

## Cabinet News and Views

Informed analysis for the financial services industry



### The UK's Financial Conduct Authority Consults on Changes to the Rules on Remuneration



By **Alix Prentice**  
Partner | Financial Regulation

The UK's Financial Conduct Authority ("FCA") has published [Consultation Paper CP23/11](#) on enhancing the proportionality of the application of rules on remuneration for smaller, dual-regulated firms in relation to the risks those firms pose to UK consumers and markets.

Dual-regulated firms comprise banks, building societies, larger investment firms and firms from overseas that carry on those activities from a UK establishment who are prudentially regulated by the Prudential Regulation Authority ("PRA") and regulated by the FCA for conduct of business. CP23/11 proposes to address how the remuneration rules affect smaller and less complex dual-regulated firms in a way that is proportionate to their size, internal organisation and the nature, scope and complexity of their activities by:

*1. Amending proportionality thresholds by increasing the total asset threshold and changing the additional criteria that firms with over £4 billion of total assets must meet:*

This amendment will mean that firms that either have average total assets equal to or below £4 billion on a three-year average, or have average total assets greater than £4 billion and equal to or below £20 billion and which meet other criteria, will be able to disapply certain remuneration rules on grounds of proportionality.

Those other criteria for firms with assets over £4 billion include:

- level of trading book business;
- size of foreign exchange positions relative to own funds;
- no commodities or commodity derivatives positions;

- no provision of clearing, settlement, custody or correspondent banking services outside their immediate group; and
- not an operator of a payment system.

## *2. Removing malus and clawback requirements:*

Firms meeting the amended proportionality thresholds will be able to cease to operate malus and clawback, and will continue to be exempt from deferral, payments in instruments and discretionary pension arrangements requirements. Note that the outcome of a separate consultation on the removal of the bonus cap for all firms will be the subject of final rules to be published in Q3.

The amended remuneration rules and guidance on thresholds and malus and clawback will apply to the next performance year that begins on or after publication of the final FCA Policy Statement that results from CP23/11.

---