FINANCIAL CONDUCT AUTHORITY

Policy Statement

PS23/3

Creation of a baseline financial resilience regulatory return: Feedback to CP22/19 and final rules

May 2023

This relates to

Consultation Paper 23/9
which is available on our website at
www.fca.org.uk/publications

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Chapter 1
Summary

1.1 In June 2020, we launched the FCA Financial Resilience Survey ("FRS") data collection (formerly "Covid-19 Impact Survey"), a short survey designed to collect basic financial data from approximately 23,000 solo-regulated firms. Since then, we have continued to collect this data as an essential tool that helps us understand the risk of firm failure as well as general financial resilience risks across the population of FCA solo regulated firms. Recent events have only demonstrated the value in collecting this information by helping us understand what, if any, firms are at risk of failure so we can effectively manage the impact. In October 2022, we consulted on the creation of a new financial resilience regulatory return ("FIN073") by way of a replacement for the FRS. To minimise the firm burden of this new regulatory return, we proposed a significant reduction in the number of data points being collected. We also proposed that the return be submitted by firms on a quarterly basis with the scope remaining relatively similar to that of the FRS.

1.2 Following consultation, we are now publishing our policy and requirements with final rules.

Who this affects

1.3 This Policy Statement applies to all FCA regulated firms except:

- a credit broker;
- a MIFIDPRU investment firm;
- a not-for-profit debt advice body;
- a PRA-authorised person;
- a supervised run-off firm; and
- a TP firm.

The changes also apply to:

- an authorised electronic money institution;
- an authorised payment institution;
- a registered account information service provider;
- a small electronic money institution;
- a small payment institution; and
- a UK RIE.

1.4 The changes will also interest Trade Associations.

The wider context of this policy statement

Our consultation

1.5 In October 2022, we sought views on our proposed rules to introduce a new financial resilience regulatory return for solo-regulated firms. The new return, to be referred to as 'FIN073 - Baseline Financial Resilience Report', would give us access to high quality baseline financial resilience information from approximately 23,000 firms on a permanent basis.

1.6 Over the last two years, having access to high quality baseline financial resilience data on a regular basis has improved our ability to meet our objectives to protect consumers and ensure market integrity. This data allows us to rapidly assess financial resilience risks in firms, resulting in early intervention where appropriate. The data has helped us monitor the risk of firm failure through both the Russia/Ukraine conflict and other macroeconomic changes. Ultimately, this data helps in delivering our strategic commitment of reducing harm from firm failure. However, the current approach of collecting the data through ad hoc surveys places significant administrative burden on firms. We, therefore, proposed to rationalise and standardise this data collection in the form of a regulatory return.

How it links to our objectives

Consumer protection

1.7 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 large proportion of our solo-regulated firms we are able to quickly assess financial resilience risks. This allows 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

1.8 The ability to triage 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 allows us to focus on firms that are 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

1.9 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 a significant proportion of our solo-regulated firms allows 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.

What we are changing

1.10 We are introducing a new financial resilience regulatory return for solo-regulated firms. The new return will be referred to as 'FIN073 - Baseline Financial Resilience Report'. This will replace the current FCA Financial Resilience Survey ("FRS") data collection (formerly "Covid-19 Impact Survey").

Outcome we are seeking

1.11 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.

Measuring success

1.12 We will use several different measures to assess the success of FIN073.

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 reducing the administrative burden placed on firms.

1.15 As well as feedback, we will monitor the volume of calls received by our Supervision Hub from firms requesting help in completing the return. We will use current volumes in relation to the FRS as our baseline and will seek to see a reduction in calls as a result of both the move from a survey tool to RegData, and the new intuitive form design (subject to a successful pilot).

Summary of feedback and our response

1.16 The consultation received 112 responses.

1.17 41 respondents (37% of responses) supported the proposal, providing positive feedback. These respondents welcomed a consistent, regular return that provides certainty over the schedule and facilitates forward planning.

1.18 The other important themes in the responses included concerns raised by firms in areas such as increased levels of firm burden and the scope of the new return.

1.19 Respondents' views are set out in Chapter 2.

Equality and diversity considerations

1.20 We have considered the equality and diversity issues that may arise from the proposals in this Policy Statement.

1.21 Overall, we do not consider that the proposals materially impact any of the groups with protected characteristics under the Equality Act 2010.

Next steps:

What you need to do next

1.22 Firms that will be brought into scope of FIN073 will need to be prepared to submit the return when it is due, from January 2024. Firms will receive an automated reminder via RegData when the return is available for submission.

What we will we do next

1.23 In addition to publishing the final rules following CP22/19 we are also consulting simultaneously on changing the scope of FIN073 to include full permission consumer credit firms. These firms are currently excluded from the rules considering that they are captured under the definition of Credit Brokers. We will publish our final position in relation to the scope in Summer 2023, following the closure of CP23/9 in June 2023.

Chapter 2

Consultation responses

2.1 The consultation received 112 responses from a mixture of firms and trade bodies.

Firm burden

2.2 Eighteen respondents (16%) raised concerns that some of the data to be submitted via FIN073 would be duplicative as the FCA already receives this data through existing regulatory returns. Some firms specifically highlighted a level of overlap with the data submitted via RMAR.

Our response

We have not changed our proposal from consultation. While we recognise that there may be some overlap between FIN073 and RMAR, RMAR is a less frequent data collection. Additionally, one of the main benefits of FIN073 is to provide baseline liquidity information which we do not get through other regulatory returns such as RMAR. We believe that, on the balance, this proposal is proportionate and takes account of existing reporting obligations.

However, we recognise the need for a strategic and fundamental review of all prudential data that we collect from firms. To this end, we are working with the Bank of England (BoE) and industry to transform how we collect data from the UK financial sector through the joint Transforming Data Collection (TDC) Programme. Phase 2 of the programme, launched in September 2022, will see us conduct a strategic review of prudential data collections. We will be taking this opportunity to consider our prudential returns more broadly and identify areas for improvement.

Scope

2.3 Sixteen respondents (14%) felt that the proposed scope of FIN073 was disproportionate. Some firms believed that the scope could be further reduced by excluding firms that were "small" (particularly those who do not hold client money) and/or highly solvent.

Our response

We believe that the scope of FIN073 is proportionate. The main consideration in determining the scope of the new return was to balance the risk of harm to our objectives and burden on firms. As an example, we are consulting on excluding from the scope of FIN073 thousands of limited permission consumer credit firms on grounds of proportionality. We have also reduced the number of firms in scope by removing over 3,500 MIFIDPRU investment firms since regulatory reporting under MIFIDPRU gives us the full set of baseline financial resilience data.

We disagree with the view that firms considered to be highly solvent should be excluded from the scope of FIN073. The solvency position of all firms can change materially within a short timeframe and so cannot be used as the basis for determining the scope. It should also be noted that harm can also be caused by those firms not holding client money.

Rationale

2.4 Thirteen respondents (12%) expressed a lack of understanding of the purpose of collecting this data, how it is currently used and how it will be used going forward.

Our response

As part of the cost benefit analysis in our consultation paper, we have set out in detail the rationale for our intervention and the expected benefits. The data collected through FIN073 is a core component of our approach to delivering our strategic commitment of reducing harm in firm failure. In addition, baseline financial resilience data is also helpful to deliver our commitments of dealing with problem firms and strengthening the UK's position in global wholesale markets, may result in consumers having more confidence to make use of UK financial services.

Frequency

2.5 Thirteen respondents (12%) raised concerns about the proposed quarterly frequency. They suggested that the frequency to be reduced to either annual or bi-annual.

Our response

We have not changed our proposal from consultation. As stated in the consultation paper, having access to up-to-date baseline financial resilience data is a key component of our data led approach to assessing financial resilience of firms. This is most relevant to liquidity data which, by its nature, can become out of date very quickly. Liquidity risk can crystallise rapidly and is often a driver of failure for firms that are unable to service their liabilities. We believe that collecting this data on a quarterly basis provides the right balance between utility of the data and frequency of reporting, particularly for smaller firms.

Reporting schedule

2.6 Ten respondents (9%) cited the proposal to complete the return on a calendar quarterly basis to be a source of additional burden. Firms suggested that aligning the return submission dates with firms' Accounting Reference Date (ARD) would reduce firm burden.

Our response:

We have taken this feedback into consideration and changed our proposal from consultation. While firms will still need to submit FIN073 every quarter, the schedule will now be aligned to their reporting end date which will be pre-populated. This approach would mean that the reporting cycle of FIN073 is similar to some existing financial resilience regulatory returns such as FSA030.

Other

2.7 Two respondents (<2%) found Question 4 (*What was your revenue in the last financial year?*) to be inconsistent with the other questions in the return as these request data on a quarterly basis. The current question wording also suggests the same figure should be entered in response to four consecutive returns which is inefficient.

Our response

We have redrafted Question 4 and updated the supplementary guidance note. This question now requests revenue data on a cumulative basis (*"What is your revenue for the current financial year until the end of the last quarter?"*). This approach is consistent with that of other existing financial resilience returns such as FSA030.

2.8 Two respondents (<2%) found the definition of "average monthly cash needs" (as cited in Question 2 – *What are your average monthly cash needs arising from fixed costs?*) to be unclear, requesting further clarification regarding how this should be calculated.

Our response:

We have updated the supplementary guidance note to Question 2 to clarify how a firm's average monthly cash needs should be derived for the purposes of FIN073.

2.9 One respondent (<1%) requested that FIN073 be issued at a Group level (as opposed to one return being submitted per legal entity, as proposed).

Our response:

We have not changed our proposal from consultation. When firms find themselves in financial difficulty and must wind down, individual entities are wound down separately, not at a Group level. Regardless of the way a firm has structured its business, disorderly failure can cause harm. In the absence of entity level baseline financial resilience data, we would be unable to monitor the risk of failure and, therefore, impeded in our ability to deliver our strategic commitment to reduce harm in failure. This approach to data collection is consistent with that taken in prudential regimes such as MIFIDPRU.

Annex 1

List of non-confidential respondents

Adelp Financial Solutions

Alice Gavin Financial Solutions

Arlo Group UK Ltd

Aster Group

Betvictor

Bow House Wealth Management ltd

Bradford & Bingley

Burnett and Co Financial Planning Ltd

Caleb Roberts Fin Mgt Ltd

CapitalStackers Ltd

Cowan Young Financial Planning

DBRS Ratings Limited

DHR Capital Limited

ERL Financial Limited

Elsworth Associates Ltd

Fallon Associates Limited

Financial Services Regulation Ltd

Finex LLP

Fraser & Fraser

Geoff Mason Associates

Gist (Insurance Brokers) Ltd

Herbert Scott Ltd

Hybridan LLP

IFA Mentor Ltd

IWP Advisory Services Ltd

Invest & Fund Limited

JW Finance UK

LHGP Asset Management 18 Ltd

MM Mortgages

Mark Stuart Andrews

Michael Forward Financial Services Ltd

MRC Financial Services

Paragon Advance Ltd

Parklands Financial Advisers Ltd

Proaxis Legal Ltd

SMBC Nikko Capital Markets Limited

Scott's Mortgage Shop Ltd

Security For Expenses Ltd

SimplyBiz Services Limited

Stephensons Risk Management Limited

Stibbards Consultancy Ltd

Thompson Little

Venture Alliance Corporate Finance Limited

W H & R McCartney Limited

Annex 2
Abbreviations used in this paper

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

Made rules (legal instrument)

FINANCIAL RESILIENCE REPORTING 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 1 January 2024.

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 Instrument 2023.

By order of the Board
27 April 2023

Annex

Amendments to the Supervision manual (SUP)

In this Annex, the text is all new and is not underlined.

After SUP 16.29 (MIFIDPRU Remuneration Report), insert the following new section, SUP 16.30.

16.30 Baseline Financial Resilience Report

Application

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

(1) a *credit broker*;

(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.*

16.30.2 R This section also applies to:

(1) an *authorised electronic money institution*;

(2) an *authorised payment institution*;

(3) a *registered account information service provider*;

(4) a *small electronic money institution*;

(5) a *small payment institution*; and

(6) a *UK RIE*.

16.30.3 R In this section, a reference to a *firm* includes the *firms* listed in *SUP* 16.30.2.

Purpose

16.30.4 G The purpose of this section is to require *firms* to provide the *FCA* with regular information in a standard format. This information will assist the *FCA* in assessing *firms'* financial resilience and targeting supervisory resources according to *firms'* risk of failure and the harm they would cause if they failed.

Reporting requirement

16.30.5 R A *firm* to which this section applies must submit FIN 073 ('the Baseline Financial Resilience Report'):

(1) in the format set out in *SUP* 16 Annex 53R;

(2) in accordance with the instructions in *SUP* 16 Annex 54G; and

(3) online, through the appropriate systems accessible from the *FCA's* website.

16.30.6 R The information in the Baseline Financial Resilience Report must be denominated in pound sterling.

Frequency and timing of report

16.30.7 R A *firm* must submit the Baseline Financial Resilience Report:

(1) once every quarter; and

(2) within 20 *business days* after the relevant reporting reference date.

16.30.8 R A *firm's* reporting reference dates are:

(1) Its *accounting reference date*;

(2) Its *accounting reference date* plus 3 *months*;

(3) Its *accounting reference date* plus 6 *months*; and

(4) Its *accounting reference date* plus 9 *months*.

16.30.9 R The information in the Baseline Financial Resilience Report must show the position at the relevant reporting reference date.

After SUP 16 Annex 52 (Guidance notes for the MIF008), insert the following new annexes, SUP 16 Annex 53 and SUP 16 Annex 54.

Data items for FIN073 (the Baseline Financial Resilience Report)

16 Annex 53R	This annex consists of a form which can be found through the following link: [*Editor's note*: insert link to document containing data items for the Baseline Financial Resilience Report]

FIN073 - Baseline Financial Resilience Report

Completion Guidance

Guidance on completing this data item can be accessed via the help link next to the data item name.

All monetary values should be completed as whole numbers.

Data items

1	Total amount of liquid assets that you control or have unrestricted access to	
2	Average monthly cash needs arising from fixed costs	
3	Net profit or loss in the last quarter	
4	Revenue for the financial year to date	
5	Net asset or liability position	

Guidance notes on the data items for FIN073 (the Baseline Financial Resilience Report)

16 Annex 54G

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

The purpose of FIN073 ('Baseline Financial Resilience Report') is to ensure that the Financial Conduct Authority (FCA) receives regular information in a standard format to assist it in assessing the financial resilience of certain firms.

Consolidated reports

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

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

This form should also be completed by:

- an *authorised electronic money institution*;
- an *authorised payment institution*;
- a *registered account information service provider*;
- a *small electronic money institution*;
- a *small payment institution*; and
- a *UK RIE*.

Currency

All monetary values should be provided in Pound Sterling.

Data elements

All data should be entered in full figures, not rounded (for example, to 000s).

Reporting period

Firms should report as at the end of their financial quarter. This may not be the same as calendar quarter or UK fiscal quarter.

Basis of completion

1 – Total amount of liquid assets that you control or have unrestricted access to

Firms should report the total liquid assets that they have unrestricted access to, as at the final day of their financial quarter, as a positive number. If they do not have access to any liquid assets, firms should report a zero.

'Control' or 'have unrestricted access to' means that the firm is able to decide when and how to access these without external input (e.g., from their parent or another member of their group).

Liquid assets are financial assets that firms have available to quickly meet their obligations. These include cash, available committed facilities and other high quality liquid assets listed below.

Cash includes coins and banknotes, unencumbered short-term deposits held at a credit institution (such as cash at bank), and reserves held in a central bank. It may include money received as part of a government-backed loan scheme but does not include client money.

Available committed facilities mean a credit facility which has been formally agreed between the firm and a lender, such as a loan or revolving credit facility with no material adverse change clause. Available committed facilities should be reported as positive values.

For the purposes of FIN073, only the following constitute high quality liquid assets:

- assets representing claims on, or guaranteed by, the UK government or the Bank of England;
- units or shares in a short-term Money Market Fund (MMF); and
- units or shares in a third country fund that is comparable to a short-term MMF.

A short-term MMF is a regulated money market fund that meets the definition of a 'short-term MMF' in article 2(14) of the Money Market Funds Regulation.

2 – Average monthly cash needs arising from fixed costs

Fixed costs are costs that are unlikely to be reduced or eliminated. This is likely to include, for example, salaries, rents and business rates. Cash needs arising from fixed costs include all fixed costs that result in a cash outflow. When assessing the average monthly cash needs arising from fixed costs, firms should estimate their needs for a period of three months following the calculation and divide the result by 3 to find the monthly average.

3 – Net profit or loss in the last quarter

This is the net profit or loss after tax over the relevant reporting period (financial quarter) with loss reported as a negative number. This should not be reported on a cumulative basis for the year but instead as the profit (loss) over the relevant reporting period.

4 – Revenue for the financial year to date

Revenue is the total income generated before deducting any expenses for the financial year to date, even if this has not been audited. Revenue may be zero but cannot be negative. If you have not completed a full quarter, you should report a zero for that quarter.

This submission should be completed on a cumulative basis (capturing the amount for each available quarter) for the firm's current financial year up to the reporting date.

5 – Net asset or liability position at the end of the last financial quarter

Net asset position is the total assets minus total liabilities at the end of the relevant reporting period (financial quarter). This should be reported as a negative number if the liabilities are greater than the assets.

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