
Consultation response

FCA Discussion Paper: A new UK prudential regime for MiFID investment firms

25 September 2020

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to respond to the **FCA's Discussion Paper DP20/2 - A new UK prudential regime for MiFID investment firms (referred to hereafter as "the Discussion Paper" or "DP")**.

AFME understands that, according to the UK Treasury's policy statement 'Prudential standards in the Financial Services Bill: June update'¹, the UK will "will endeavour to introduce the IFPR and updated prudential standards for credit institutions (those contained in CRR2 for the EU) by Summer 2021, broadly consistent with the applicability date of the European Union's IFR/IFD and CRRII".

The FCA's Discussion Paper helpfully sets out the FCA's understanding of the requirements of the EU's IFR/IFD regime, as well as its views on the intention and implication of this regime, together with relevant interpretations in a UK context.

Nevertheless, there are still significant areas where further detail is required in order to implement the new requirements for investment firms (referred to as the IFPR) in the UK². Without certainty on many aspects of the IFPR, firms will be required to take decisions on implementation approaches well ahead of the rules being finalised to meet the intended implementation dates in 2021. In the absence of any counter-indication, firms will likely have to begin implementation based on the EU's version of the rules – hence there is a general risk that differences in the UK regime will either cause firms to fail to implement the requirements on time, or be implemented poorly. Generally, at least 12 months would be required to successfully implement the final rules of the new IFR in the UK.

We understand that further consultation is expected to clarify these issues and we look forward to contributing to this process.

Issues of concern to raise at this stage are:

- Timing of data collection requirements - for example, in measuring AUM for the K-AUM factor, firms must use the value of total assets under management on the last business day of each of the preceding 15 months. Collection of data therefore needs to have already started to meet a 2021 implementation date, ahead of the finalisation of the requirements.
- Scope and timing of new reporting requirements – there are a significant number of changes to be implemented next year, particularly for banking groups that are also implementing amendments to the Capital Requirements Regulation. There are therefore competing demands for technology resource to support these changes. Short implementation periods will therefore be hard to manage.

¹ See paragraph 1.26 of the [policy statement](#)

² We note also that work is still continuing also at the European level where the European Banking Authority has recently completed a series of consultations on certain RTS/ITS mandates.

In order to alleviate the above challenges, we believe it is important for the FCA to consider the use of transitional arrangements - for example retaining the current prudential regime for capital and reporting purposes for a limited transitional period.

With respect to the timing of reporting requirements in particular, we wish to highlight that the EBA's recent RTS/ITS consultations (contrary to previous timelines announced in their so-called IFR roadmap) confirm that the intended first reference date of reporting is 30 September 2021, with a first submission date of 11 November 2021, although the IFR itself is applicable from 26 June 2021.

In addition, the FCA should consider what guidance it can provide to firms in the meantime around implementation efforts – such as whether building towards the EU's IFR/IFD regime is an appropriate approach at this stage. In this context, if the UK regime is likely to be at significant variance from the EU version, a transitional approach such as the one described above will be even more important.

We look forward to ongoing engagement with the FCA on timing and implementation aspects of the IFPR and remain at the FCA's disposal to provide further illustration of the challenges mentioned above in practice.

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About AFME

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 listed on the EU Register of Interest Representatives, registration number 65110063986-76.