

We thank you for your time spent taking this survey.  
Your response has been recorded.

Below is a summary of your responses

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## The FCA's Rule Review Framework

### Providing feedback

We would like to hear your feedback on our draft Rule Review Framework (the Framework). You can provide feedback by completing this online response survey. The survey begins with a number of questions about the respondent and the details of the person completing the response. It then sets out the questions to provide feedback on the draft Framework.

You can read the draft Framework by clicking on this

link: <https://www.fca.org.uk/publications/corporate-documents/our-rule-review-framework>

We recommend you review all questions before starting your response. Please read the instructions below carefully, before completing your response.

### Introduction

The draft Rule Review Framework sets out our approach to monitoring and reviewing our rules. It sets out:

- our policymaking cycle, why we review rules and what's in scope of the Framework
- areas shared with other regulators
- consideration of international standards and regulations
- summary of our approach to reviewing new and existing rules
- how we set, measure and monitor the outcomes of our rules
- how we use stakeholder feedback
- types of review and how and when we undertake them
- our immediate priorities for review
- challenges to undertaking reviews
- actions we can take after a review
- cases where a review shows a significant problem
- our approach to reporting, including where directed to review by the Treasury

It also incorporates our existing ex post impact evaluation framework, with amendments to update it in light of the broader new Framework.

We are seeking your views on our approach. In particular, we are interested in views on how stakeholders would like to feedback to us about our rules and whether they are working as intended.

### **Who is this for?**

The Rule Review Framework will be of interest to stakeholders who want to understand our approach to monitoring and review of our rules. In particular:

- industry groups and trade bodies
- regulated individuals and financial services firms
- consumer groups and consumers
- policymakers and other regulatory bodies
- industry experts and academics

Please respond to the questions by **15th September 2023**.

### **Instructions**

Questions with a \* are compulsory and therefore need to be answered in order to move on in the survey.

The first section is 'First tell us something about your organisation or yourself'. Please fill in this section online.

The second section is 'Feedback Questions'. You will find a mixture of closed questions and open questions, inviting you to provide a longer, qualitative response should you wish. It is our preference that you reply to the entire survey online. In this case, you simply follow the prompts on screen. The open text boxes expand as you type and have no word limit. You may consider whether you prefer to draft a response and then copy and paste it into the text box rather than type it directly, particularly if you have a longer response.

You can find information on how the FCA will use the data you provide in the following privacy notices: <https://www.fca.org.uk/privacy/personal-data-and-surveys-consultations-and-market-research>

If you need to submit your response in an alternative format due to accessibility reasons, please submit it to [forregulatoryframeworkpolicy@fca.org.uk](mailto:forregulatoryframeworkpolicy@fca.org.uk)

The next button on the bottom of the survey saves your answers provided on the page and allows you to return to the survey to continue at another time using your unique survey link. By clicking SUBMIT at the end of this survey, your responses will be submitted and you will not be able to return to the survey. On submission, a summary of your responses will be displayed on screen with the option to save a copy for your records. If you need to make any changes, please navigate using the back button on the bottom of the survey before submission.

### **First tell us something about your organisation or yourself**

\* **Respondent full name**

Judith Crawford

**\* Respondent contact email**

judith.crawford@e-ma.org

**\* Are you responding on behalf of a company or organisation or as a private individual in a personal capacity?**

- Company or organisation**
- Private Individual, in a personal capacity

**If you would like to include further details about who you are and why you are responding to this survey, please do so below:**

Electronic Money Association, representing EMIs, PIs, CASPs and VASPs

**This section is asking for your feedback on the draft Rule Review Framework. Details of the draft Framework can be found on <https://www.fca.org.uk/publications/corporate-documents/our-rule-review-framework>**

**1. Do you agree with the approach to monitoring and reviews set out in our draft Rule Review Framework?**

Yes



No



**2. What do you like about the approach?**

We support the FCA's proposals to systematically improve the Handbook, and to collect feedback from stakeholders on the application of those rules. We are also supportive of the FCA's proposal to look at existing rules already in the Handbook, where the outcomes have not been systematically monitored. As well as reviewing the outcome and effectiveness of new rules, it is important to continually assess existing rules and amend them as necessary.

**3. What do you think could be improved?**

Updates to the Handbook: - We note there is no similar process for improving Guidance, such as the Payment Services Approach document. We would welcome a similar transparency that uses technology to capture stakeholders' feedback consistently and in a transparent manner. - Updates to the Handbook and guidance such as the Payment Services Approach Document are seldom, and seem to take a long time to be processed. We would encourage a faster process for updating the Handbook and associated Guidance. - We consider that any Guidance associated with a given rule should also be updated when the Rule is updated. - We also suggest a mechanism where stakeholders can raise existing rules which may not be effective, or are no longer fit for purpose due to substantive changes in circumstances that affect how the rule is working, for the FCA to consider on an on-going basis. Useability of the Handbook: we encourage the FCA to consider improving the useability of the Handbook. This would improve firms' understanding of their requirements, decrease the cost of compliance, and reduce barriers to doing business in the UK. Some specific examples are set out below: - The links within the Handbook tend to link to the glossary rather than the relevant rule that is referenced. This means that understanding the obligations under a particular Rule in the Handbook can be challenging for compliance officers and their advisors, as they involve several additional steps and the need to cross-reference text than necessary. We recommend linking also to the relevant rule as well as the glossary, and also checking that existing links are still valid. - We suggest that the FCA consider building a filter functionality that allows firms to filter out the Handbook Rules that apply to them in accordance with their regulatory permissions and/or products/services provided. The FCA Payment Services Approach document is an example of a useful document that provides a one-stop-shop for compliance officers and other staff to understand the regulatory expectations and requirements. - The language in the Handbook tends to be difficult to understand, and would benefit from a review through a "plain English" lens. - When one is viewing a particular section in the Handbook and then presses the return key, the entire table of contents collapses taking you back to the start. It should just return to the previous page. - An FAQ section may also be a useful addition, where the FCA can collate questions it receives and provide a public response for clarity and efficiency purposes. This exists for certain areas such as the Market Abuse Regime - it will be beneficial to replicate this for other regimes, and also provide easier access to locate the FAQs. Engagement with stakeholders and transparency: - Following a consultation process, whilst the FCA publishes a summary of consultation comments along with the FCA's response, the stakeholder responses are not themselves published. It would serve the purposes of transparency and good policymaking if all responses were also published as tends to be the practice with other regulators such as the PSR. - In addition, the approach the FCA implements often does not align with the responses received to the actual consultation. For example, the recent consultation related to financial promotions of cryptoassets highlighted that most respondents did not agree with the FCA's proposals, yet the FCA chose to proceed with implementing them anyway. Where the FCA chooses to disregard feedback received during a consultation, clear justification should be provided. - The FCA should make more use of informal or bilateral channels of engagement with trade associations. We have seen a marked reduction in FCA outreach and active engagement on detailed policy or rules over recent years, despite the hugely significant changes taking place in this sector; efforts to engage and facilitate dialogue is now initiated by external parties, and is often at high level rather than addressing specific detailed policy issues or rules. - We would encourage the FCA to share with trade bodies the outcomes of their evidence assessments when reviewing existing rules or considering whether to introduce new rules. - When the FCA substantiates their guidance and rule-making with real examples of enforcement, the FCA should cite the relevant FOS case reference number as to substantiate the relevant guidance / rule. For example, there were examples in the Consumer Duty guidance FG 22-5 where it is not clear whether the scenario actually happened or whether it is just a fact pattern. Adding in the FOS case reference number would add credibility and support the FCA's decisions. The EMA asked for this in our responses to the earlier Consumer Duty consultations; however, our points were not addressed. Evidence-based rulemaking and data - We welcome the FCA's intention to collect data following the publication of a new policy in order to test its effectiveness; however, in order to really understand the effectiveness of a new policy or Rule, data should be collected both before and after the change comes into force. We suggest the FCA place more emphasis on evidence-based policymaking, by collecting more data ahead of introducing a new rule. This would enable new rules to have greater credibility and support from industry. - In order to do this, the FCA should make better use of the data the FCA already collects; the FCA requests and receives large volumes of data from regulated entities, on an annual, 6-monthly and quarterly basis. However the majority of this data is never published, and the FCA does not seem to use the data in any way to drive policymaking. We have identified several occasions where the FCA starts to discuss data collection of data that is already collected on an ongoing basis as part of the FCA's regular data collection. For example, the Open Banking committee JROC has started to ask firms to report on open banking fraud data. However this data is already held by the FCA in their annual financial crime return.

#### **4. We would like to have effective ways for stakeholders to feedback to us on whether our rules are working as intended.**

**We already have different ways to collect stakeholder feedback, for example: our engagement with firms, trade associations, consumer groups and our Consumer Network, and our supervisory contact with those we regulate.**

**Would you use an existing channel to feedback to us on how our rules are working in practice?**

Yes

No

**If yes, which channel(s) would you use?**

The EMA has in the past used the following channels of communication: - Regular quarterly meetings with the FCA supervision and policy teams, whether with other trade associations or bilaterally - Roundtables and sprints dedicated to specific topics (although we note that techsprints are not included on either the policy issue page of the FCA website, or in the weekly/daily updates, so it is easy to miss them) - Written communication including emails, written submissions, consultation responses. - FCA staff attendance at EMA meetings to discuss specific policy areas

**5. Would you use the following new options to feed back to us on how our rules are working in practice?**

*Select all that apply*

- A feedback option embedded in our Handbook, so you can feedback on specific rules**
- A feedback option on our website for feedback on any rule**
- Neither
- Other suggestion**

Regarding the suggestion of having a feedback option embedded in Handbook, this may lead to an overload of input that may be challenging for the FCA to filter in order to identify relevant and pertinent comments. A level of friction can be helpful in such circumstances. A separate point is that we note that there is no similar process for improving Guidance, such as the Payment Services Approach document. We would welcome a similar transparency that uses technology to capture stakeholders' feedback consistently and in a transparent manner.

**6. Do you have any other comments or feedback on the draft Rule Review Framework?**

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