

Bank of England PRA

Appendices to the Bank of England's approach to enforcement: proposed changes and clarifications

Consultation paper | CP9/23

May 2023

Draft for consultation



Contents

Contents	2
1: The Bank of England’s approach to enforcement: statements of policy and procedure (including proposed amendments to the PRA Enforcement Approach Document, FMI Penalty Policy and FMI Procedures)	3
2: The PRA’s allocation of decision-making and approach to supervisory decisions	4
3: Proposed amendments to the EDMC Procedures	5
4: Questions in this consultation paper	6
5: PRA statutory obligations	7

Draft for consultation

1: The Bank of England's approach to enforcement: statements of policy and procedure (including proposed amendments to the PRA Enforcement Approach Document, FMI Penalty Policy and FMI Procedures)

Please see <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/consultation-paper/2023/may/cp923app1.pdf>.

Draft for consultation

2: The PRA's allocation of decision-making and approach to supervisory decisions

Please see <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/consultation-paper/2023/may/cp923app2.pdf>.

Draft for consultation

3: Proposed amendments to the EDMC Procedures

Please see <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/consultation-paper/2023/may/cp923app3.pdf>.

Draft for consultation

4: Questions in this consultation paper

The full list of specific questions addressed to stakeholders in Chapter 2 of the consultation paper (CP) to which the Bank (including the Prudential Regulation Authority (PRA)) would welcome responses are set out below. The Bank also welcomes responses on all aspects of this CP.

- Q1: Do you have any views on the PRA's proposals to introduce an Early Account Scheme and the enhanced settlement discount?**
- Q2: Do you have any comments on the PRA's proposed changes to the penalty policy for firms?**
- Q3: Do you have any comments on the PRA's proposed changes to the penalty policy for individuals?**
- Q4: Do you have any comments on the PRA's proposed changes to the serious financial hardship thresholds for individuals?**
- Q5: Do you have any comments on the Bank's proposed changes to the FMI Penalty Policy and the FMI Procedures, and Annex 2 of the new consolidated Bank Enforcement Approach?**
- Q6: Do you have any other comments on the proposed changes to the current PRA Enforcement Approach Document and/or the introduction of the new consolidated Bank Enforcement Approach?**
- Q7: Do you have any comments on the proposed new statement of policy relating to the PRA's allocation of decision-making and approach to supervisory decisions?**
- Q8: Do you have any comments on the proposed changes to the EDMC member term limits?**
- Q9: Do you have any comments on the proposed changes to the EDMC Procedures?**

5: PRA statutory obligations

The statutory obligations applicable to the PRA's policy development process are set out below. This CP explains the policy assessment of relevant considerations.

- **For rules instruments and UK Technical Standards Instruments:** Purpose of the policy proposals (FSMA s138J(2)(b)).
- **For rules instruments and UK Technical Standards Instruments:** Cost benefit analysis (FSMA s138J(2)(a) and (7)(a)); and an estimate of those costs and benefits (if reasonable) (FSMA s138J(8)).
- **For rules instruments and UK Technical Standards Instruments:** Analysis of whether the impact on mutuals is significantly different to the impact on other authorised firms (FSMA s138J(2)(c) and 138K).
- Compatibility with the PRA's primary objectives (FSMA s138J(2)(d)(i), 2B and 2C).
- Compatibility with the PRA's secondary competition objective (FSMA s138J(2)(d)(ii) and 2H(1)).
- Compatibility with the regulatory principles (FSMA s138J(2)(d)(ii), 2H(2) and 3B).
- Have regard to the HMT recommendation letters (BoE Act s30B).
- Have due regard to the public sector equality duty (Equality Act s149).
- Have regard, subject to any other requirement affecting the exercise of the regulatory function, to the principles of good regulation and when determining general policy or principles to the Regulators Code (Legislative and Regulatory Reform Act 2006 s21 & 22).
- Have regard, so far as consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat (Natural Environment and Rural Communities Act 2006, s40).
- **For rules instruments and UK Technical Standards Instruments:** Consultation of the FCA (FSMA s138J(1)(a)).
- **For UK Technical Standards Instruments only:** FSMA s138J(1)(a) is replaced with: consultation of the FCA and/or Bank, where that Regulator has an interest in the technical standards (FSMA s138P(4) and (5)).
- **For UK Technical Standards Instruments only:** notice given to HMT of the consultation on the UKTS ('best efforts' basis).
- For CRR rules only: subject to certain exceptions, have regard to:
 - relevant standards recommended by the Basel Committee on Banking Supervision from time to time
 - the likely effect of the rules on the relative standing of the United Kingdom as a place for internationally active credit institutions and investment firms to be

based or to carry on activities. For these purposes, the PRA must consider the United Kingdom's standing in relation to the other countries and territories in which, in its opinion, internationally active credit institutions and investment firms are most likely to choose to be based or carry on activities

- the likely effect of the rules on the ability of CRR firms to continue to provide finance to businesses and consumers in the United Kingdom on a sustainable basis in the medium and long term
- the target in section 1 of the Climate Change Act 2008 (carbon target for 2050)
- (s144C (1) & (2) FSMA – exceptions in s144E FSMA).
- **For CRR rules only** – explanation of the ways in which having regard to the matters specified above has affected the proposed rules (s144D FSMA).
- **For CRR rules only** – publication of a summary of the proposed CRR rules.
- **For CRR rules only** – consideration and consultation with the Treasury about the likely effect of the rules on relevant equivalence decisions (s144C (3) & (4) FSMA).

Draft for consultation