FINANCIAL
CONDUCT
AUTHORITY

Consultation Paper
CP23/9**

Changing the scope of the baseline financial resilience regulatory return ('FIN073')

May 2023

How to respond

We are asking for comments on this Consultation Paper (CP) by **6 June 2023**.

You can send them to us using the form on our website.

Or in writing to:

Amy Kaye
Financial Conduct Authority
12 Endeavour Square London
E20 1JN

Telephone:
0207 066 4212

Email:
cp23-9:@fca.org.uk

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Chapter 1

Summary

Why we are consulting

1.1 We published, on 2 May 2023, our final rules in relation to a new baseline financial resilience return, FIN073. We are proposing to change the scope of firms required to provide us with baseline financial resilience data to exclude a firm with limited permission, therefore bringing all full permission consumer credit firms in scope of the return. We are consulting on this change to provide an opportunity to those firms impacted to provide feedback. We do not expect firms that have already provided feedback on CP22/19 to review or provide additional feedback on this consultation paper unless they have comments about the proposed change in scope.

1.2 The obligation to provide this financial resilience information is set out in our Handbook SUP 16.30 Baseline Financial Resilience Report (FIN073).

Who this applies to

1.3 The proposals in this Consultation Paper (CP) will be of interest to full permission consumer credit firms.

1.4 Our proposals will also interest Trade Associations.

The wider context of this consultation

1.5 We published PS23/3 in May 2023 setting out our final rules in relation to a new financial resilience regulatory return for FCA solo-regulated firms (FIN073). The new return replaces the FCA Financial Resilience Survey ("FRS") data collection (formerly "Covid-19 Impact Survey"). We consider the data from this return to be essential in helping us understand the risk of firm failure and deliver our strategic commitment[1] of reducing harm from firm failure.

What we want to change

1.6 In PS23/3, "a credit broker", as defined in the FCA Handbook, is excluded from the scope of FIN073. Following further consideration, we are proposing to amend this exclusion to "a firm with limited permission". The proposed change would bring all full permission consumer credit firms in scope of FIN073. This clarification of scope is consistent with

1 FCA's three-year strategy

the intent of the consultation and is aligned with our objectives, bringing the population of FIN073 more in line with that of the FRS.

1.7 We are making a distinction between limited and full permission consumer credit firms based on the risk of harm posed by each of these firms. Many limited permission consumer credit firms are non-financial services firms with credit broking permissions, such as dentists and motor dealers. We consider that these firms are likely to present the lowest level of risk to our objectives in relation to the rest of our solo-regulated firm population. It would therefore be proportionate to exclude them from the scope of FIN073.

1.8 However, a significant proportion of full permission consumer credit firms primarily undertake financial services activity, presenting a higher risk to our objectives. We consider that it is important for us to have up-to-date baseline financial resilience information for these firms. We propose to bring these firms in scope of FIN073 so we can receive baseline financial resilience information on a permanent basis. The change would also ensure that the consumer credit firms that remain out of scope are easily identifiable based on their permissions.

Outcome we are seeking

1.9 In changing the scope of FIN073, we will hold firm-specific financial resilience data for a wider set of firms, specifically those full permission consumer credit firms being brought into scope. This additional information will allow our supervisory approach to be more data-led and broaden our understanding of this population of firms that may pose intrinsic harm in failure risks due to their activities, helping us deliver our strategic commitment of reducing harm from firm failure.

1.10 This information will help us improve the focus and effectiveness of our approach, with risk-based supervision and better use of our supervisory tools. This means our resources are targeted at firms that carry on activities that pose potentially higher risk of harm.

1.11 We expect that our proposal will result in improvements to firms' financial resilience and a reduction of the actual risk of harm in firm failure in full permission consumer credit firms. It is also in line with and builds on our data strategy, using data and analytics to transform the way we regulate.

Measuring success

1.12 We will use several different metrics to measure the success of FIN073. As part of our commitment to reduce harm from firm failure under the three-year FCA Strategy, we seek to ensure that firms subject to financial or other stress which may lead to firm failure are quickly identified and the situation is rectified by the firm, it winds down solvently, or it enters insolvency in a way which minimises harm to consumers and market participants. The data from FIN073 is fundamental to achieving this outcome. It is a key tool in identifying financial resilience concerns early, enabling swift action.

1.13 As set out in the FCA outcomes and metrics publication, we have developed a metric ("PFF3-M01") which will enable us to monitor the accuracy with which we identify firms' resilience to financial stress. We will measure the contribution of FIN073 data to this metric allowing us to assess the contribution of this data to deliver a key FCA strategic priority.

1.14 Another key measure of success will be feedback provided by those firms in scope of the return. We will actively gather feedback from Industry, including Trade Associations, to understand if and how the form can be improved, particularly with a view to reduce the administrative burden placed on firms.

Next steps

1.15 We want your feedback on our proposal in this CP. Please send your answers to the questions in this CP by Tuesday 6 June 2023 using one of the methods in the 'How to respond' section.

1.16 Following this consultation, we will consider your feedback and publish a statement in Summer 2023.

Chapter 2

The wider context

2.1 The Handbook definition of a credit broker is broad, covering approximately 32,000 firms, including both limited and full permission entities. For the purposes of FIN073, we propose to change the reference to "a credit broker" in SUP 16.30 to "a firm with limited permission". In the Glossary, this is defined as "A Part 4A permission for a relevant credit activity" (guidance on which is given in COND 1.1A.5A G).

2.2 This change would mean that around 23,000 limited permission consumer credit firms remain outside the scope of FIN073. However, all full permission consumer credit firms would be in scope. Most full permission consumer credit firms have also been in scope of FRS and have therefore provided financial resilience data to us regularly over the last two years. For these firms we consider the transition from FRS to FIN073 would be an evolution of the existing data collection.

2.3 As stated above, this clarification of scope is consistent with the intent of the original consultation. We consider that full permission consumer credit firms are likely to present a significantly greater risk of harm to our objectives than limited permission firms, most of which only undertake credit broking as an ancillary activity to their primarily non-financial services business.

Chapter 3

How it links to our objectives

Consumer protection

3.1 As a data-led regulator we rely on high-quality data to make regulatory judgements. Through access to up-to-date financial resilience data for a larger proportion of our solo-regulated firms we will be able to quickly assess financial resilience risks in this population. This will allow us to prioritise our supervisory intervention, resulting in reduced harm to consumers. We can also combine the financial resilience data with data on other key risk indicators to form a more comprehensive view of risks to consumers.

Market integrity

3.2 The ability to triage full permission consumer credit firms using a data-led approach also allows us to reduce the likelihood of both disorderly failures and the adverse impact they have on market participants, improving general confidence in the market. When used in conjunction with an assessment of harm in failure, baseline financial resilience data collected from this population will allow us to focus on those firms most likely to cause market disruptions. Firm financial resilience data, when combined with macroeconomic data, also allows us to identify vulnerabilities in specific market segments.

Competition

3.3 Firms that do not devote sufficient resources to financial resilience can get a short-term unfair competitive advantage over well-behaving competitors. For example, they can use the associated savings to offer lower prices to consumers. However, this comes at the cost of an increased risk of harm to consumers through an increased likelihood of firm failure. Having access to baseline financial resilience data across the entire full permission consumer credit firm population will allow us to better identify firms with low levels of financial resilience that may be gaining an unfair competitive advantage while posing material risk of harm to consumers. In doing so, this is not delivering competition in the interests of consumers.

Wider effects of this consultation

3.4 Annex 2 sets out our analysis of benefits and costs to firms from our proposal.

Equality and diversity considerations

3.5 We have considered the equality and diversity issues that may arise from the proposals in this Consultation Paper.

3.6 Overall, we do not consider that the proposals materially impact any of the groups with protected characteristics under the Equality Act 2010. But we will continue to consider the equality and diversity implications of the proposals during the consultation period and will revisit them when making the final rules.

Chapter 4

Changing the baseline financial resilience reporting ('FIN073') obligation

Overview of our proposal

4.1 We propose to change the reporting obligation of FIN073 to include all full permission consumer credit firms.

4.2 This proposal helps to ensure we have timely baseline financial resilience data for the entire population of solo-regulated financial services firms with the most material risk of harm in failure. Importantly, we believe this proposed scope is proportionate and takes account of existing reporting obligations. In addition to existing reporting obligations, we would supplement this data with commercially available company credit data to inform our view of financial resilience.

What is FIN073 and why is it important?

4.3 The scope of FIN073 is set out in FCA Handbook SUP 16.30. The content of the information that will be required is set out in SUP 16 Annex 53R. Guidance notes on the completion of the report can be found in SUP 16 Annex 54G. Firms should note that no other changes have been made to the existing scope of SUP 16.30 other than the proposed changes set out in this Chapter.

4.4 FIN073 requests baseline financial resilience data from firms, including a firm's average monthly cash needs arising from fixed costs and a firm's revenue in the last financial year.

4.5 Baseline financial resilience data is important because, among other things, it allows us to rapidly assess financial resilience risks at firms, enabling early intervention where appropriate (see Annex 2, paragraphs 36-38). To date, baseline financial resilience data has helped us monitor the risk of firm failure through the Russia/Ukraine conflict, and other macroeconomic changes. Ultimately, this data helps in delivering our strategic commitment of reducing harm from firm failure.

Timing of reporting

4.6 Firms will be required to provide FIN073 information within 20 business days of the firm's 'accounting reference date'.

Method for submitting FIN073

4.7 A firm must submit the FIN073 report to the FCA using our RegData system, ensuring we receive the data in a standardised format. We believe this approach ensures data requirements are transparent and consistent, in line with our published data strategy.

4.8 We remind firms that the current reporting obligation requires firms to report on an individual legal entity basis.

Q1: Do you agree with our proposal to change the scope of FIN073 to include all full permission consumer credit firms? If not, please explain.

Annex 1

Questions in this paper

Q1: **Do you agree with our proposal to change the scope of FIN073 to include all full permission consumer credit firms? If not, please explain.**

Q2: **Do you agree with our cost benefit analysis and conclusion? If you do not, please provide us with an explanation, including any estimated costs or benefits that may be relevant.**

Annex 2
Cost benefit analysis

Introduction

1. The Financial Services and Markets Act 2000 (FSMA) requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as "an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made and an estimate of those costs and those benefits". Section 138I also provides that if, in our opinion, the costs or benefits cannot reasonably be estimated or it is not reasonably practicable to produce an estimate, the cost benefit analysis need not estimate them. In such circumstances the CBA must include a statement of our opinion and an explanation of it.

2. This CBA presents our analysis and estimates of the impacts of changing the reporting obligation of FIN073 (baseline financial resilience data) to include the full permission consumer credit firms that were not considered in our CBA of CP22/19. We provide monetary values for the impacts where we believe it is reasonably practicable to do so.

3. This CBA has the following structure:

- Problem and rationale for intervention
- Proposed intervention
- Baseline and key assumptions
- Summary of costs and benefits
- Costs
- Benefits

Problem and rationale for intervention

4. Firm failure can cause significant harmful effects on consumers, financial markets, and wider society. Disorderly failure can cause harm through loss of money; a loss of confidence and participation in financial markets; or where services provided are not easily replaced by other firms; or a firm cannot pay redress.

5. The services or products provided by a failing firm may not be quickly substitutable so it may take consumers some time to find and switch to an alternate product. This could potentially result in important consumer needs not being met. The inability of failed firms to compensate consumers for loss of client money often results in the transfer of these costs to other market participants via the Financial Services Compensation Scheme (FSCS) levy, placing unnecessary burden on other firms. The financial difficulties at failing firms can spill over to other financial services firms. For example, in the wholesale market, financial difficulties at a key liquidity provider can cause a short-term stress that impacts other market participants. This can threaten the confidence and participation in financial services markets.

6. The three-year FCA strategy explicitly recognises the risk of harm from firm failure and makes a strategic commitment to reduce it. We have seen over the last two years that having access to high quality baseline financial resilience data on a regular basis allows us to regularly assess financial resilience risks at firms, enabling early intervention (where appropriate), and ultimately helps in reducing harm from firm failure.

7. A significant proportion of full permission consumer credit firms primarily undertake financial services activity, such as primary brokers. As a result, these firms present a risk to our strategic commitment as they could potentially cause harm in case of failure. For this reason, we consider that it is important for us to have up-to-date baseline financial resilience information for these firms, as with other financial services firms in scope of our new regulatory return, FIN073. We are therefore consulting on amendments to the scope of FIN073 so that we can receive baseline financial resilience information from full permission consumer credit firms regularly on a permanent basis.

Drivers of harm

8. The drivers of firm failure are usually a combination of weak financial resilience and severe stress(es). Information asymmetry between the FCA and firms about financial resilience levels make it difficult to identify firms that are most vulnerable to stresses, and therefore at risk of failure. The impact of firm failure is likely to be exacerbated where firms have not performed any wind-down planning. Through expanding the scope of FIN073, we will seek to ensure that full permission consumer credit firms subject to financial or other stress which may lead to firm failure are quickly identified and the firm undertakes any wind-down plans hence winding down solvently, or entering insolvency in a way that minimises harm to consumers and market participants.

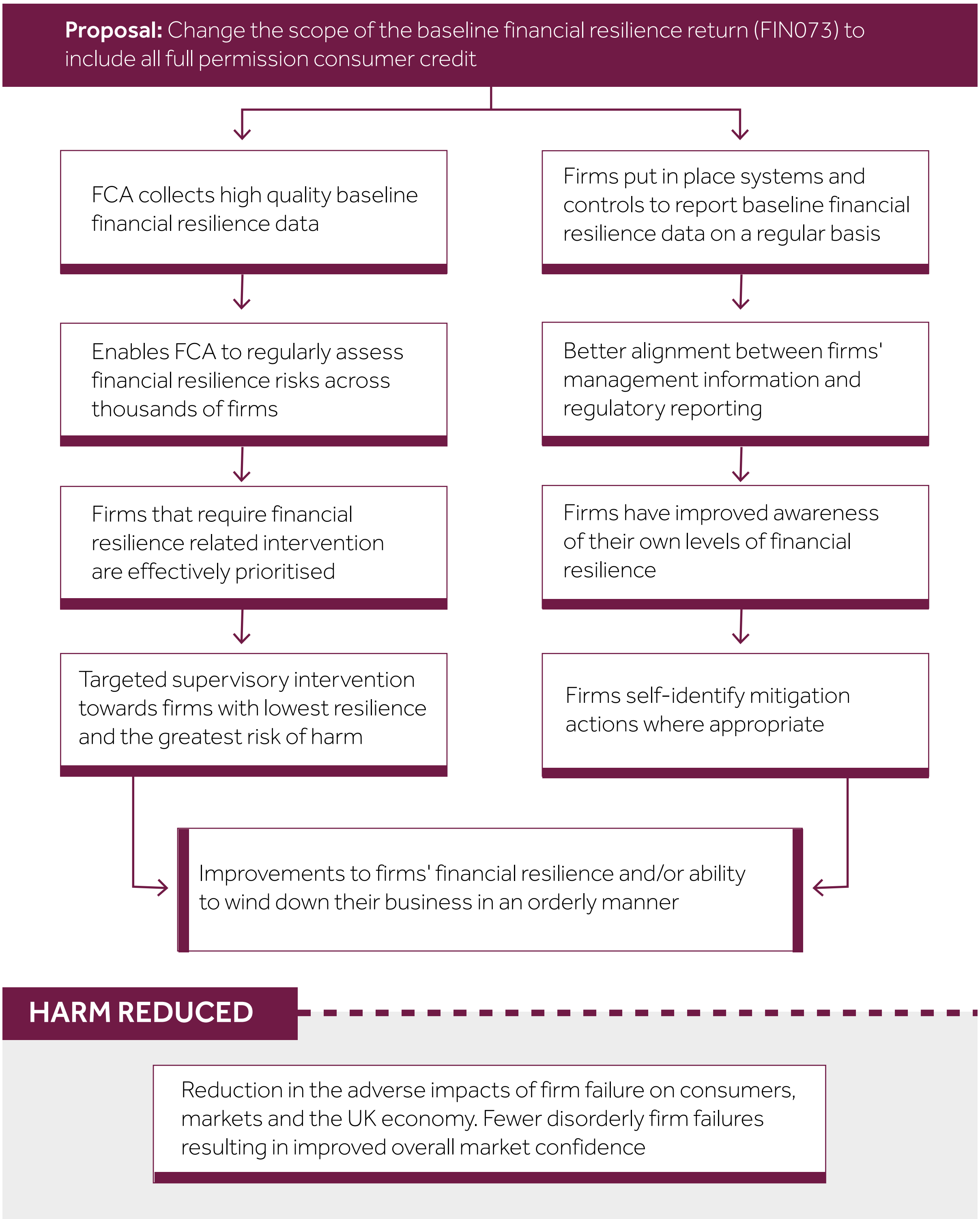
Proposed intervention

9. We intend to change the reporting obligations of FIN073 to include all full permission consumer credit firms. We estimate that our proposal would result in approximately 20,000 firms reporting on baseline financial resilience data on a regular basis. These would be FCA solo-regulated firms of varying size and business model.

10. Our proposal will allow us to better target our supervisory interventions towards firms that present a higher risk to our objectives, ensuring firms are effectively prioritised, which helps us to deliver our strategic commitment of reducing harm from firm failure. The data from this return will also help us to deliver our commitments of dealing with problem firms.

11. Figure 1 outlines how we expect the proposed change in scope of FIN073 to lead to a reduction in harm.

Figure 1 – Causal chain for our proposed change of FIN073



Baseline and key assumptions

12. It is necessary to establish a baseline against which to assess the costs and benefits of an intervention to ensure that only those attributable to the intervention are considered.

13. Our counterfactual scenario is that, without an intervention, we would continue not collecting financial resilience data from c.2,300 full permission consumer credit firms in a regular and consistent manner i.e. these firms would remain out of scope of FIN073.

14. Our assumption for the counterfactual harm/potential harm relating to this population of firms is that it would stay at the same level. We have not quantified this in this CBA.

15. In our analysis, the estimates of one-off and ongoing costs are based on our standardised cost model, in which costs depend on a firm's size. The model differentiates between small, medium and small firms, basing this classification using data on firms' annual FCA fee blocks, and ranking them accordingly. We define the highest ranking 250 firms as large, the next highest ranking 1,500 firms as medium, and all remaining firms as small. Using this classification, all full permission consumer credit firms are considered small. We have used small firms' costs from the model as we consider they are most representative of the population of firms affected by the proposed change in scope. We report average cost estimates. Because these figures are mean averages, individual firms may experience higher or lower costs than these.

Summary of costs and benefits

16. Table 1 sets out the main costs and benefits we expect as the result of the proposal. We have assessed the costs and benefits of this proposal using the suggested questions for and frequency of FIN073. The cost benefit analysis compares this proposal to the counterfactual scenario in which we would not collect financial resilience data from full permission consumer credit firms, not otherwise in scope of FIN073, in a regular and consistent manner. It should be noted that this counterfactual scenario is improbable as we would be likely to collect this data by way of ad hoc requests on an ongoing basis given its utility, as described below. It should be noted that using this baseline has the effect of raising both the costs and the benefits set out in this CBA compared to using the baseline of continued ad hoc data collections. Please see Annex 1 of the Consultation Paper for areas of the proposal upon which we are inviting feedback.

17. In the sections below, we have considered and assessed both the one-off implementation costs and ongoing costs arising from changing the scope of this data collection.

18. Most of the one-off costs for firms are to understand the requirements and change their systems to allow them to submit data. Our view is that, once firms have implemented necessary changes, the costs to maintain this on an ongoing basis each quarter should be small.

19. The link between the reporting of baseline financial resilience data and reduction in harm is indirect. We have set out some channels by which we believe benefits could occur (see "Benefits"), but the indirect link and many compounding drivers of the underlying harm from financial resilience risks mean quantifying these benefits is not reasonably practicable.

Table 1: Summary of costs and benefits

	Cost type	Estimate
Costs to firms	One-off	£1.3m
	Ongoing (annual)	£1.5m
	Total discounted costs over 10 years	£14.5m
Costs to the FCA	One-off	-
	Ongoing	-
Benefits	One-off	Not quantified
	Ongoing	Not quantified

20. We believe that our proposals in this CP will have a net cost in the short to medium term while the benefits (such as reducing the potential for disorderly failure) are ongoing and will likely compound over time.

Costs

Costs to firms

21. Costs to firms include one-off implementation costs and ongoing costs. One-off costs include the time and resources spent by firms familiarising themselves with the proposals and performing a gap analysis to identify necessary changes as a result. Firms may also incur IT costs. Ongoing costs include the costs of collating and reporting the data to the FCA every quarter.

22. We use standardised assumptions to estimate firm compliance costs. Further details about our approach can be found in the publication "How we analyse the costs and benefits of our policies".[2] As noted above, we consider all full permission consumer credit firms to be small.

23. **Familiarisation:** To familiarise themselves with our proposals, including conducting a gap analysis, we expect that all 2,317 firms will read our Policy Statement and final rules which contain 20 pages. We assume that the number of compliance staff who would need to read the consultation will on average be 2 at a small firm and that this will take 0.5 hours. We use an average annual salary of a compliance function (£56,047), plus 30% non-wage labour costs to estimate hourly costs of £47 in 2023 prices. We estimate the total cost of familiarisation to be c.£100 per firm, totalling around £251k across our population.

24. **Methodology changes:** We consider that the baseline financial resilience information that we are proposing to collect through FIN073 should already be reviewed by a firm as part of their routine procedures. However, some firms may need to make one-off adjustments to existing procedures that report on a schedule aligned to their

2 https://www.fca.org.uk/publication/corporate/how-analyse-costs-benefits-policies.pdf

Accounting Reference Date, to align with our quarterly requirements. We assume that a small firm will spend 0.5 person days to implement a change (Project Manager plus team). We expect this change may involve adjusting accounts and updating internal procedures to ensure the data the firm is submitting is aligned with our request. We also assume that this change will need to be reviewed by Senior Managers at each firm. We expect the total cost of this change to be around c.£150 per firm, totalling around £345k across our population.

25. **IT changes:** In addition to the costs set out above, firms will also need to update their systems to comply with updated reporting requirements. We assume, based on our supervisory judgement, that small firms are likely to rely on external consultants and spend the equivalent of 1 person days to implement the IT change. We expect the total cost of this change to be c.£300 per firm, totalling around £691k across our population.

26. **Training:** Training may range from formal staff learning through to disseminating information via informal memos and e-mail updates. We have assumed small firms do not require training to implement this change or that the monetary value is negligible.

27. **Collating and reporting data:** The ongoing costs of collating and reporting data to the FCA are calculated as additional staff time required times cost of that time times number of firms. We assume 0.5 days of additional staff time, use an average annual salary of a compliance function of £56,047 plus 30% non-wage labour costs to estimate a cost per firm of c.£150 per return (quarterly). Applying this to all firms in the population, we estimate the average quarterly cost to be £384k for 2,317 firms. For ongoing costs per annum this figure equates to c.£650 per firm and £384k over the population.

28. To estimate the total costs to firms of this intervention, we have calculated the net present value (NPV) of one-off and ongoing costs over a 10-year time horizon. We assume a discount rate of 3.50% as per HMT appraisal guidance. The total costs over 10 years for an average firm is estimated to be £6.3k, while the total over the population of firms is estimated to be £14.5m.

29. Table 2 summarises estimated average and total costs, split according to cost category.

Table 2: Summary of estimated average per firm and total costs to firms by cost category

Cost type	Category	Average per small firm	Total over population
One-off	Familiarisation	£0.1k	£251k
	Developing/adapting IT systems	£0.3k	£691k
	Methodology changes (incl. project management & governance)	£0.1k	£345k
	Staff training	-	-
	All one-off costs	£0.6k	£1.3m

Cost type	Category	Average per small firm	Total over population
Ongoing	Collating and reporting data to the FCA (quarter)	£0.1k	£295k
	Legal costs	-	-
	Staff training	-	-k
	All ongoing costs (quarterly)	£0.2k	£384k
	All ongoing costs (annual)	£0.7k	£1.5m
Total	Total discounted costs over 10 years	£6.3k	£14.5m

30. We estimate one-off costs to firms of £1.3 million and ongoing costs to firms of £1.5m per annum. Over a 10-year time horizon, we estimate the total costs to firms to be £14.5m in present value terms.

Costs to the FCA

31. We do not consider that there will be any significant additional costs to the FCA, above and beyond those already incurred by the introduction of FIN073, as a result of this proposal.

32. We consider that there will be minor ongoing costs as a result of any manual intervention or assessment to address any anomalies that arise from the change in the reporting obligation. It is not reasonably practicable to quantify these costs.

33. We expect to use existing supervisory resources to supervise firms, and so should be covered by our current supervisory activities, with no additional increase in costs.

Costs to consumers

34. We do not consider that our proposed intervention will give rise to direct costs to consumers.

35. Indirectly, however, if firms used the information in FIN073 to make themselves more financially resilient as a result of the proposal, some consumers could potentially face higher costs from firms. By way of example, to improve their liquidity position some firms may seek to change their payment terms or increase their fees. These potential effects are uncertain and their attribution complex, so it is not reasonably practicable to estimate their cost to consumers.

Benefits

36. Having permanent access to baseline financial resilience data significantly reduces information asymmetry, allowing the FCA to more easily identify firms with financial resilience weaknesses. The data currently collected through the FRS gives us a baseline set of financial resilience information across the majority of our solo-regulated firm population and is a key component of our financial resilience assessments. These assessments allow us to evaluate our solo-regulated firms on a timely/periodic basis, providing assurances on firms' financial arrangements and identifying concerns in others. When coupled with macroeconomic data, this data also provides a better view on the (sub-)sector trends to enable better resource planning within the FCA. Changing the scope of FIN073 will allow us to support our assessments of full permission consumer credit firms.

37. As we noted in the CBA accompanying CP22/19, based on the FRS data to date, we have acted earlier than we may otherwise have done on over 100 firms where these data assessments helped identify material concerns. These firms had to increase capital, put new wind-down plans in place and/or were prevented from taking on new business while they address the underlying issues. As a result of these actions, these firms are less likely to undertake a disorderly wind-down that could have resulted in harm for both consumers and market integrity.

38. For example, in one case, the data highlighted the loss rate would lead to significant capital deficit on an authorised payment institution holding in excess of £50m of client safeguarded funds and £220m average monthly transactions. We were able to intervene, requiring the firm to secure additional capital, improve its wind-down plan, and complete an assessment on its safeguarding controls that resulted in improvements to those arrangements. Without this early intervention to improve the prudential health of the firm, there would have been an increased likelihood of firm failure.

39. In another case, the FRS data highlighted significant liquidity concerns for a non-payments firm with client asset permissions. Through our information request, it became clear that client assets were not sufficiently segregated. A VREQ was requested to close the firm to all business and restrict any assets from leaving the firm. These actions were to reduce potential harm to consumers of losing client assets and reduce the risk of phoenixing. This was to remain in place until client assets were properly segregated.

40. Should either of the above firms have failed, there would have been a greater likelihood of a disorderly failure had the FCA not intervened. At worst, this could have led to customers incurring harm associated with both an inability to access their safeguarded funds and potential losses to those funds. This can result from the additional costs of disorderly failure (e.g. rebuilding of records) and loss of assets held through inadequate arrangements.

41. A disorderly wind-down can cause harm because consumers can lose their money – with no redress. The number of affected consumers and the losses experienced can be significant. In addition to their considerable financial losses, consumers may suffer both physically and mentally from the experience and lose confidence to participate in financial services markets.

42. The link between reporting of baseline financial resilience data and reduction in harm is indirect. We have set out some channels by which we believe benefits could occur but the indirect link and many compounding drivers of the underlying harm from financial resilience risks mean quantifying these is not reasonably practicable.

43. While quantification of the benefits is not reasonably practicable, we believe that the estimated costs of the proposal are likely to be proportionate to the potential benefits from a reduction in harm caused by poor financial resilience in full permission consumer credit firms.

Consumers

44. We consider that there will be indirect benefit to consumers, including having more confidence in the market. This assumes that our proposal will improve financial resilience-related systems and controls for some full permission consumer credit firms and is in line with feedback provided by firms on the potential benefits of the proposal through workshops as part of the TDC programme.

45. To the extent that reporting FIN073 on a quarterly basis improves firms' understanding of their own financial resilience, it could result in a more resilient financial sector with fewer disorderly firm failures within this population. This would benefit society more widely as it avoids scenarios where consumers suffer financial losses as well as loss of services provided.

Firms

46. We consider that there may be the following indirect benefits to firms:

a. An improvement to a firm's consideration of its own financial resilience. For example:

- adopting some of the information fields into the firm's systems could improve routine analysis and management information.
- it would enable the firm to maintain high compliance standards in relation to COND 2.4 (Appropriate resources) and PRIN 2.1 (Principle 4 - Financial Prudence).

b. Reduced risk of disorderly failure and/or general confidence in UK markets may result in consumers having more confidence to make use of UK financial services.

c. The proposal further allows the FCA to aggregate a consistent set of financial resilience data to identify trends across sectors to the benefit of firms. This aggregated data may be of benefit to firms as it facilitates peer analysis. The results of the return will also feed into our publications, potentially making it of value to the UK market.

Q2: Do you agree with our cost benefit analysis and conclusion? If you do not, please provide an explanation, including any estimated costs or benefits that may be relevant.

Annex 3

Compatibility statement

Compliance with legal requirements

1. This Annex records the FCA's compliance with several legal requirements applicable to the proposals in this consultation, including an explanation of the FCA's reasons for concluding that our proposals in this consultation are compatible with certain requirements under the Financial Services and Markets Act 2000 (FSMA).

2. When consulting on new rules, the FCA is required by section 138I(2)(d) FSMA to include an explanation of why it believes making the proposed rules is (a) compatible with its general duty, under s. 1B(1) FSMA, as far as reasonably possible, to act in a way which is compatible with its strategic objective and advances one or more of its operational objectives, and (b) its general duty under s. 1B(5)(a) FSMA to have regard to the regulatory principles in s. 3B FSMA. The FCA is also required by s. 138K (2) FSMA to state its opinion on whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.

3. This Annex also sets out the FCA's view of how the proposed rules are compatible with the duty on the FCA to discharge its general functions (which include rulemaking) in a way which promotes effective competition in the interests of consumers (s. 1B (4)). This duty applies as far as promoting competition is compatible with advancing the FCA's consumer protection and/or integrity objectives.

4. In addition, this Annex explains how we have considered the recommendations made by the Treasury under s. 1JA FSMA about aspects of the economic policy of Her Majesty's Government to which we should have regard in connection with our general duties.

5. This Annex includes our assessment of the equality and diversity implications of these proposals.

6. Under the Legislative and Regulatory Reform Act 2006 (LRRA) the FCA is subject to requirements to have regard to a few high-level 'Principles' in the exercise of some of our regulatory functions and to have regard to a 'Regulators' Code' when determining general policies and principles and giving general guidance (but not when exercising other legislative functions like making rules). This Annex sets out how we have complied with requirements under the LRRA.

The FCA's objectives and regulatory principles: Compatibility statement

7. The proposal set out in this consultation is primarily intended to advance the FCA's operational objective of securing an appropriate degree of protection for consumers.

They are also relevant to the FCA's objectives of ensuring market integrity and promoting effective competition.

8. Regarding the FCA's operational objective of protecting consumers, this proposal will allow us to quickly assess financial resilience risks, prioritise interventions and seek reductions in harm to consumers. It will also allow us to form a more comprehensive view of risks to consumers. The FCA has in this consultation had regard to the 8 matters listed in s.1C(2)(a)-(h) FSMA on consumer protection.

9. We consider this proposal is compatible with the FCA's strategic objective of ensuring that the relevant markets function well. The proposal will allow us to reduce the likelihood of disorderly failures resulting in an adverse impact on market participants, focus on firms that are most likely to cause market disruptions, and allow us to identify vulnerabilities in specific market segments. We also consider this proposal will improve overall market confidence due to fewer disorderly failures. For the purposes of the FCA's strategic objective, 'relevant markets' are defined by s.1F FSMA and include the markets for regulated financial services.

10. Lastly, we expect the proposed change will improve competition by allowing us to better identify firms with low levels of financial resilience that may be gaining an unfair competitive advantage while posing material risk of harm to consumers.

11. In preparing the proposal set out in this consultation, the FCA has had regard to the regulatory principles set out in s.3B FSMA.

The need to use our resources in the most efficient and economical way

12. The proposal set out in this consultation paper primarily aims to identify firms most at risk of failure. Used in conjunction with an assessment of the harm in failure, the collection of this data will allow us to target our interventions accordingly to both improve firm resilience, or to ensure firms are better prepared for wind down. This will result in firms being less likely to have a disorderly wind-down, and thus reduce the chance of market disruptions. By focusing new proposals on this specific harm, we ensure our resources are used in the most efficient way and with the greatest impact.

The principle that a burden or restriction should be proportionate to the benefits

13. We have considered the impact of our proposal on both firms and consumers and have undertaken a cost-benefit analysis (CBA) which is included in Annex 2 of this consultation paper. We consider the costs to be proportionate to the benefits.

The desirability of sustainable growth in the economy of the United Kingdom in the medium or long term

14. We consider this proposal is compatible with the desirability of sustainable growth in the economy. Financial resilience supports sustainable growth by allowing us to potentially identify where firm growth is unsustainable or presenting risks.

The general principle that consumers should take responsibility for their decisions

15. Our proposal is not relevant to this principle.

The responsibilities of senior management

16. Our proposal is not relevant to this principle.

The desirability of recognising differences, and objectives of, businesses carried on by different persons including mutual societies and other kinds of business organisation

17. Our proposal is not relevant to this principle. Our proposal will not discriminate or treat businesses differently because of the organisations by which they are run.

The desirability of publishing information relating to persons subject to requirements imposed under FSMA, or requiring them to publish information

18. This principle is not relevant to our proposal.

The principle that we should exercise our functions as transparently as possible

19. We have worked closely with those in the industry to understand how to shape our proposals through the TDC programme and we will continue to do so as part of this consultation process.

Financial Crime

20. Our proposal is not relevant to this principle.

Expected effect on mutual societies

21. The proposal in this paper has no impact on mutual societies.

Equality and diversity

22. We are required under the Equality Act 2010 in exercising our functions to 'have due regard' to the need to eliminate discrimination, harassment, victimisation, and any other conduct prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not and foster good relations between people who share a protected characteristic and those who do not.

23. As part of this, we ensure the equality and diversity implications of any new policy proposals are considered. The outcome of our consideration in relation to these matters in this case is stated in Chapter 3 of this Consultation Paper.

Annex 4

Abbreviations in this document

Abbreviation	Description
AFRM	Automated Financial Resilience Monitoring
ARD	Accounting Reference Date
CBA	Cost Benefit Analysis
CP	Consultation Paper
FCA	Financial Conduct Authority
FRS	Financial Resilience Survey
FSCS	Financial Services Compensation Scheme
FSMA	Financial Services and Markets Act
GBP	British pound sterling
IFPR	Investment Firms Prudential Regime
MMF	Money Market Funds
RIE	Recognised Investment Exchanges
TDC	Transforming Data Collection
TP	Temporary Permissions
UK	United Kingdom
VREQ	Voluntary Requirements Notice

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Appendix 1

Draft Handbook text

FINANCIAL RESILIENCE REPORTING (No 2) INSTRUMENT 2023

Powers exercised

A. The Financial Conduct Authority ("the FCA") makes this instrument in the exercise of the powers and related provisions in or under the following:

(1) the Financial Services and Markets Act 2000 ("the Act"):

(a) section 137A (The FCA's general rules);
(b) section 137T (General supplementary powers);
(c) section 139A (Power of the FCA to give guidance);
(d) section 293 (Notification requirements);

(2) regulation 109 (Reporting requirements) and regulation 120 (Guidance) of the Payment Services Regulations 2017; and

(3) regulation 49 (Reporting requirements) and regulation 60 (Guidance) of the Electronic Money Regulations 2011.

B. The rule-making provisions listed at paragraph A(1) above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on [*date*].

Amendments to the Handbook

D. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Citation

E. This instrument may be cited as the Financial Resilience Reporting (No 2) Instrument 2023.

By order of the Board
[*date*]

Annex

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

16.30 Baseline Financial Resilience Report

Application

16.30.1 R This section applies to any *firm* except:

(1) a ~~*credit broker*~~ *firm* with *limited permission*;

(2) a *MIFIDPRU investment firm*;

(3) a *not-for-profit debt advice body*;

(4) a *PRA-authorised person*;

(5) a *supervised run-off firm*; and

(6) a *TP firm.*

…

16 Annex 54G Guidance notes on the data items for FIN073 (the Baseline Financial Resilience Report)

This annex consists of guidance which can be found through the following link:

[*Editor's note:* insert link to document containing guidance on completing data items for the Baseline Financial Resilience Report]

Guidance notes for FIN073 ('Baseline Financial Resilience Report')

Introduction

…

Consolidated reports

This form should be completed by all *firms* except:

- a ~~*credit broker*~~ *firm* with *limited permission*;
- a *MIFIDPRU investment firm*;

- a *not-for-profit debt advice body*;
- a *PRA-authorised person*;
- a *supervised run-off firm*; and
- a *TP firm*.

…

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FINANCIAL
CONDUCT
AUTHORITY

12 Endeavour Square London E20 1JN
Telephone: +44 (0)20 7066 1000
Website: www.fca.org.uk