

FCA/APCC LIAISON

APCC MEMBER FEEDBACK DECEMBER 2015

Subject	General area of feedback	APCC Member company/name	Member Feedback
1. Connect	Fees	Kinetic Partners LLP	<p>We are preparing a straightforward application but the only payment option is to select either moderately complex or complex. The firm does not want to overpay the fee and to date no practical solution has been offered. A solution needs to be found to ensure that this process is as efficient as it can be.</p> <p><i>FCA Response: In order to investigate this further, please provide details of the firm. Alternatively, if the consultant or the firm contacts the Firm Contact Centre this issue should be able to be resolved.</i></p>
2. Connect	Applications	Kinetic Partners LLP	<p>It appears not to be possible to download Form As until other application documents have been uploaded. This means having to prepare Form As on possibly out of date forms and then re-inputting data on new forms later in the process. It would be helpful if we could download Form As at the same time as other documents as there seems to be no reason not to permit this and it would be more efficient.</p> <p><i>FCA Response: I can confirm that Connect has been designed so that the related forms (including form As) are made available once an applicant has completed and uploaded the main parts of the application i.e. application details, application documents, application fee and application declaration.</i></p> <p><i>In order to ensure that the applicants are using the latest version of the form A, they can download it from Sup 10: https://www.handbook.fca.org.uk/form/sup/SUP_10A_ann_04_Long_A_UK_20151216.pdf and start working on it. Alternatively, they can wait for the related forms link to become available once all the other parts of the application have been completed and uploaded.</i></p> <p><i>Depending on how long the applicant works on the application and form As, there is always a risk that it may no longer be the latest version when it comes to submitting it. The best and safest approach would be to download the form A shortly before submitting the entire application.</i></p>

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3. GABRIEL	Wrong reports on set-up	Kinetic Partners LLP	<p>The majority of newly authorised firms are being set up with incorrect returns on GABRIEL. In particular, for MiFID managers the FSA041 (asset managers that use hedge fund techniques) report appears when it is no longer applicable; while the FSA055 (systems and controls questionnaire) is typically not included when it needs to be. Can the FCA arrange for correct reports to be included from set up?</p> <p><i>FCA Response: Thanks for your feedback. The FSA041 issue has now been addressed and no firms should have FSA041 scheduled for future reporting periods. Any firms that have past FSA041 reporting obligation erroneously showing on their schedule should contact the FCA Firm Contact Centre who will be able to arrange for the data items to be removed from the firm schedule.</i></p> <p><i>We take on board your comments relating to incorrect returns being generated. We will look into this and re-emphasize this with the individuals concerned.</i></p>
4. FCA Authorisation	Timescales for allocation	Kinetic Partners LLP	<p>We are aware that there is a delay to the timing for allocation of new authorisation cases to case officers and we are seeing this particularly with new AIFM applications. When chasing the FCA (as we are now over the average 17 weeks on some applications), we receive standard responses which give no indication for how much longer it is likely that the applicant will have to wait. Some transparency on this process would be helpful in order to be able to manage firms' expectations.</p> <p><i>FCA Response: We appreciate the frustration applicants experience in the delays, particularly when there is no estimate given. We are looking at the communications we routinely send to firms, both in the acknowledgement and on an ongoing basis (updating emails) to try and address this and give a transparent and realistic timeframe for allocation. This will be regularly reviewed to ensure estimated timescales remain current.</i></p>
5. CIC	S.178 Notice (Individual Controller Form)	Create Solutions Ltd	<p>When text is entered into some of the boxes on the form, it is very light grey in colour and there is no way to change the font or colour – this makes the text difficult to see on the form when printed.</p> <p><i>FCA Response: Thank you for your comment. We are aware that some parts of the form do come out lighter than others; however we have not had any recent incidents where we have been unable to read a form. We will look to</i></p>

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			<p><i>incorporate darker text in any changes to our forms in due course. If in the meantime your client(s) finds that this is a problem in a specific matter around the legibility of the information they are providing within the form, please advise the change in control team or confirm the information in a covering letter.</i></p>
6. Permissions	Checklist and Declaration Form	Create Solutions Ltd	<p>When text is entered into the form, it prints as 'tracked changes' in red underlined and there is no way to change the font or colour. Looks odd and customers have queried whether we are using the correct form.</p> <p>FCA Response: <i>Thank you for this feedback; we have resolved this issue and the forms should be updated very shortly.</i></p>
7. Connect/Call Centre	Corporate Partner submissions	Sturgeon Ventures LLP	<p>We called the call centre with regard to a corporate partner who is linked directly to our firm but should only be linked to one of our AR firms. Having called the customer centre I was told by the individual to submit a remove person from a firm application or Form C but having asked the person to stay on the line whilst I attempted this it became clear that this was not possible as for a corporate partner there are no personal details so the form cannot be populated. After a lengthy discussion she suggested I email IVA as this was the only way I could get a response. By the 23rd November I have still not had a response and in fact tried to explain to the call centre person that when we submit a Corporate Partner Form A we submit in paper copy but there seemed to be no understanding of how to deal with the removal of a Corporate Partner in the instance mentioned whereby it has been linked in error to the principal firm and therefore is not being removed in full but merely de linked from the principal firm and remaining connected to our AR firm.</p> <p>FCA Response: <i>Thank you for sharing your experience on a Corporate Partner related matter. We can confirm that we have corrected the Register, changing the Corporate Partner (CF4) to the Appointed Representative and confirmed this to your firm.</i></p> <p><i>Given the nature of your enquiry and circumstances, we can confirm that emailing the IVA inbox asking for an amendment to the Register was the correct course of action on this occasion; however we apologise if this was not clearly explained at the time of your enquiry.</i></p>

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8. Connect	Form A submission	Sturgeon Ventures LLP	<p>We have recently had an issue with a Form A submitted on 11th September. Having no response or even case officer allocation I finally called on 16th November and was told by the Call Centre that there were no notes but that there was a Case Officer looking at the application but no reasons as to why this was being held up. I said that we had received no questions and that my client had given up on an opportunity as he was not an approved person. Immediately after my call, I received notification that this individual had been approved on the same day. This was deeply frustrating for my client who is now having to start looking for opportunities again from scratch as it looks like he was forgotten in the system which is very frustrating.</p> <p><i>FCA Response: The application was processed within the voluntary service standard; however the firm was unfortunately not notified of this. In this case a manual process had to be followed; a system update therefore did not occur and the subsequent approval email was not sent. This is a potential technical issue with the system and we are currently implementing a workaround in order to ensure that there are no recurrences.</i></p>
9. Connect	Form A submissions	Sturgeon Ventures LLP	<p>Having submitted a Form A with a CF1 and CF30 but only wanting the CF30, I was told on phoning the contact centre to directly email iva which I did on the same day as submitting the Form A in order for the Case Officer to link this email to the Form A. However after questions being posed on his application, my email requesting that only the individual was to be a CF30 was never responded to and so when he was approved he was approved as both CF1 and CF30 so I had to submit a Form C. Is there no way that if submissions are made and there are discrepancies if these are made to the FCA the same day as the original application it seems a shame that these cannot be looked at by the Case Officer at the same time. Is this standard procedure as in this case the Contact Centre should say that a submission is final and cannot be amended even at the early stages.</p> <p><i>FCA Response: If a firm needs to notify us of a change to their application, replying to the notification of submission email will automatically attach the email to the case. This will add the information to the case more quickly than emailing the information through to IVA, as emails sent to IVA need to be manually sent through to the case, which could take a few days. We can add or remove controlled functions selected in a submitted Form A application, but depending on the change requested we may need to request additional information or a new Form A.</i></p>

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10. Connect	Delays in updating	Stibbards Consultancy Ltd – Ray Stibbards	<p>Changes of address are taking an inordinate length of time to appear on the Register</p> <p>FCA Response: <i>The Service Standard for standing data changes is 5 working days. Whilst we are aware of a few incidents where this has not been met, this is not the normal position and steps have been taken to amend the information on the Register as a matter of priority. We would encourage any of your clients who believe there has been a breach of this service standard to contact the FCA so that we can prioritise the incident accordingly.</i></p>
11. Connect	Incorrect information	Stibbards Consultancy Ltd – Ray Stibbards	<p>Incorrect Approved Persons suddenly appearing on the Register</p> <p>FCA Response: <i>Thank you for your comments. In order for us to look into this issue further, please could you supply some examples of firms / approved persons where this has happened. Once received, we will investigate and provide a more detailed response.</i></p>
12. Change of Legal status	Very long delays in appointment of a Case officer	Stibbards Consultancy Ltd – Ray Stibbards	<p>Delays of over 4 months in appointing a Case officer</p> <p>FCA Response: <i>We appreciate the frustration applicants experience in the delays, particularly when there is no estimate given. We are looking at the communications we routinely send to firms, both in the acknowledgement and on an ongoing basis (updating emails) to try and address this and give a transparent and realistic timeframe for allocation. This will be regularly reviewed to ensure estimated timescales remain current.</i></p>
13. Change in Control	Change in Control Applications	Stibbards Consultancy Ltd – Ray Stibbards	<p>Excellent and prompt service!</p> <p>FCA Response: <i>Thank you for the positive comments</i></p>
14. Contact Centre – Consumer Credit	Very Helpful and supportive	George Bylett - Compliance Matters Limited	<p>Praise where praise is due. I have had a few queries or sought clarification this past month for Consumer Credit clients, in all cases the help desk were very helpful and supportive including pointing me where appropriate in the right direction on documentation</p> <p>FCA Response: <i>Thank you for the positive comments regarding the help and support provided by the Customer Contact Centre.</i></p>

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15. Authorisations	Confusion of Central Support team over key FCA processes	Julian Sampson – Fulcrum Compliance Ltd	<p>We are aware that an increasing number of applications to FCA can only be made electronically. However there remain certain applications that are still paper-based, which cannot be submitted via Connect. One of these is the Change of Legal Status application.</p> <p>A recent application for same was returned by FCA with a covering letter from Central Support, treating the application as an authorisation and erroneously directing the applicant to Connect.</p> <p>This caused apoplexy with the client, whom I had previously repeatedly assured that paper was the only medium for submission, and who refused to believe that FCA could be so wrong about so fundamental an issue. This could have caused a damaging relationship issue.</p> <p>The matter was resolved by Central Support management, who, after an email and a call from me, apologised and properly addressed the situation at no loss of time to the applicant.</p> <p>But this should never have happened, and the solution was only brought about by APCC being able to direct me to the correct contact person. Other applicants may not be so lucky.</p> <p><i>FCA Response:</i> <i>Thank you for your feedback, and we apologise again for any inconvenience caused to your clients. This was an error that has now been communicated to all relevant staff and we do not anticipate a repeat of this mistake. Applicants should continue to submit applications in paper form.</i></p>
16. Connect	Change in Permissions	Consumer Credit Compliance	<p>When changing permissions, for example from Limited to Full, it is a requirement to re-input all existing information. Should the Connect system not pull through information from the Limited application as a base line.</p> <p><i>FCA Response:</i> <i>Unfortunately Connect will not pull the information from a Limited permission into a Full. This is because there are two different types of applications and different information is required.</i></p>
17. Connect	Approved Persons	Consumer Credit Compliance	<p>The system will not allow an existing Approved Person to be named on an application for another legal entity. We have been advised to complete a paper application. Advice from the team varies as to how, when and to whom the</p>

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			<p>application should be submitted and whether or not we can complete on behalf of the client. A clear mapped process on how paper applications should be completed and from whom the FCA will accept them from would be a great help.</p> <p>FCA Response: <i>Paper exemptions are provided on a case by case basis. This could be, for instance, if there are system issues that prevent the applicant submitting the application via Connect. If a paper exemption is granted, the application can be completed by a third party but the applicant must sign and date the form to ensure that the details are correct. The applicant must contact the Contact Centre to arrange for the paper exemption if it is a new application. If the application has been submitted and a paper exemption is granted, then it should be submitted to the Case Officer.</i></p>
18. GABRIEL	Access	Consumer Credit Compliance	<p>Clients have commented on the amount of “down time” which appears to be on Saturdays and Sundays. Weekends are often the only opportunity firms have to isolate time and concentrate on their returns.</p> <p>Clients also are of the opinion that the operating hours are restrictive and that access to an online service should be available 24/7 as much as possible.</p> <p>Harsh comments have also been made about the threat of punitive measures (administrative charges) imposed if a user is “timed out” due to inactivity.</p> <p>FCA Response: <i>The current operating hours for the GABRIEL system are Monday-Friday 7am-10pm and Saturday-Sunday 8am-5pm. The system is available at the weekend within the specified hours except for when there is scheduled maintenance work. A notice is put up in advance if this is the case. While we appreciate the suggestion to have a 24/7 online service, there is a window reserved to run system updates overnight. We will continue to ensure there is as much system uptime as possible.</i></p> <p><i>Please provide further details relating to administrative charges as a late fee is only applied when a data item is not submitted on time.</i></p>
19. CAD	Credit Authorisations	Consumer Credit Compliance	<p>Client comments vary considerably on their experiences with their case officer. Some still find the approach of some case officers challenging and intimidating. Some have felt humiliated by comments such as “You’re not taking the authorisation process seriously” when they have simply misunderstood the question.</p>

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			<p>Others speak very highly of their case officer (Jamie Baker & Steve Millar, Debt Department mentioned on a number of occasions).</p> <p><i>FCA Response: We ask our case officers to be courteous and understanding in all their interactions with applicants (and their representatives). If there are examples of case officers overstepping the mark/being 'overly robust' please let us know the details (Duncan Thistleton is happy to be the point of contact)</i></p> <p>There is some inconsistency when calling on behalf of a client. We are named on the Application Form as the firm's consultants, some case officers engage, some will not. A consistent approach would be would be appreciated.</p> <p><i>FCA Response: We have reminded all our case officers of the need to engage with firms' representatives in order to ensure that applications are not unduly delayed.</i></p>
20. Permissions	<p>Time taken to allocate a case officer;</p> <ul style="list-style-type: none"> • Time taken for case officer to review the Pt 4A Authorisation application; • Case officer re-allocated & case allocated to another case officer; and with no notification to Applicant Firm. 	LWF Consulting Ltd	<p>An application for Pt 4A authorisation was submitted to the FCA on 1st April 2015. The information provided by the Applicant Firm covered all the data requested (in full and complete) by the FCA as part of the FCA's process for a firm applying for authorisation.</p> <ul style="list-style-type: none"> • A case officer was allocated 142 calendar days after submission of the application. • A further 48 calendar days before the case officer responded and requested further information and deemed the application to be "incomplete". From the request for information, it appeared that the case officer had not read in detail all the information provided in the original authorisation application. • The Applicant Firm spoke to the case officer and again it appeared that the case officer had not read in detail the information provided in the original authorisation application and clearly did not understand the application and the Applicant Firm's business model. • The Applicant Firm submitted a detailed response (and included an additional 35 documents as supporting information). • 48 calendar days after the case officer's request for information, the Applicant Firm called the FCA to be informed that the case officer had been re-allocated and the case had been allocated to another case officer who is

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			<p>awaiting comments from other persons within the FCA with more experience in the Applicant Firm's industry.</p> <p>FCA Response: <i>The below comments are general in nature to try and address some of the concerns expressed, but we would be happy to investigate further if details of the case could be provided.</i></p> <ul style="list-style-type: none"> • <i>We appreciate the frustration being caused by delays in cases being allocated, this is due to unprecedented volumes of cases being received and we are working hard to resolve this.</i> • <i>As a general point, once case officers are allocated they should stay in regular contact with applicants, and we apologise if this has not happened in this instance.</i> • <i>Case officers should advise applicants at the initial review stage whether an application is complete or incomplete, and if incomplete, should be clear about the reasons why.</i> <p><i>We understand it can be frustrating when cases need to be re-allocated. This does need to happen on occasion, but the applicant should be informed as soon as possible that this is the case. Again, we apologise if this has not happened in this instance.</i></p>
21. Permissions	Authorising an AIFM without an incorporated AIF	Cordium	<p>After discussions held during the July APCC meeting, we understand it is now permissible, per FCA guidance, that firms may apply to be authorised as an AIFM without yet having an AIF in place to be managed, but would need to submit a 'new funds under management' notification to the FCA at least a month before the Firm anticipates managing the AIF.</p> <p>We have however received an opposing position from an FCA case officer. Can you please confirm/clarify whether the FCA still intends to authorise AIFMs who are yet to have an AIF in place.</p> <p>FCA Response: <i>For a full scope UK AIFM, it is correct that we authorise AIFMs without having in place an AIF to manage. Such AIFMs would need to submit the 'new fund under management notification' to the FCA post-authorisation and at least one month before the firm anticipates managing that AIF.</i></p> <p><i>To clarify, we need the following AIF specific information in such cases:</i></p>

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			<ul style="list-style-type: none"> • <i>Completely filled in AIF schedule with tentative information on each AIF;</i> • <i>An indication of when the AIFs are expected to be launched;</i> • <i>All AIF specific information as requested in section 04 of the VoP form;</i> • <i>If any delegation will take place - names of functions to be delegated and due diligence and oversight framework for such arrangements. We do not need finalised names of any delegate, but we might ask for tentative delegate candidates and draft delegation contracts to make sure that the AIFM is not a letterbox entity.</i> • <i>Details of due diligence framework for depositary appointment and type of depositary that the firm will appoint. We do not need depositary name or depositary contract confirmation.</i> <p><i>Please note, our position is slightly different for small authorised UK AIFM where we request materially finalised prospectus and IMA as part of AIFM application determination. This is currently under review.</i></p>
22. Permissions	Live statistics	Cordium	<p>Is the FCA willing to share live statistics on how many different types on applications it is working on, building this into the Quarterly KPI reports?</p> <p><i>FCA Response:</i> <i>As you are aware, the quarterly KPI reports do offer a breakdown of retail and wholesale applications. We will consider further whether it would be appropriate/valuable to provide further granularity.</i></p>