

Memorandum of Understanding
between
The Financial Reporting Council
and
The Bank of England

Purpose and scope

1. This MOU is between:
 - the Financial Reporting Council (FRC) 8th Floor, 125 London Wall, London EC2Y 5AS. Company number 2486368, and
 - The Bank of England, Threadneedle Street, London EC2R 8AH.
2. The purpose of this MOU is to set out the arrangements for cooperation, co-ordination and the exchange of information between the FRC and the Bank of England (referred to as 'Parties' collectively or 'Party' singular) in carrying out their respective functions to fulfil their regulatory responsibilities (including, for the FRC, non-statutory as well as statutory responsibilities).
3. The roles, responsibilities and functions of the FRC and the Bank of England are set out at Annex A.
4. This MOU supersedes any previous incarnations or agreements between the Bank of England and the FRC.

Legal status and effect

5. Nothing in this MOU shall, or is intended to:
 - (a) create any legal or procedural right or obligation which is enforceable by either Party against the other;
 - (b) create any legal or procedural right or obligation which is enforceable by any third party against either or both Parties, or against any other third party;
 - (c) prevent either Party from complying with any law or requirement which applies to them, for example, applicable statutory or procedural restrictions on disclosure obligations under Data Protection legislation in force from time to time;
 - (d) fetter or restrict in any way whatsoever the exercise of any discretion which the law requires or allows the Party to exercise; or
 - (e) create any legitimate expectation on the part of any person that either the Party will do any act (either at all, or in any particular way, or at any particular time), or will refrain from doing any act.

Nevertheless, the Parties are committed to pursuing the aims and purposes of this MOU in good faith, and intend to act in accordance with its terms on a voluntary basis.

Information-sharing

6. To the extent permitted by applicable legal and procedural restrictions on the disclosure of information, the FRC and the Bank of England will ensure the timely and focused exchange of relevant information that enables effective co-ordination and co-operation in the necessary areas.
7. Exchange of information will take place at many levels. Information available to one party that is relevant to the responsibilities of the other party will be shared where requested (subject to paragraph 8). In addition, if it comes to the attention of one regulator that information it has gathered may be materially relevant to the other, it will notify the other to enable the other to request disclosure of such information. In particular, information sharing will support the effective identification of risks to each other's functions and objectives, for example, improving the effectiveness of supervision, corporate reporting, corporate governance, professional oversight, policy development and, where appropriate, agreeing a common UK position in relevant international discussions.
8. The exchange of information is subject to such statutory, procedural or other constraints that apply to either the FRC or the Bank of England in relation to the sharing of information.
 - (a) The process for disclosure of information set out in this document does not override any restrictions or obligations but is designed to facilitate and assist disclosure where legally permissible. The process is not prescriptive and requests and/or disclosures outside the terms of the process are not thereby defective.
 - (b) The Parties will seek to minimise the extent that disclosure to the other is constrained by agreements with third parties, and where these occur will if appropriate take reasonable steps to secure any necessary consents.
 - (c) The Parties will have regard to the information-sharing 'gateways' that exist to facilitate the exchange of information which has been obtained in the exercise of their functions and which may otherwise be subject to statutory or procedural restrictions on sharing. The information sharing 'gateways' include provisions which permit:
 - (i) For the FRC: sharing of information relating to the private of affairs of an individual or to any particular business received in the conduct of its activities pursuant to the Companies Act 2006, Companies (Audit Investigations and Community Enterprise Act 2004), Local Audit and Accountability Act 2014, EU Audit Regulation 2014 and Statutory Auditor and Third Country Auditor Regulations 2016,
 - (ii) For the Bank of England: sharing confidential information (within the meaning of S.348 of FSMA) with the FRC for the purpose of enabling or assisting (i) the Bank of England to discharge any of its public functions or (ii) the FRC to discharge any of its regulatory responsibilities whether statutory or by agreement/arrangement (non statutory) responsibilities relating to the matters specified in sections 14 and 16(2) of the Companies (Audit, Investigations and Community Enterprise) Act 2004. All references to 'information' hereafter (including in the annexes) shall, as far as the Bank of England passing

information to the FRC is concerned, be references to confidential information within the meaning of S.348 of FSMA.

It will be for the Party that has been asked to share information with the other Party or that is minded to volunteer information not specifically requested by the other Party to decide that request or act of sharing should follow the arrangements set out in Annex B. Other information can be exchanged between the parties but is not information requested or exchanged pursuant to this MOU.

Information requests

9. When making a request for information pursuant to this MOU, the Party requesting the information shall follow the arrangements set out in Annex B and within that request:
 - (a) Identify the information sought or, if the information is not yet known or identifiable by the Party requesting the information, the nature of the information sought;
 - (b) Identify the intended use or purpose of the information requested; and
 - (c) Undertake to treat the disclosed information confidentially and in accordance with any applicable statutory or procedural disclosure restrictions which may attach to that information.
10. When responding to a request for information requested pursuant to this MOU, the Party in receipt of the request for information will use its best endeavours to:
 - (a) confirm receipt of the request as soon as reasonably practicable and set out the anticipated scope of work and agree the timetable for a response, where possible;
 - (b) provide a full reply and supporting documentation (where applicable) within the time period agreed between the Parties; and
 - (c) notify the party requesting the information of any anticipated delays to the timetable for a response.
11. When responding to a request for information requested pursuant to this MOU, the Party in receipt of the request for information will disclose such information that is reasonably considered to be relevant or informative to the pursuit or fulfilment of the Party requesting the information's intended use or purpose as set out in the information request.
12. Any requests, replies or questions regarding the exchange of information requested or exchanged pursuant to this MOU should be addressed to the contacts set out in Annex B.

Confidentiality

13. The Parties will protect the confidentiality and sensitivity of all information received from the other, and maintain effective controls designed to minimise the risk of inappropriate disclosures being made.
14. Where one Party has received information from the other, it may use the information internally for any relevant purpose as described above, but it will obtain consent from the other, save in respect of disclosure for compliance with applicable law where it will endeavour to notify the other in advance of disclosure so that that other Party has an

opportunity to make representations about such disclosure, before (i) passing the information to a third party (or an individual employee or director with an identified potential conflict of interest); and/or (ii) using the information in enforcement, disciplinary proceedings or other legal proceedings.

15. A Party may occasionally wish to share material over which it wishes to assert legal professional privilege with the other and, where this occurs, the relevant material will be shared under a limited waiver of privilege. Otherwise for the avoidance of doubt, unless the above applies, neither party waives professional privilege.

Freedom of Information (Fol) Act 2000 & data protection

16. The parties undertake to comply with the requirements of applicable law including but not limited to Data Protection legislation¹ and regulatory guidance in force from time to time and the Human Rights Act 1998.
17. If a Fol request or Subject Access Request² is received by one Party in relation to information received by it pursuant to this MoU, then the Party in receipt of the request will endeavour to inform the other party without delay and invite representations on the potential impact of disclosure. This provision is without prejudice to the application as appropriate by the Parties of any Cabinet Office FOIA Code of Practice guidance as may be issued from time to time on best practice notification to third parties in relation to requests for information relating to or affecting the interests of persons or bodies who are not the subject of the request.

Co-operation

18. The Parties will co-operate to assist each other to carry out their functions in order to fulfil their regulatory responsibilities which may include information sharing and general co-operation in the ways set out in this MOU. The Parties working relationship will be characterised by the principles set out under this heading.

Standard setting

19. The Bank of England's ability to advance its prudential regulatory objectives is affected by the standards set by the FRC in the areas of actuarial, audit and assurance, and accounting. The Bank of England's prudential rules and policy materials make reference to FRC codes and standards.
20. The FRC and the Bank of England will co-operate in respect of:
 - (a) the development of FRC codes and standards in the area of corporate governance, actuarial work, auditing, assurance and accounting that are applicable to firms which fall within the remit of the Bank of England;
 - (b) the development of prudential rules and policy materials which reproduce (with or without modifications), interact with or make reference to FRC codes and standards, or implementation of corresponding international standards or requirements; and

¹ Data Protection Act 2018 and the General Data Protection Regulations 2018.

² Pursuant to the Data Protection Act 2018.

- (c) the development of standards in conjunction with the relevant international organisations.
21. Co-operation will include, where relevant and appropriate, sharing research, draft consultations and responses, and seeking each other's views, prior to publication.
 22. The FRC and the Bank of England will consult each other, where appropriate, about proposals for codes and standards relating to the conduct of professional accountants, auditors and actuaries where relevant to the Bank of England's prudential objectives.

Monitoring, supervision and enforcement

General Provisions

23. The Parties both have an interest in monitoring and, where appropriate, enforcing compliance with standards by accountants, auditors, actuaries as well as banks, building societies, insurers or other listed entities in the area of corporate governance and reporting. The Parties will (subject to the applicable constraints on the disclosure of information):
 - (a) discuss general concerns to inform the scope of and arising out of the FRC's monitoring activity;
 - (b) co-operate to inform the exercise by the FRC of its professional disciplinary function in relation to actuarial, accounting and auditing professionals working with or for authorised firms;
 - (c) co-operate in monitoring the quality of professional accounting, actuarial, and auditing services regulated by the FRC and provided to or in respect of authorised firms; and
 - (d) exchange views on matters concerning the behaviour and performance of accounting, actuarial, and auditing professionals working with and for those authorised firms that are subject to FRC regulation;
 - (e) co-operate to inform the exercise by the FRC of its enforcement function in relation to statutory audit, and professional discipline in relation to actuarial and accounting, with or for PRA-supervised firms and to inform the exercise by the PRA of its enforcement function in relation to the conduct of PRA-supervised firms, including the specific enforcement co-operation steps set out below;

Enforcement investigations

24. Launching an investigation:
 - (a) Where in relation to a matter within the purpose and scope of this MOU either Party is proposing to appoint investigators or refer that matter to its decision makers, that Party will use its best endeavours to notify the other Party:
 - (i) in advance; and
 - (ii) in any event within 5 working days of such appointment or decision and prior to any public announcement of such appointment or decision

to enable the other Party to analyse the impact on its objectives and ongoing or intended investigations of the notifying Party's proposed action.

- (b) Where the issue affects the advancement of the objectives of both Parties and both Parties have the power to appoint investigators or commence an investigation as the case may be, the Parties will seek to agree (and make appropriate recommendations to their decision makers) whether any investigation should be carried out by the Bank of England, the FRC, or both. In making decisions, the Parties will have regard to the potential burden on third parties of multi-agency investigations.
- (c) Where the Parties conclude that an investigation should be carried out by both Parties, it will/may be appropriate that both investigations proceed in parallel. However, in appropriate circumstances, they will consider whether the particular facts of the matter, as they are known at that time, suggest that one Party's investigation should proceed before the other's.

25. Conduct of investigations

- (d) Where either Party carries out any subsequent investigation and proceedings alone, that Party will keep the other regularly updated on material aspects of the progress of the investigation.
- (e) Where the Parties determine that both should carry out an investigation, the Parties will use their best endeavours to agree if the investigations, and any subsequent proceedings, should be co-ordinated (including with respect to obtaining and sharing of information, interviews of witnesses and what the co-ordination mechanisms should be).

26. Outcome of investigations:

- (f) Where both Parties are investigating a particular matter, or a particular subject which falls within the scope of this MOU :
 - (i) Before taking the matter to the relevant decision-making body or stage for determination, each Party will where appropriate use their best endeavours to notify the other, so that consideration can be given as to if and how those processes may be sequenced. In doing so, the Parties should consider, amongst other things, the extent to which the sequencing of decision-making might be expected to have an impact on the ability of the subject of the investigation to prepare any defence.
 - (ii) If a decision is made by either Party to take action against a subject, the Parties should consider whether it is possible and would be appropriate to co-ordinate publication of any regulatory enforcement announcements so that both Parties publish the outcome of their investigations simultaneously.

27. In any event, the Parties will endeavour to give the other appropriate notice of any press release it intends to make in relation to enforcement cases in which the other may have an interest, no later than 24 hours prior to publication unless there are overriding reasons which prevent or delay such notice.

Issues affecting confidence in corporate governance or reporting

28. The FRC has the capacity to undertake supervisory inquiries into the reasons for the collapse or near collapse of a bank, building society, insurer or other listed entity or other issue affecting confidence in corporate governance or reporting. Under section 74 of the

Financial Services Act 2012, there are circumstances in which the Bank of England must carry out an investigation and report on a possible regulatory failure. Where one or both of the Bank of England and the FRC is or are undertaking a report or inquiry of such a nature (particularly in relation to the same firm) they will co-operate as necessary.

FRC's oversight responsibilities

29. The FRC is responsible as competent authority for the oversight of audit regulation and by arrangement for oversight of the professional regulation of accountants and actuaries by their professional bodies. The FRC is also responsible for the registration of third country auditors, namely auditors of issuers of securities from outside the UK that have issued securities admitted for trading in the UK.
30. The Bank of England will alert the FRC to any material concerns it may have about the way in which one or more professional bodies are regulating their members or statutory auditors or audit firms are carrying on their activities. In some cases, it may be appropriate for the FRC and the Bank of England to co-ordinate:
 - (a) public statements intended to encourage behavioural changes, or
 - (b) the exercise of their respective enforcement powers.
31. The FRC and the Bank of England will:
 - (a) share information and work closely together to support discussions with the professional accounting and actuarial bodies in the UK and internationally; and
 - (b) co-ordinate and liaise, as appropriate, in respect of the FRC's role in overseeing the professional actuarial bodies and the PRA's role in approving actuaries to undertake certain Significant Influence Functions.

International co-ordination

32. An MOU on international organisations³ between the Bank of England, the FCA and HM Treasury sets out a framework for consultation and co-ordination to support the ability of the UK authorities to take a coherent and consistent position, wherever possible, in discussions with international partners and for the UK to be an effective participant. Paragraph 5 of the international organisations' MOU states that the principles in it should apply to the management of mutual interests between the UK authorities and other independent domestic bodies (including the FRC). As such, the FRC and the Bank of England will apply the principles set out in that MOU wherever possible.
33. In particular, the FRC and the Bank of England will, where permitted, on an ad hoc basis exchange information in connection with their work with or as members or observers of international bodies.

³ <https://www.bankofengland.co.uk/-/media/boe/files/memoranda-of-understanding/bank-pra-hmt-and-fca-international-organisations.pdf>

Resolving problems

34. Problems that arise between the Parties will be resolved through discussion by the relevant designated points of contacts detailed in Annex B, with escalation to more senior persons where necessary.

Maintaining the MOU

35. The general co-operation arrangements detailed in this MOU (including any specific commitments) may include appropriate multilateral arrangements with other regulators.
36. The FRC and the PRA will appoint senior officials to be responsible for the co-ordination set out in this MOU. They will meet at least twice a year to review the effectiveness and efficiency of coordination and co-operation.
37. The MOU can be amended at any time with agreement of both the FRC and Bank of England. If the core MOU – in other words, the material preceding the signatures - is amended, it must be re-signed by appropriate members of the Bank of England and FRC. The annexes to this MOU can be amended without the core MOU being re-signed but must be with the agreement of both Parties.

Signatories

..... **for the FRC**

Name: Sir Jonathan Thompson

Description: Chief Executive Officer

Date: 26th May 2021

..... **for the Bank of England**

Name: Victoria Saporta

Description: Executive Director Prudential Policy

Date: 2nd June 2021

Annex A

Summary of roles and responsibilities of the FRC and the Bank of England

- (b) The roles and responsibilities of the Bank of England and the FRC are diverse and derive from several different sources. The following summary is provided in order to aid an understanding of how those roles and responsibilities interact in relation to those who fall under both Parties regulatory scope. It does not purport to be a comprehensive statement of the roles or responsibilities of each organisation.
- (c) The FRC promotes transparency and integrity in business. These are cornerstones to generating public trust and attracting investment in sustainable, successful companies that provide jobs, create prosperity and generate economic growth.
- (d) The FRC is the UK Competent Authority for the regulation and oversight of Statutory Audit in the UK. The FRC sets codes and standards for governance, stewardship, accounting, assurance and actuarial work.
- (e) The FRC has statutory powers relating to the setting and monitoring of accounting standards and the regulation of statutory audit in the UK and powers to impose directions and financial penalties on recognised qualifying and supervisory bodies. Other FRC functions e.g. professional discipline of the accountancy and actuarial profession in public interest cases and the oversight of regulation of these professions, are exercised on a voluntary basis and rely on the co-operation of the professional bodies. Applicable statutes and procedures restrict the FRC's handling of information received in the conduct of these functions in some cases and provide 'gateways' for sharing that information in others.
- (f) The Bank of England is responsible for the safety and soundness of firms for which it is the prudential supervisor and for securing an appropriate degree of protection for insurance policyholders.
- (g) The Bank of England is responsible under FSMA for the authorisation, in conjunction with the Financial Conduct Authority (FCA), and prudential supervision of individual deposit takers (including banks, building societies and credit unions), insurers (including friendly societies) and certain designated investment firms. Its objective is to promote the safety and soundness of the firms it supervises, and it is required to advance this objective primarily by seeking to minimise any adverse effects of firm failure on the UK financial system and to ensure that firms carry on their business in a way that avoids adverse effects on the system. In the case of insurers, the Bank of England has the additional objective of contributing, through its prudential supervision of insurers, to securing an appropriate degree of protection for policyholders. The Bank of England under section 339A of FSMA must also maintain arrangements for sharing information and exchange of opinions with auditors of the firms it supervises.
- (h) The Bank of England places reliance on the integrity of corporate governance, accounting, auditing, actuarial, and other information about the firms it supervises for which codes are set and/or conduct is monitored by the FRC. If the quality of corporate governance and reporting is impaired or the Bank of England's supervisory judgements are based on incorrect information, there could be material adverse effects for the safety and soundness of firms, protection of policyholders and the UK financial system. The Bank of England also obtains information and intelligence from its supervisory activities that may be relevant to the work of the FRC.

- (i) Each of the parties has a role in working with the Financial Policy Committee (FPC) to support the identification of, monitoring of and taking action to remove or reduce systemic risks with a view to protecting and enhancing the resilience of the UK financial system.

Annex B

Practical exchange of information⁴

Information exchanged or requests for information between the FRC and the Bank of England under this MOU should be passed via the following contacts:

FRC
General Counsel GeneralCounselTeam@frc.org.uk

Bank of England
All email queries in relation to enforcement matters should be addressed to the divisional inbox for the Enforcement and Legal Division at: LDELDLegalQueries@bankofengland.co.uk All other requests should be directed to the Bank of England's point of contact.

Points of Contact	
FRC	Alex Kuczynski Executive Director of Corporate Services and General Counsel (A.Kuczynski@frc.org.uk)
Bank of England	Michael Gaull, Senior Manager, Accounting & Audit Policy michael.gaull@bankofengland.co.uk

⁴ The word 'information' is being used in this annex with the meaning given it in paragraph 8(c) of the MOU.