

Governance & Professionalism Policy
Strategy & Competition
Financial Conduct Authority
12 Endeavour Square
London E20 1JN



28 September 2020

Dear Sir/Madam,

Revised Panel response to CP19/32: Building operational resilience: impact tolerances for important business services and feedback to DP18/04

The FCA Smaller Business Practitioner Panel originally responded to the Discussion Paper in March but we would like to take this opportunity to resubmit our views with additional comments in the light of the subsequent Covid-19 crisis.

We support the work, and the FCA's welcome proportionality in its approach. Smaller firms, by their nature, are less of a systemic risk to the financial services system, and imposing unnecessary burdens over issues which they cannot control are not helpful. We believe that, in such circumstances, the FCA should encourage firms to focus on repairing or making good any customer harm that may be incurred as a consequence. We are keen to encourage the regulator to focus on the firms which face, and pose, the biggest risks, and the biggest challenges in terms of resilience.

That said, the experience of the current pandemic has been faced by the whole industry, and the whole economy. The resilience of industry during the crisis has so far been reasonably well-proven and lessons have been learned from the lockdown period. We suggest that this provides an opportunity to reshape the FCA's work on Operational Resilience to more of a lessons-learned exercise. In particular we suggest there is scope to reflect where the risks have been enhanced as well as reduced, for example the greater risk of cyber attacks with so many people working from home.

Finally as events have moved on significantly in recent months I do think it is right to ask whether there would be value in reviewing the scope and objectives of the activity in light of the pandemic that has tested systemic resilience as hard as any incident or event in living memory. As a minimum it feels right that this is a good opportunity to learn the lessons of the last few months both positive and negative.

Dual-regulated firms

Some smaller firms are within scope for this work due not to their size or risk profile but due to the fact they are dual-regulated by the FCA and the PRA (for example, credit unions, building societies and insurance companies). We encourage these regulators to work together to ensure consistency. Much of the information which is already required by the PRA overlaps with the information which the FCA is looking for, and could usefully be shared. It is welcome that the FCA expects firms to set impact tolerances for the important business services based on what is important to them, as for small firms what they provide to their customers will drive their tolerances – impact on financial stability more broadly will be very low.

Third-party providers

The original timing of this work was welcome as it came at a point where many firms are more actively engaging with unregulated third-party service providers in order to develop more sophisticated resilience strategies. Smaller firms have very little leverage over service standards and turnaround times, and we encourage the FCA to be mindful of this when assessing the operational resilience plans.

Alongside this, the FCA needs to consider how it will engage with infrastructure providers. A handful of global technology providers have control of many aspects of firms' business, and firms cannot reasonably be expected to be held accountable for failures of, for example, a major software company or Cloud services provider. We appreciate there are no easy answers in this area but encourage regulators to continue discussing, both at UK and international level, and to for the FCA to articulate its intentions regarding coordination with systemic providers of infrastructure such as AWS or BT, where potentially thousands of firms may be impacted by the same outage.

Templates for firms not in scope

The process of developing an operational resilience plan is a useful one, and firms which will not be subject to the FCA's rules in this area could also benefit from carrying out a similar exercise. We therefore recommend the FCA should, possibly in conjunction with relevant Trade Associations, produce a template for a generic plan which smaller firms could use, if they choose. We also encourage the FCA to work with Trade Associations to carry out a post-implementation review to share publicly lessons learned and elements of good and bad practice.

We would be happy to discuss any of these points further.

Yours faithfully,

[signed]

Marlene Shiels
Chair, FCA Smaller Business Practitioner Panel