

1 April 2021

FIA EPTA Response to the HM Treasury Consultation on the Implementation of the Investment Firms Prudential Regime and Basel 3 standards

The FIA European Principal Traders Association (FIA EPTA) appreciates the opportunity to respond to HM Treasury's consultation on the Implementation of the Investment Firms Prudential Regime and Basel 3 standards

FIA EPTA represents 30 independent European Principal Trading Firms (PTFs) which deal on own account, using their own money for their own risk, to provide liquidity and immediate risk-transfer in exchange-traded and centrally-cleared markets for a wide range of financial instruments, including shares, options, futures, bonds and ETFs. Our members are important sources of liquidity for end-investors and markets across Europe, including the UK. FIA EPTA's members are based in the Czech Republic, Germany, Ireland, The Netherlands and the UK (~70% of our members having been licensed by the FCA).

As MiFID II investment firms our members strongly support the more proportionate prudential regime contained in the Investment Firms Prudential Regime (IFPR).

FIA EPTA members agree with the Government's proposals. Specifically in regard to the UK resolution regime, we would strongly urge the Government to exclude FCA authorised investment firms from its scope.

We hope this feedback is useful and would be delighted to provide any further input as required.

4. Do you have any comments on the Government's intention to exercise its delegated powers in section 143B(2) to ensure the definitions applicable to Part 9C cover all the relationships currently in scope of prudential consolidation under the CRR?

FIA EPTA members do not have any further comments and agree with the Government's proposed approach.

5. Do you have any comments on the Government's intention to delete references to initial capital requirements (ICR) in the PRA RAO, and on the impact of doing so?

FIA EPTA members do not have any further comments and agree with the Government's proposed approach.

6. Do you have any comments on the Government's intention to amend the scope of firms that may be subject to PRA designation to include all FCA investment firms which are authorised to deal as principal under Part 4A of FSMA, or are seeking such permission?

FIA EPTA members do not have any further comments and agree with the Government's proposed approach.

7. Do you have any comments on the scope of application of the UK resolution regime in relation to FCA investment firms?

FIA EPTA members strongly consider that, given their nature and given the proportionality objectives of IFPR, the UK resolution regime should not apply to FCA investment.

We note that IFPR will apply to all MiFID investment firms. In the FCA's discussion paper on IFPR (DP20/2) it has stated in paragraph 3.16:

"..the PRA can currently designate certain investment firms as subject to its prudential supervision, even if the firm is below any published quantitative threshold. If the PRA decided to designate such a firm, we would expect it to apply a CRR-type regime rather than an IFR-type one."

We would expect that institutions that have systematically important functions be designated by the PRA as such and be subject to the UK CRR while non-systemically important investment firms will be regulated by the FCA under the IFPR.

Since FCA regulated firms will not be systemically important, the benefit of subjecting them to the recovery and resolution framework is low compared to the compliance costs for firms. This is borne out by the statement in the consultation itself that the preferred resolution of FCA regulated firms currently in scope of BRRD is insolvency. This means that FCA investment firms have not been subject to the requirements of the Resolvability Assessment Framework, the valuation statement of policy, or MREL requirements above their own funds requirements.

Some investment firms are outside of scope of CRR and will not have had any knowledge of the detailed requirements of BRRD before. For these firms which will be in scope of IFPR, there would be

substantial costs involved in analysing and meeting the requirements of both RRD and IFPR at the same time, which would be unduly burdensome considering the limited risk they pose to the wider economy. This is particularly true for proprietary firms that only deal on own account, yet would be automatically considered Class 2 firms under IFPR and not eligible for the lighter requirements of Class 3 firms.

In addition, in the new ICARA process under IFPR, all FCA regulated firms will be required to have a wind down plan which should ensure that firms have sufficient capital and liquidity to wind down in an orderly manner thereby minimising the impact of a firm's insolvency on markets and consumers. This requirement on its own should be sufficient to meet the FCA's statutory objectives.

Therefore, there seems little benefit to be gained given the costs (see question 8) by having FCA regulated firms subject to the recovery and resolution framework and we believe therefore FCA regulated firms should not be in scope of the BRRD.

8. For FCA investment firms currently in scope of the UK resolution regime: please share any relevant data and information on how the UK resolution regime impacts upon your operations.



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FIA EPTA members note that there is significant resource and effort required to monitor and update the recovery plan requirements across firms each year as well as the resolution pack every other year. It requires considerable input from Legal, Compliance, Risk, Finance, Treasury, Operations and Front Office, as well senior management. The rules are extensive, onerous and clearly designed with banks in mind (e.g., guidelines on recovery indicators clearly emphasise indicators appropriate to banks with little regard for investment firm business models). There is significant overhead in monitoring and calibrating the indicators and the stress tests with little valued added benefit given that investment firms should have wind-down triggers and undertake stress testing as part of the ICARA.