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Her Majesty's Treasury

By email to FRF.Review@hmtreasury.gov.uk

04 July 2023

Dear Sir/Madam

Re: EMA response to HMT Call for Proposals on measuring success within financial services regulation

We welcome the opportunity to provide input to this HMT Call for Proposals on measuring success within financial services regulation.

The EMA represents FinTech, BigTech and technology firms engaging in the provision of alternative digital payment services, including the issuance of e-money, e-money tokens, and cryptoassets. Our members include leading payments and e-commerce businesses providing online payments, card-based products, electronic marketplaces, and increasingly cryptocurrency exchanges and other cryptocurrency related products and services. The EMA has been operating for over 20 years and has a wealth of experience regarding the regulatory framework for electronic money and payments. A list of current EMA members is provided at the end of this document.

We would be grateful for your consideration of our comments, which are set out below.

Yours faithfully

A handwritten signature in black ink, which appears to read 'Thaer Sabri', is positioned above a horizontal line that extends to the right.

Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

EMA Response to Proposals

Proposal 1: Power of direction

Do you agree with the government's approach to the exercise of the power of direction in Clause 37 of the FSM Bill?

The government has introduced Clause 37 into the FSM Bill, which amends FSMA to introduce a power for HMT to direct the regulators to publish information.

The power can only be exercised where HMT considers that the information is reasonably necessary for the purpose of reviewing and scrutinising the discharge of the regulator's functions, and other available information must not sufficient be to meet that purpose.

HMT plans to engage with industry, consumers, and Parliament when considering this approach.

HMT is also required to consult with the regulators to determine the need for the direction. The regulator will then be required to publish the requisite information, with an exception when the information is confidential or publishing it would be against the public interest.

EMA response: The EMA is generally supportive of the introduction of the power of direction, as it provides an opportunity for further scrutiny of the regulators in the execution of their responsibilities.

As regulators are entrusted with enhanced rulemaking ability, and additional new objectives, it is appropriate that further mechanisms are introduced to ensure adequate reporting and accountability.

We would welcome further information regarding the mechanisms of this power of direction, including how exactly it can be triggered, and on what basis HMT might decide to issue a Direction, for example whether there will be a channel for the industry or other stakeholders to request the publication of relevant metrics from the regulators.

Proposal 2: Publication of key metrics

What are the key metrics that the FCA and the PRA should publish in relation to their new secondary growth and competitiveness objectives?

Regulators already have some reporting requirements under the Financial Services and Markets Act 2000 - for example, regarding applications for approved persons or authorisation, regulators publish their performance against statutory deadlines annually.

Regulators have also committed to publishing more detailed and frequent data as of April 2023, such as quarterly publication of metrics related to the statutory deadlines, and enhancements to the reporting such as breaking down specific metrics by firm.

Considering the newly added regulatory objectives on growth and international competitiveness, new metrics will be required to support scrutiny of how they are being advanced.

EMA Response: The EMA is happy to suggest a number of potential reporting metrics related to the new regulatory objectives.

Publication of key metrics related to growth objectives

- An overview of the total applications received for authorisation for specific sectors, and a breakdown of total authorisations given, and total applications refused.
- A qualitative analysis of primary reasons for rejection (anonymised).
- The average time to awarding authorisation, broken down by sectors and categories.
- Total firm wind-down numbers across sectors.
- Number of authorisation applications being assessed per internal case officers, broken down by sector.
- Total number of authorisation case officers, and whether they are dedicated staff or on secondment from industry.
- Number of firms overseen per internal supervisor, broken down by sector.
- Published cost benefit analysis and justification prior to the introduction of new rules and regulatory frameworks.
- Published assessment on the impact and effectiveness of new rules and regulatory frameworks post-implementation.
- Publication of aggregate financial crime data collected from industry.

Publication of key metrics related to international competitiveness - benchmarking against other leading jurisdictions and regulators

- Total number of firms authorised/licensed by the regulators, broken down by sector.
- Regulatory Innovation Initiatives – Number of participants in the Regulatory Sandbox and graduates from the Regulatory Sandbox per regulator.
- A comparison of rulebooks and regulatory frameworks to determine if they are either too robust and onerous or too lax compared to other regulators and jurisdictions.
- A comparison of the statutory deadlines and timelines to award authorisation/license compared to other regulators, broken down by sector.
- A comparison of the authorisation/licensing fees charged compared to other regulators, broken down by sector.
- A comparison of the supervision fees charged on an on-going basis compared to other regulators, broken down by sector.

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