UK Finance response to PRA CP 2/21:

International banks: The PRA's approach to branch and subsidiary supervision

April 2020

UK Finance and its members welcome the opportunity to provide comment on the PRA's recently released Consultation Paper 2/21 (CP) and the associated revised Supervisory Statement (SS).

The revised draft SS provides additional clarity for which is appreciated by our firms. Its clear description of requirements will support the optimisation of resource deployment by our Members, providing assurance to both the industry and supervisors that required standards are being met. Such clearly articulated set standards, combined with a high quality and well implemented supervisory regime, are part of what attracts international banks and groups to the UK. However, whilst noting these benefits, we would encourage the PRA to ensure that the added specificity contained in the revised SS does not diminish the ability to operate a flexible and bespoke approach to supervision that fully reflects each firms' individual business model, risk profile and governance structure.

UK Finance fully supports the PRA's re-iteration of its commitment to ensuring the UK remains an open and attractive location for global banking groups. We recognise and welcome the acknowledgement of the efficiency benefits brought by banks' international operations (Draft SS, para 2.5). We encourage the PRA to continue to promote the location of low-friction international banking and trade in the UK, including within branches, alongside supporting banks' export of financial services.

The CP and revised SS's commitments to building strong, trusting international relationships with other regulatory bodies, and importantly an international bank's own home state regulator, are also welcomed. UK Finance and our Members note that a focus on meeting international standards (without gold-plating them) and effective co-operation between jurisdictions can ensure prudential and supervisory risks are comprehensively addressed, whilst also reducing unnecessary duplication of activity.

This response outlines comments from UK Finance and our Members, organised thematically. We would be pleased to facilitate any further discussion with our Members on the response, or on any further related topics.

Response

General Comments on the replacement SS

UK Finance and its Members appreciate the added clarity provided by this CP and the updated SS about the PRA's supervisory expectations of foreign banks operating in the UK either as subsidiaries or branches of the parent bank. As noted in the CP, many banks are currently undergoing (or have recently undergone) some form of structural change, either due to normal business evolution or as a response to the UK's final departure from the European Union and the associated impact on operating models. For firms undergoing periods of change, these publications are a clear, timely and welcome reminder of the PRA's expectations.

The PRA has demonstrated a very welcome practicality regarding flexibility and proportionate, risk sensitive supervision throughout the business disruption caused by the COVID-19 pandemic, whilst still ensuring that international banks continue to operate safely and effectively in their support of the businesses impacted by the economic disruption it has caused. Industry recognises and appreciates the continued measures taken by the PRA to take a bespoke and tailored approach to supervision (as stated in 2.10 of the SS). Industry suggests that the PRA seeks to retain its ability to act in a proportionate, agile manner and to use its discretion, and to ensure that the updated SS (as a more prescriptive document) does not hamper this ability. Preserving flexibility to be able to respond to each individual firm's situation benefits both banks and regulators, who are able to take informed and appropriate action where needed.

Openness

UK Finance welcomes and encourages the statements of support for open financial markets and the role of international groups in the UK that are found in both the CP and revised SS. Members particularly support the comments in the CP, stating that the PRA recognises that increased openness can *"lead to lower economic volatility"* (CP Section 1.8) by helping to diversify risk. Firms welcome the statement that *"the PRA is open to international banks operating in the UK on a highly integrated global basis or more stand-alone"*, and the remarks of section 2.5 and 2.6 of the SS. Industry welcomes this reassertion of the PRA's commitment to international firms.

The PRA may wish to explore with other regulatory bodies and Government how such a principle of openness can be taken further and reduce barriers to global banking activities in the UK. Brexit and the ongoing COVID-19 disruption have led to significant challenges for firms. Whilst these challenges are being effectively managed now, the PRA should remain mindful of such impacts and continue to support firms wherever possible. Proactively supporting international firms enables the UK financial system to continue to benefit from its role as a global banking hub and the associated benefits to the UK.

The PRA's stated openness to hosting highly integrated and global booking models (SS para 5.15) is welcomed. Industry recognises the PRA's existing framework and the allowances for remote booking (with the necessary controls).But in day to day supervisory practice, our members tell us, the PRA's supervisory approach to booking models is cautious, somewhat diluting the top-level policy intent. Added clarity and dialogue on the approach to remote booking from the PRA, coordinated with the FCA, would be welcomed. UK Finance also notes that remote booking brings benefits for financial market participants, including those associated with the free flow of capital, that are very much in line with the PRA's stated aims of 'responsible openness' and participation in an effective, efficient global market.

Alongside our response to this CP, we would encourage the PRA to note UK Finance's recent publication "The UK and International Trade in Financial Services: Defining a UK trade policy for banking and related financial services". Our paper addresses in detail many of the wider issues relevant to this area, in terms of promoting openness and supporting international firms in the UK, including the application of non-discrimination between foreign and domestic suppliers; the value of thoughtful approaches to the balance in host and home state requirements between trusted partners; transparency and proportionality in regulation and supervision, and robust and collaborative mechanisms for regulatory cooperation. We would also note UK Finance's recent response to the HMT Call for Evidence on the UK overseas framework, which makes further points regarding the benefits of openness, in particular regarding the Overseas Persons Exclusion (OPE).

UKF would welcome and happily support further dialogue on this matter between industry and the PRA and its regulatory partners.

International Co-operation

UK Finance members encourage the PRA to continue to support international regulatory and supervisory co-operation arrangements, such as efforts to boost cross-border activity and access for firms (such as the resumption of Swiss share trading in the UK), and to promote more efficient and competitive capital markets. Industry supports the PRA's open approach and reciprocity in such discussions, further engendering supervisory trust and promoting global business models that effectively manage risk. We note the importance of building strong relationships between regulators across the globe as a key mechanism for managing global and cross-border risks, further supporting the need for commitment to growing and maintaining international co-operative links.

Industry would also be interested to know of any decisions made regarding topic-specific international co-operation, for instance Operational Resilience regimes. Section 4.24 of the revised SS notes that the PRA will "*consider the robustness of the home state's OpRes regime*" but does not expand on how such analysis would be undertaken. However, UK Finance notes the clarity provided by the March 2021 policy statement PS6/21 and SS/21 regarding the impact of Operational Resilience requirements on groups, including the confirmation that different jurisdictions may take different views on prioritisation, but the principles may still be aligned allowing for effective cross-border collaboration (PS6.21, 11.6) Structured collaboration and transparent joint working between home and host state on this, and other, topics will improve efficiencies, standardisation and effectiveness of measures deployed by international firms, which we strongly support.

The CP states that the PRA may require separation between a branch and its group/parent if the regulator is not satisfied with the firm's co-operation with their supervisors, or if the firm's activities and/or risk management processes and procedures are inadequate. UK Finance encourages the PRA to continue to focus on international standards and co-operation, both with home state regulators and international bodies, as a mechanism for understanding and mitigating the risks arising from the operation of cross-border banking businesses. Such activity can support the PRA's access to information and its ability to use appropriate supervisory mechanisms, whilst still allowing firms to operate according to their own chosen most efficient and effective structure.

Structure

The further clarity regarding the framework for and expectations of the PRA regarding supervision of international banks' branches, as described in Section 5.1 of the SS, is welcomed. UK Finance notes the clear expectations and procedures that the PRA has laid out, detailing how and when action may be taken. We encourage the PRA to continue to pursue initiatives with other prudential regulators and supervisors to improve cooperation, consistency and transparency in approaches to regulating bank branches operating in the UK.

Section 5.2 notes the PRA is likely to be more comfortable with branches and their integration into the wider global operations when the branch meets the expectations set out in the SS. This statement is acknowledged and understandable, but UK Finance encourages the PRA to also take into account the benefits of global, integrated structures, as opposed to an approach that only focuses on risk. Branches, for example, are an effective structure for many banks, allowing for smooth global integration and effective capital management whilst still providing the host regulator with strong levels of control and assurances of safety. Other benefits of branches include:

- Branches are integrated in the resolution and recovery plan of the home entity, which helps to mitigate any financial stability risks to the local, host financial system. Similarly, a branch's liquidity and capital position are integrated with the Group's, whilst benefiting from oversight of host supervisors;
- From the local financial system's perspective, branches can improve competition, diversification of asset risks, funding sources and investment allocation in local capital markets. End users, such as domestic multinational business enterprises and financial institutions (e.g. pension fund managers, asset managers) have greater choice, market liquidity, and can manage their risks by transacting with the same legal entity on a global basis for their corporate and cash management needs;
- Operational efficiencies including IT, people, and risk management system optimisation;
- Diversification of a global bank's assets and its large pool of capital and liquidity, which as a result, can reduce credit and liquidity risks faced by the worldwide entity. A global approach to centralised management and netting of exposures and trading activities through worldwide booking, such can lessen risk levels both overseas and in the UK.

We encourage the PRA to take due consideration of these benefits to the UK (and global) financial system in its assessment of a branch.

Information Requests

Industry naturally recognises the need for the PRA to access relevant regulatory and supervisory information and acknowledges the requirements for higher amounts of data from systemic wholesale firms (the examples provided in Box 1 of the draft SS provide helpful clarity on expectations). UK Finance welcomes the PRA's commitment to continuing to take a proportionate approach to information sharing, so that firms with lower assets and less systemic risk are not unduly burdened by additional local reporting requirements. UK Finance notes the comment within Box 1 stating that "*information that the PRA expects to have access to will be proportionate"* and would encourage the PRA to ensure this ethos is reflected in the application of the SS by its bank-facing supervisory teams.

Some firms have reported that PRA requests can include duplication of information, including repeated requests for details of booking models that supervisors may already hold. Members are content to provide all necessary information to regulators on such issues but would appreciate if efforts to reduce duplicative requests could be made. For instance, some firms have reported receiving multiple requests for identical information but formatted in a differently. Industry believes such processes could be streamlined, and flexibility in templates increased, to reduce the burden on both sides, whilst still meeting the expectations as set out in the revised SS (and throughout the PRA's supervisory approach). UK Finance would be happy to facilitate further industry engagement on the details of this point.

Industry would also encourage the PRA to be mindful of the different requirements of banks' home state regulators. Certain requests made by the PRA may be for information that is not required, or is even not permitted to be collected, by the home state, making it impossible for the branch to comply with this requirement (for example, the provision of a group recovery plan, which is not currently mandated in multiple jurisdictions). In general, we would strongly urge the PRA to communicate/route requests for sensitive and confidential information, especially information that has significant read-across to the rest of the group, through the home state supervisor. This will avoid the firm having to mediate the sharing of information with the PRA. The PRA should anticipate this arising occasionally in some situations and secure a proportionate and appropriate solution that enables the information request to be fulfilled by branches.

Senior Managers Regime and accountability

Our members would appreciate further guidance on how Groups should apply the SMR in relation the PRA's expectations of those holding the SMF7 - Group Entity Senior Manager Function. We welcome the fact that the thresholds for SMF 7 appointment are not prescriptive, but some members would welcome a greater understanding of where they might lie.

We note too that in some cases, the PRA's regime may not sit easily in large, complex Group structures where subsidiaries are regulated as separate firms but are subject to Group policies and processes. Overall, our recommendation is that where the PRA has a good, open trusting and formalised dialogue with the home state regulator any such issues should be addressed and resolved in the Group's supervisory college.

Domestic regulatory and policy co-ordination

The UK's regulatory regimes applicable to overseas firms are currently distributed across statute (primary and secondary legislation), regulators' rulebooks, supervisory statements, and in some cases existing EU publications (e.g. guidelines that have not been on-shored).

This fragmented nature of regulatory and supervisory requirements can complicate compliance for firms, both incoming and established, and inhibit the selection of the most effective regime for a particular business model. In its reviews of international regulation, UK Finance encourages the PRA to work closely with other regulatory and legislative bodies to ensure any changes are fully co-ordinated and complementary across the entire rulebook.

In particular, industry would welcome further information on the PRA's interaction with recent HMT and FCA consultations on the international regime, including how implementation of these initiatives will be coordinated to produce new policy or approaches. Close co-ordination can help ensure regulators' aims are complementary, reduce miscommunication, and allow for firms to enact comprehensive strategies holistically in confidence of meeting all requirements.

Concluding Remarks

Industry welcomes the publication of the revised SS, which is a useful and timely reminder of existing supervisory expectations and requirements for international firms. UK Finance's Members appreciate the PRA's ongoing efforts to engage with the industry on this matter.

Banks, the wider business community, and ultimately consumers benefit from the UK's status as a global banking hub, and the PRA is right to recognise the benefits this brings. UK Finance looks forward to working with all UK authorities, including the PRA, to consider what more can be done to ensure that the UK's banking and financial market remains vibrant, globally integrated, and open; both for the benefit of the sector itself, but also the associated gains in market stability from effectively managed global risk.

Industry remains committed to meeting the high standards set by the PRA, including necessary reporting and controls. However, these should continue to be applied in a consistent, proportionate, and transparent manner; UK Finance's supports the PRA's ongoing commitment to this supervisory strategy. We also encourage the PRA to view the advantages of business structures (particularly the benefits of branches) alongside perceived concerns when assessing firms.

Thank you for the opportunity to submit these comments. UK Finance and our members would welcome the opportunity to discuss them in more detail.

Responsible Executive

✉ cicely.dudley@ukfinance.org.uk
☎ +44 (0) **7921 498 183**