



Using a compliance consultant

1. Compliance and controls are always you and your firm's responsibility.
2. Your firm must have appropriate processes and controls in place.
3. You can't delegate the responsibility for compliance to another party, but you can get help to ensure your controls are appropriate.

The FSA does not require you to use a consultant and many firms are happy to manage their own compliance using the FSA website and [firm contact centre](#).

However, you must have a framework for:

- assessing and covering the risks to your business;
- meeting regulatory requirements; and
- checking your firm continues to be compliant

If you currently use compliance services or are considering doing so, we highlight some key considerations below. You can also look at our [factsheet](#) [PDF].

- [Compliance is your responsibility](#)
- [Choosing the right service](#)
- [Assessing and monitoring consultants](#)
- [Acting on recommendations](#)

[Legal information](#) | [Freedom of information](#) | [Privacy policy](#) | [Data protection](#) | [Contact us](#)

© Financial Services Authority | Page last updated 17/04/07



It's always your responsibility

If we find inadequate controls in your firm, we may take action against you, not your compliance consultant.

Of course we expect you to take any recommendation seriously, just don't over rely on your consultant. Whether you get compliance support or not, you remain responsible for meeting the FSA requirements.

Good practice example

Consultant A provided a comprehensive service, including an analysis of the firm's business, quarterly reviews and written recommendations for firm B, resulting in a well run business. They also produced a TCF gap analysis, identifying actions needed to implement TCF, which were then rolled out by the firm's compliance officer to all advisers. All advisers are now given the results of quarterly reviews (good practices and weaknesses) to action and the consultant checks progress against these at each quarterly visit.

Following recommendations from the consultant, management information is collected and used along with the results of quarterly visits to produce an annual compliance report.

The firm and consultant worked well together, taking a principles based approach throughout the business.

Poor practice example

Firm C relied excessively on the services of their compliance consultant, to the extent that they were not adequately overseeing their systems and controls. The firm's directors had not ensured they were approved to perform their regulated functions and had not adequately monitored and controlled their business at all times. They expected their consultant to take responsibility for most compliance related matters and subsequently were fined by the FSA for systems and controls failings which could have resulted in unsuitable advice for their customers.



Choosing the right service for you and your firm

It is important to consider what sort of support, if any, your firm needs. This will help you to establish the type and level of service you require if you do decide to get some compliance support.

There are lots of different levels of service available. Make sure that any service you choose is going to address your objectives and help ensure you are compliant. Some of the services commonly provided include:

- Initial risk assessment
- Business development
- Help with procedures
- File audits
- Technical support
- Training
- PII cover

Although you won't want to pay for services you do not need, you should also take care when restricting the support or services you are receiving. Be careful to ensure that by focusing on one particular area for example, you are not missing important compliance issues elsewhere.

We recommend that you agree the standard of services you will receive from your consultant, through a service level agreement (SLA). You should always receive details of work carried out and recommendations in writing.

Good practice example

Firm D used a basic service from a large consultancy with an initial risk assessment, help designing processes, technical support and adviser assessments. They supplemented this with in-house compliance monitoring. Firm D now has robust "know your customer" and training and competence procedures in place and has improved record keeping. The new procedures are now monitored by firm D, then reviewed by the consultant, making it easier to identify areas for improvement.

The new procedures have helped the firm identify weaknesses in advisers' work and clearly implement and demonstrate performance improvement measures. The consultant also provides the firm with helpful technical support when completing the RMAR and as well as advising on product risk issues.

Poor practice example

Firm E was acting as a principal with one appointed representative (AR). It restricted its consultancy service to monitoring the AR, feeling this was its weakest area. However an FSA

visit identified that firm E was performing activities it didn't have the permission to do. The resulting remedial action was costly for the firm and had the consultant been monitoring the principal's business, the issue may have been identified and addressed earlier.

[Legal information](#) | [Freedom of information](#) | [Privacy policy](#) | [Data protection](#) | [Contact us](#)

© Financial Services Authority | Page last updated 17/04/07



Assessing and monitoring consultants

You should make sure potential consultants can offer you the service you need. You ought to establish and agree what you can expect and how much it is going to cost.

You will want to ask potential consultants about their experience, skills and competence and establish that they have the knowledge and resources to give you what you need. Our [factsheet \[PDF\]](#) lists some of the questions you might want to ask.

Good practice example

Firm F monitored the services being provided to them by consultant G. The monitoring identified that the consultants were not providing a tailored service or specific enough help with procedure implementation.

The firm felt they were not getting the support they needed and changed to a consultancy which gave a more bespoke service. This helped firm F to implement improved procedures for complaints handling.

Poor practice example

Firm H asked a consultant for specific technical advice on complaints handling and the scope of permissions. However, the consultant was inexperienced in these areas and gave the firm incorrect advice.

Following an FSA visit the complaints procedures were revised. However, the advice on permissions had resulted in a significant breach of FSA requirements, which resulted in disciplinary action.



Acting on recommendations

You are paying for the recommendations of your consultant, so you should carefully consider what they tell you.

If you are given particular recommendations and you agree that these are necessary, you need to act to implement these recommendations.

We expect firms to implement the advice they are given, having assessed for themselves that it is appropriate.

The FSA is more likely to take action against firms who are breaching our requirements if they have not acted on previous recommendations from a compliance consultant.

Good practice example

Following recommendations received from their consultant, firm J improved the way they collected "know your customer" information and their filing structure.

The result was better record keeping and more efficient processes. The consultant's TCF gap analysis also led the firm to improve their processes for establishing a client's attitude to risk and to write clearer suitability letters.

When the FSA visited firm J it was clear that they had improved their compliance and there was evidence that past weaknesses had been addressed throughout the business.

Poor practice example

Firm K's consultant highlighted a number of failings in the firm. These were:

- recording insufficient customer information, so that the suitability of advice could not be demonstrated;
- not monitoring the advice given;
- not implementing or following the training and competence regime; and
- suitability letters with inadequate "reasons why" and risk warnings.

The consultancy gave the firm a number of recommendations to take action in these areas. The firm failed to act on these recommendations and 18 months later, the FSA visited and identified the same issues. The result was a fine and public censure for the firm. Had they addressed the weaknesses identified by the compliance consultant the firm could have avoided this action.

[Legal information](#) | [Freedom of information](#) | [Privacy policy](#) | [Data protection](#) | [Contact us](#)

© Financial Services Authority | Page last updated 17/04/07