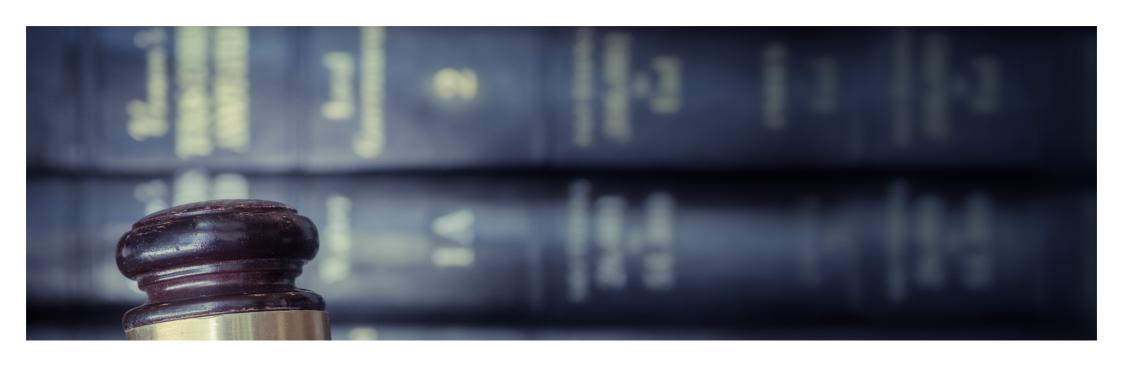




### **AGENDA**

- 1. Enforcement landscape
- Macro enforcement themes
- 3. Senior managers
- 4. Hot products / areas



ENFORCEMENT LANDSCAPE



### ENFORCEMENT LANDSCAPE

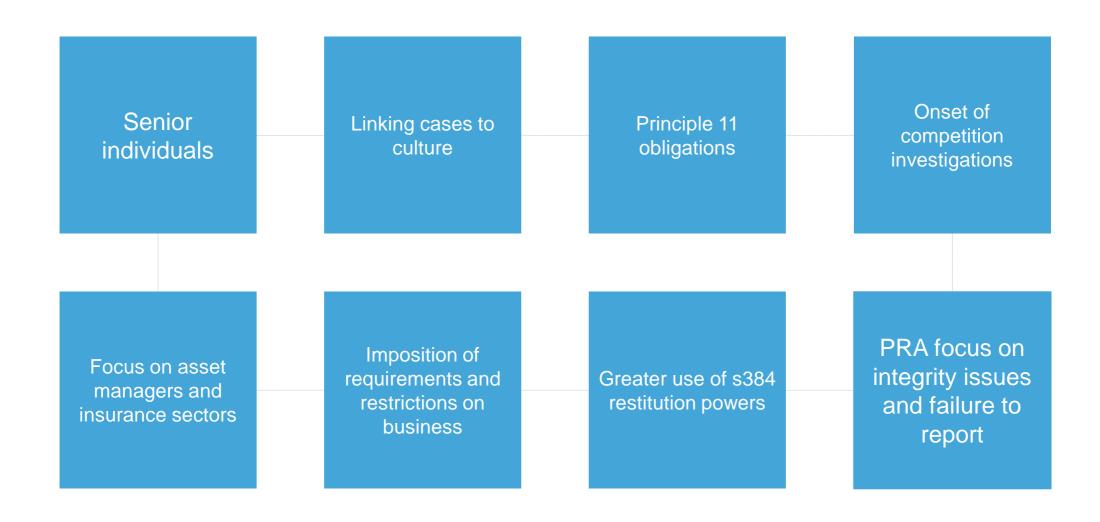
- 75% increase in number of FCA investigations year on year
- Lower threshold for taking on investigations, increase in the number of STORs, increase in capital markets disclosure cases
- Post-crisis backlog clearing, but volume of cases is slowing down some investigations
- FCA sees investigations as diagnostic
- Some investigations halted early, generally into individuals
- FCA are becoming more prescriptive about what firms can do during investigations (including speaking to individuals)
- Firms encouraged to conduct internal investigations, but FCA reluctant to rely on them: 'slightly allergic'.
- FCA is taking a harder line in relation to whether documents are privileged
- New settlement process is providing firms with greater ability to challenge findings



# MACRO ENFORCEMENT THEMES



### MACRO ENFORCEMENT THEMES



INVESTIGATIONS



## **SENIOR MANAGERS**



#### SENIOR MANAGER ENFORCEMENT

- FCA expects the SMCR to change behaviours
- SoRs and prescribed responsibilities help the PRA and FCA identify who is responsible for problems
- While the legal test for liability is the same, expectations have increased:

"a person who takes reasonable steps is one who does not exhibit a negligent or reprehensible state of mind, who is conscientious, exhibiting, through diligence, a keen and watchful eye on his or her field of responsibility, observing, asking questions and so informed and informing, being vigilant, deciding, guiding and monitoring, oversighting, delegating when safe to do so to those who are well-placed, and only acting beyond expertise and experience with competent expert advice."

"The challenge of responsibility – and suppressing the instinct to evade responsibility – is a cultural one. Responsible senior managers are thoughtful; they apprehend consequences; they have a sense of duty; they possess insight into what should be or needs to be done and they have a compulsion to set about doing it."

Mark Steward, Director of Enforcement and Market Oversight at the FCA

- The FCA has lowered the threshold for commencing investigations, including into individuals
- Many of the existing difficulties in imposing liability on individuals remain



## HOT PRODUCTS AND BUSINESS AREAS



#### HOT PRODUCTS AND BUSINESS AREAS

- Market misconduct is the main area of FCA enforcement activity
- Increased focus on unregulated markets and activities (FCA CP17/37)
- AML returned as a focus area, including criminal investigations
- IT operational resilience generally, including cyber security
- Transaction reporting
- Primary/secondary market disclosures
- Post-MAR implementation of systems and controls to prevent market abuse (FCA GC18/1)
- Commodities
- Algorithmic trading
- Assessing and managing conflicts of interest
- Outsourcing and reliance on third parties
- Regulatory change management
- Price/value for money

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