

## **The PRA's approach to consultation**

1. This note responds to the request from the Government<sup>1</sup> for an explanation from the Bank of England and FSA as to how the PRA will consult. This will be reviewed by the PRA Board once the PRA is established.

## **The PRA's statutory duties under the Bill**

2. The PRA will recognise the importance of appropriate engagement and consultation with the firms it will regulate and other interested parties. In addition it has statutory obligations as set out in the draft Financial Services Bill.
3. General duty: the Bill provides that the PRA shall make arrangements for consulting the firms it regulates, as well as representatives of those firms, about its general policies and practices and their consistency with its statutory duties. In particular, the PRA is required to consult on and invite views in relation to:
  - whether its general policies and practices promote the achievement of its objective to promote the safety and soundness of firms and its insurance objective; and
  - the extent to which the PRA has had regard to the regulatory principles set out in the Bill in carrying out its functions.
4. The PRA is required to publish an annual report and to provide for appropriate means to comment on it. The annual report must include how the PRA has satisfied this general duty to consult.
5. Consultation on rules: the Bill requires that the PRA publish proposed rules in draft. This will enable firms and other interested parties to make representations on the proposals for the PRA to consider before making the rules. Publication of proposed rules must be accompanied by an analysis of their effect, and an explanation both of their purpose and of how they are

---

<sup>1</sup> Paragraph 3.30, HM Treasury 'A new approach to financial regulation: securing stability, protecting consumers'

compatible with the PRA's objectives. For proposed rules that would affect mutual societies as well as other authorised firms, the PRA is required also to publish a statement setting out its opinion as to whether or not there will be any significant effect of those rules peculiar to mutual societies.

## **The PRA's approach to consultation**

### *Overall approach*

6. The PRA will not be accountable to regulated firms or their representatives for delivery of its public policy objectives. It will be accountable to the public and to Parliament. But the PRA will, of course, recognise the importance of appropriate engagement and consultation with the firms it will regulate, other interested parties and, where appropriate, the wider public.
7. The PRA's general approach will be to give the firms it regulates, their representatives and other interested parties the opportunity to express views. In particular, it will look to expert practitioners to offer technical and detailed feedback on the different means to achieve the PRA's aims. The PRA will want, especially, to seek from the consultation process informed views from firms as to how the proposed means of achieving its objectives on particular fronts will affect their particular businesses. More generally and as part of its routine regulatory activities, the PRA will have regular senior level contact with firms bilaterally and in groups.
8. The PRA will not establish a standing practitioner panel comprising a fixed group of practitioners. The PLS committee were concerned that an obligation to create such panels could lead to regulatory capture. Also, given the breadth of issues on which the PRA will be consulting, the Bank and FSA believe that such an approach would not be effective. Further, the establishment of a panel could give a misleading impression that the firms on such panels had preferential or inside status in their dialogue with the PRA. The PRA will on

occasions draw together temporary groups, comprising practitioners and other experts, where it judges that a focussed discussion of technical points will be helpful.

### *Policy and rules*

9. In fulfilling its statutory obligations to consult, the timing and nature of the PRA's engagement with firms and other interested parties will depend on the complexity of the particular issue, its likely effect and its scope. In general, the more complex the issue, the earlier the PRA will generally seek to engage.
10. Consultation will take place among all firms likely to be affected by any proposed rule changes. The PRA will, according to the circumstances, publish a response explaining its conclusions in light of consultation. It will also air important points coming out of the PRA's conclusions. Relevant papers will be publicly available.
11. The introduction of the FSA's code of practice for the relationship between the external auditor and the supervisor in 2011 provides an example on which the PRA will draw on in terms of consultation how to achieve the regulator's aims, including discussions with interested parties about technical aspects of the policy. The Bank of England's consultation on extending eligible collateral in the Discount Window Facility in 2010 is a further example of the approach to structured consultation that the PRA will undertake to gain detailed technical input from expert practitioners.
12. Many rules will be determined at EU level. Working with the rest of the Bank, the PRA's role will be to support the UK's engagement in those discussions. To the extent that an EU regime is not given effect via directly-applicable Regulations, the PRA will implement that regime by enacting new PRA rules. Formal consultation by the PRA on such rules will, in practice, be too late to alter the substance of the rules, and where that is the case the PRA will make that clear. The PRA will not replicate or substitute for the EU and UK Government consultation mechanisms. Its contribution to the EU policy-

making process will, however, be informed by engagement with market practitioners on technical matters.

*Approach and effectiveness*

13. Under the Bill, the PRA will publish an annual report, including on the way in which the PRA has discharged its functions during the previous year, the extent to which it has advanced its objectives and, in doing so, has had regard to the regulatory principles set out in the Bill and satisfied its general duty to consult. It will invite public comment on this report.