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Governance, Remuneration and Controls Policy Team, Prudential Policy Directorate
Prudential Regulation Authority
20 Moorgate
London
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Email: CP16_24@bankofengland.co.uk

Dear Sir / Madam,

FCA and PRA Consultation Papers on Remuneration Reform

The City of London Law Society ("**CLLS**") represents approximately 17,000 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 specialist committees.

This response to the Prudential Regulatory Authority's (the "**PRA**") and the Financial Conduct Authority's (the "**FCA**" and together, the "**Regulators**") respective consultation papers on remuneration reform, CP 16/24 and CP 24/23 (the "**CPs**") has been prepared by the CLLS Regulatory Law Committee (the "**Committee**" or "**we**"), a list of whose members can be found on the CLLS website.

Introductory remarks

The CLLS welcomes the intent and objective of the proposed amendments within the CPs to the FCA's Dual-regulated firms Remuneration Code SYSC 19D, the PRA's Remuneration part of the PRA Rule Book and Supervisory Statement 2/17.

In particular, the CLLS notes the intention to simplify the regime and fulfil the PRA and FCA's secondary objective to facilitate growth in the UK economy, while maintaining a proportionate framework that ensures accountability for risk and appropriate outcomes for consumers and markets.

The CLLS agrees with the intention and detail of these proposals and suggests that the Regulators consider applying similar reforms to the SYSC 19G remuneration framework that applies to solo-regulated investment firms.

Increasing the thresholds for the disapplication of specific remuneration requirements for MRTs

The Committee agrees with the proposals to increase the quantitative threshold below which certain remuneration rules including requirements on (i) retained shares or other instruments, (ii) deferral, (iii) and enhanced clawback rules are disapplied.

Under the current rules, in order to benefit from such disapplication, the annual variable remuneration of the individual must not exceed £44,000 and their variable remuneration must not be more than one third of their total annual remuneration. The proposed increase would be to a threshold of total remuneration that does not exceed £660,000 and variable remuneration that must not exceed 33% the total remuneration.

The CLLS agrees that this increase is more reflective of current remuneration packages in the UK in 2025 and the competitive environment which the UK's financial system operates, while still requiring firms to align their employees' incentives with the long-term prudential health of the firm through the application of the rules on performance adjustment, and where an employee's variable remuneration exceeds 33% of their total remuneration, the application of the enhanced remuneration requirements.

The CLLS considers that a similarly proportionate approach should be adopted for investment firms and individuals subject to SYSC 19G (the remuneration code for MiFID investment firms). In particular, the CLLS suggests that the FCA consider whether the quantitative exemptions under SYSC 19G.5.9R(1) which are currently set at an amount of total annual variable remuneration which must not exceed £167,000 and represent more than one third of total annual remuneration, should be increased.

Adopting a similarly proportionate approach for investment firms

The CLLS notes that the proposed increased thresholds for dual-regulated firms and banks in the CPs is similar to the previous approach taken in PS16/23, which disapplied malus and clawback for small banks and dual-regulated firms and increased the quantitative threshold at which small banks and dual-regulated firms would fall within the scope of this disapplication.

The CLLS consider that the current proposals in the CPs, when taken together with the approach implemented by PS 16/23, creates the risk of an increasingly unlevel playing field between solo regulated firms subject to SYSC 19G, when compared with banks and dual regulated firms.

In particular, under SYSC 19G the malus and clawback requirements apply to all firms which are "non-SNIs", i.e. firms which exceed any of several thresholds including, including (i) £1.2 billion assets under management, (ii) £100 million on- and off-balance sheet assets, or (iii) £30 million total annual gross revenue from investment services and activities. A large proportion of UK investment firms exceed one or more of the relevant thresholds, and the CLLS notes that these thresholds are far lower than the equivalent £4 billion or £20 billion thresholds for small banks or dual-regulated firms, respectively.

The CLLS strongly encourages the Regulators resolve this disparity so as to apply the malus and clawback requirements only to "large" non-SNI firms, i.e. those with:

- more than £100 million on- and off-balance sheet assets; or
- more than £300 million on- and off-balance sheet assets and either: of more than £150 million on- and off-balance sheet trading book business; or
- more than £100 million on- and off-balance sheet derivatives business[1].

These are existing proportionality thresholds used across the IFPR rules for the application of enhanced requirements to larger and more complex investment firms. Such enhanced requirements include the additional remuneration requirements under SYSC 19G. In our view it would be appropriate to apply the above thresholds for the malus and clawback and remuneration disclosure requirements as well, given the changes introduced for small banks and dual-regulated firms as described above.

The CLLS also notes that in some sectors in particular, there already exist features of variable remuneration structures which inherently promote prudentially sound management: investment firms that manage or advise on alternative investment fund portfolios (i.e. private equity and other private capital managers) typically have staff compensation arrangements that are based on fund performance (such as carried interest). Such arrangements already inherently align the interests of staff with those of clients or investors, without the need for malus and clawback provisions.

Removing those requirements would therefore not materially increase the risk of conflicts of interest or other negative client or investor outcomes that the relevant rules are designed to mitigate against.

Further, these changes would realise many benefits in practice, including a significant reduction in the costs and administrative burden for impacted firms.

[1] SYSC 19G.1.1R.

We hope the above feedback will be useful to you. If you would like to discuss any of these comments then we would be happy to do so. Please contact Hannah Meakin by telephone on +44 (0)20 7444 2102 or by email at hannah.meakin@nortonrosefulbright.com in the first instance.

Yours faithfully

Hannah Meakin
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