

# Key Financial Worker

## UK Finance note on how firms may determine their key financial workers

### HM Government identifies financial services as a critical sector

On 19th March HM Government (HMG) announced the closure of schools in England. According to HMG's [guidance](#), this means that all school age-students are now expected to be kept at home. The only exception is if they are a child of a person(s) who is:

- a) critical to the COVID-19 response, or
- b) works in an identified critical sector

**and** (in either case) they cannot keep their child safely cared for at home.

Children of people who fall into these categories will be prioritised for educational provision.

In their guidance, HMG identified financial services as being a critical sector, explicitly stating that “financial services” included, but was not limited to, workers in banks, building societies and financial market infrastructure.

### The Financial Conduct Authority (FCA) and Bank of England (BoE) clarifies further the definition of “key worker”

On the 20<sup>th</sup> March the UK regulatory authorities published guidance on how firms should operationalise HMG's determination. They did this by introducing the concept of a key financial worker<sup>1</sup>.

A key financial worker is a person at a dual-regulated, FCA solo-regulated firm or PSR-regulated firm, or operators of financial market infrastructure, who fulfils a role which is necessary for the firm to continue to provide essential daily financial services to consumers, or to ensure the continued functioning of markets.

The FCA's guidance therefore establishes that not all employees in financial firms will be key workers – firms must identify essential functions and the individuals needed to execute these functions, as set out below.

It is also important to note that the FCA's guidance applies to persons employed by FCA, BoE and/or PSR regulated firms or operators of financial market infrastructure, and to relevant outsourced service providers. It **does not** apply to workers at firms not regulated by the BoE, PRA FCA and/or PSR. Our interpretation is that this does not altogether preclude an employee of a non-regulated

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<sup>1</sup> As the FCA (click [here](#)) and BoE (click [here](#)) guidance is very similar, for the purposes of this note, when referring to the FCA guidance we are referring to the guidance published by both the FCA and BoE unless otherwise explicitly stated.

firm being a key worker given the broad HMG reference to “financial services”, but at this time there is no specific guidance for non-regulated FS firms on determining their own worker’s status. The remainder of this note is not directly applicable but might nonetheless provide a useful framework for those firms in that category.

### **Scope of products/services**

The focus of the authorities’ guidance is retail banking, payments and cash. Corporate/SME banking is also covered, although the guidance does not go into as much detail here. For markets, the guidance is also high level, and refers to the functions necessary to the continued functioning of markets and also to financial stability.

### **How could should determine their key financial workers?**

The guidance states that firms should do the following:

1. The CEO (SMF1, where applicable) should ensure an adequate process for identifying and designating key workers.
2. Firms should first consider which functions are necessary (i) to provide essential daily financial services to consumers or (ii) to ensure the continued functioning of markets.
3. Firms should then identify the individuals essential to support these functions, which could include outsourced providers. These people can be considered key workers.
4. If this key worker cannot keep their child safe at home – either because they must travel into work or because the child cannot be kept safely at home – firms should issue a letter to all individuals identified as key workers. This should allow the staff member to send their child to school<sup>2</sup>.

It is important to reiterate that person can be a key worker and still work from home.

### **What are some examples of roles that firms might consider to be essential daily financial services to consumers, are essential to continued functioning of markets, or are essential to financial stability?**

#### **Critical Markets Functions**

- Senior managers, as designated under the senior managers and certification regime (including general management of the UK entity/branch i.e. CEO/CFO or Branch Head/Deputy Head). (This does not automatically mean all senior managers are key workers. Firms will need to assess which individuals are essential to the overall management of the firm.)
- Primary dealer and broking functions, traders, market makers and client facing staff on the equity, FX, fixed income and commodity markets, financing activities, prime brokerage, Clearing and Execution, settlement, clearing and margin payment functions, liquidity and treasury funding functions.<sup>3</sup>
- Risk (including those monitoring systemic risk, clearing activity, market risk (to the extent unable to access necessary tools from home)).
- Compliance and market abuse monitoring functions.
- Cash Management/Corporate Credit (including key front office and operational staff for the provision of credit/liquidity facilities to corporate clients).<sup>4</sup>

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<sup>2</sup> One area the BoE guidance does go further than the FCA is: *We recommend that the letter includes the sentence “the individual has been designated as a key worker in relation to their employment by firm name” and is signed by someone with appropriate authority.*

<sup>3</sup> While the authorities guidance does not refer to any of the above explicitly it does refer to the ‘continued functioning of markets’ and to ‘operation of trading venues and other critical elements of market infrastructure’.

<sup>4</sup> Whilst not referred to explicitly, FCA guidance refers to ‘facilitating corporate lending’ which we believe includes cash management.

## **Retail, SME and Cash**

- Call centre staff
- Vulnerable Customer Teams – Operational staff supporting the following:
  - Third Party Access arrangements
  - Bereavement teams
  - Banking Protocol operation
  - Financial Abuse specialists
  - Mental health specialists
  - Disability specialists, e.g. serving the needs of blind customers
  - Financial Difficulties Teams
- Bank branch staff
- Operational staff supporting new account opening, especially for those who are the traditionally unbanked and seeking an account given the move away from cash, or for persons pending release from Prison
- Operational staff supporting payment and card schemes, lending and servicing
- Complaints teams
- Retail trading teams
- Risk, compliance and assurance monitoring (minimum base)
- Cash-in-transit staff (i.e. armoured truck drivers) and staff working at cash depots and senior cash management officers

## **Cash and Core Bank Operating functions<sup>5</sup>**

- Critical technology platforms maintenance staff
- Legal (for wet signatures), including General Counsel
- Building, security cleaning and maintenance (to protect onsite staff from infection and including physical mail management)

In all cases firms will need to assess whether these functions are essential to the continued functioning of the markets, the operation of trading venues, servicing of customers, or ensuring financial stability.

## **Geographic scope**

The UK Government's guidance explicitly applies to England. Since the authorities' guidance sits alongside/expands on the Government guidance, it is our view that the scope of the FCA and BoE guidance is also limited to England. However where guidance from the devolved administrations allows for financial services, then the FCA and BoE guidance can be used as the basis for firms operating in these areas.

### **Scotland**

The Scottish authorities' guidance creates three categories of workers (click [here](#)) but its applicability to financial services is unclear. We believe that as financial services fall within Critical National Infrastructure, persons working within key FS roles will fall within category 2. We are seeking to clarify the Scottish position and will revert with further information as it becomes available.

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<sup>5</sup> None of the following are referred to explicitly. However, FCA guidance refers to cash and cash distribution services, as well as more generally to the staff essential for the provision of financial services.

## **Wales**

The Welsh Government has published guidance (click [here](#)) which indicates that the Welsh government has adopted the UK Government's approach to key workers. We assume this includes the FCA and BoE guidance. However, at a local authority level it seems that the focus in the first instance is on the providing access to care for the following professions (click [here](#)):

- Health and Social Care
- Education and Childcare
- Public Safety and National Security

## **Northern Ireland**

The Northern Ireland Department of Education updated [FAQs](#) for schools opening for children of key workers aligns with the UK Government's position. We therefore consider the FCA and BoE guidance to be applicable.

## **Additional Information**

On 25<sup>th</sup> March the Government updated its advice (click [here](#)) on businesses that must remain closed. Bank branches are explicitly exempted from this prohibition. Note that this guidance only addresses which businesses must close and which are exempt; exemption from closure does not of itself denote that a firm's employees will be "key workers".