

Memorandum of Understanding

between the Prudential Regulation Authority
and The Pensions Regulator

Purpose and scope

1. This Memorandum of Understanding (MoU) concerns the arrangements for co-operation and co-ordination between the Prudential Regulation Authority (PRA) and The Pensions Regulator (TPR) in carrying out their respective regulatory responsibilities under the Financial Services and Markets Act 2000 (FSMA), the Pensions Acts of 2004 and 2008 and other relevant legislation.
2. Its purpose is to facilitate and provide a framework for co-operation and co-ordination between the PRA and TPR having regard to their respective statutory objectives and responsibilities, and to aid, through clarity and transparency, understanding by firms, Parliament and the public of the respective objectives and responsibilities of the PRA and TPR.
3. The PRA is the statutory prudential regulator for deposit-takers, insurers and designated investment firms. TPR is the statutory regulator of work-based pensions, ensuring that people responsible for providing access to and managing work-based pensions fulfil their obligations. Some PRA-authorised firms provide work-based pension schemes to their employees and ex-employees, and some of these firms also offer financial products and services in support of work-based pension schemes (such as investment management or administration services).
4. The arrangements set out in this MoU are subject to what is permitted and required by law (including the obligation of each organisation to have regard to its objectives, when considering each case to which the arrangements apply).



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Roles and responsibilities of the PRA and TPR

5. The PRA is responsible under FSMA for the authorisation, in conjunction with the Financial Conduct Authority (FCA), and prudential supervision of individual deposit takers (including banks, building societies and credit unions), insurers (including friendly societies) and designated investment firms. Its general objective is to promote the safety and soundness of PRA-authorised firms and that objective is to be advanced primarily by seeking to minimise any adverse effects of firm failure on the stability of the UK financial system and to ensure that firms carry on their business in a way that avoids adverse effects on the stability of the UK financial system. In the case of insurers, the PRA has the additional objective of contributing, through its prudential supervision of insurance firms, to the securing of an appropriate degree of protection for policyholders.
6. TPR's objectives are protecting the benefits of members of occupational pension schemes; protecting the benefits of members of personal pension schemes where direct payment arrangements are in place; reducing the risk of situations arising that may lead to compensation being payable under the Pension Protection Fund (PPF); promoting, and improving understanding of, the good administration of work-based pension schemes; and to maximise employer compliance with employer duties and employment safeguards under the Pensions Act 2008.

Information sharing: general

7. Timely and focused exchange of relevant information is essential to delivering effective co-ordination and co-operation in the necessary areas.
8. The PRA and TPR may request information from each other and will include the details of the information sought and the legal gateways it considers are available to permit sharing. Each may suggest a reasonable deadline for response, including an explanation of any urgency.

Confidentiality

9. In accordance with relevant legal obligations, the PRA and TPR will protect the confidentiality and sensitivity of all unpublished regulatory and other confidential information received from the other regulator.
10. Where one regulator has received information from the other, it will consult with, and where legally required, obtain the consent of, the other before
 - i. passing the information to a third party; or
 - ii. using the information in an enforcement proceeding or court case.
11. The PRA and TPR will liaise, where relevant, to the extent permitted by law and having regard to their respective objectives, on responding to enquiries from the public, including Freedom of Information requests and will consult each other before releasing information originally belonging to the other.

Areas of common or similar interests

12. There are a number of areas in which the objectives or responsibilities of one regulator may be relevant to the objectives or responsibilities of the other, including, but not limited to:
 - Some PRA-authorised firms provide work-based pension schemes to their employees and ex-employees, including defined benefit (DB) and defined contribution (DC) schemes. The benefits of DB schemes are defined in the scheme rules and accrue independently of the members' contributions payable and investment returns, any shortfall being met by the employer; in contrast, the benefits of a DC scheme are dependent on contributions paid and investment returns
 - Some PRA-authorised firms provide pension services to employers. In particular, insurers may provide pensions into which employers can enrol their employees, such as DC group personal pension schemes or master trust pension schemes which can bundle together a number of services (for example trust, investment management or administration services)
 - PRA-authorised firms may provide investment products and other services to work-based pension schemes, such as trustee services, investment management or administration services¹

¹ Conduct regulation of these products and services is undertaken by the Financial Conduct Authority.

- Pension schemes and PRA-authorized firms manage risks associated with economically similar or connected contracts, for example, the long term liabilities associated with savings contracts provided via life insurance and pension provision
- The safety and soundness of PRA-authorized firms and any adverse effects for their respective statutory objectives that arise from the way in which one or more firms, or individuals involved in the firms, carry on their business. This includes effects on individual firms in relation to governance, solvency, pension liabilities, and effects on the stability of the UK financial system.

Policy and rule-making

13. The PRA and TPR will make rules and/or policies in pursuit of its separate objectives. The PRA and TPR will seek to co-ordinate work on their respective policies that have a material effect on the objectives of the other regulator. This may include, as appropriate, regulatory policy; regulatory materials, such as rules, guidance, codes of practice, or supervisory statements; industry standards; and any other issues that may be identified on an ad hoc basis.
14. The PRA and TPR share an interest and will seek to exchange views on policy analysis relating to pensions and any other areas that are relevant to meeting the objectives of either organisation. This includes areas such as statistical modeling; forecasting; assessments of regulatory and market developments and risks, including the effects on the stability of the UK financial system; and, co-ordination on resolvability. It also includes analytical methodologies used to support regulatory decision-making, such as those used to assess capital-adequacy requirements or the identification of assets which can be offset against pension scheme liabilities.
15. The PRA and TPR share an interest in the effect of changes to the international and domestic legislative framework (eg ring-fencing, capital adequacy requirements, depositor preference) as legislation can impose new requirements on their respective authorities and PRA-authorized firms. Both regulators have an interest in being involved in, and co-ordinating views on the development of relevant policy and legislation.
16. The PRA and TPR will liaise, where appropriate, on any planned external communications that may have an adverse effect on the other's objectives; this may include sharing communication and publication plans.

Information sharing: specific

17. In the supervision and regulation of PRA-authorized firms and work-based pension schemes by the PRA and TPR respectively, information sharing will be required to support co-ordination and co-operation. This may include, amongst other things:
- For DB schemes provided by PRA-authorized firms:
 - Information TPR has that gives rise to concerns, or potential concerns about the effects of a firm's pension liabilities on its financial resources and whether the firm is complying with any statutory funding requirements for work-based pension schemes, both of which could affect a firm's ability to satisfy the PRA threshold conditions
 - Information the PRA has that gives rise to concerns, or potential concerns about the solvency of PRA-authorized firms, in so far as this may affect a firm's ability to support its own DB pension scheme liabilities or fulfil its employer duties under the Pensions Act 2008.
 - For financial services, including DC group personal pension schemes, provided by PRA-authorized firms to work-based pension schemes:
 - Information that either the PRA or TPR holds which gives rise to concerns, or potential concerns about PRA-authorized firms which may affect a firm's ability to meet obligations arising from financial contracts or to deliver pensions services. This may include cases of failures in governance or systems and controls, or maladministration.
18. The PRA and TPR will also have separate co-ordination arrangements in place with the FCA including information sharing.

Restructuring

19. The PRA and TPR recognise that they may both have an interest in the restructuring of PRA-authorized firms, and that they need to co-operate and co-ordinate in the event that a restructuring proposal is made in respect of a firm. TPR's interest relates to a PRA authorized firm's responsibilities in respect of an associated work-based pension scheme (whether a scheme for the firm's own employees, a scheme the firm provides for other employers, or a separate scheme to which the firm provides services). Nothing in this paragraph influences whether the conditions for the PRA triggering the UK's special resolution regime under section 7 of the Banking Act 2009 are satisfied.

Regulatory actions in relation to PRA- authorised firms

20. The PRA and TPR are interested in the effect that the exercise of their respective powers on PRA-authorized firms may have on the ability of the other to advance its objectives. Both regulators are particularly interested in those actions which may adversely affect the solvency of a firm, its ability to support its own work-based pension scheme liabilities or to meet its obligations to other work-based pension schemes via financial contracts or other services.
21. There are areas where the PRA and TPR have complementary functions and powers which may lead to investigations and enforcement action which are relevant to the other's objectives. The PRA and TPR may therefore share information on investigations and notify the other, where appropriate, about any relevant action under consideration or taken against a PRA-authorized firm, individuals employed by such firms, or in connection to a work-based pension. This includes, for example, the PRA's exercise of its functions in relation to banking and insurance business transfers under Part 7 of FSMA, and TPR's exercise of its 'anti-avoidance powers' (including the issuance of Contribution Notices and Financial Support Directions).
22. In particular, to the extent permitted by law and having regard to their respective objectives, powers, expertise and resources, the PRA and TPR will seek to ensure that:
 - they notify each other of significant developments where the other is likely to have an interest and discuss, where appropriate, the steps they propose to take; and
 - co-ordination takes place in a timely manner including, where possible, allowing time for a proper exchange of views.
23. The PRA and TPR may refer a matter to the other for action, if the other is considered more appropriate to deal with the matter. Any such referral will include the action sought and the legal powers it considers are available to the other. Where the other determines not to proceed, an explanation will be provided, where possible given the circumstances.

Co-ordination with other authorities

24. The PRA and TPR will liaise with each other and co-ordinate their activities as appropriate on European and international developments on pension matters, including the relevant work at the European Insurance and Occupational Pensions Authority (EIOPA) where the PRA representative is the voting member on the Board of Supervisors. The PRA and TPR will, to the extent permitted by Union and national law, exchange information that may be relevant to the PRA as the voting member.
25. Where relevant to their respective objectives, co-ordination in relation to EIOPA will include, in particular:
 - Designating individuals who will act as points of contact for the exchange of information
 - Consulting each other in respect of areas of common interest to come to an understanding of each other's views; and
 - Engaging in a timely manner, ensuring both regulators have the opportunity to provide input in advance of decisions being made.

Regular engagement

26. Senior executives of the PRA and TPR will meet at least annually with regular working level engagement as determined by the areas of interest at any given time.

Review of MOU

27. The PRA and TPR will review each year the operation of the MoU and the effectiveness of co-operation and co-ordination between the two regulators.

Further information can be found at
www.tpr.gov.uk and www.bankofengland.co.uk

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