

**MEMO# 33565**

June 2, 2021

# **ICI Global Response to the FCA's Second Consultation on the UK Investment Firms Prudential Regime**

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TO: ICI Global Members SUBJECTS: MiFID, EMIR, AIFMD, UCITS V RE: ICI Global Response to the FCA's Second Consultation on the UK Investment Firms Prudential Regime

On May 28, 2021, we submitted the attached comment letter providing feedback on the UK Financial Conduct Authority's (FCA's) second consultation on the implementation of the Investment Firms Prudential Regime (IFPR).[\[1\]](#) The IFPR - a new prudential regime for investment firms authorized under the Markets in Financial Instruments Directive (MiFID) - creates a single, proportionate regime that is intended to reflect firms' size and business.[\[2\]](#)

The consultation addresses:

- remuneration requirements;
- remaining aspects on own funds requirements (such as the fixed overheads requirement);
- the basic liquid assets requirement; and
- risk management - the Internal Capital and Risk Assessment (ICARA) process.

The FCA intends to publish near-final rules on the first consultation shortly and to conduct the third consultation on the remaining aspects of the IFPR in Q3 2021. Policy statements for the second and third consultations are expected to be published later in 2021. Firms subject to the IFPR will be required to comply with the new regulations beginning January 2022.

We provided feedback on the remuneration aspects of the consultation. Our comments included the following:

- The FCA proposes to require that a remuneration committee (as well as risk and nomination committees) be established at entity level. We recommended that instead of permitting firms to apply for a waiver from this requirement, the FCA revise this provision to require an investment firm to notify the FCA of its intent to establish a

group remuneration committee and afford the FCA a set period of time in which to object.

- To allow for better alignment among different regimes, we requested that Collective Portfolio Management Investment (CPMI) firms that are in compliance with the requirements regarding remuneration committees under either the AIFM Remuneration Code or the UCITS V Remuneration Code be deemed to be in compliance with those requirements under the MIFIDPRU Remuneration Code.
- We expressed support for the FCA's determination not to identify material risk takers (MRTs) by reference to quantitative (pay-based) thresholds. We further requested that, to prevent individuals who do not have a material impact on the firm's risk profile or the assets the firm manages from being designated as MRTs, the criteria set out in draft rule SYSC 19G.5.3R be provided as guidelines, i.e., the firm is required to evaluate whether such individuals are MRTs rather than designate them as such based on the job title/description alone.
- We recommended that the provision requiring CPMI firms to adopt the strictest remuneration code with respect to individuals subject to more than one code be revised to instead provide flexibility to CPMI firms to apply the remuneration code that would be most appropriate for that individual under the particular facts and circumstances. Alternatively, we suggested that where individuals are caught by more than one of these three remuneration codes, firms be given the option to apportion the individual's pay so that the relevant rules apply to each portion.
- We recommended that, with respect to MRTs working for group entities in third countries, the provisions be revised to only subject a portion of such individual's remuneration to the MIFIDPRU Remuneration Code, where that portion reflects the portion of their role spent overseeing or taking responsibility for business activities taking place in the United Kingdom.
- We recommended that the FCA clarify that voluntarily over-complying with certain aspects of the remuneration regime will not result in firms being required to over-comply with other aspects (e.g., no additional regulatory remuneration or other rules apply to firms in respect of any voluntary over-compliance).
- We requested that the FCA does not implement any requirement to publicly disclose any ratios of fixed to variable remuneration set by firms.

Eva M. Mykolenko  
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#### **endnotes**

[1] The consultation paper is available at <https://www.fca.org.uk/publication/consultation/cp21-7.pdf>.

[2] The first consultation on the IFPR, issued on June 23, 2020, is available at <https://www.fca.org.uk/publications/discussion-papers/dp20-2-prudential-requirements-mifi-d-investment-firms>. We submitted a response focused on the remuneration provisions, available at <https://www.ici.org/system/files/attachments/32791a.pdf>.

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