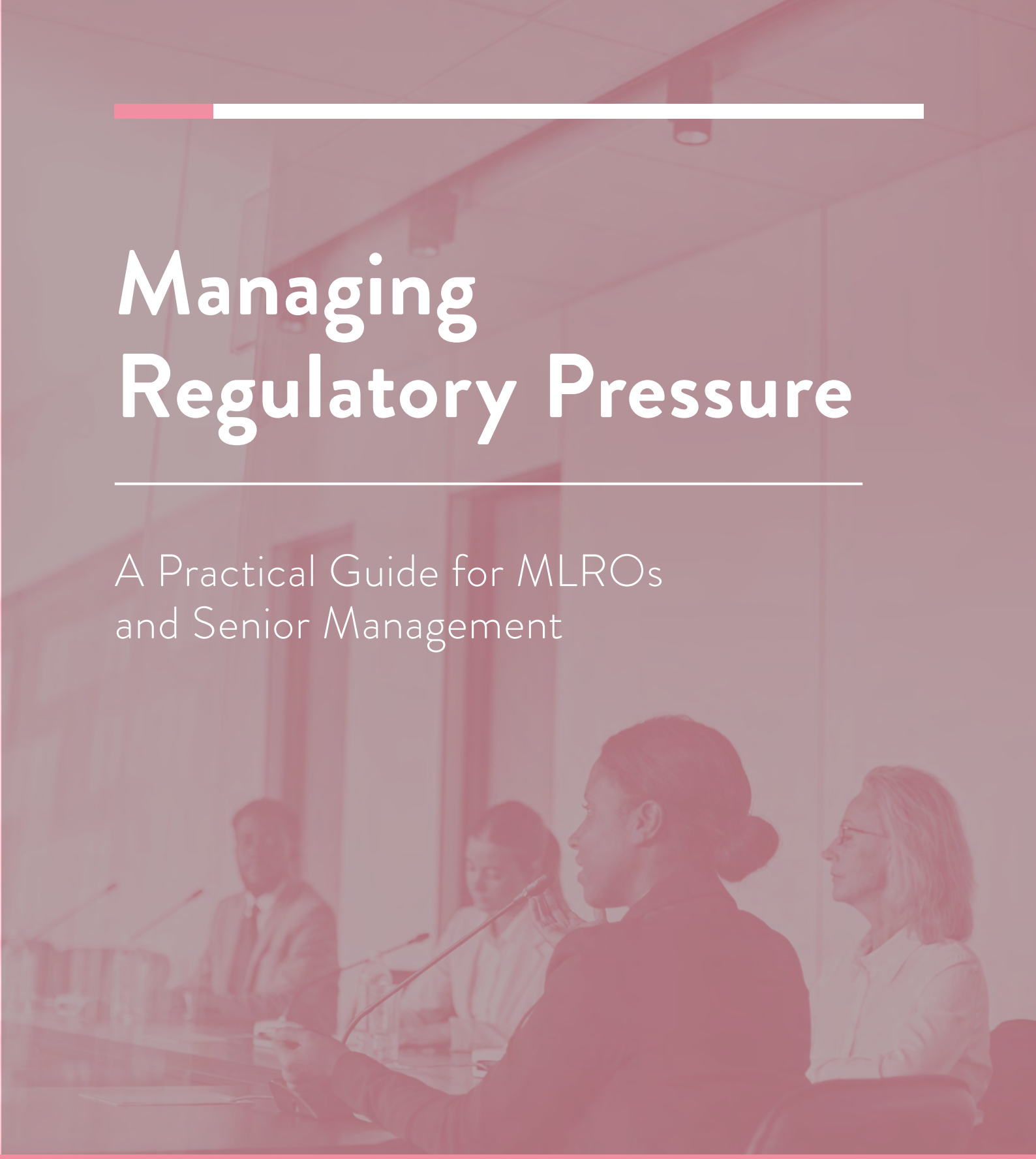
Managing Regulatory Pressure

A Practical Guide for MLROs and Senior Management



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Introduction

As providers of advisory support, the FINTRAIL team is used to helping firms undergoing enforcement action and periods of intense regulatory pressure. Our role is to guide firms through these difficult times, provide expert advice on how to remediate problems, and supply additional capacity. We see how regulatory demands burden teams that are already stretched and working at full capacity. The pressures are often intense - in some cases the survival of the firm is at stake, there are personal liability issues, and the MLRO can feel their personal reputation is on the line.

Of course the stresses of external monitoring are not unique to the financial services sector. There are analogies with the supervisory system in the education sector, which came under intense scrutiny following the tragic death of a UK headteacher who died by suicide following an Ofsted inspection which was deemed a contributing factor to her death. The case highlighted the intense pressures faced by educators, the seemingly combative and punitive nature of the supervisory process, and the lack of consideration of mental health and support.

The parallels are striking: MLROs and compliance leaders also experience intense stress, deteriorating mental health, burnout, and impacts on their health and personal lives. No one is arguing that financial services should not be subject to robust regulatory scrutiny and that high standards must be maintained; we all want to preserve the integrity of the financial system and prevent economic crimes which have real-world impacts on both individuals and society as a whole. However, it is worth considering if there are ways to achieve this in a less combative, punitive manner and if more can be done to support those in compliance trying to do the right thing in difficult circumstances.

At FINTRAIL we have seen a wide range of both good and bad responses to regulatory action. Some firms fully commit and handle the process well, others have the right intentions but struggle with resources and bandwidth, while others fail to grasp the scale of the problem or intentionally downplay their compliance failings. Poorly managed interventions can have serious consequences including business restrictions, reputational damage, or even the loss of a license. They can also take a real toll on teams, leading to resignations, burnout and, in extreme cases, significant mental health challenges. Our goal is to raise awareness of the impact for compliance leaders, reassure them that they are not alone, and offer practical guidance on navigating these challenges effectively.

In researching this topic, FINTRAIL conducted six interviews with current and former MLROs at UK regulated payment firms to hear their experiences of how they and their companies tackled periods of regulatory pressure, and what they learned. We are distilling the results of our research into a series of guides and blogs, designed to fill the gap in providing actionable advice for senior compliance leaders. This first paper contains recommendations for MLROs and senior management on how to handle enforcement actions or other periods of regulatory pressure.

Whatever your firm and whatever the nature of your engagement with the regulator, we hope the information and suggestions provided here will be useful to you.

Guidance for MLROs

Starting off on the right foot: Interacting with the regulator

Once a regulatory issue arises, it is important to establish a good relationship with the regulator and work out how to handle the engagement to minimise friction.

- **Acknowledge the nature of the relationship.** This may feel unnatural but recognise this is not a relationship of equals. The regulators will normally act as the ultimate authority and you have to respect their decisions whether or not you agree with them. With this in mind, consider how to argue your case when you disagree with them, and pick your battles. Don't tell the regulator they're wrong or question their experience or knowledge - this may sound obvious, but can be forgotten in the heat of the moment. Consider if you can substantiate your argument and present it in a non-combative way, and if there's a realistic chance of winning them over to your point of view.

- **Demonstrate transparency and honesty.** The regulators need to believe you want to solve your issues and do the right thing. Show the right attitude, take their comments seriously (even if you don't always agree 100%), and be transparent about your progress and what you can realistically achieve. Genuinely commit to the process - you won't be able to hoodwink them.

- **Regulators are people too!** As in any difficult situation, considering the human element can make things go more smoothly. The process will always be impartial and you won't be able to change outcomes by making the regulator like you, but if you build a positive relationship, adopt a cooperative tone and strike the right note on a personal level, the process can be less hostile. The regulator will be able to see you're a decent person trying to do the right thing and to be honest and open, and act accordingly. Also remember they have to deal with their own internal politics and answer to demanding bosses too - if you're aware of the pressures they're under and can show you're trying to make their lives easier, they are more likely to respond in kind.

- **Be aware of what the regulators know - and don't know.** Regulatory staff are not experts in your particular business or products, so keep it simple and explain what you mean. Use plain English and avoid jargon and acronyms. By their own admittance, the regulators struggle to hire and retain experienced staff, but they are unlikely to explicitly admit what they don't know, so make it easy for them and be ready with explanations. Draw on other experiences of explaining your product - your business teams will have a refined pitch, your marketing team will have prepared messages, and you've likely had to explain what you do to friends or contacts in other companies before.

- **Speak the regulators' language.** Consider how things will read from their perspective - they will pick up on phrases like 'friction-free processes' and won't like what they imply. Help do the work for them - map what you do against what they're looking for, use their wording, and translate what you do and how your programme works into what they are looking for, to align with their priorities.

Resources and capacity

While larger banks may be able to assign people to work exclusively on regulatory engagement, most smaller firms will need compliance staff to juggle this alongside their business-as-usual activities. This can be a real strain when teams are already operating at full capacity.

- **Build in flexible capacity.** In an ideal world you need resilience in your operating model so you can respond to ad-hoc requirements like regulatory enquiries without the need for additional resources. Even if it isn't an enforcement action or sustained regulatory engagement, there is nearly always something other than BAU to keep an MLRO busy, so build this into your target operating model and resource planning.

- **Seize your moment.** Shout immediately if you need resources to tackle regulatory responses alongside BAU. It's highly likely you will - being under-resourced is probably one reason you ended up subject to regulatory action in the first place. This is the ideal moment to get more support. An obvious solution is external resources, but internal staff may also be available and may offer advantages in being more familiar with your firm and its operations.

- **Be smart about extra resources.** If you can secure extra help, consider carefully how to optimise it. Additional resources are not a simple fix, and can actually create new challenges as they add complexity, people risk, and new management requirements. They won't be familiar with your business or your processes, so won't be well placed to provide information to the regulator. It'll probably be better for them to take over BAU operations, freeing up your existing staff to work on the regulatory side. Don't assume new resources will slot in straight away - they'll need some hand-holding and time to get up to speed.

- **Treat it as a project.** Managing a regulatory engagement is a sizable project that needs to be managed as such, not tackled piecemeal off the side of your desk. Be clear on the scope and deliverables, timelines, stakeholders, and what success looks like. Take time to establish good project governance such as creating a RACI matrix; setting up a project tracker with clear deliverables and timeframes; and establishing regular progress meetings, management information, and escalation routes. If you can, appoint a designated project manager - ongoing communications with the regulator and chasing internal tasks won't be the best use of the MLRO's time.

- **Suspend all other side projects.** Recognise and communicate internally that while you're under an enforcement action, everything else besides essential BAU activity stops. The MLRO already had a full job, and now has to take on this high-priority, hugely demanding project. There is no spare capacity for other initiatives, side projects, transformation programmes, or changes to the business.

- **The firm may need to appoint a new MLRO.** In firms undergoing a real crisis, the original MLRO may leave. If this happens, it can be hard to make a new permanent hire - people are understandably reluctant to join under such circumstances; make sure anyone you do hire understands what they're taking on and is up to the task. An alternative is to hire a consultant to act as interim MLRO - this can offer advantages as it'll likely be easier for them to remain calm and detached (it's a temporary project, not their career at stake), and if they work for a consultancy firm you can tap into that wider pool of expertise. However, this is only likely to work well in the short term and probably won't be a longer term solution.

Outputs

While this may seem obvious, the actions you take to address the shortcomings and the quality and timeliness of your responses to the regulator are of the utmost importance in determining the success of the exercise.

- **Produce good quality, accurate products.** Even when you are really stretched and pushed for time, you will probably save yourself effort in the long run if you give the regulator what they're asking for the first time round, in a format that's thorough yet clear and easy to digest. Ensure all written responses are well drafted, targeted, to the point, and address what the regulator is actually looking for.

- **Always meet deadlines and don't leave things to the last minute.** If the regulator asks for something by 5pm on Friday, aim to send it by 4pm. If you miss deadlines or send emails late at night, it implies you are under pressure and are struggling to meet their requests, which conveys panic and a sense you are not in control. Set up a good operating rhythm, and ensure you seem responsive, capable, and on top of things.

- **Involve the right people.** Make sure the right people are available to respond to the regular when required - don't delay or try to pass off the responsibility to someone who won't be so well informed. This might mean you need people from other legal entities or headquarters, or members of your IT or engineering teams. Consider setting up a C-level committee comprising all key internal stakeholders to keep them updated and to escalate any challenges promptly.

Internal stakeholder management

As MLRO, you may be the regulators' main point of contact but you won't be solely responsible for any failings, and won't be able to fix things on your own.

- **Engage senior management.** Ironically, periods of pressure can present a great opportunity to make sure senior management understands why risk is important and how serious the consequences can be if you get it wrong. The entire company is being held to account - make sure they know how the firm got to this point and what if anything needs to change. Seize this moment to establish a better culture for the future.

- **Create a buffer.** It can be helpful to have someone like an internal legal team or external counsel acting as an interface between the financial crime team and the regulator. They may find it easier to push back where appropriate - e.g. in the case of scope creep, or requests for irrelevant information, and this lets the MLRO stay out of the way. Even in smaller companies, there is likely to be someone in an adjacent function that can play this role.

- **Build alliances.** If you're finding senior management hard to engage with, consider gaining support from other areas in the company, such as business teams, Legal or Audit. One interviewee said they experienced toxicity in company 'all hands' meetings which sent the message compliance was a blocker. However, by building trust with other compliance teams and commercial teams offline, they were able to change the tone and find allies that agreed on risk decisions. Another was able to set up a committee composed of supportive business heads, the chief financial officer and the chief legal officer, which provided a more collaborative forum.

- **Look out for your team - and yourself.** Be open with your colleagues and identify ways to ask for and offer both moral support and practical help, and look out for signs of stress or burnout in yourself and in your team. As MLRO, be aware that even if you feel you're personally bearing the brunt, others in your team may also be feeling really stressed.

Guidance for senior management

As stated above, compliance leaders should not feel they are shouldering the burden by themselves. The whole company is under scrutiny and has a stake in the outcome - senior management must play an active role and ensure the compliance function receives the support they need.

- **Set the right tone from the top - don't play the blame game.** Regulatory engagements are inherently stressful in that they are framed as a failing, and staff cannot easily discuss what's going on externally due to confidentiality issues or fears of losing banking partners or other counterparties. Many compliance leaders will also worry about their personal reputations and whether the issues will be seen as an individual failing, so won't open up to peers or friends. This makes it even more important for senior management to play an active role in setting the right tone and creating a supportive internal environment.

- **Make this a group effort.** Frame the regulator engagement as a Hammer this message home, hammer the message home and make sure everyone feels able to communicate what support they need. Stay in the loop even if you're not directly involved in the day-to-day process - this will help create a better atmosphere and head off surprises.

- **Provide practical and mental health support.** Firms can be under regulatory pressure for a long time, so you have to ensure it's sustainable. Look at your working arrangements - e.g. can you allow flexible working hours, or time off in lieu if people put in long hours to meet urgent deadlines? Figure out how to balance the efficiencies of working from home with the team spirit of being in the office. Consider if you can offer additional support such as access to mental health support services.

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Why **FINTRAIL?**

- At FINTRAIL we are passionate about combating financial crime. Our unique team of experts is drawn from the industries we support and has deep hands-on experience in developing and deploying risk management controls from leadership roles with leading banks, FinTechs, and other financial institutions.
- We have extensive experience assisting financial services businesses with governance models and frameworks. We have a proven track record of identifying areas where clients can enhance their compliance and make their programmes more effective.
- Our approach is tailored to the unique circumstances of each client, is regulatory and technology driven, and is focused on providing excellent customer outcomes. We offer our clients pragmatic solutions to the most complex challenges and our goal is to ensure our clients can thrive, free from the negative impacts of financial crime.

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Ciara oversees FINTRAIL's consulting engagements with our clients. Ciara has extensive experience in banking and financial crime prevention across AML policy, CDD and supporting capabilities. She led the financial crime team for Santander UK's wealth division, and led policy implementation for Santander's Retail and Corporate Bank. At Barclays she implemented the financial crime target operating model for high-risk sectors, and managed the global enhanced due diligence function for the Corporate Bank, including oversight of international correspondent banking clients. At FINTRAIL, Ciara has led projects spanning EWRA, regulatory mapping, control enhancement and remediation, and new product development.

We are a consultancy with expertise in using financial and regulatory technology to combat financial crime.