

Summary of feedback

January 2024

Rule Review Framework

The Financial Services & Markets Act (FSMA) 2023 requires us to keep rules under review and to publish a statement setting out how we will do so. We developed our Rule Review Framework (Framework) to explain how we plan to monitor and review how our rules are working in practice.

We consulted on our draft approach in July 2023. We received 18 responses. Non-confidential respondents are listed in the annex. We would like to thank stakeholders for their feedback.

We have categorised feedback into 7 themes, and set out our responses and any changes we have made to the Framework below for each theme:

1. Transparency and publishing
2. Data collection and proportionality
3. Additional engagement opportunities outside the online feedback tool
4. Prioritising reviews
5. Expanding the scope of the Framework
6. Coordination with the PRA
7. How the Framework relates to other processes

Where possible, we have also streamlined the Framework by removing some repetition and making minor stylistic and formatting changes.

The finalised [Rule Review Framework](#) is available on our website.

Transparency and publishing

Summary of feedback

Respondents underlined the importance of us being transparent about our reviews. This included asking for clarification on when we may publish monitoring data, stakeholder feedback provided through the online feedback tool, and the 3 types of review set out in the Framework (evidence assessment, post-implementation review, impact evaluation).

Response to feedback

We agree that transparency is important for regulatory accountability.

We already regularly publish large amounts of metrics and data that we also expect to use when monitoring rules. For example, our [outcomes and metrics webpage](#) sets out a range of measures we actively monitor to assess our progress in achieving the outcomes in our Strategy. We cannot publish all monitoring data we will use. For example, some may be confidential. However, where we intend to proactively monitor a rule, we will set out the measures we plan to use to monitor it in Consultation Papers and Policy Statements to support transparency.

In the draft Framework, we committed to publishing all post-implementation reviews and impact evaluations. This will not change. We do not intend to publish all evidence assessments we undertake. For the Framework to be embedded effectively into our policy cycle, it is important that we can undertake these lighter reviews in an agile way without adding significant additional reporting burdens to our business-as-usual activities.

However, there may be cases where it would be in the best interests of the FCA and our stakeholders to publish a more formal update on our reviews. For example, if the evidence assessment results in a consultation to change a rule, we could publish the assessment as part of that consultation to explain the rationale for change. For any rule changes resulting from a review, we will follow our existing consultation processes.

We are also committing to publishing, as part of our Annual Report, an overview of how we are implementing the Framework. We expect this will include a summary of our reviews and next steps on each. We also intend to provide a high-level overview of feedback from stakeholders who use the online feedback tool.

Some respondents asked us to include a pipeline of upcoming reviews in the Regulatory Initiatives Grid. This sets out the regulatory pipeline, including

initiatives that the regulators are working on together. As it is likely that many reviews made under the Framework will be reactive (eg in response to concerns identified by monitoring or stakeholder evidence) rather than proactive, we will not always be able to publish a long-term pipeline of reviews to consider. The Grid will remain a source for highlighting where we may be developing new rules that could then be monitored under the Framework, as well as significant planned reviews.

Changes to the Framework as a result of feedback

- we have clarified when we may publish the metrics we will monitor, stakeholder feedback and reviews
- we have committed to publishing, in our Annual Report, an overview of how we are implementing and adhering to the Framework data collection and proportionality

Data collection and proportionality

Summary of feedback

Respondents asked us to consider the potential burden on firms to provide data to support the monitoring/reviews and that any further requests to be proportionate.

Response to feedback

We agree that it is important for our data collection to be proportionate and will actively consider this when we request data for monitoring or review processes. Where we feel it is appropriate to collect new or additional data from industry, we will follow our established data governance systems which consider the burden of requests on firms. We will also maximise the use of information we already collect, or have access to, to manage this impact.

Changes to the Framework as a result of feedback

- we have confirmed our commitment to collecting data from firms proportionately following our established data governance processes
- we have confirmed we intend to maximise the use of information we already collect, or have access to, when monitoring rules and conducting reviews

Additional engagement opportunities outside the online feedback tool

Summary of feedback

Respondents supported the new online feedback tool to allow stakeholders to provide evidence of where they believe that rules are not achieving their intended outcomes. Respondents also encouraged us to allow feedback on rules in multiple ways (e.g. engagement events, email inbox) as well as the new online feedback tool.

Response to feedback

Stakeholders can feedback to us on whether a rule is working as intended through our existing engagement channels (eg supervisory contacts) as well as the new online rule review feedback tool. We believe that this new tool gives stakeholders a helpful and accessible way to submit evidence. We do not propose setting up a dedicated email inbox in addition to this.

Our [statutory panels](#) also play an important role in giving us feedback about how our rules are working in practice. As part of our ongoing engagement with our Panels, we will share our review plans and priorities with them and seek their views.

As such, we do not feel that additional engagement events to discuss reviewing the effectiveness of the Handbook would be the best use of industry or regulatory resources. However, we will monitor the effectiveness of our stakeholder feedback approach and consider what alternative options we can include to encourage submissions and to reach underrepresented groups in the future.

Changes to the Framework as a result of feedback

- we have explained how stakeholders can feedback to us on whether a rule is working as intended through our existing engagement channels (e.g. supervisory contacts) as well as a new online rule review feedback tool

Prioritising reviews

Summary of feedback

Respondents asked us to clarify how, once we have received evidence on our rules, we will prioritise which reviews to undertake. Some respondents suggested we should initially prioritise undertaking reviews of rules which may

affect our new Secondary International Competitiveness and Growth Objective (SICGO) or the Consumer Duty.

Response to feedback

We intend to prioritise reviewing rules that are not functioning as intended and could lead to potential or actual harm to markets and/or consumers as a result. So we will prioritise any rule reviews by assessing the potential severity of harm, based on the evidence we have of its scale, extent and urgency. After that, we will consider and prioritise reviews in line with our statutory objectives, including our overarching strategic objective, operational objectives and our secondary objective.

We will also need to resource reviews in line with prioritisation decisions made during business planning which looks at the FCA's work holistically.

Changes to the Framework as a result of feedback

- we have clarified we will prioritise reviews based on the scale, extent and urgency of the potential or actual harm being caused to markets and/or consumers by a rule not achieving its intended outcomes
- we have clarified that we will consider this in the context of our organisational objectives.

Expanding the scope of the Framework

Summary of feedback

Respondents suggested the Framework should go further to explicitly include reviewing guidance as well as Handbook rules.

Response to feedback

FSMA 2023 requires that the Framework should provide an approach to reviewing our Handbook rules and does not apply to any materials that are not rules. We do not intend to expand the Framework's scope.

However, when we review a rule, we will effectively be reviewing the related policy intervention in the round, which typically includes a set of rules and associated materials. So, when we review a rule, we may choose to review related guidance and materials to see if these are working as intended.

Changes to the Framework as a result of feedback

- we have clarified that when we review a rule, we may choose to review our guidance and related materials to see if these are working as intended

Coordination with the PRA

Summary of feedback

Stakeholders emphasised the importance of the FCA and Prudential Regulation Authority's (PRA) approaches being closely aligned.

Response to feedback

We agree that it is important that we coordinate reviews effectively with PRA, particularly where we have joint responsibilities for a policy area. We have worked closely with the PRA throughout the development of our Framework so there our approach is broadly aligned, even on rules we do not share. We do not think the frameworks of different regulators need to be identical to ensure a consistent regulatory approach. Differences in the frameworks reflect strategic and operational differences between the regulators. We are committed to continuing to coordinate with the PRA on rule reviews.

While feedback focused on the relationship between the FCA and PRA, the Payment Systems Regulator (PSR) is also developing its approach to reviewing rules. We are also committed to remaining aligned with its approach as far as possible, and are working closely to ensure this.

We welcome any general input from stakeholders if they see problems and inconsistencies with how regulators are implementing their respective frameworks.

We also work together with other regulators, including the PRA and PSR, as members of the Financial Services Regulatory Initiatives Forum to produce the Regulatory Initiatives Grid. This helps us to understand each other's plans, including for upcoming reviews and, where appropriate, to coordinate.

Changes to the Framework as a result of feedback

- we have committed to continue to coordinate with other regulators on rule reviews to stay aligned where possible

How the Framework relates to other FCA processes

Summary of feedback

Respondents asked for more clarity on how the Framework interacts with other FCA processes. Respondents gave our cost-benefit analysis (CBA) framework and the repeal and replacement of retained EU law (REUL) as specific examples.

Response to feedback

For our Framework to be properly embedded within the FCA, it needs to interact effectively with other processes. We have written the Rule Review Framework in full consideration of our CBA obligations and the repeal and replacement of REUL.

We are currently updating our CBA framework. The update will ensure the 2 frameworks are aligned and work alongside each other. CBAs are important for rule reviews because they contain many elements we may use to assess whether a rule is achieving its intended outcome. For example, CBAs typically include causal chains, baselines and discussion of counterfactuals.

As noted in the draft Rule Review Framework, the repeal and replacement of REUL is, in effect, a form of rule review. The repeal of REUL and replacing this, where appropriate, with rules in our Handbook give us an opportunity to review the effectiveness of REUL and to make changes where needed. The Treasury and regulators are working together to review current REUL and to decide whether rules are still fit for UK markets. Should a repeal and replacement introduce changes or a new rule, then it will be monitored like all other new rules.

Annex: List of non-confidential respondents

- Alternative Investment Management Association
- Association of British Insurers
- Association of Foreign Banks
- Association of Mortgage Intermediaries
- Aviva
- Electronic Money Association
- Finance and Leasing Association
- Financial Services Consumer Panel
- International Underwriting Association of London
- Investment & Life Assurance Group
- Lloyd's
- National Farmers' Union Mutual Insurance Society Ltd
- NatWest Group
- Personal Investment Management and Financial Advice Association
- TheCityUK
- UK Finance
- Zurich UK