

UKRN Consultation  
Competition and Consumer Policy Directorate  
Department of Business, Innovation and Skills  
3<sup>rd</sup> Floor – Victoria  
1 Victoria Street  
London  
SW1H 0ET

By email



Financial Conduct Authority  
25 The North Colonnade  
Canary Wharf  
London  
E14 5HS

Tel: +44 (0)20 7066 1000  
Fax: +44 (0)20 7066 1099  
[www.fca.org.uk](http://www.fca.org.uk)

01 December 2014

Dear Sir/Madam,

This letter is a response to HM Government's consultation on collaboration between economic regulators on behalf of the Financial Conduct Authority ("FCA"). We note that as a member of the UK Regulators Network ("UKRN") we have contributed to the collective response issued by the UKRN. This response therefore focuses only on the issues raised on which the FCA has further specific comments.

We welcome the Government's support for collaboration among economic regulators and consider that the creation of the UKRN has been an important step towards formalising the processes for joint working. Given that the initiative is still in its early stages we support the UKRN's position that the Government's first option, monitoring and reviewing the progress of the UKRN, is appropriate at this juncture. We agree that this approach will pose fewer implementation risks than the alternative options the Government is contemplating for encouraging collaboration.

Moreover, we consider that there are substantial benefits to preserving a flexible approach to joint working which recognises that sector regulators may be subject to very different statutory frameworks and responsibilities. In particular, we appreciate that the Government has acknowledged that although the FCA has competition and consumer protection functions it is not appropriately categorised as an economic regulator. Indeed, the FCA does not regulate a previously-nationalised industry and does not set prices or rates of return for participants in such an industry as a substitute for a freely operating market. Rather, the FCA authorises and regulates many thousands of participants in the financial services industry as well as having a 'host state' role in regulating firms who 'passport' into the UK from elsewhere in Europe.

Importantly, the FCA regulates firms in conjunction with the Prudential Regulation Authority ("PRA") - a subsidiary of the Bank of England. The PRA authorises some participants in the

financial services sector (notably banks and insurers) with the FCA's consent. A duty of cooperation extending to economic regulators would be at odds with the FCA's role to co-operate with regulators that are not economic regulators, including the PRA.

The FCA is already obliged to adhere to a complex set of overlapping responsibilities to cooperate with different regulatory bodies which include, but are not limited to:

- A general statutory duty to co-operate with other bodies who have functions similar to the FCA;
- Specific statutory duties to cooperate with other organisations on certain matters including the PRA and the Bank of England;
- Obligations to comply with maximum harmonisation legislation enacted in Europe;
- Requirements to adhere to the conditions of bilateral arrangements including Memoranda of Understanding agreed with other organisations, in the UK and overseas, with which we have a mutual regulatory interest.

Ensuring that the FCA's engagements with other regulators fulfil the requirements of its statutory framework and other myriad overlapping commitments can be a complex process, and we value the flexibility that the current approach to joint working offers extremely highly. We therefore urge the Government to take careful consideration of the risks associated with reducing this flexibility by introducing further formal measures to promote joint working. In particular, we are concerned that introducing a statutory duty on regulators to cooperate will inevitably complicate a framework of interactions which is already necessarily highly involved. This could result in a range of unintended consequences including slowing down decision making, exposing regulators to the risk of legal challenge and raising regulators' costs.

We hope that these comments are of assistance to the Government in its consultations. Please do not hesitate to contact us if it would be helpful to discuss them further.

Yours faithfully,



For the Financial Conduct Authority