Neil Robson: Newer Market Entrants ‘Highly Vulnerable' as FCA Regulatory Reference Rules Broaden

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Law360 recently spoke with Financial Markets and Funds Partner Neil Robson regarding the Financial Conduct Authority's (FCA) extension of non-financial misconduct rules to 37,000 non-bank firms, which, since September 1, have been required to provide more detail about non-financial misconduct in regulatory references. Legal experts warn that the wider requirements are likely to spur a surge in disputes between firms and former employees, as bullying, harassment and discrimination are often more subjective and fact-sensitive than financial misconduct.

Neil cautions that many businesses struggle to integrate their human resources, legal and compliance functions when making decisions about regulatory references. "They assume that because it is a compliance issue, legal or HR don't need to be fully involved," he warned. "This disconnect creates operational friction and heightens regulatory exposure." He added that companies may lack clear triggers for distinguishing routine HR performance issues from formal FCA conduct rule investigations, which could lead to delayed reporting, inconsistent regulatory disclosures and employment law claims.

Neil also flagged that newer market entrants, including crypto-asset companies becoming fully authorized by the FCA, "are highly vulnerable to getting regulatory references wrong." "Newly regulated firms and immature compliance professionals can mistakenly believe that because an investigation was incomplete when an employee left, it does not need to be mentioned in regulatory references," Neil said. He warned, however, that including unverified allegations, rumors, or uninvestigated complaints out of fear of breaking the rules could breach a firm's duty of care to employees.

"Wider FCA Misconduct Reference Rules Set To Spur Litigation," *Law360*, September 8, 2026

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