

# The PRA's approach to policy

BSA Response to DP4/22

December 2022

# Summary

The BSA welcomes the opportunity to engage with the PRA on its future approach to policy. We agree on the importance of the PRA's independence and ability to set strong standards by taking a long term view, to provide firms with stability and predictability. We welcome the PRA's openness and transparency in setting out its approach. We see no need at this time for any substantial structural change to regulation and believe that the current "twin peaks" model should be retained and enhanced not fundamentally changed.

The BSA supports the maintenance of strong prudential standards, particularly on capital and liquidity. As our members seek longer term stability over short term profit opportunities, we agree with the PRA's view that any undue lowering of prudential standards may provide short term benefits but these come at the expense of medium or longer term risks to economic prosperity.

However, this support for strong prudential standards cannot be open-ended. Excessive raising of prudential requirements is capable of going beyond the optimum point and into net negative territory, where the costs start to outweigh the benefits. This underlines the importance of robust CBA, done at the right time in the process where it can guide policy development.

Following the UK's exit from the EU, we support the PRA setting rules via its Rulebook which can be updated when required, and avoid delays that can occur with primary legislation through the parliamentary process. We also support the ambition to make the regulatory framework more accessible and user-friendly. At the same time, this presents an opportunity to reflect on the overall coherence of the different parts of the regulatory regime and how they fit together for different cohorts of firms where the PRA has a different risk appetite eg going vs gone concern elements.

We also believe that policy does not need to be complex in order to be strong. In fact, the reverse can be true, where the effort required to navigate complex and detailed rules can undermine the overarching objectives. As such, the BSA is a strong advocate for the PRA's Strong and Simple initiative and we continue to encourage the PRA to be bold in this area as discussed in more detail below.

## PRA's objectives & regulatory principles

**Q1 Do you have any views on whether we are correct to adopt a proactive approach to our new secondary objectives? If so do you have any views on the ways in which we could pursue our new secondary objective, as part of a proactive approach?**

We agree that the PRA should adopt a proactive approach to its new secondary objective. We believe that an approach that only considers the impact of the secondary objective when comparing different policy options designed to address the PRA's primary objective does not go far enough on its own. Rather the PRA should proactively consider how it can further its secondary objectives. This could happen by reviewing onshored EU regulation to look for opportunities to reduce or remove outdated requirements that are no longer fit for purpose. Areas could include COREP reporting and Pillar 3 disclosures, which we propose as priorities for review in our response to Q7 below.

**Q2 Do you agree that the approach to our objectives and regulatory principles, including on clustering regulatory principles and focussing detail on the most significant in each case, effectively supports Parliament in holding us to account?**

**Q3 Do you have any views on our approach to clustering of regulatory principles for undertaking and presenting analysis?**

Table 1 in DP4/22 is a helpful summary of the PRA's objectives and regulatory principles. We support the proposed clustering of objectives and principles as it helps to ensure that nothing is forgotten. However, we think

that the table should also include an explicit reference to [article 138K of FSMA](#) which requires the PRA to make a statement on how any new policy proposal impacts mutuals compared to other firms. It may be that the PRA considered this to be caught under 'sector specific requirements' but we feel this should be given more prominence rather than feeling like it is 'tacked on' at the end as an after-thought.

The BSA continues to strongly support the FSMA requirement for proportionality in regulation as well as recognition of differences between businesses. There are currently relatively few concrete examples of proportionality in the PRA Rulebook.<sup>1</sup> We understand that this is largely a result of EU Regulations (CRR) applying a 'one size fits all' approach. As such, we encourage the PRA to continue to look for opportunities to be more proportionate both through the Strong and Simple approach but also for mid-tier societies that are too large for Strong and Simple but are not 'internationally active' so should not need to implement the Basel framework in full.

## International engagement & collaboration

### **Q4 Do you agree that a strong commitment to implementing international standards is an effective way of pursuing our objectives?**

We agree with the PRA's commitment to implement international standards. As mentioned above, we do not subscribe to the view that deviating from or lowering standards will provide long-term benefits to the UK. However, Basel standards have been designed to be applicable to 'internationally active' deposit-takers (including mutuals) which is an undefined term. One way to view this is to look to the Basel's RCAP assessments<sup>2</sup> where certain firms have been requested to provide data to support the assessment process. As such, an argument could be made that international standards need only apply to these firms in the UK in order to achieve full alignment with the Basel framework.

### **Q5 What do you view as the costs and benefits of adjusting our implementation of international standards to account for UK market circumstances?**

We believe that there are significant benefits to be gained from the new Strong and Simple regime for non-systemic banks and building societies given that these firms do not need to follow international standards. We strongly support this initiative and continue to encourage the PRA to be bold with its proposals to achieve a more proportionate framework. As mentioned above we also believe there are opportunities to introduce more proportionality for mid-tier firms that are larger than the Strong and Simple threshold but not internationally active.

### **Q6 Do you support the PRA's international engagement strategy?**

The BSA supports the PRA's international engagement strategy. However, we would like to highlight the important topic of the timing of industry engagement, consultation and CBA. International standards result from detailed discussion and negotiation, involving some compromises between national authorities. For example, Basel 3.1 was agreed by members of the Basel Committee, including the UK PRA, who then commit to faithfully implement the agreement. All of this occurs ahead of any formal consultation, and with the exception of certain national discretions there is little opportunity to diverge from the agreed approach for firms in scope. Now that the UK is no longer subject to the EU process, we encourage the PRA to be creative in its approach by conducting industry outreach and CBA at a high level early on in the process while there is real opportunity for insights gained to inform the policy direction, followed by further consultation and CBA on the detail later on.

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<sup>1</sup> DP4/22 refers to the new banks regime lowering barriers to entry and also the initiatives to lower the difference in calibration of SA and IRB. However, in terms of the scope of the PRA rulebook that applies in full to a very small regional building society vs the largest non-IRB firms, the rules that apply are largely identical.

<sup>2</sup> See [BCBS RCAP assessments](#)

# The policy cycle

## **Q7 Do you have any views on the PRA's approach to policy-making?**

### **a. Do you have any views on how PRA should approach prioritising which of its existing policies to evaluate?**

We welcome the commitment from the PRA to engage with stakeholders at the four stages in the policy cycle. We also welcome the PRA's intention to review rules after they are implemented in addition to when they are first developed in order to assess their ongoing effectiveness vs the policy intent. The PRA should be open not just to making adjustments to policies after the evaluation stage but also removing rules altogether if the policy is not achieving the intended outcome and/or is resulting in unintended consequences. The same approach should be taken to older rules that have been in existence for many years but not regularly reviewed to ensure they remain fit for purpose and take bold decisions to retire any policies that are no longer relevant. We believe this is fundamentally important as the current size of the PRA Rulebook has tended to increase by adding new rules for new topics but legacy rules are rarely taken away. This does not feel sustainable over the longer term and the PRA could add a requirement to its internal policy-making processes to consider which similar and related rules could be taken away when new rules are proposed, or at least explain and justify why rules on related requirements are different and hence why they need to be retained. This is also relevant to the work to improve the accessibility, efficiency and usability of the PRA Rulebook.

One suggestion for existing rules to prioritise for review is Pillar 3 disclosures. The original policy intent under the Basel 2 framework was that additional transparency would aid market discipline with counterparties holding each other to account. However, the continued cost of producing pillar 3 disclosures – particularly in terms of specialist staff's time in finance and risk departments - has not been outweighed by any noticeable benefits and anecdotally we are aware that these disclosures are rarely read (based on minimal website hits). Furthermore, the PRA should review the frequency of pillar 3 reporting for mid-tier societies where quarterly reporting feels particularly excessive.

Regulatory reporting that stems from the EU (ie COREP) is another area where we agree with recent PRA speeches<sup>3</sup> that this is an area ripe for review and simplification.

## **Q8 Do you have any views on how the PRA could enhance its approach to external engagement, and our proposed guiding principles?**

The BSA welcomes the engagement it has with the PRA on behalf of its members. We support the principles and in particular welcome the recognition that early engagement is helpful for both firms and the PRA in order to gain different perspectives before it is more challenging to make changes later in the development. See also our points above on how this works for international agreements.

## **Q9 Do you have any views on the PRA's future data collection? How can the PRA engage with you most effectively, whilst it is developing its approach?**

We note the PRA expects to need to collect more data. We support the principle of conducting robust CBA to ensure that new policy proposals are underpinned by sound evidence. We also note that the PRA will need to take a balanced approach to ensure it gathers data from a range of firms to understand the impact while not over-burdening them. The use of existing regulatory returns should always be a starting point and where additional supplementary data is required it should follow the same data definitions, or common industry standards. As a general principle, the Transforming Data Collection initiative should aim to eliminate the need for ad-hoc cross-firm data requests.

We welcome the proposed publication of a framework for how future CBA will be conducted and used by the CBA panel. We propose that the framework should be aligned to existing cross-sector guidance on CBA.<sup>4</sup> We believe that more of the detailed CBA analysis should be made public including assumptions made (beyond what is

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<sup>3</sup> See [Sam Woods speech on growth and competitiveness](#), Mansion House, October 2022

<sup>4</sup> See [HMT Green book, Central Government guidance on appraisal and evaluation](#)

currently published in CPs) so that interested parties such as academics can scrutinise the analysis and in turn contribute to higher standards.

We welcome the PRA's stated intention to make greater use of DPs in the future. As mentioned already, we feel that the earlier that stakeholders are engaged the better and DPs provide that opportunity to gain input from a broad range of stakeholders early on in the process. This avoids the problems where it feels more difficult to change proposals that are included in a CP because of the significant work that has been undertaken to reach that stage and hence a desire not to change path at a late stage and not lose momentum.

Finally, we welcome the PRA's plan to perform a targeted review of data collection in banking in 2023.<sup>5</sup> The BSA stands ready to support the PRA in this work. We encourage the PRA to provide more detail on the timeline for reviewing certain regulatory returns as some of our members are currently migrating to an automated approach and want to understand if changes are likely to occur that could make such enhancements redundant.

## Delivering a first-rate PRA Rulebook

### **Q10 Do you consider that the PRA's proposed approach to the four key reforms outlined above will create a more accessible, efficient, usable and clearer Rulebook? What could we do differently or in addition?**

We welcome the PRA's ambition to deliver a first-rate Rulebook by increasing accessibility, efficiency, usability and clarity. This is a bold ambition which we applaud. International standards and EU Regulations are often written in ambiguous language ("constructive ambiguity") in order to achieve political consensus. A UK-only Rulebook could and should be well structured and written in Plain English<sup>6</sup> and thereby avoid such issues with interpretation and inconsistent implementation.

We agree that the Rulebook should be grouped by topic. We would also propose that users can access the Rulebook by firm type, so it is easier for any regulated firm to know which rules apply to them. In terms of the general usability of the Rulebook, the recent Prudential and resolution index is useful but begs the question of why the rules themselves are not set out with a clear index as opposed to needing this separate navigation tool.

### **Q11 How can the PRA most effectively use 'Purpose Statements' or similar non-technical explanations to improve the clarity of our policies?**

We welcome the proposal to incorporate purpose statements. If firms can understand the policy intent of the rules then it should be easier to meet the spirit as well as the letter of the rules and avoids the risk of a 'tick box' approach to compliance. It will also help to prioritise the future review of outdated rules as it will be clearer on why those rules exist and whether they remain fit for purpose. However, we would encourage the PRA to keep these purpose statements as short and focussed as possible so as not to significantly increase the overall length of the Rulebook thereby reducing usability.

### **Q12 Do you believe there are other effective ways to tackle the complex regulatory landscape?**

We welcome the proposal to streamline the types of regulatory materials to remove duplication and make clear the legal status of the type of requirements. As such we would encourage the PRA to go even further and issue just two types of material – rules and guidance. This would dispense with the need for separate supervisory statements and statements of policy that sit outside the Rulebook and can be hard to keep track of.

For building societies, additional material exists in the form of SS20/15 or the 'Sourcebook'. No equivalent restrictions exist for small banks, including challenger banks that have relatively limited experience in lending

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<sup>5</sup> See paragraph 5.23 of DP4/22

<sup>6</sup> See The Plain English Campaign at [www.plainenglish.co.uk](http://www.plainenglish.co.uk)

compared to building societies that have existed for many decades. We encourage the PRA to consider retiring aspects of the sourcebook as part of its new Strong and Simple regime.

Finally, the PRA may wish to consider measures to help firms to navigate the transition to the new Rulebook. For example, specialists are familiar with particular CRR articles and it is useful to signpost the changes. We note that the draft Basel 3.1 Rules as set out in CP16/22 include references to CRR articles and we view this as a helpful approach which the PRA should continue as it migrates onshored legislation into its Rulebook.

By Ruth Doubleday  
Head of Prudential Regulation  
[ruth.doubleday@bsa.org.uk](mailto:ruth.doubleday@bsa.org.uk)

York House  
23 Kingsway  
London WC2B 6UJ

020 7520 5900  
[@BSABuildingSocs](https://twitter.com/BSABuildingSocs)  
[www.bsa.org.uk](http://www.bsa.org.uk)

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The Building Societies Association (BSA) is the voice of the UK's building societies and also represents a number of credit unions.

We fulfil two key roles. We provide our members with information to help them run their businesses. We also represent their interests to audiences including the Financial Conduct Authority, Prudential Regulation Authority and other regulators, the Government and Parliament, the Bank of England, the media and other opinion formers, and the general public.

Our members have total assets of over £477 billion, and account for 23% of the UK mortgage market and 18% of the UK savings market.