



## **FIA EPTA Response to the FCA Consultation Paper on a new UK prudential regime for MiFID investment firms (CP21/26\*\*\*)**

17 September 2021

### **Introduction**

The FIA European Principal Traders Association (FIA EPTA) appreciates the opportunity to provide feedback to the Financial Conduct Authority (FCA) on its third Consultation Paper regarding the implementation of the new UK prudential regime for MiFID investment firms.

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 independent market makers and providers of liquidity and risk transfer for exchanges and end-investors 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).

Market making and liquidity provision (also referred to as principal trading or dealing on own account) is a distinct activity that is undertaken by non-systemic investment firms rather than banks, in a highly dispersed and varied ecosystem of independent Principal Trading Firms. These firms operate in an innovative and competitive fashion leading to a vibrant, dynamic and diverse ecosystem which massively reduces interconnectedness and increases substitutability. This fundamentally reduces systemic risk whilst improving market quality and lowering costs for retail and institutional investors alike.

This document constitutes FIA EPTA's response to the FCA's Consultation Paper on a new UK prudential regime for MiFID investment firms (CP21/26). We welcome the FCA's approach as set out in the Consultation Paper and agree that the FCA's proposed rules are clear, proportionate and fit for purpose. In

our response we focus only on a limited number of areas where we believe further improvements or clarifications could be made to enable a proportionate, effective and practicable prudential regime for investment firms. FIA EPTA members appreciate the FCA’s consideration of our comments and suggested solutions and stand ready to provide any further input as required.

### 3 Disclosure

Question	FIA EPTA Response
<p><b>Question 2:</b> Do you agree with our proposed disclosures on risk management, own funds, own funds requirements and investment policy, including the use of templates? If not, please provide details of what should be disclosed or how the templates should be amended.</p>	<p>With regard to the proposed investment policy disclosures, we are broadly supportive of the proposal, and further note its consistency with proposals under IFR/IFD is appreciated. However, we note that many FIA EPTA members elect not to exercise voting rights over the shares they may hold. We would ask that any final disclosure requirements make it clear that firms that elect not to exercise voting rights to limit their disclosures to two points, their percentage holdings of eligible securities above 5% and the fact that the firm elects not to exercise voting rights, and do not require additional disclosures (such as the number of AGMs or other matters during the holding period) that firms may not track.</p>
<p><b>Question 3:</b> Do you have any specific suggestions on our proposed disclosures on governance arrangements and on remuneration?</p>	<p>The level of disclosure required for non-SNI firms for remuneration is very detailed and we have concerns that disclosing such information in the current format will have unintended consequences. We also note that the disclosure requirements are very similar to those under the CRR. However, investment firms tend to be much smaller than credit institutions and the number of MRTs, even in the larger, non-SNI investment firms, is likely to be small. Therefore, when disclosing the amount of remuneration awarded for severance and guaranteed variable remuneration, it is highly likely that for some firms this will only be in relation to one or two MRTs. This means it will be very easy for those individuals to be identified. This not only gives valuable information to competitors on the levels of remuneration within the disclosing firm, but also releases confidential information about the MRT into the public domain. We do not believe that the FCA intended that confidential information about employees should be disclosed and therefore we would strongly urge the FCA to make changes to these disclosure requirements. We would suggest that either firms should not need to make these disclosures where the information is proprietary or confidential or only need to make these disclosures if the number of MRTs about which the disclosures are being made is above five.</p>

## 5 Technical standards

Question	FIA EPTA Response
<p><b>Question 8:</b> Do you agree with our proposed changes to MIFIDPRU that relate to the UK versions of the CRR BTS related to market risk and other related BTS? If not, please explain what changes you would propose we make to ensure that the relevant technical standards provisions are operative under the IFPR.</p>	<p>FIA EPTA members propose changes in the following CRR BTS:</p> <ul style="list-style-type: none"> <li>• <b>Commission Delegated Regulation (EU) No 2015/2197 regarding closely correlated currencies:</b> the 2015 BTS on closely correlated currencies does not reflect the current state of the foreign exchange market. It does not allow delta offsetting or smaller scenario approach stresses for currencies that have demonstrated strong correlations. Notably, it also fails to account for recent events (e.g. Brexit) that make some of the closely correlated pairs higher risk. Relying on these outdated correlations puts FCA-regulated firms at a disadvantage compared to EU regulated firms by compelling the former to hold capital against historically unlikely moves in the FX market. Furthermore, the outdated correlations could harm markets by masking the true risk of less-correlated currency pairs. We believe this BTS should be updated in line with the EU amendments made by Commission Implementing Regulation (EU) 2021/249 of 17 February 2021 and updated thereafter as the FCA sees fit to account for changes in the FX market post-Brexit.</li> <li>• FIA EPTA members also wanted to bring to your attention that within the consultation, on page 24, section 5.10, the table referencing the 'Link to UK Equivalent BTS' for Onshored 528/2014 (RTS on non-delta risk of options in standardized market risk approach) is linked to Commission Delegated Regulation (EU) No 527/2014 instead of BTS 528/2014 on the FCA website. We wanted to mention this to ensure the references were correct across CRR and the FCA's website within the consultation and in any corresponding policy statement.</li> </ul>