

Consultation response

PRA CP 26/18 UK Withdrawal from the EU: Changes to PRA Rulebook and Onshored Binding Technical Standards

21 December 2018

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on **PRA CP 26/18 UK WITHDRAWAL FROM THE EU: CHANGES TO PRA RULEBOOK AND ONSHORED BINDING TECHNICAL STANDARDS**. AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society.

AFME is the European member of the Global Financial Markets Association (GFMA) a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) in Asia.

AFME is registered on the EU Transparency Register, registration number 65110063986-76.

Comments on the Senior Managers and Certification Regime (SMCR)

The FCA's proposals state that during the Temporary Permissions Regime (TPR) the existing EEA Branch regime, will continue to apply for the duration of the TRP (or the date of authorisation, if earlier). However in the event of a No-Deal Brexit, the PRA proposes that all firms currently operating in the UK under the EU passporting regime and wanting to continue operating in the TPR will be treated as third country branches from Brexit day.

In relation to the SMCR, this would mean that dual regulated firms in the TPR could be required to have at least one Senior Management Function (SMF)¹⁹ approved - in some instances more - under the PRA regime, but no change to Senior Manager arrangements under the FCA, with for instance, the CEO of the London branch continuing as an SMF 21. This is of concern since the SMCR was designed to avoid gaps or overlaps in firms' governance structures, which would appear to be an unintended consequence of the FCA and PRA's differing approaches. In this respect, firms would appreciate clarity and consistency from the FCA and PRA, rather than the flexibility to interpret the interplay between the FCA and PRA approaches.

We have already raised our concerns about how the FCA and PRA regimes will co-exist during the TPR and have had, good joint discussions with both regulators with a view to identifying a solution. We would suggest that for the duration of the TPR any Prescribed Responsibilities which feature in the third country firm regime are "switched off" until a firm is authorised as such by the PRA and the FCA and that regime applies in full. If this would not be possible, we strongly suggest that the PRA discusses with the industry whether a subset of these PRs could be disapplied to ease specific concerns about SMF overlaps between the FCA and PRA.



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