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Dear Ian and Janet

## **CP12/26\*\* Regulatory reform: the PRA and FCA regimes for Approved Persons**

This is the Financial Services Consumer Panel's response to CP12/26\*\* Regulatory reform: the PRA and FCA regimes for Approved Persons.

The Panel supports the proposals in the Paper, provided that the FCA is robust in exercising its effective 'veto' whenever necessary in cases of SIF applications for dual regulated firms and where the PRA has responsibility for approval for an individual to perform a dual role. The success of the Approved Persons regime post cutover therefore does depend to a large extent on the operational effectiveness of the two regulators working together. This is an area that requires careful attention.

In addition we are reluctant to endorse any kind of truncated approval process where, for example, an individual approved by the PRA applies to the FCA for subsequent approval. There is a risk that it would be taken for granted that the PRA was fully aware of any issues that could impact on an individual's fitness and propriety, resulting in approval being granted where it cannot be justified. It would be safer to risk duplication of effort in the early post-cutover period, than to risk allowing individuals to slip through the regulatory net.

### ***Q1: Do you have any suggestions about how we could achieve the desired outcomes we were trying to achieve with the introduction of CF31, as an interim measure and without the need for systems developments?***

We do not think there is any real substitute for introducing the new controlled function. Nevertheless rigorous enforcement of senior accountability for the operation of regulated mortgage business would go some way towards raising standards and achieving the desired regulatory outcomes. For example, individuals

undertaking the compliance oversight role do share responsibility for the compliance of the business as a whole. In addition, the enforcement of the existing principles for business of treating customers fairly and conducting business with integrity should address some of the shortcomings that the FSA is seeking to resolve.

**Q2: Do you agree with this approach to ensuring that the PRA and FCA will continue to be able to assess a person's suitability for all the key aspects of their role, without routinely requiring applications to be made to both regulators? If not please explain your concerns and any suggestions for an alternative approach.**

We agree a pragmatic approach is called for and that the proposals in the Paper seem likely to avoid unnecessary duplication.

In cases such as the approval of the chief executive, where responsibility falls to the PRA (Table 1), it is vital that the FCA exercises its effective right of 'veto' where it considers the individual is not a fit and proper person to undertake the conduct aspects of the role. This would include important areas such as being responsible for the firm's culture and approach, including embedding the principle of Treating Customers Fairly within the organisation.

A similar situation arises with the with-profits actuary. This appointment too will be PRA-approved, but issues around the fair treatment of with-profits policyholders - a complex area – will rest with the FCA.

Paragraph 3.12 of CP12/36\*\* states that the PRA will assess suitability for both PRA and FCA roles. Again we would like the FCA to guard against any drift towards the prudential focus of the PRA taking precedence over the conduct perspective. Further, paragraph 3.13 states that 'only the PRA controlled function will be shown on the public register'. This could be seen to imply that the PRA has a controlling role in the approval processes that could begin to side-line the FCA.

**Q3: Do you agree that we have identified where PRA and FCA controlled functions are most likely to overlap (Table 2)?**

Yes, we think the list captures the likely overlap.

**Q4: Do you agree with our proposed approach for managing situations where someone changes their role and moves between the PRA and FCA controlled functions?**

It is not clear to us whether all Approved Persons will be subject to continuing, or perhaps periodic, reassessment of their fitness and propriety. If no such arrangements are in place we would not support the use of the kind of streamlined application process set out in paragraph 3.19 of the Paper. Instead, each new application should be considered in full. If, for example, an individual has been approved by the PRA but is subsequently involved in activities which raise questions over his/her integrity without the PRA being aware of it, he/she could be 'waved through' by the FCA. This would create risks for consumers and for the regulator.

**Q5: Do you agree with our proposed approach to the non-executive director function?**

We have no objection to this approach. We would like the FSA to move swiftly to bring forward proposals for those sitting on with-profits committees.

**Q6: Do you agree with our approach to CF28, and how it operates where someone also performs an FCA governing function?**

Again, we have no objection to this approach providing that any application to the FCA is more than a 'rubber stamping' exercise.

**Q7: Do you agree with our proposals to extend the scope of the APER standards in the ways set out above? If not, please explain the reasons for your objection.**

We support the proposed extension of APER standards. We do not think this represents a major or intrusive change to the approved persons regime. As is made clear in the Paper, the FSA (and consumers) expect individuals to meet the same high standards of behaviour in all aspects of their roles – nothing else would make sense. On the basis of this common sense principle we would like the APER standards to cover an individual's conduct as a whole, whether related to FSA/FCA regulated business or not.

**Q8: Do you agree that these proposals to amend the wording and application of the Statements of Principle in APER are appropriate given the responsibilities of the PRA and FCA?**

Yes, we agree that the revised wording and application of the Statements are appropriate.

Yours sincerely

Adam Phillips  
Chair  
Financial Services Consumer Panel