



By email to: CP5_24@bankofengland.co.uk

Insurance Policy Division
Prudential Policy Directorate
Prudential Regulation Authority
20 Moorgate
London
EC2R 6DA

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AFM Response to PRA CP5/24, Review of Solvency 2: restatement of assimilated law

1. I am writing in response to this consultation paper, on behalf of the Association of Financial Mutuals. The objectives we seek from our response are to:
 - Comment on the proposals and the approach taken.

About AFM and its members

2. The Association of Financial Mutuals (AFM) represents insurance and healthcare providers that are owned by their customers, or which are established to serve a defined community (on a not-for-profit basis). As a whole, the mutual insurance sector manage the savings, pensions, protection and healthcare needs of over 26 million people in the UK and Ireland, collect annual premium income of over £23 billion, and employ nearly 23,000 staff¹.
3. The nature of their ownership and the consequently lower prices, higher returns or better service that typically results, make mutuals accessible and attractive to consumers, and have been recognised by Parliament as worthy of continued support and promotion. In particular, FCA and PRA are required to analyse whether new rules impose any significantly different consequences for mutual businesses² and to take account of corporate diversity³.

¹ ICMIF and AFM, 2023: <https://financialmutuals.org/wp-content/uploads/2023/10/UK-Market-Insights-2023.pdf>

² Financial Services Act 2012, section 138 K: <http://www.legislation.gov.uk/ukpga/2012/21/section/24/enacted>

³ <http://www.legislation.gov.uk/ukpga/2016/14/section/20/enacted>

Introductory comments

4. We welcome the opportunity to respond to this consultation. We recognise the hard work that has gone into preparing to transpose the EU Solvency 2 rules into the Solvency UK rulebook, and believe that the drafting will be effective for our market. We have not sought to respond in detail to the proposals, as PRA's own assessment in Chapter 1 is that the revised rules will result in no new costs to firms, and will have no different impact on our sector than on other firms. We have therefore only commented by exception.
5. Notwithstanding the care taken to transpose the EU directive into the UK rulebook, we are not clear what action PRA can and might take if an anomaly emerges between the effects of the rules pre-Brexit, and the rule and law changes since. We would also be keen to understand better how PRA is seeking to ensure that its rules and the assimilated law continue to work as intended. We raise this point in relation to the changes in Solvency 2 thresholds, as per PS2/24: in relation to a recent query, PRA responded to suggest that from the point where the changes to threshold takes effect, the underlying Acts will "not be aligned"⁴. This appears particularly unhelpful- both in the context of Solvency 2 thresholds, but also in relation to the broader potential for misalignment. In addition, as many of the firms affected by changes to the Solvency 2 threshold are friendly societies, and not therefore subject to the Companies Act, it is unclear how PRA has sought to consider, in its policy decisions, all the wider implications of change happening in different places. We would welcome more clarity.
6. Where the consultation sets out a range of legislative dependencies, it would be helpful to understand what PRA's approach will be if the expected legislation is not enacted on time, or if the new government considers it would prefer to revisit some of the draft legislation to better reflect its future priorities. In addition, where paragraph 1.40 indicates that PRA welcomes the moving of "obligations from legislation into the PRA Rulebook", to enable a more responsive and flexible approach, this appears to contradict the response from PRA in the footnote below. Again it would be helpful to understand PRA's ambitions and approach.

⁴ PRA's response from 25 June stated: "I would highlight our PRA rules cannot alter the application of UK legislation. At the time of PS16/16, the definition of PIE in legislation included the cohort of insurers in scope of Solvency II. However, as set out in PS 2/24 (para 8.46), the definition of a PIE in s519A(1)(c) Companies Act 2006 refers to a person who would be an insurance undertaking as defined in Article 2(1) of the Insurance Accounts Directive, as that article had effect immediately before 31 December 2020, and does not directly refer to the PRA's rules, as those may be amended from time to time. As you are aware, the SII thresholds in the PRA's rules will change on 31 December 2024 at which point the two Acts will not be aligned."

7. The consultation continues to refer to the regime as 'Solvency 2', and states that PRA will continue to use this term 'until all references to Solvency 2 can be changed across all relevant materials'. It would be helpful to understand the timeline for achieving this, and what is currently preventing PRA from updating the terminology used, as well as whether firms would be expected to continue to refer to Solvency 2 in the 2024 year-end report and accounts.
8. We would welcome the opportunity to discuss further the issues raised by our response. We are happy to be included in the published list of respondents.

Yours sincerely,



Martin Shaw
Head of Policy
Association of Financial Mutuals