms have to keep record of charging structure, total adviser charge payable from clients, and if differs materially, reasons for that..
Charges have to be reasonably representative and should not include costs associated with manufacturing and administering the product.
Provider has to ensure that costs are not structured in a way that mislead distinction between product costs and adviser charges → end practice of locating over 100% of

client's investment without clarifying that higher charges apply.

Advise charge can be paid upfront or deducted from investment and payment can be in installments only if there is an ongoing service or the investment implies regular contributions.

<u>MIFIDII introduces ban on Inducements</u> to firms providing independent investment advice and portfolio management services to professional clients.
For those providing the service to retail clients the ban applies to restricted advice and independent advice.
The acceptance of commission and benefits is prohibited.
Ban on inducements is extended to the business of providing investment advice rather than only to inducements provided in relation to the provision of particular personal recommendation to client.

MIFIDII Provisions on Inducements apply to all payments, fees and non-monetary benefits. Exception for minor non-monetary benefits that can enhance the quality of service provided, do not impair compliance and are clearly disclosed.

New Provisions on Investment Research: Advisers cannot receive 3rd party research. Research provided to and investment firm will not be regarded as inducement if it I either directly paid for by the firm out of its own resources or if it is received in return for payments from a special research payment account funded by charges to clients and not 3rd parties.
→ Specific Research Charge which must be separately identified from transaction commission; any excess rebated to clients and cannot be used for internal research.
- regular assessment of quality of research;
- detailed policies for assessing quality and benefits;
- appropriate assessment on the need for third party research and audit trail of cost allocation and payments;
- report to clients at least annually.

<u>IDENTIFY CLIENT NEEDS (SUITABILITY & APPROPRIATENESS)</u>
Asses clients by obtaining necessaity info:
- Investment Objectives & Risk Tolerance.
- Financial Situation & Losses Resistance.
- Knowledge & Experience.

Firms to take suitability Assessment and Knowledge and Experience can be assume for Professional Clients but not for Retail even if opted to be treated as professionals.

Firm to provide a suitability report in a durable medium to a Retail client if the firm makes the personal recommendation and the client follows with any transaction.
Due to MIFIDII the firm should now asses packages, information, produce periodical

suitability reports. If decides a products is not suitable, no recommendation should be made as well as when involves switching investments cost & benefits have to be analyzed.
Suitability report must be provided to the client as soon as possible setting needs, demands, why is suitable and possible disadvantages.

→ **Churning / Switching:** deliberate overtrading to generate commissions.

- Churning: buy/sell frequently investments;
- Overtrading with and between packages.

→ **Appropriateness Obligation:** for non-advised services no personal recommendation is made so the Suitability does not apply – for these the firm has to ask for client's experience. Firm should offer only what appropriate and if not, give client a warning.

Independent Advice
A firm that declares itself as such must
- provide broad range of products.
- provide unbiased and unrestricted advice.
- inform that provides independent advice.

"Retail Investment Products" – wider than packaged, including structured, Trusts, UCIS,

Restricted Advice
Firm giving advice on products from a limited number of providers – must disclose this writing and orally.

<u>DEALING & MANAGING</u>

Best Execution Obligation: take all reasonable steps to obtain best possible result.
Establish and maintain Best Execution Policy outlining the process to get the best result.
Determine what "best result" is taking into account price, cost, speed, likelihood of execution, settlement, size and any other consideration.
Must obtain client's express consent if executing outside regulated market or MTF.
Must be able to demonstrate, on client's request, they have executed in accordance with BEx Policy.

To determine importance of execution factors: characteristics of client, categorization, order, instruments, venues.

If more than 1 venue in the policy, the firm should assess and compare results that would be achieved executing on each of the venues; however, the firm could choose 1 execution venue only if can demonstrate this delivers the best result constantly.

Order Execuion Policy : to comply with Best Execution.
Must provide client with details in good time prior provision of the service:
- Importance the firm assigns to execution factors;
- List of Execution Venues;
- Warning that specific instructions from client may prevent best execution.
Provided in durable medium or website. Reviewed annually or whenever a material change occurs.
When carrying out client orders the firm must:
- orders are promptly and accurately recoded and allocated.
- carry out comparable orders sequentially unless market or client require differently.
- inform retail client about any difficulty in carrying out orders.

Firm is not permitted to carry out order or transaction for own account in aggregation to the client's one, unless:
- unlikely aggregation will disadvantage the client;
- disclose to the client that the aggregation will work out a disadvantage;
- order allocation policy provides terms for fair allocation of orders and transactions.

Personal Account Dealing: adequate arrangements preventing the rise of a conflict of interest from who has access to inside or confidential information.
Aim to prevent:
- enter a personal transaction that is prohibited under Market Abuse Directive, involve misuse or disclosure of confidential info, conflicts with an obligation of a firm to the customer.
- advise any other person to enter such transaction;
- disclose information that will induce the person to enter the transaction.
Each person must be aware of the restrictions.
The firm must be informed of any personal transaction entered by relevant person and in case of outsourcing, the service provider has to have a record of personal transactions entered by relevant person.
Restrictions do not apply to personal transactions under discretionary portfolio service, in units or share of collective undertakings or life policies.

<u>INVESTMENT RESEARCH</u>
Recommending or suggesting investment strategy, several instruments, the issuer including any opinion as to the present or future value or price and for which:
- is labeled as investment research or an objective independent explanation of the matters contained in the recommendation;
- if the recommendation is made by an investment firm to a client, would not constitute provision of personal recommendation.

Generic material is not investment research unless it recommends an investment

strategy and is labeled as investment research.
If NON-Independent investment research, should be labeled as Marketing Communication.

When producing the investment recommendation a firm should ensure that no Front Running happens unless is a Market Maker acting in good faith or execution of unsolicited order. Firm and/or analyst should not accept inducements from those with a material interest and remuneration should not be linked to a specific transaction or recommendation.
Finally, should not report or be supervised by investment banking or sales/trading personnel.
Inappropriate to use a financial analyst in a marketing capacity as would create lack of independence.

A firm disseminating research produced by someone else to the public is exempt from these requirements if:
- researcher is not a a member of the group the firm belongs to;
- firm does not alter recommendations;
- does not present the research as produced by it;
- verifies the producer is subject to the investment research requirements.

A firm must disclose the identity of the researcher and ensure that:
- facts are distinguished from interpretations, estimates and non factual information
- sources of research are reliable;
- all projections are clearly labeled as such;
- substance of the research is reasonable.

These do not apply to non written research recommendation.

<u>PRODUCT DISCLOSURE – PACKAGED PRODUCTS</u>

Creation and management of products throughout their lifecycle.

Manufacturer: firm which creates, develops, issues and design investments, including advising corporate issuers on the launch of new investments.
>> MIFIDII Obligations:
- design must meet the needs of a target market so the firm has also to identify groups for which would be unsuitable.
- Consider impact of new products on the orderly functioning of the market.
- Products should be stress-tested.
- Appropriate charging structure.
- Distribution strategy must meet the needs of target market.

- Co-developed products should outline the responsibilities.
- Product governance of compliance function and management board to control and oversight the process.

Distributor: investment firm that offers, recommends, sells investment products or provide investments services to clients.
>> MIFIDII Obligations:
- Asses suitable and unsuitable markets before distributing.
- Gather info on manufacturer.
- Regular review of the products to make sure is consistent with the target market's needs and changes.
- Provide manufacturer with info on sales and regular reviews.
- Compliance function should monitor product governance.
- Management boards should have effective control.
- Firms distributing together have to share information.

(PRIIPS) Packaged Retail and Insurance Investment Products
Investments where the amount repayable to the investor is subject to fluctuations because of exposure to reference values or to the performance of one or more assets not directly purchased by retail investors.

PRIIPS: Packaged Retail Products, Regulated Funds, Alternative Investment Funds, Unregulated CIS, Insurance based investments, Investment Trust saving schemes.

NON-PRIIPS: Non-Life insurance, Deposits, Pensions, Annuities, Debt Securities, ISA.

PRIIP Manufacturer: has to prepare a KID for each PRRIP they produce and publish on the website.
Any person who advises or sells retail investors on PRIIP must provide KID before transaction is concluded. If the investor initiates the transaction by distance communication, the KID can be provided after and the investor must be told in advance and they can delay the transaction to receive KID before concluding.

(KID) Key Information Document
Is a stand-alone, standardized document prepared for each investment. Max 3 sides A4. Can refer to other docs such as Prospectus.
Need to contain: What is the product, risks & return, what if unable to pay out, costs, how long should I hold, can I take money early, complaints procedure, Other.

(KIID) Key Investor Information Document
Aimed at Retail Investors, written in a concise manner, non-technical language and in a way that is understandable from retail investors. Fair, clear and not misleading.
Must provide information on : identification scheme, investment objectives, policy, performance presentation, scenarios, costs, charges, risk/reward profile, guidance and warnings in relation to the risks associated.

Right to cancel a packaged product within 14 days; life policies and pensions is 30 days.
Firm must keep records for the exercise of right to cancel/withdraw:
- indefinitely for pensions.
- 5 y for life policies.
- 3 y the rest.

FSMA 137D Section – Product Intervention Rules gives FCA wide range of powers to intervene: include, exclude or change products features, impose restrictions on sales or marketing or ban these.
If the product is provided to a business outside UK, new rules may target regulated activities by authorized persons in UK which would lead to a specified agreement.

Agreements entered into breach of products intervention rules:
- To be unenforceable.
- Recovery of any money or property paid out or transferred.
- Payment or compensation for any loss sustained by any person as result of transferring money or paying.

(TPIRs) Temporary Product Intervention Rules: FCA power where delay involved in complying with requirements of public consultation would prejudice the interest of consumers. Product intervention without consultation limited to max 12 Mo.
TPIR is used where a product is in serious danger of being mis-sold.so FCA can restrict some features, require it not to be promoted, or sold.
Rules will be made before consultation and will last no longer than 12 Mo – during this time FCA will consult on a permanent basis or work to find a workaround solution.
Regulator has published a list of Non-Exhaustive scenarios of TPIR Application:
- Products that are acceptable only if include/exclude some features.
- Those where there is incentive for inappropriate or indiscriminate targeting.
- Where firms restrict product range in a way designed to increase profitability.
- Product that may bring detriment as result of being inappropriately targeted.
- Inherently flawed product, with disadvantageous features.

RECORD KEEPING and REPORTING INFORMATION
- Client categorization for the length of business relationship for MIFID and 3y for other.
- Suitability records 5y and 3y for Other business.
- Keep records 5y of every order received from clients; records of client categorization indefinitely.

Occasional Reporting: if a firm has carried out an order in the course of its designated investment business it must promptly provide essential information, send client a notice confirming execution and trade confirmation no later than the first business day.
Derivatives Essential Information: maturity, delivery, expiry, last exercise date and strike price.
Options Exercise: date, time, direction (B/S), strike price and total consideration.

Periodic Reporting: where a firm manages investments
- once every 6 Mo, 3 Mo if requested, if Transaction-By-Transaction, one once a year.
- if manage a leveraged portfolio at least once a month.
- right to request every 3 Mo for managed investments or uncovered investments.
- firm must report end of business day if threshold is exceeded
- firm must make copy of occasional/periodic statement, keep 5y for MIIFD, 3y other.

Provide unit holders with regular and relevant information:
- prepare a short and long report 6Mo and 1y.
- send short report.
- make long report available.

Prepared every year or half year, the short report must contain name of the scheme, investment objectives, risk profile, synthetic risk and reward indicator with most up to date info.
Address, activities and performance, put that in context and provide sufficient info to form a view on how the portfolio is invested.
Long Report contains accounts and reports and has to be available upon request.

<u>CLIENTS ASSETS and MONEY RULES</u>
Fiduciary Duty: act in the best interest of another party.
Existence of a business relationship that owes a fiduciary obligation to the other.
Employed person is not a fiduciary. It is sonly when one party proposes and the other accepts a special trust and confidence involving exercise of a professional expertise and discretion that the relationship is fiduciary.

FCA PRIN 10: "Firm must arrange adequate protection for his clients' money and assets.
FCA rules cover responsibility for Custody Assets (CASS6) and Client Money (CASS7) and the firm has to notify CFA which CASS falls into as the CASS classification determines rules that apply.
CASS LARGE: Money: +£1Bn & Assets: +£100Bn.
CASS MEDIUM: Money and Assets in the between.
CAS SMALL: Money: -£1Mln & Assets: -£10Mln.
LRG/MED must allocate CASS director. SMALL Allocate responsibility only.
(CASS6) CLIENT ASSETS Custody: arrange adequate protection for asset under responsibility to restrict the co-mingling of client and firm assets.
Must effect appropriate registration or recording of legal title in client's name or a nominee. When investment is subject to law or practice outside UK it is appropriate to record in name of custodian firm.

Firm can deposit assets to 3rd parties but has to exercise due skill and diligence in selection, appointment and periodic review. Must take all the steps to ensure client's assets are separated from those of the firm and clearly identifiable.
When selecting, firm must take into account: expertise, reputation, legal requirements, and why they think is appropriate. There must be a written agreement with the 3rd party setting out binding terms, duration and the custody services the party will provide.

Must not enter into securities-financing arrangements on these assets unless the client gave prior consent and the use is restricted to the specific terms the client consents.
Must perform regular checks (monthly) to ensure records of assets correspond to obligations.
To ensure this, the firm has to undertake Reconciliation.

- Internal Custody Reconciliation Method: comparison on a particular date between two separately maintained records ensuring the firm records of safe custody assets correspond with his obligations.

- Internal System Evaluation Method: to evaluate completeness and accuracy of firm's internal records and how identify and resolve discrepancies.
Physical asset reconciliation to be taken at least every 6 Mo, comparing internal records and actual physical assets, via 2 methods:
Total Count: on a particular date;
Rolling Stock: in more than one stage each referring to a specific line.

- Externally Held Assets Method: firm deposits client's custody assets with third parties and carry out external custody reconciliations. Requirements:
As regularly as necessary, at least monthly;
Carried out between firm internal records and those of the third party.
If the firm holds the physical custody records, is not required to take external custody reconciliations but has to carry out spot checks.

Where reconciliation highlights a shortfall, must be resolved immediately.
If unable, must ensure client protection by segregating an equivalent amount of firm's own assets and money that will be realized for client's benefit if the firm fails.
If another party is responsible, the firm does not have to make good the deficit.

Where a client transfers full ownership of money to a firm for the purpose of securing or covering or covering present, future obligations, such money should not be regarded as client's money.
A firm, on receiving client's money should place them in an account opened with a Central Bank, BCD Credit Institution, Authorized Bank or M-Mkt Fund.
All client money must be received directly in the client's bank account and not firm.
Firm not adopting this approach must send written confirmation to FCA that has adequate systems to control this process.
In the alternative approach the money are received and paid out from own account.
This must be outlined and reviewed at least annually.

Client Accounts can be: General Client Bank Account, Designated Client Bank Account:, Designated Client Fund Account.
Prudent Over Segregation: where a firm may transfer own funds to the client account to prevent shortfall, becoming client money.
Internal reconciliations should be carried out daily. Also external reconciliations between their account and those of holding 3rd parties.

For internal reconciliations, may use:
Standard methods requiring: Individual Client Balance AND Non Negative Add Back.
Non-Standard methods: do not meet requirements.
Maintain records to promptly (no later than 2 biz days) determine total amounts.
Not required to actually do it, but being able to do it in the requested time frame if needed. Not all breaches need to be notified but have to be reported in the annual report.

Mandate: gives the firm the ability to control client's assets or liabilities and allowing the firm to give instructions to 3rd parties in relation to client's assets. Can take any written form and doesn't need to be addressed as mandate but a standalone document conferring certain authority to the firm and specific provision.

F) FCA SUPERVISION & REDRESS

FCA Supervision Model is based on 3 pillars:
1) *(FSF) Firm Systematic Framework:* preventive – structured conduct assessment of firms to assess if Customer Interest and Market Integrity are central to the Firm's practice.
This uses a Framework to assess Business Model and Strategy Analysis via interviews between FCA and Firm, based on 4 Modules:
(A) Governance & Culture, (B) Product Design, (C) Sales / Transaction Process, (D) Post-Sales / Transaction handling services.
2) *Event Drive Work:* issues that are emerging or happened already, securing customer redress or other remedial work. Issues occur outside firm's assessment cycle.
3) *Issues and Products:* campaigns on sectors or products putting consumer at risk.

FCA then allocates firms to one of the 2 portfolios:

- ***FIXED Portfolio:*** have a named supervisor and are proactively supervised using Firm's specific continuous assessment. FCA evaluates supervisory strategy and underlying work programme at "Governance Checkpoints" during regulatory cycle.
  Assess PILLAR2 based on Risk Appetite and Regulatory Obligation;
  Can include PILLAR3 where appropriate.
- ***FLEXIBLE Portfolio:*** Firms are supervised through thematic and market-based work, programs of communication, engagement and education.

FCA has power to: require production of information, reports, conduct investigation, gain access, and firm should make personnel available.
Firm breach rules → FCA issue private warning;
If breach is more serious → issue public statement or financial penalty.
Serious matters → issue a warning notice before enforcement action has reached a final decision.
FCA has serious concerns about an Auth firm, can vary/cancel Part 4A Permission.
If Party has concerns about FCA decision, can appeal to Tax and Chancery Chamber of Upper Tribunal.
FCA has power to ban products if unacceptable risk for consumers.
Before banning must consult market but if need for prompt intervention, can ban for 12 months without consultation.
Can ban specific promotion (not firm wide) – 3 Steps Process:
- FCA gives direction to remove promotion setting out its reasons.
- Firm can make representation if thinks FCA is wrong.
- FCA will Confirm, Amend or Revoke.
- Firm will be then able to refer to Upper Tribunal if wants so.

FCA can prosecute offences via criminal courts:
- Carry on regulated activity without authorization;
- Make false claim of being authorized;
- Invite to investment activity in breach of restrictions;
- Fail to cooperate with FCA Investigator;
- Mislead FCA;
- Insider Dealing;
- Breach of AML regulations.

System for Consideration of Complaints & FOS (Financial Ombudsman Service)
- Consideration of complaints by the firm itself;
- If customer is not satisfied can use FOS involving mediation and determination stage.

Firm must have in place and operate procedures to handle complaints: written down, all staff aware.
A firm has 8 weeks to take action after receiving a complaint:
- Issue a final response.

or
- Written Response explaining why a Final is not provided yet and provide an ETA, also

inform they have to refer to FOS, enclose standard leaflet.

Retain Complaint records 5y for MIFID Biz and 3 for other.
Provide FCA with Bi-Annual report (completion within 4, 8, 8+ weeks).
FOS has 2 Jurisdictions:
1) COMPULSORY: automatically covers firms regulated by FCA for certain complaints;
2) VOLUNTARY: covers for those not covered bt Compulsory, firms sign up by contractual agreement with FOS.

FOS Can be used when dispute has not been settled within 2 months and within 6 years from the event, 3 years customer knowing the problem, 6Mo of final response.

FOS can dismiss a complaint if:
- no financial loss, material inconvenience, material distress.
- complaint is frivolous / vexatious;
- firm already made a reasonable offer

FOS Investigates → if prospect to resolve complaint by mediation → Attempt to negotiate a settlement.
→ Investigation → Provisional Assessment → if either parties disagree → FOS issue a written statement → If complainant accepts determination is binding on the firm, but if he rejects is not. – FOS decisions are legally binding.
Determination can be Money Award (max £150.000) or direction to do something.
Awards > Max → Firm has to pay excess.

(FSCS) Financial Services compensation Scheme
Claims against authorized firms that are insolvent or no longer trading.
If still trading → ref to FOS.
Protected Investment Businesses:
- Designated investment business carried on by relevant person with the claimant or as agent on his behalf;
- Activities of the manager or trustee of an AUT, claim made by unit holder;
- Activities of ACD/ICVC, claim made by shareholder.
Claim within 6 years – Max Pay is 50,000£ - separate arrangements for deposits, policies.

G) EXCHANGES REGULATION

FCA recognizes and supervises RIEs (Regulated Investment Exchanges) under FSMA.
Recognition gives exemption form the need to be authorized to carry on activity in UK.
To be recognized, RIE must comply with recognition requirements in FSMA2000.
RIEs may operate Regulated Markets & MTFs.

(BoE) Bank of England
Regulates Settlement Systems, Recognized Payment Systems and RCHs.
RCH and RPS are Financial Market Infrastructures.
Institutions providing Exch Servs and Central Cpty Clearing Servs are regulated by BoE.
FCA recognizes Exchanges. BoE recognizes Clearing Houses.

→ Recognized Status: RIE/RCH can develop its own means of fulfilling regulatory objectives and obligations. RIE has to deliver:
- High investor protection;
- Market integrity;
- Financial Resources to proper perform functions;
- Rules and Practices to ensure business is conducted orderly and investor protected;
- Deal in proper markets only, ensuring price discovery, transparency, market integrity;
- Record transactions;
- Monitor and enforce Compliance and Investigation;
- Integrity, Fair dealing and cooperation with authorities;
- Rules in case of member's default.

MIFID → Pre/Post Trade Transparency on Regulated Markets and MTFs.
Limited to Equities.

MIFIDII → Extends the scope covering more instruments and an expanded range of trading venues RM, MTF, OTF.

MIFID Transparency Requirements
- Pre Trade Transparency: publish in real time current orders and quotes.
This can be waived for instruments where there is no liquid market, systems that formalize negotiated transactions, trades larger than normal market size, orders held in a order management facility pending disclosure.
- Post Trade Transparency: publish Price, Volume, Time, Execution Venue – as close as real time as possible, can be delayed for transactions larger than normal mkt size.

Pre, Post, IoI must be available on a reasonable commercial basis, close to real-time as technically possible. RM, MTF, OTF have to offer Pre/Post Transparency, publish data Free of Charge within 15 mins of publication of a transaction.

(SI) Systematic Internalizes → PRE Trade transparency obligation.
MIFIDII harmonizes the Cmdity derivative trading regime → Trading venues are required to have arrangements in place to monitor and manage positions held by persons trading those instruments.
- Limit on size can be held;
- Daily reporting to regulator;
- FCA can request info to ensure POS limits are complied.

BoE focuses on Managing Systemic risk: micro-prudential regulation, how issues can spread, and expects Institutions to meet the principles of:
> EU committee on Payments and Settlement Systems;
> Tech committee of International Org of Sec Commission;
> (EMIR) European Market Infrastructure Regulation

(LSE) London Stock Exchange
Responsible for admitting public companies for listing. Companies can be admitted to

the official list id they meet the listing requirements set by UKLA.
Companies not meeting these criteria but wishing admission can apply to AM, subject to lighter requirements.

(ICE) ICE Futures Europe
Is a RIE for Future & Options that uses a Electronic Order Matching system.
Only ICE members can trade and clear contracts.
2 Players executing on ICE:
> TRADERS: acting on their own or company's behalf profiting on positions.
> BROKER: acting for someone else, charging commissions.
ICE Clear and ICE Futures → BoE Regulated.

Derivatives Market
Can be traded on Organized Exch or OTC.

Exch Mrkts → Standard Delivery/Settlement/Contracts. Negotiated via ET. These have to be reported to clearing house which will be obliged to honor if the seller defaults. Solvency of CH protected by Markig through a system of margins.

OTC → Bilateral in nature, all terms negotiable.

UK → All derivatives exchanges are RIE → Regulated by exchange.
FCA Regulates financial soundness and conduct of an exchange member.
Trading Derivs on an Excch/OTF/MTF is subject to MIFIDII Pre/Post Trade but there are no requirements for OTC Derivs.

However, EMIR requires anyone who enters Derivs contracts to :
- report contract to trade repository;
- implement risk management standards, operational processes, margining;
- Clear via CCP, OTC Dervis.

Public Register for Clearing Obligation identifies classes of OTC Derivs that CCP are authorized to clear.

New regime for SI in non-equity financial instruments:
SI has to provide quotes and make them available to other clients in an objective, non-discriminatory way;
SI has to enter transactions at or below instrument specific size;
SI can still discretionary choose clients on a commercial basis.

Post trade disclosure → extends to derivatives that are clearing eligible or reported to trade repository via EMIR.
These must make public Volume, Price, Time of Exec through (APA) Approved Publication Arrangement.

In regards to **Clearing & Settlement** once a trade is made, is registered with Clearing

House who becomes the central counterparty;
If an ICE member is trading on behalf of a client, then a separate Back-to-Back is established between member & his client.
ICE has no involvement in the Client/Member Relationship.

To hold a position → must lodge an initial margin in cash or liquid assets. Positions a re revalued on a daily basis and settled to the market.
"Variation Margin" is the additional margin payment needed.
To offset a contract and equal and opposite position hast o be entered, clearing hosue has to be notified to close the transaction and return the margin.

EMIR → Clearing OTC moved to a Central Counterparty → FSMA2000
Impose requirements on those trading OTC Derivs:
- Clear OTC Derivs subject to clearing obligation via a (CCP);
- Put in place risk management procedures for not cleared OTC Derivs transactions;
- Report Derivs into a trade repository;

> Clearing Requirement
Mandatory clearing obligation for contracts between:
- Financial Counterparties;
- Non-financial counterparties above clearing thresholds:
€1Bn in Gross Notional for OTC Credit and equivalent Derivs (Individual)
€3Bn in Gross Notional for IR and FX (Individual)
€3Bn in Gross Notional for Commodities (Combined)
Transactions to reduce risk/treasury financing do not count towards the threshold.ù
ESM Has a register of Asset Classes must be cleared and which CCP can clear Derivs.

> Risk Management Obligation
Appropriate procedures and arrangements to measure, monitor and mitigate operational credit risk.

> Reporting Requirement
Details of any Deriv contract that is concluded/modified/terminated must be reported to a trade repository no later than following working day.

IFRS9 impacts derivatives.
Prior to IAS39 Derivs were not recognized in the financial statement.
Derivs have to be measured at fair value, with changes in FV recognized in Profit, Loss, Reserves. Where Deriv is used to offset risk and hedging conditions are met, changes in fair value can be recognized separately inreserves.

(TTCAS) Title Transfer Collateral Arrangements
Used by Derivs firms to enter into marginated transactions with clients, primarly CFD and Spread betting.
TTCA allows them to treat margin as own working capital, rather than client money which must be segregated instead.

In case of firm insolvency, margin money under TTCA are recoverable only on a unsecure creditor basis, thus, might be irrecoverable.

MIFIDII & FCA Client Asset rule → Firms can's use TTCA with retail clients in order to secure/cover present/future, actual/contingent or prospective obligations.
A firm would use TTCA with NON-Retail only when it has:
- disclosed risks with TTCA and effect on client's money;
- assessed appropriateness of TTCA for clients.

H) __FINANCIAL CRIME__

Money Laundering: disguise source of proceeds from criminal activities, providing a safe heaven for these and a financial return on the same, by a legitimate business.

(POCA) Proceeds Crime Act 2002 – extended AML and offences to any crime.
(Specific obligations set in the **Terrorism Act 2000**)
POCA imposes an objective burden of proof of suspicion.
→ Previous Legislation: Criminal offence to fail to report suspicion of ML;
→ POCA: Criminal offence to fail to be suspicious of a behavior that would suggest the suspicious act – "…should have suspected that.."
Member of staff are justified if employer did not train them.

Laundering Process – 3 Stages_
1) Placement: into financial system;
2) Layering: separation of proceeds from source via complex layers of transactions;
3) Integration: provision of legitimacy to derived wealth.
Bearer securities → Special Attention

Money Laundering, Terrorist Financing and Transfer of Funds Regulation
MLR2007 → MLR2017
Risk-based approach for firms → 4 key questions:
1) What are Firm's ML and TF risks?
Of these, which depends on Jurisdiction, Product/Service, and Customer's Type.
2) What can do to reduce those risks?
3) What Policies and Procedures to adopt?
4) What procedures are appropriate?

Obligation on firms to pursue (CDD) Customer Due Diligence – Firm must:
- identify and verify customer from a reliable and independent source;
- identify the beneficial owner and verify identity;
- purpose and intended nature of business relationship;
- keep documents up to date;
- ongoing monitoring of business relationship.

(SDD) Simplified Due Diligence → certain CDD measures do not apply, based on customer and geographical risk factors;

(EDD) Enhanced Due Diligence → Applies in 4 circumstances:
- Non Face 2 Face business;
- Correspondent banking relationships;
- Situation present high risk of ML or TF;
- Customer is PEP (politically Exposed)
"Black List" of jurisdictions → EDD is compulsory.

Firms are obliged to have procedures to ascertain if individual is a PEP, and needs:
- PEP relationships must be approved by senior management;
- measures to establish source of funds and wealth
- ongoing monitoring procedures.
PEP is a person who discharges prominent public functions, immediate family ember of such person, close associate.

FCA requires to appoint (MLRO) Money Laundering Reporting Officer oversight firm's anti-money laundering and implement strategies and policies.
Investment Business has to establish and maintain specific policies, procedures and training program to prevent ML. Regulation has 2 purposes:
- suspicious customers and transactions to be recognized and reported to authorities (NCA);
- firm able to provide audit trail if customer goes under investigation.
FAC does not provide detailed rules on fighting ML → set high level and informal principles in SYSC.

(JMLSG) Joint Money Laundering Steering Group is approved my HM-Treasury and made of leading UK trading associations in the financial services industry.
Here, FCA when considering if a breach of ML rules has occurred, has to have regard to if the firm has followed relevant provisions in the guidance for UK Financial Sector issued by JMLSG.
This aims to promote good practice in countering money laundering and give practical assistance interpreting UK ML regulations. This is made up of the leading UK trade associations in the Financial Services Industry.
Main Requirements:
- <u>Internal Controls, Policies, Procedures</u> introduced to deter laundering and establish a central PoC with the law enforcement agencies;
- <u>Identification Procedures</u> to have evidence of the identity of those with whom they do business;
- <u>Record keeping</u> – 5 years.
- <u>Recognition and reporting of suspicious transactions</u>. Obligation is on al staff to report suspicious transactions to MLRO who is required to report to NCA where they have received an internal report and suspect money laundering.
- <u>Training</u> so that staffs are aware of obligations and trained to provide prompt report.

Offences under the law are:
> Assistance: 14y prison or fine or both;
> Tipping-off: person informs anyone connected to an investigation that this is

occurring. 2y prison or fine or both;
> Failure to Report: 5y prison or fine or both;
> Failure to Comply: with regulation requirements. 2y prison or fine or both;
> False or Misleading Statement: fine and/or 2y prison.

INSIDER DEALING

Dealing by individuals with access to material non-public information about the company. **Criminal Justice Act 1993**. Protect corporate confidences and prevent insiders privy to such confidences to benefit form an unfair advantage when dealing in the market.
3 Insider Dealing Offences:
1) Dealing in possession of insider information;
2) Encouraging other to deal;
3) Disclose information.
"Material non-public information": is price sensitive information of a specific and precise nature, if such info were to be made public or have a significant effect on the price. CJA provides the following main defenses to insider dealing:
- Individual passed on info in the proper performance of duties but did not expect the recipient to deal;
- Deal not done to make profit/avoid loss;
- New issue was established under FCA stabilization rules;
- Market Maker had insider information during the course of their business but acted genuinely;
- Dealing person only had a vague information and it was reasonable to deal.

"Chinese Walls" erected to defend against insider dealing.

Individual found guilty of insider dealing is liable:
- On summary conviction (Magistrates Court) to a fine not exceeding the statutory maximum or imprisonment for max 6Mo. Or both.
- On conviction or indictment (Crown Court) to a fine or imprisonment for a term not exceeding 7 years or both.

FCA investigate and prosecute insider dealing and market manipulation.
>> FSAM2000 – Part 11 → FCA has wide powers to compel provision of documents or information. Failure to comply with the requirement is a contempt of court. FCA has criminal powers including: interview suspects, enter premises to search and seizure.

MARKET ABUSE

(MAR2005) Market Abuse Regulation 2005 → New MAR2016 – Changes:
1) Extends the scope to financial instruments traded on MTF/OTF and some OTC activities. Cover behaviors within and outside EU in relation to instruments admitted to trading on EU-Trading Venue.
2) Prohibition to attempt engaging in market manipulation.
3) Modify Disclosure and transparency rules.
Requirement for issuers to inform authorities that disclosure was delayed – this

notification should take place after the delayed inside information has been publicly disclosed.
Also, Issuers have to provide national authorities with written explanation of how the conditions listed were satisfied in respect to the delay of information.

Person Market Abuse → breach criminal law → Section 401/402 FSMA gives FCA power to prosecute a number of offences under FSMA and other legislation.
FCA can take criminal action for:
- Offences related to breaching of FCA listing rules including offering to the public before publishing prospectus;
- Misleading statements and Market Manipulation;
- Misleading FCA;
- Insider Dealing;
- Breaches of Prescribed regulations.

FCA likely to investigate based on breaches of civil market abuse regime.
For market abuse to occur the behavior must relate to a qualifying investment traded on a prescribed market (a recognized investment exchange in UK/EEA).

Behaviors that are Market Abuse:
- Insider Dealing;
- Unlawful Disclosure: where an insider discloses inside information other than in the proper course of his duties. (In another social context, selective briefing of analysts..)
- Manipulating Transactions: false/misleading impression of price or demand;
- Manipulating Devices: effecting transactions or orders employing fictions devices
- Dissemination of false or misleading information.

FCA can ask courts to impose fine or make a statement and issue sanction.

UK BRIBERY ACT 2010
4 Offences:
- Paying bribes.
- Receiving Bribes.
- Bribe public officials.
- Failure of commercial organization to prevent bribe: person associated bribes to obtain an advantage OR the organization has no adequate procedures to prevent.

Company defense: show adequate procedure has been put in place.
Not only management, but anyone in company.
7 – 10 y prison + unlimited fine.

TOPIC 4 – LEGAL CONCEPTS

Legal Person has rights, protections, privileges, responsibilities, liabilities as much as a natural person. Legal personality allows one or more natural persons to act as a single entity for legal purposes.

Power of Attorney is a legal doc which allows a person to give another the power of taking decisions about financial affairs, health, personal welfare.
2 Forms: (EPA) Enduring Power of attorney or (LPA) Lasting Power of Attorney.
LPA replaces EPA (those before 2007 remain valid) – 2 LPA:
- Property & Affairs LPA: make decisions about someone else's finances.
- Personal Welfare LPA: someone else's health care and welfare.

LPA must be registered with Office of Public Guardian.

Contract: agreement creating obligations by two or more parties.
To be binding elements of offer and acceptance must exist – origin is an offer which when accepted unconditionally forms the contract.

<u>>> Acceptance</u> – must be willingness from the accepting party to enter the contract including Terms & Conditions.
<u>>> Consideration</u> – one provide the service, the other pays. May not be enforceable by law in absence of consideration.
<u>>> Intention</u> – not a contract if there was no intention of it being legally binding.
<u>>> Terms & Conditions</u> – must be fully laid out.

Types of Contracts
Written but could be oral too. Certain circumstances must be written.
If there is a dispute but not written contract, judge will look at how services were carried out practically.

Contract Discharge
- Performance accomplished;
- Agreement on one party releases the other;
- Frustration making completion impossible;
- Breach so one party does not fulfill one or more of the specified T&C.

Law can award the innocent, damages if this can prove financial loss – took into consideration solicitor's fees and court costs.

Property Ownership
<u>> Legal Ownership</u>: people named in the legal docs are the legal owners.
Not significant as use and title lie with beneficial owner.
<u>> Beneficial Ownership:</u> right to live in or use and not be the legal owner. Right to share proceeds of any sale.
Property can be held by an individual with absolute ownership, two or more co-owners or tenants in common or two or more co-owners as joint tenant.

Insolvency - when a company cannot longer pay bills and obligations on time.
Liabilities > Assets & CF – Insolvent company must take immediate action to generate cash, settle and renegotiate current debt.
If not → Bankruptcy proceedings, receivership or liquidation.

Liquidation – company is ended for the benefit of creditors an members.
A liquidator is appointed to control the company, collect all assets, pay all the debts and distribute surplus between members.
Company then dissolved, removed from Register of Companies: Liquidation or Winding-Up.
Alternatives to liquidation are:
- Administration: appointed to rescue the company.
- Voluntary Arrangements: avoid insolvency by substituting satisfactory settlement of financial difficulties between company and creditors.

Insolvency is a state of being. Bankruptcy is a matter of law.

Can be insolvent but not bankrupt.
Creditors can petition the court to bankruptcy order if person owns more than £5.000. Once made, administrator looks after the person's financial affairs. I f the person has significant assets will appoint an insolvency practitioner as trustee who will have to sell a person's permitted assets.

<u>(IVA) Individual Voluntary Arrangement</u> – creditor's meeting, vote taken. Need 75% in favor to IVA. Once approved, unable to take any legal action.
Fees are payable but included in the monthly repayment when proposal is agreed and an insolvency practitioner reviews debtor's finances yearly.

Will – written document setting how the estate of a deceased person would be distributed. Must be in writing, signed and witnessed by 2 persons. Over 18 in mental capacity, without pressure.
May specify designated executor or executors who will share out any complication, debt, tax (Probate Process). If no executor, a beneficiary will admin.
Dies without a will = died intestate → Next of Kin.

Trust – arrangement where a Settlor transfers property to a Trustee who then manages the trust property on behalf of the Beneficiaries. Trust can be created during the lifetime of a Settlor by writing a trust deed or on death by will or intestacy statutory provisions. Trustee Act 2000. 4 Trust Types:

<u>>> Bare Trust (Absolute)</u> – assets are legally owned by the trustees for the benefit of the beneficiary absolutely. Income and capital gains are treated as the beneficiary's for tax.

<u>>> Interest in Possession Trust</u> – beneficiary has an interest in the benefits of the assets held from the Trust until death. If the assets are invested one party has right to the income, "Interest in Possession". After a specified event, this ceases and the Reminder man will hold the assets.
Used to provide for a spouse while protecting from claim's.

<u>>> Charitable Trust</u>

<u>>> Discretionary trust</u> – trust is held for the benefit of the beneficiaries and trustees have discretion on how much to give to the beneficiaries and when.
- Benefit of Settlors' children and grandchildren each becoming entitled to their share of the fund at specified age. Payment of income until each child becomes entitled to their share in the estate at give age.
- Naming various beneficiaries to benefit according to needs.

Unique feature is amount of freedom given to trustees.
Assets placed in the trust become property of the trust itself and the trustees assume responsibility for their management.
In other trusts usually the trustee is strictly defined in what can and cannot do.
These are good mitigating IHT.

TOPIC 5 – CLIENT ADVICE

Institutional: manages funds on a large scale. Some institutions manage investments internally; others source to one or more external investment firms.
Pension funds, Insurance Companies, Mutual Funds, Hedge Funds, Charitable Trusts and Sovereign Wealth Funds.

Individual (Retail) – FCA Categorizes them by wealth and experience.
- Certified High Net Worth Investor: Annual income > £100.000 or
Net Investable Assets > £250.000;
- Certifies Sophisticated Investor: has a certificate as they have been assessed by a firm as being knowledgeable to understand risks, signed a statement and acceptance of risk of loss.
- Self-Certified Sophisticated Investor: if they are a member of a network/syndicate of business angels for at least 6Mo; Made more than one investment in an unlisted company in the 2 years prior; Working/worked in the 2 years prior in PE sector or SMEs finance provision; Is or has been director of accompany with annual turnover of at least

£1m.
Promotion of NMPIs, UCIS, SPVs investing in other than shares/bonds are restricted to Net Worth or Sophisticated investors or investment professionals.

Obligations of a Firm towards his Clients: PRIN6: "…must pay due regard to the interest of their customers and treat them fairly".
(TCF) Treating Customers Fairly initiative → 6 Outcomes:

1) Consumers confident they are dealing with firms who put them at the center of their culture (drivers: leadership, strategy, decision making, controls, recruitment, training, competence, reward) and recruitment and remuneration policies.

2) Products and Services designed to meet the needs of a target market and be marketed carefully to reduce the mis-selling risk.

3) Provided with clear information before, during and after the Sale.
PRIN7:"… pay due regard to the information needs of the clients and communicate in a fair, clear and not misleading way". (Financial Promotions, Key docs, Investment Research, Disclosure document).

4) Advice to be suitable and taking into account all the circumstances; have adequate KYC, Suitability Report highlighting key information, why particular recommendation and a balanced view, including risks associated.

5) Provide consumers with products that perform as they expect and the associated service is of acceptable standard. Communicate clearly product characteristics.

6) No Post-Sale unreasonable barriers to change product, switch provider, submit a claim, make a complaint (make customers aware of complaint handling procedures).

3 main factors determining investor's needs:
- Time Horizon.
- Return Requirement.
- Risk Tolerance.
- Other Considerations: Liquidity, Tax, Religion/Ethics.

Crucial to establish what the client wants to achieve: Protection, Borrow, Savings & Investments, Retirement and Estate Planning.
Affordability is a real constraint → Assessed by preparing a cash flow statement.

Fact Find
- Hard Facts: Personal & Financial Information.
- Soft Facts: Open ended questions to understand preferences and aspirations.
Customer's goal, objectives and priorities must be fully explored;
Information updated, Attitude to Risk, Existing Arrangements.

→Letter of Authority: to collect info from 3rd parties.

INVESTMENT RISKS
- Inflation Risk
- Interest rate Risk
- Shortfall Risk
- Credit Risk
- Market Risk
- Operational Risk

CLIENT'S RISK PROFILE → 3 Factors:
- Risk Required (associated with return)
- Risk Capacity (can absorb)
- Risk Tolerance (comfortable)

Key factors affecting this Profile:
- Timescale of Investment
- Amount of risk capital (can be loss without affecting lifestyle)
- Investment Experience
- Psychology

REGULATOR's CRITICSMS on advice and unsuitability:
- Failure to collect relevant info.
- Only one single output generated.
- Inappropriate emphasis on the risk customer were willing to take.
- Poor combination of questions & answers.
- Relying too much on Risk-Profiling and Asset Allocation tools.
- Flawed results from tools.
- Poor descriptions of risk aptitude.
- Too wide risk categories.

2011 Guidance on how Risk Profiling is Performed
- where customer's needs conflicts with risk they are wiling and able to take the firm has to have a detailed discussion.
- where customer cannot sustain potential loss of a higher risk strategy, the firm should explain the need for a higher return cannot be met.
- if a customer is able to sustain greater losses and willing to take more risk the firm should document so.
- firm to establish suitability of investment selection requiring customer to take higher risks than initially agreed.

Questionnaire is useful but must be part of a broader discussion.

FINANCIAL PLANNING PROCESS
1) Establish Client/Planner relationship.
2) Gather client data, goal, expectations.
3) Analyze and evaluate client financial status.
4) Develop and present the plan.
5) Implement Financial Planning recommendations.
6) Monitor Plan and Relationship.

Asset Allocation: single most important factor determining returns of investment portfolio. Diversification benefit and overall risk reduction without reducing returns.

Fund selection → After asset allocation → Factors to take into account:

> Charges:
- One Off: sale/exit
- Ongoing: paid annually like admin, fees, and the higher, the harder to outperform peers.

> Financial stability of the provider: important for "With-Profits" investments, which return a smoothed flow of bonuses (saving when surplus of returns and draw when low).
> Past performance.
> Stability, Independence, Standing of Trustees, Custodians and Auditors.

Performance should be reviewed vs benchmark at least annually:
- Check changes in client's circumstances, risk profile and objectives.
- Monitor investment performance.
- Rebalance portfolio to the agrees asset allocation → Drift

UK INSTITUTIONAL INVESTORS
Pension fund & Insurance Companies.

>> PENSION FUNDS
- (DB) Defined Benefits – sponsor pay the member benefits equal to pre-determined percentage of their salary at retirement, subject to the years of service.
Valuable for the scheme holder as have certainty of the amount to be paid on retirement determined by: final salary, years contributing:
Final Salary * Years/80
The risk of meeting this level of benefit lies with the sponsoring employer,

- (DC) Defined Contribution – contributions are used to buy investments and the return determines the pension benefits.
In contrast to DB, here a fund is built up from contributions and invested to generate retirement income: the risk lies with the member of the scheme.
The payable benefits will depend upon investment returns during the build up of the fund.

Decrease in DB and increase in DC:
- Increase longevity = increase cost for the scheme.
- Disclosure of funding positions revealing actuarial deficit thus having to increase employee contributions.
- Increasing pension deficit caused by increasing longevity and falling returns.

(LDI) Liability Driven Investment strategies: switch to bonds and use swaps and derivatives to match assets to liabilities.

Pension Schemes → Tax Relief
- on contributions;
- accumulated interest and capital gains are not liable to taxation;
- part of proceeds are tax free PCLS;
- pension income is liable to income tax.

Investment policy of retail and institutional investors is determined by their tax status:
- Pension fund growth is exempt from income tax and CGT.

Pension Manager prefer to receive dividend income rather than capital gains: adjusting a portfolio incur transaction costs however the fund can be rebalanced by using dividend or coupon income so that transaction costs will only be incurred I the purchase.

Pound Cost Averaging → pay the average cost price for the assets.
VS
Time Purchases → accumulate contributions and buy when prices are low.

>> INSURANCE COMPANES

- Life Assurance

Insure life of individual and pays an amount at death.
Tax: investment returns are subject to CGT and Income Tax so Managers adjust strategy to minimize tax. Premiums are paid out of post-tax income.
"Qualifying" policies: proceeds are not taxable vs income from a pension fund which is gross and taxable.

- General Insurance

Against specific contingencies, usually 1 year. To meet claims, pool the premiums into reserves in the form of securities that are highly liquid.

ASSET CLASS DISTRIBUTION

	Pension Funds	Life Insurance	General Insurance
Short Trm Assets	21	10	24
Govt Bonds	15	11	10

Other Bonds	8	19	26
Equity	13	23	21
Mutual Funds	26	29	3
Other Assets	15	7	14

TIME HORIZON
Analysts like to think of Long Term in groups of 5y horizons.
DB requirements depend on the age distribution of beneficiaries
(maturity drives liquidity needs).
DC depend on specific circumstances of the plan (turnover, withdrawal, average age, projected death, retirement rates).
Raise in WITH-PROFITS Policies
Cash Flows of General Insurance are much more uncertain hence liquidity is a priority so focus on short term liquid securities.

>> Taxation
Pension Funds are exempt to taxation on income and capital gains.
May be withholding tax on overseas investments not recoverable.

General and Life insurance are taxed on profits. However, the Life Ins. Taxation varies according to whether it is tax exempt pension, LI with-profits business or annuity business.
Standard Corporate Tax business is charged to LI unless is investment defined by policyholders so that is reduced to basic rate
Investment via gross pension scheme has tax advantage over life insurance linked savings policies.

Detailed Legal framework: separation between general insurance and long term life insurance business; general insurers are required to keep solvency margins as percentage of net assets to premiums.
UK does not specify what asset to hold; US does.

Asset allocation is determined by objectives and constraints of the fund.
DB aims to cover projected liabilities and maximize returns. To achieve this must take into consideration Risk-Return constraints.
Return Objective and Risk Tolerance depend on portfolio constraints:
- Liquidity Needs
- Time Horizon
- Tax
- Legal & regulatory
- Other.

TOPIC 6 – UK TAXATION

Income Tax
applied at basic, higher or additional rates. Every taxpayer has personal allowance of 11.500£ withdrawn at the rate of 1£ every 2£ earned where taxpayer income > 100k.
Income of 123.000£ → No personal allowance.
Non domiciled taxpayers using remittance basis cannot claim personal allowance.
Can be increased by transferable allowance: person can transfer £1150 to a spouse or civil partner but only where their income is not taxed at higher or additional rate.
Potential save 2018 is 230£ = 20% of 1150£.

Income tax applies to savings income starting at 0% for savings income up to 5000£
But can qualify for this only if the non-savings income is below personal allowance plus 5000£ (16500£).
Most saving income is paid gross with personal allowance depending on a person's income rate:
- Basic = allowance of 1000£

- Higher = allowance of 500£
- Additional = no allowance.

Dividend income treated as paid gross with 5000£ allowance available.
Once allowance exceeded, taxed at 7.5% Basic – 32.5% Higher – 38.1% Additional.
Taken as taxpayer top slice of income thus taxed at highest marginal rate.

0 – 5.000 → 0%
5.000 – 33.500 → 20%
33.500 – 150.000 → 40%
> 150.000 → 45%

Pay Loan = relief.
Plant, Machinery, Invested in Partnership or Cooperative, buy interest in and unquoted employee-controlled company, buy ordinary shares or lend money to a close company.

The final tax liability can be reduced by:
- Pension Contribution, limit: annual earnings top 40.000, basic amount 3.600.
- Claim relief at marginal rate for pension contribution. Those with income > 150.000 have the 40.000 allowance reduced by 1£ every 2£ of income exceeding 150.000 till a minimum of 10.000. Basic amount of 3.600 comes into play when individual does not have sufficient income to claim relief. Max can pay is 2.880 (3.600 – 20%)
- Charity Donation: provides relief at marginal rate.

Trustees → The amount of tax due depends on the type of income and if it falls within the standard rate that applies to the first £1.000 of income.
First 1.000 = Dividend Income 7.5% / Other Income 20%
Over 1.000 = Dividend Income 38.1% / Other Income 45%
If created more than 1 trust, the 1.000 is divided equally between each trust.

(NICs) National Insurance Contributions
Below certain amount, no NIC to be paid. Pay amount based on earnings.
- 1A: paid by employer if the employee receives tax benefits from employment;
- 1B: paid by employed if in a PAYE settlement agreement with HMRC;
- 2: paid by self employed. Not to pay if earnings below certain limit;
- 3: voluntary to pay if no compulsory, to help fill gaps from their NIC record.
- 4: self employed who earns over a certain amount.
NIC to be paid for 35 years to get Max New State pension.

(CGT) Capital Gains Tax.
Paid by UK residents on sale of an asset – shares, FX, property.
10% Basic – 20% Higher and Additional – 18% and 28% CGT on sale of residential property, not main residence -10% flat on disposal of business assets.
£11.300 gains are exempt from CGT, only net chargeable gains are taxed and any loss that exceed gains can be carried forward to set against future gains.

Assets exempt from CGT: main home, private cars, (ISAs) (NS&I), betting, lottery winnings, premium bond prizes, UK Govt Stock, Corp bonds, EIS or SEIS shares, personal FX.

(IHT) Inheritance Tax
charged on an individual's estate at death, on gifts made in the 7 years prior to death and on (CLT) Chargeable Lifetime Transfers. Applies if the value of the estate at death is above taxable threshold (Nil Rate Band) of 325.00£ → IHT payable on the excess at 40% rate. Unused Nil rate on person's death can be transferred to the surviving spouse.
It is the percentage of unused Nil rate that gets transferred not the amount.

Exceptions to pass on amounts without any IHT being due:
- estate passes to the spouse, both live in UK, no IHT to pay even if value > 325.000£
- (RNRB) Residence Nil Rate Band provides additional allowance when estate passed to children/grandchildren. It is 100.000£ and will raise to 175.000£ which generates a combine NR of 425.000£
- Gifts up to 5.000£, to charity and up to £3.000.
- If you leave 10% of estate to a charity, benefit from 36% IHT relief.

If makes a lifetime gift to someone and is not covered by exemptions, it is a PET (potentially Exempt Transfer) but the donor has to live 7 years after the gift.

Transfers into trusts are immediately liable to IHT if exceeds NR → CLTs 20% tax.
Properties can be passed out of an estate into a trust each year to a value of 1/7 of the current NR or any combination of gifts to a trust that uses the current NR over 7 years.

CLT will not be subject to further IHT if donor survives 7 years after donating.
If not, CLT will be added to the estate of the deceased and taxed 40% after deducting NR. Credit will be allowed for 20% paid on lifetime of transfer.
Taper relief if donor survives 3y after the gift. If IHT < 20% no rebate is given.

If a person makes lifetime gifts with restrictions or strings is still considered part of the estate no matter how long he lives.

Statutory residence test to determine individual's residence status:
A) Automatically Non-Resident
- Visit UK for fewer than 16 days during tax year;
- Non UK residents for the past 3y and visit UK < 46 days.
- Work full time overseas and visit UK < 91 days.
B) Automatically Resident
- In UK for 183 days or more.
- Only residence is in UK, had home for 91 days and lived there for 30.
- Full time employed in UK.
C) Sufficient Ties Test.

Domicile: where they have permanent home. Can be resident in more than one country but domiciled in one only. Domicile of Origin at birth, Domicile of Choice from 16yo.
A non-domiciled individual is domiciled for all tax purposes after being a resident for 15 of past 20y.
UK resident born from UK parent cannot claim non-resident status while in UK.
UK resident liable for UK tax on overseas income but to pay only when remitted in UK, applies automatically for gains of less than 2.000£ in a year (but personal allowance is not available).

(RBC) Remittance Basis Charge: Tax on the unremitted overseas income and or gains that are left outside UK and payable in addition to tax on unremitted overseas income or gains left outside UK. RBC is payable if individual has 2.000£ or more unremitted overseas income and they make a claim to use a remittance basis, aged18+, long-term UK resident. Charge:
- 30.000£ if resident 7 of past 9y.
- 60.000£ if resident 12 of past 14y.

Non-UK residents are not entitled to Income Tax allowance or CGT exemption.
Citizens of EEA, Isle of Man, Commonwealth, Channel Islands are entitled.
IHT applies only on UK assets if domiciled somewhere else.

Income is taxed at source via PAYE, additional tax payable via self-assessment.
Business records to be kept 5y after 31 Jan following tax year.
Tax return to be submitted by 31 Oct following end of tax year on paper and 31 Jan electronically.

Self-employed taxpayers who pay less than 80% of tax at source, a system of payments on accounts is used: pay 2 equal payments on Jan 31 and Jul 31 to cover current year tax → then final balancing payment in the following 31 Jan based on submitted tax return.
Total due to HMRC in case of evasion = tax due + statutory interest + penalty based on percentage of tax due.
Tax Avoidance dispute → Accelerated payment.

(SDLT) Stamp Duty Land Tax is a self-assessed tax on land transactions involving any estate, interest, right or power over land. Scotland (LBTT).
SDLT Tax Return: effective date of transaction, purchase price, SLDT payable.
Tax is paid at the rate on that slice of transaction price.

Residential		Non Residential	
Slice Purchase Price	Rate	Slice Purchase Price	Rate
0 – 125k	0	0 – 150k	0
125k – 250k	2	150k – 250k	2
250k – 925k	5	Over 250k	5
925k – 1.500k	10		
Over 1.500k	12		

Additional 3% paid if the purchase increases the amount of estates owned.
Residential Leasehold properties SDLT is paid on purchase price (Lease Premium).
If total rent (NPV) >125k, additional SDLT of 1% on the portion over 125k is paid.
Same basis applies to non-residential leaseholds, but 1% is applied to 150k and 5m and 2% above 5m.
Anti-avoidance rate of 15% paid on entire purchase when company buys property +500k.

(SDRT) Stamp Duty Reserve Tax: on paperless transaction of shares, options, rights, and interests in shares. Also when units in unit trusts or shares in open-ended investment companies OEICs are purchased.
No SDRT when investor buys units from the fund manager or where units are surrendered.
Most paperless transaction charged SDRT are carried out electronically via CREST which automatically deducts SDRT and sends it to HMRC.
SDRT is flat rate of 0.5% (+/- nearest penny) based on amount paid.
When buying shares where price is > 1.000£ form will need to be stamped by HMRC and charged SDRT, but < 1000£ no charge.
SDRT only when purchase is recorded on a stock transfer form.

Corporation Tax: on worldwide profits, 19%. Company's trading losses can be set against income and gains of the same accounting period, previous year and of future years. Losses in the last 3Mo of trading can be carried for 3y.
Liability is self assessed, paid 9Mo and 1 day after end of accounting period. Large companies required to pay in quarterly installments, based on estimates of tax liability.

(VAT): must register if turnover > 85k, or voluntarily if below the limit.
Charged 0,5,20 %. Zero-rate is not Exempt as business can claim VAT back on purchases, whereas an exempt biz cannot reclaim VAT.
Retail Investment: exempt from VAT; Advice or Recommendation is subject to VAT; on ongoing services depends on the service.

Savings Income: Banks/Building Societies interest is paid gross. Some savings have income tax at 20% deducted at source: interest paid by a company, life annuities, interest on gilts. Non-taxpayer can claim 20% back.
Income tax is charged first on non savings income the savings income.
Personal savings allowance is available but amount depends on income tax paid.

Dividend Income: paid gross with 5000 allowance available. First 5000 tax free irrespective of tax rate. Once allowance is exceeded: 7.5% Basic, 32.5% Higher, 38.1% Additional. Personal and Dividend allowance do not reduce total income.

Property Income: rental income is liable to income tax but running costs can be offset against rental income to reduce liability. Tax relief on loan interest at 20%.

Shares and properties are subject to CGT if asset is sold. Profit from primary residence is exempt from CGT.

Pension Arrangements: Individual under 75yo is entitled to tax relief on contributions to a registered pensions scheme made during tax year. Individual earnings cap 40k, basic amount of 3,600£. Tax relief at marginal rate. If contributions exceed yearly allowance, tax is payable at marginal rate. Individual with income and contributions above 150k will have tapered annual allowance.
(PCLS) Pension Commencement Lump Sum = 25% of accumulated fund is available with the remaining fund used to produce taxable income at marginal rate.
(DC) Defined Contribution allow flexibility withdrawing at 55yo.
Any withdrawal in excess of 25% is treated as income and subject to rates of income tax. Once the fund is flexibly accessed, the future level of allowance is reduced to 4,000£ known as (MPAA) Money Purchase Annual Allowance which applies regardless of the method used to access funds BUT not triggered if only the 25% sum it taken without further withdrawals.
If individual dies before 75yo can leave the DC pension to anyone tax free.

Lifetime allowance of 1m → if pension exceeds this amount, excess will be subject to lifetime allowance charge of 25% as income or 55% as lump sum.

Individual Savings Accounts: a wrapper.
- Cash ISA
- Stock & Shares ISAa<
- Innovative Finance ISA
- Help to Buy ISA: limit £2400 after £1200 initial investment, govt to pay 25% of invested amount up to £3000
- Lifetime ISA: adults under 40yo. Annual limit of £4000 with Govt adding 25% bonus to allow individuals saving twd a house.
- Junior ISA: for children <18 born after 2011 - £4128, cash & stock/shares – max 2 per junior, 1 each type. No access to proceeds until 18yo and income generated is not taxable on the parent.

Collective Investment Schemes: are exempt from tax on gains made within the fund. Any income is subject to 20% corporate tax. Tax treatment is same as direct holdings of equities. If a fund holds more than 60% of interest bearing securities, the income is savings income. Personal allowance can be used against this income.
Liable of CGR on the disposal and switching of funds.
Trusts are exempt from tax on gains and non dividend income is subject to corporation tax. Trust shareholders is treated same as company shareholder in terms of tax.

Offshore Funds → no tax payable by the fund. Tax treatment of UK investor depends whether the fund has reporting or non-reporting status.
Reporting Funds → applied to HMRC and meet criteria including reportable income reports. UK Investor has to declare: distribution received AND reportable income in excess of distribution amount.

Dividends are taxed: 7.5 Basic, 32.5 Higher, 38.1 Additional.
Any gain from fund disposal or transfer → CGT.
Non Reporting Funds → Roll-Up funds can accumulate income in the fund and UK Investor is liable to income tax on any distribution or encashment.

Life Insurance Policies: Individuals liable for tax on UK Bonds are treated as having paid tax on 20% band, so tax is paid only by those with a marginal rate of 40%/45%.
Offshore Policies → can be issued by life companies based in jurisdictions not imposing any tax on the income of underlying funds: Gross Roll-Up. When such policy is surrended, individual can be charged income tax at 0% if personal allowance is available, or normal rates with top slicing.
Any proceeds from a qualifying life policy are usually free of income tax and CGT for the original beneficiary. However, when policy is surrounded or sold within 10y or 75% of the policy term, 20% payable by high rate payers and 25% by additional. To determine if a policy is a qualifying one:
- Premiums must be payable for at least 10y;
- Premiums must be payed annually or more frequently;
- Premiums restricted to 3600 per year.

Single Premium policy cannot be qualifying and is subject to income tax.
Life assurance bonds are single premium policies and one-off or regular payments usually incur in no further income tax.
Investor can take 5% of original premium per policy per year till 100% reached without immediate Tax liability. I f takes more than 5%, income tax liability
Offshore life insurance bonds do not pay Corp tax on income and gains within the fund.

Real Estate Investment Trust: any rental income and capital gains are exempt from tax at REIT level, but taxed at investor's level when paid as dividends – for this to happen, REITs have to distribute majority of tax exempt rental income to shareholders. Basic rate 20% generally withheld from the dividend which is taxed as property income at investo's marginal rate.

Venture Capital Trusts: tax benefits on max 200k per year:
- Tax reduction of 30% amount invested. Relief withdrawn if the shares are sold within 5 years or the entity ceases to qualify as VCT;
- Dividends tax free;
- Capital gains on the sale of shares in VCT are exempt from CGT.
Any capital gains made by the VCT are tax exempt.

Enterprise Investment Schemes:
- Income Tax Relief: An individual with an interest of 30% or less in a company can reduce their income tax liability by 30% of the amount invested – if EIS is held for 3y from the date of issue or from commencement of a trade.
Max yearly relief is 1m and can treat EIS shares as If made in the previous year to carry income tax relief.

- CGT exemption: no CGT is payable on shares sold after 3 years or 3y after commencing a trade.
- CGT deferral: can defer CGT liability by reinvesting gains in EIS shares.

Only applies if investment is made no more than one year before or 3 y after disposal of asset.
- Loss Relief: EIS shares disposed of at loss at any time, can be set against the investor's income in the same or previous year. Net effect is to limit exposure if shares become worthless. Loss can be offset against chargeable gains, saving CGT at rate of 10% o 20%.
- SEIS: EIS for startup. 50% Income tax relief up to 100.000 per yar with CGT exemption of 50% reinvested gains.

TAX PLANNING

Must be particular to client's facts and circumstances determined through fact finding.: marital status, health, age, time to retirement, current income, wealth.

IHT Planning:

Tax paid on death by individuals where the value of the estate > Nil Band.
Any excess is taxed at 40% - Nil band is 325.000£ & Residence Nil Band is 100.000£.
Most IHT Planning is reducing value of individual's estate through lifetime gifts.
- Give away assets to family at least 7y before death will avoid IHT, although these might have been CGT liable when made.
- Transfer gifts into trust 7y before death, can reduce IHT ½.
- Estates transferred to a spouse or a partner are exempt from IHT.
- Gifts to charity are exempt from IHTOR a reduced 36% IHT will apply if 10% is left to charity.
- Small gifts given to individuals worth up to 3000£ are exempt from IHT.

Income Tax Planning:

Marginal tax depends on nature of the savings and the investor tax bracket.

	Income	Dividends
Basic - 1 to 33.500	20	7.5
Higher - 33.501 to 150.000	40	32.5
Advanced - 150.001 +	45	38.1

Non taxable income: ISA, NS&I. Some investments are non-income producing but still pay regular income. Single Premium life insurance bonds have annual allowance on 5% of the original investment.
Married couple should fully use their personal allowance.
- Transfer ownership of investment capital.
- Use savings & dividends allowances.
- Person with Income between 100k and 123k the marginal income tax rate is 60% (40% higher payer + 20% loss of personal allowance).

Parents cannot use children's allowance: if the amount of gifts is > 100£ over a year will be taxed as the parent's own income.

- Contributions to a registered pension scheme qualify for tax relief. Max allowance 40k per year. Lifetime allowance.
- EIS investment attracts 30% income relief, shares to be held for 3y. SEIS attracts 50% income tax relief but carries more risk. VCT has 30% tax relief.
- ISA Allowance.

CGT Tax Planning

Mitigation strategies.

- Spreading ownership of assets between family members to maximize exemptions use.
- Phasing encasements over several years to benefit from more than 1 annual exempt.
- Realize paper losses to reduce gains:

Bed & Breakfasting – sell shares and repurchase back next day – 30 day rule.

Take advantage of investment transfer between spouses, which have no tax.

Investor sells, spouse repurchases.

- Realize gains within the annual exemption.