Building Societies Association

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Response to PRA CP17/24 – Operational resilience: Operational incident and outsourcing and third party reporting and FCA CP24/28 Operational incident and third party reporting

About the Building Societies Association

The Building Societies Association (BSA) represents all 42 UK building societies, including both mutual-owned banks, as well as 7 of the largest credit unions. Building societies have total assets of almost £525 billion and, together with their subsidiaries, hold residential mortgages of over £395 billion, 24% of the total outstanding in the UK. They also hold £399 billion of retail deposits, accounting for 19% of all such deposits in the UK. Building societies account for 40% of all cash ISA balances. With all their headquarters outside London, building societies employ around 52,300 full and part-time staff. In addition to digital services, they operate through approximately 1,300 branches, holding a 30% share of branches across the UK.

Executive summary

This is a response to both *PRA CP17/24 – Operational resilience: Operational incident and outsourcing and third party reporting* and *FCA CP24/28 Operational incident and third party reporting*. Both consultations were launched at the same time, cover the same topics and have similar proposals which were developed jointly by the Bank of England, PRA and FCA. We believe it is therefore helpful to combine our response to both consultations into one response. In doing so, we have not sought to respond to each consultation question. Instead, we have set out in broad terms our observations and concerns regarding both sets of proposals. The key points to our response are:

- We support the PRA and FCA's aims to enhance incident and third party risk management, strengthen firms' operational resilience and minimise harm.
- It is important there is consistency between the PRA and FCA reporting requirements so as to avoid confusion and unnecessary duplication.
- The definition of "operational incident" should be the same for both PRA and FCA. The proposed definitions look similar, but are not the same.
- Scope and credit unions – the scope of the PRA and FCA proposals are inconsistent. The exemptions for credit unions from certain reporting requirements differ for both regulators. This demonstrates a lack of joined up thinking between the regulators and must be addressed.
- The reporting requirements – greater clarity needed on which third party relationships should be captured. Requirements should be kept under review as smaller firms may struggle to complete long and complex reports when suffering an operational incident.

These points are covered in more detail below.

Response

We strongly support the regulators' aim to enhance incident and third party risk management, strengthen firms' operational resilience and minimise harm. However,

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any regulatory reporting requirements must be proportionate, joined up and not overly complex. This is particularly important for critical incident reporting which, by its nature, occurs at a time of stress and stretched resources for the firm.

We note the Bank of England, PRA and FCA jointly developed their proposals. Given this, we feel it would have made more sense to issue a joint PRA/FCA consultation. The benefit in doing so would have been to help minimise the risk of potentially conflicting and differing requirements. It would also have helped the regulators take greater account of the combined burden they are placing on firms.

This response aims to highlight where we believe the PRA and FCA should have a more joined up approach.

Definition of "operational incident"

Many of the proposed definitions, thresholds and reporting requirements in the consultations are similar, but there are some notable differences. While some of these differences can be explained by the regulators' different remits and statutory obligations, others are more baffling. For example, the proposed definitions of "operational incident" in both consultations are similar, but not the same, as shown below:

PRA definition of operational incident:

"…defined as either a single event or a series of linked events which disrupts the firm's operations such that it:

- *Disrupts the delivery of a service to an end user external to the firm; or*
- *Impacts the availability, authenticity, integrity or confidentiality of information or data relating or belonging to such an end user."*

FCA definition of operational incident:

"A single event or series of linked events that disrupts the firm's operations, where it either:

- *Disrupts the delivery of a service to the firm's clients or a user external to the firm; or*
- *Impacts the availability, authenticity, integrity or confidentiality of information or data relating or belonging to the firm's clients or a user external to the firm."*

We would be grateful for an explanation as to why the definitions differ in their references to "end user external to the firm", "firm's clients" and "user external to the firm". Unless there is a valid reason for the differences, there should only be one universal definition of "operational incident", so as to avoid confusion.

Credit Unions

The two consultations also differ in their requirements for credit unions. Credit unions are duel regulated firms. The scope of the PRA proposals would require credit unions to report third party arrangements but not operational incidents; whereas the scope of the FCA proposals would require credit unions to report operational incidents, but not third party arrangements.

The relevant extracts from the two consultations regarding the scope of the proposals are set out below:

PRA

1.5 Chapter 2 of this CP which deals with operational incident reporting, is relevant to all:

- *UK banks, building societies, PRA-designated investment firms and branches of overseas banks ('banks'); and*
- *UK Solvency II firms, the Society of Lloyd's and its managing agents ('insurers').*

1.6 Chapter 3 of this CP which deals with outsourcing and third-party reporting, is relevant to all PRA-regulated firms.

FCA

Chapter 3 of this CP, which covers proposals for operational incident reporting, is relevant to:

- *a firm*
- *a payment service provider*
- *a UK Recognised Investment Exchange (RIE)*
- *a registered trade repository*
- *a registered credit rating agency*

Chapter 4 of this CP, which covers proposals for third party reporting, is relevant to a firm that is:

- *an enhanced scope Senior Managers & Certification Regime (SM&CR) firm*
- *a bank*
- *a PRA designated investment firm*
- *a building society a Solvency II firm*
- *a Client Assets Sourcebook (CASS) large firm*
- *a UK recognised investment exchange (RIE)*
- *an authorised electronic money institution or an authorised payment institution*
- *a consolidated tape provider*

We welcome and support limiting the scope of the proposals to reduce the burden and impact of reporting requirements on credit unions, many of which are small organisations. However, there must be consistency between the regulators for credit unions to benefit from any exemption. The inconsistency of scope in the two consultations mean that any benefit from exemptions to the proposals is cancelled out by the conflicting requirements to submit operational incident reports to one regulator and third party arrangements to the other.

The scope of the proposals in the two consultations also appears to differ with regard to the size of the credit union. We believe the PRA proposals would apply to credit unions with greater than £50 million of assets, whereas the FCA proposals would apply to all credit unions regardless of size.

We have contacted the Bank of England and they have confirmed our observation that there are inconsistences in scope between the PRA and FCA proposals.

We believe the inconsistences must be a mistake. The different requirements are potentially confusing, will have a disproportionate impact given the size of many credit unions and do not demonstrate joined up thinking between the regulators.

Both regulators should consider from first principles what information it is that they really need according to their supervisory risk appetite for credit unions depending on the impact that their failure has on their statutory objectives.

Reporting requirements

We welcome proposals to standardise reporting requirements.

We note the PRA template return for reporting critical third parties is similar to the Bank of England Electronic Data Submission (BEEDS) return firms currently complete for material outsourcing relationships. The data requested is almost identical. Some of the questions in both the BEEDS and proposed template are very technical. With the BEEDS some firms struggle to select an appropriate response to some questions due to the limitations of the selections listed. This is also likely to be the case for the new template.

We believe firms would benefit from greater clarity regarding which third party relationships should be captured in the return. Throughout the return there is conflicting and interchangeable terminology used regarding "material third party relationships" and "outsourcing". This is likely to cause confusion. For example, the general instructions state "*The submissions should only cover material outsourcing arrangements. Please refer to chapter 5.2 and 5.11 in SS2/21 for Banks and Chapter 5 in the Bank of England's Supervisory Statement for FMI firms.*" The return then asks whether it is considered material outsourcing or not, but based on the above guidance, non-outsourcing would not be included.

We also note the general instructions request firms limit the use of the "Other" selection. A detailed explanation of when it is and is not appropriate to use the "Other" selection would be beneficial. Alternatively, the "Other" option should be removed.

With regard to the critical incident reporting proposals, we welcome the PRA and FCA stressing the importance of proportionality. They rightly point out that firms' priority should be to address the critical incident rather than focus on reporting it to the regulators during the event. The proposed thresholds and requirements around the timings of reports should help in this regard. However, it is important to highlight the potential burden on smaller firms, whether they are a building society or credit union. Smaller firms will have fewer resources to dedicate to both addressing the issue and producing timely critical incident reports to the regulators. They may struggle to complete complex forms within the required timeframes. The regulators should keep the requirements for critical incident reporting under review to ensure they remain achievable for smaller firms.

Next steps

We note the FCA states it will consider feedback and publish final rules in a policy statement in H2 2025, whereas the PRA state the proposed implementation date for their proposals is no earlier than H2 2026. Given the proposed requirements are similar and cover the same areas, it would make sense to implement them around the same time. Before that can happen, the PRA and FCA must ensure the scope of their requirements (particularly with regard to Credit Unions) and any final rules are consistent so as to avoid confusion and regulatory burden. Implementation must be properly coordinated. Therefore, we suggest the FCA's proposed timeframe for implementation should mirror the PRA's timeframe; namely H2 2026 at the earliest.

We would be happy to discuss and further elaborate on any of the points raised in our response with the regulators.