

## IRSG response to CP27/23: The Prudential Regulation Authority's approach to policy

### 1. THE IRSG

The International Regulatory Strategy Group (IRSG) is a joint venture between TheCityUK and the City of London Corporation. Its remit is to provide a cross-sectoral voice to shape the development of a globally coherent regulatory framework that will facilitate open and competitive cross-border financial services. It is comprised of practitioners from the UK-based financial and related professional services industry who provide policy expertise and thought leadership across a broad range of regulatory issues.

### 2. OVERALL VIEW

The International Regulatory Strategy Group (IRSG) welcomes this Consultation Paper (CP) and the accompanying approach document (AD). Our key points in this response are:

### 3. PRA APPROACH TO OBJECTIVES AND REGULATORY PRINCIPLES

Paragraph 3.18 of the AD sets out the three main channels through which the PRA can facilitate the growth and international competitiveness of the financial services (FS) sector and the wider economy: capital allocation, ability to sell and ability to attract. We believe that these are the right channels and capture the domestic and international nature of the new secondary objective.

The three regulatory foundations of maintaining trust, effective regulatory processes and taking a responsibly open approach to risks and opportunities are sensible. We note that the PRA already has a strong reputation and that benchmarking research<sup>1</sup> indicates that *"The UK is perceived to be one of the most effective and respected regulatory regimes in the world."* Part of this reputation is based on effective regulatory processes. The PRA's regulatory processes, such as authorisations, need to be modern, efficient, and streamlined. Firms are willing to meet high standards if the assessment process is transparent, fair and swift.

Paragraphs 3.30 and 3.31 of the AD note that a 'responsibly open' approach to risks and opportunities includes enabling innovation and is open to hosting cross-border business as appropriate. This is the right approach but there is little description of the PRA's risk appetite. This may only be made visible when the PRA needs to make practical decisions about how much innovation to tolerate or the levels of cross-border business it accepts.

We agree with the PRA publishing metrics under the three regulatory foundations and reporting annually on how it has advanced the secondary growth and competitiveness objective. We further think a fourth foundation entitled 'calibrating regulation to remove impediments to growth' would be helpful. These accountability measures are important. We recognise the proposed evolutionary

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<sup>1</sup> *Our global offer to business: London and the UK's competitive strengths supporting economic growth.* The City of London Corporation. February 2024.

approach and believe evidencing this with metrics will be beneficial. We also agree that the metrics need to be supplemented with a descriptive element as metrics will not capture all of the PRA's actions to advance the objective. In addition to metrics, a focus on culture change within the organisation to drive adherence to the objectives will be significant. These activities are important to ensure proper accountability as set out in the Financial Services and Markets Act 2023 (FSMA 2023).

#### 4. PRA APPROACH TO INTERNATIONAL ENGAGEMENT AND COLLABORATION

We agree with the PRA's recognition of the economic benefits of openness but that this must be married with strong regulatory and supervisory cooperation across jurisdictions.

The industry strongly supports the UK regulators in building strong relationships with international partners. It is also important that the UK regulators are influential in standard-setting bodies and take a proactive approach to developing international standards.

In paragraphs 4.6 and 4.28/4.29, the AP refers to working with HMT on equivalence decisions. To future-proof the statement the PRA should also refer to working with HMT on Mutual Recognition Agreements and Free Trade Agreements. The PRA played a role in the successful negotiation of the Berne Financial Services Agreement, which is a good example of a 'responsibly open' approach. Given the importance of financial services to UK trade, it makes sense for financial services to play a more prominent role in these agreements, and therefore the UK regulators will need to play a role in supporting HMT in negotiating them. Indeed, the Government has said it hopes that the Berne Financial Services Agreement "*will provide a blueprint for future mutual recognition agreements.*"<sup>2</sup> This should be referenced and supported in the PRA's approach to international engagement.

The PRA notes that there are strong benefits to the PRA implementing international standards, including enabling a level playing field across jurisdictions. At the same time, there may be circumstances where the UK seeks to adjust the implementation of the standards. The approach to be 'largely compliant' with international standards is fair. However, we would stress the overriding benefits to firms and the international financial system of consistent implementation and that deviations from that should be on an exceptional basis with a clear justification. Furthermore, the industry would welcome greater clarity on the prioritised jurisdictions that the PRA consider comparable and 'largely' compliant. The industry would also welcome more clarity from the PRA about precisely what level of compliance it will seek to achieve on any one international standard.

The PRA's description of equivalent assessments in paragraph 4.31 of the AP is a fair one. We would link this to the PRA's proactive approach to international engagement in 4.5. Ideally, ongoing quality PRA engagement with other jurisdictions can lead to a swift and positive assessment of equivalence, assuming that the other jurisdiction's prudential framework leads to equivalent outcomes.

Paragraph 2.36 of the CP helpfully describes how the PRA will prioritise engagement when trying to understand the UK's "relative standing". It is right that the UK should compare itself primarily to other

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<sup>2</sup> 'The Berne Financial Services Agreement: Benefits for the UK'. HM Treasury. December 2023.

leading global financial centres. We ask that the PRA make clear that it may also engage with the Department of Business and Trade’s overseas trade network (especially Trade Commissioners) when gathering intelligence about the international attractiveness and helpfulness of the UK’s regulatory regime. HM Trade Commissioners visit many relevant global financial centres such as New York, Silicon Valley and Singapore and can gather important insights about how investors, financial institutions, tech companies and fintech companies in those markets regard the attractiveness of the UK’s regime and the extent to which UK regulations are helpfully positioned vis a vis other financial centres. It would be helpful to leverage synergies between HMG and UK regulators so that the UK can benefit from these overseas insights to help inform how the PRA balances its approach to international engagement and implementation of international standards alongside its secondary growth and competitiveness objective.

## 5. THE POLICY CYCLE

Paragraph 2.53 of the CP considers the benefits of engaging with a wider set of stakeholders. Whilst we welcome wider engagement, it also needs to be well-targeted, striking an efficient balance. The downside of a wide set of stakeholders and long consultation periods is that responses and policy formation take longer and lack clarity.

Paragraph 2.48 of the CP notes that *“early [PRA] engagement [with firms] is important”* on policy issues, especially when seeking *“stakeholder views on...emerging risks and horizon scanning”*. We propose that at the end of the PRA’s policy initiation phase, when it has decided that major new policy may be required to tackle an emerging problem, the PRA should issue an ‘early discussion paper’, of around five pages, which sets out in high-level terms what the PRA is thinking of doing and why. This ‘early discussion paper’ could ask stakeholders a small number of high-level questions to seek early input on whether they think the PRA’s initial hypothesis for how to develop regulation is appropriate. Responses to this paper could then help guide the PRA’s policy development phase, feeding into a more substantive Discussion Paper and then a Consultation Paper.

This “early discussion paper” proposal should address a gap that is currently in the PRA’s policymaking cycle (set out in diagrams 2 and 3 on pages 36 and 37 of the [PRA’s Approach to Policy](#)). At the moment, once the PRA has decided at the end of the policy initiation phase that new policy is needed, the next step is the Discussion Paper, before the further steps outlined in diagram 3.

However, a significant amount of policy work on the regulatory side goes into the phase between the end of the initiation period and the DP, as can be seen by the size of DPs (e.g. DP 2/21 was 57 pages and DP 3/22 was CTP 72 pages). By the time so much policy analysis has been done, it is difficult for external stakeholders to question the first principles of a proposed regulation or to propose significant substantive amendments to the way the new regime operates. Firms would be better able to contribute helpful suggestions to regulatory policy development if they can comment soon after policy initiation, whilst policy options are more flexible.

It is welcome that paragraph 2.56 of the CP proposes to *“facilitate wider information sharing”* from the Industry Practitioner Panels. The statutory panels’ meetings take place ‘behind closed doors’ and

this makes it impossible for non-member stakeholders to contribute to, and scrutinise, the policy-making process. The PRA should consider how to enhance the transparency of industry engagement, including through organising additional ad-hoc fora dedicated to a narrower set of issues. We would also urge the PRA to report in more detail than at the moment on the recommendations that Panels make on policy development, and the extent to which the regulators have followed the Panel's advice.

While we welcome the fact that the PRA proposes adopting a flexible approach to its engagement, different policy challenges will require different styles of engagement with stakeholders so we would welcome further clarity on what precise method of engagement will be deployed and in what circumstances. Furthermore, we would like to see the PRA create a new formal mechanism for making a representation to the regulator about the need to review a particular rule (or set of rules) to ensure stakeholders views are given due weight within the rule review process. In addition, we suggest exploring the use of working-level standing groups for priority or fast-evolving policy areas, to provide a degree of real-time dynamism in the policy-making process, and a shift away from static and lengthy consultation processes for new areas of risk and policy-making. In this respect, technology and sustainability would be a good example where a more dynamic approach might suit.

In considering the evaluation phase of the policy cycle we agree the PRA should seek to strike a balance between evaluating existing policies and addressing new policy issues. Since the CP was published the PRA has published its statement on the review of rules<sup>3</sup>.

This sets out the process through which the PRA will select rules to review and prioritisation criteria it will apply. The complementary role that rules review and cost benefit analysis (CBA) can play in increasing the PRA's effectiveness is well understood. However, we believe that CBA should be more explicitly linked to evaluation.

This would ensure a greater degree of rigour in the PRA's approach to determining whether the expected benefit of a revision to existing policy is a demonstrable improvement on the existing outcomes (and therefore demonstrably outweighs the expected costs, rather than making minimal gains).

If, despite other prioritisation criteria being met, a CBA does not support the revision of an existing policy, the PRA should have to set out why, thereby facilitating scrutiny of the PRA's future decision-making.

More broadly, CBA is a critical tool to policy making and a key way for the PRA to demonstrate that its policy making is proportionate. FSMA 2023 put more focus on the need for policymaking to be guided by robust cost benefit analysis. Overall, there needs to be a transparent and robust framework, front and central in the policymaking process.

We urge the PRA to report in more detail on the recommendations that CBA Panels make on the costs and benefits of policies, the extent to which the regulators agree with the Panel's advice (and, if not, why not), and the extent to which regulators have changed their proposals following the Panel's

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<sup>3</sup> <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/policy-statement/2024/february/pr-a-statement-on-the-review-of-rules.pdf>

assessments of costs and benefits. We note the likelihood of further consultation on the CBA framework and look forward to examining further proposals. We suggest that the PRA considers scheduling another chance for industry to offer comments once the outcomes of this consultation have been factored in.

Paragraph 2.61 of the CP recognises stakeholder concerns around the data burden. We would reiterate the resource burden of data submissions and request that data requests be well-tailored and justified.

## **6. DELIVERING A FIRST-RATE PRA RULE BOOK**

The PRA rulebook needs to be accessible, clear, and easy to navigate. The key to progress here is repealing retained EU law and this is a process primarily driven by HMT. The sector is engaging with HMT around the prioritisation of files transfer. We would expect the PRA to engage with HMT on prioritisation and to use the ‘Smarter Financial Services Regulatory Framework’ initiative to streamline the current rulebooks.

We further think the PRA should consider expanding the three principles that will guide its approach on its Rulebook so that along with ease of access, efficiency and usability and clarity, ‘relevancy’ is added. This reflects the need for the Rulebook to remain relevant to the regulatory environment.

We welcome proposed enhancements to the PRA website including a new search function and time travel functionality. However, there is scope for the PRA to go much further and develop machine readable regulation (MMR). In the Bank’s response to the van Steenis review of the Future of Finance it said it would *“Complete the process of making the PRA’s Rulebook machine-readable over the next three to five years.”* In DP 3/21 the PRA said that *“The PRA is aiming to make Rulebook content available in a basic machine-readable format that can be more easily accessed and used by third-party applications.”* The PRA now has the opportunity to fulfil these plans.