

FPC Housing Consultation
Financial Stability Group
Room 1/34, HM Treasury
1 Horse Guards Road
London, SW1A 2HQ

By email: FPChousingconsultation@hmtreasury.gsi.gov.uk

27 November 2014

Dear Sirs

HMT: The Financial Policy Committee's housing policy market tools

The City of London Law Society (“**CLLS**”) represents approximately 14,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi-jurisdictional legal issues. The CLLS responds to a variety of consultations on issues of importance to its members through its 19 specialist committees.

This letter has been prepared by the CLLS Regulatory Law Committee (the “**Committee**”). The Regulatory Committee not only responds to consultations but also proactively raises concerns where it becomes aware of issues which it considers to be of importance in a regulatory context.

The Committee does not propose to comment on the substance of the proposals, but in response to Question 12 (about procedural requirements) we support the Government’s proposed approach. As the Government recognises, there is nothing inherent in the proposals to render the usual procedural requirements required for FCA and PRA rule-making inappropriate. They are, of course, required when the PRA or FCA are mandated to make or revise rules as a result of other changes in statute or European law (except in the cases of urgency identified in the Consultation Document), and are important to ensure that the PRA and/or FCA expose for consultation the way in which they propose to exercise that mandate.

In addition, the Consultation Document contemplates that the FPC direction will be temporary while the concern about stability remains (though potentially in place for a lengthy period). There is, however, no discussion of what should happen to the PRA/FCA rules implementing a temporary direction when that direction is withdrawn or amended. In

the latter case, it is difficult to see how the amendment could be consulted on effectively without describing what is proposed to happen to the rules adopted to implement the original direction. In the former case there remains the possibility that the PRA/FCA could decide to retain their implementing rules after a temporary direction is withdrawn. If the imperative for the existence of those rules is gone, the appropriate result should be for the rules automatically to fall away at the same time (or for there to be an obligation on the PRA/FCA to remove them) unless the PRA/FCA is able to justify retaining them under their general rule-making powers with the benefit of the consultation and cost-benefit analysis required by the Financial Services and Markets Act.

If you would find it helpful to discuss any of these comments then we would be happy to do so. Please contact either Peter Richards Carpenter by telephone on +44 (0) 20 3400 4178 or by email at peter.richards-carpenter@blplaw.com, or Karen Anderson by telephone on +44 (0) 20 7466 2404 or by email at Karen.Anderson@hsf.com in the first instance.

Yours sincerely




Karen Anderson

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