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David McIntosh QC (Hon)
Chairman

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By Email: financial.reform@hmtreasury.gsi.gov.uk

Dear Sirs

Re: CLLS Regulatory Law Committee response to Her Majesty's Treasury Consultation: A new approach to financial regulation - building a stronger system (CM8012)

The City of London Law Society ("**CLLS**") represents approximately 14,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world.

This response to Her Majesty's Treasury Consultation: A new approach to financial regulation - building a stronger system (CM8012) (the "**Consultation**") has been prepared by the CLLS Regulatory Law Committee (the "**Committee**"). Members of the Committee advise a wide range of firms across and outside Europe who operate in or use the services provided by the financial markets, These include clients on all sides of the market as well as market infrastructure providers. We are frequently involved in advising overseas firms who are seeking to establish a European presence and who are considering the U.K. as a possible lead jurisdiction, as well as advising a wide range of firms and individuals on enforcement matters. Our comments below on the authorisation and enforcement processes are therefore based on considerable practical experience.

1. GENERAL

We are not commenting on every question raised in the Consultation and have set out our comments below with reference to the question numbers concerned. We highlight in this section two areas of general concern, the first relates to the day to day operation of the new authorities, the second to the proposed change in approach on certain matters involving regulatory decisions

As explained in our previous comments we have not questioned the policy of creating a new regulatory infrastructure as this is clearly settled, but a structure involving more than one regulator carries clear risks of lack of effective coordination and related cost and uncertainty for firms. The implementing legislation must set a clear framework within which the authorities must operate and co-operate, to provide the markets and firms with the efficient and cost effective regulation that they need. If the U.K. is to remain a leading jurisdiction for the location of financial services firms then it must provide them with clear, effective and efficient processes for authorisations, variations of permission, approved person approvals and change of control consents, as well as fair processes in enforcement cases. Firms that have a choice as to whether to locate here (with the resulting jobs, tax revenue etc.) take into account the local processes when determining whether to base their head office in the U.K. or set up elsewhere in Europe and simply passport into the U.K. We know this from our own practices. The impact of the new structure on firms must be capable of being clearly described, so that firms know what to expect, who to deal with, and what time frames will apply. The proposals in the Consultation do not go far enough to ensure that this will be the result. We suggest below that there should be express duties to cooperate, a shared services function and identical rules where both regulators are implementing the same European laws, or making rules which cover the same territory. As far as European laws are concerned it is essential to avoid a position where different regulators appear to interpret the same rules in a different way, as in other Member States there will be one authoritative source.

We have already expressed to you our serious concerns about the proposals in relation to various changes in the provisions relating to enforcement and similar matters, such as refusals to approve individuals. We are strongly opposed to the proposals in their current form, as explained in our comments on the specific questions below. We highlight in this general section the concerns we have on the proposal to publish warning notices. We consider that it is unjustified, unfair and unnecessary. If the Government proceeds with it then it

will need to make significant changes to the entire framework within which they are produced. At present warning notices are highly selective as to their content, omit relevant material which does not assist the "prosecution" case and they are issued before the firm or individual has had access to the material which the FSA has in its possession or an opportunity to challenge what the notice says.

The suggestion that warning notices should be made publicly available is not justified. If the regulator has a case then it will appear in due course. In our experience, even when a warning notice is followed by a Decision Notice, the content is often materially different. As a recent public example has shown, premature publication of information about an investigation can have a devastating irreversible impact that is particularly unfair if the investigation concludes with no action. The same could happen with publication of warning notices-not every warning notice results in a Decision Notice. We urge HM Treasury to revisit these proposals, which also have a potentially damaging effect on confidence in the U.K. and on the reputation of the U.K. as a place to carry on business. We are of course supportive of an effective and appropriate enforcement process, it is essential that firms and individuals who break the rules are subject to proper sanction and, where appropriate, publicity, but the current proposal is not required to meet that objective.

2. BANK OF ENGLAND AND FINANCIAL POLICY COMMITTEE

In our response dated 15 October 2010 to consultation paper number CM7874 "A new Approach to Financial Regulation: Judgement, Focus and Stability" we deliberately made no comment on the creation of the FPC as a matter of principle. We express no view on that in this response either but we have a number of concerns in relation to the proposed role for the FPC, its accountability and the proposed power of direction in particular. These largely fall under question 3 and we are accordingly setting out our response in relation to that question first.

Question 3 - Do you have any general comments on the proposed role, governance and accountability mechanisms of the FPC?

2.1 The FPC's proposed objective

We note that the Bank of England is to be given a revised financial stability objective, which will be to "protect and enhance" the stability of the financial system of the United Kingdom. The FPC's objective will be designed to link into the Bank's objective by requiring it primarily to identify, monitor and take action

to remove or reduce systemic risks with a view to protecting and enhancing the resilience of the UK financial system. These objectives appear to envisage a continuous requirement to improve the level of financial stability in the UK, with no "steady state" ever being reached. The consultation paper says in paragraph 2.19 that the Government proposes to build a balance between financial stability and sustainable economic growth into the FPC's main objective as set out in Box 2B. The proposed wording in paragraph 4 of the FPC's objective is somewhat timid in this regard. The FPC is not required or authorised to exercise its functions in a way that would "in its opinion" be likely to have a significant adverse effect on the capacity of the financial sector to contribute to the UK economy in the medium or long term. This is highly subjective and would give the FPC wide latitude.

This is underlined by the proposal in paragraph 2.23 that the Government will legislate to give the Treasury a discretionary power to provide the FPC with guidance in the form of a remit. We consider that the balance to be struck between financial stability and sustainable economic growth is quintessentially a political judgment for a democratically elected Government, and not one for the Bank of England or the FPC. The balance requires respective weights to be accorded to the risks to businesses, households and individuals of financial instability and the economic benefits generated for the UK as a whole by its financial services sector. That balance may change over time. We consider that the legislation should oblige the Treasury to set the FPC's remit, and that the tension between stability and growth be acknowledged in the FPC's remit more clearly. The FPC should be required to respond to the remit, setting out how it proposes to implement it. Simply requiring the FPC to take the Government's views into account would be insufficient.

This issue is relevant to the factors to which it is proposed to require the FPC to have regard. The consultation paper says in paragraph 2.20 that proportionality captures the need of the FPC to consider the likely benefits of its actions compared to the costs they would impose. While this may capture whether an individual intervention is, of itself, proportionate, it begs the question of the aim being pursued by the intervention. It is generally a requirement of proportionality that the measure pursues a legitimate aim. We do not consider that the proposals in relation to the FPC's remit go far enough in providing for the Treasury to identify the aims to be pursued by the FPC.

The legislation will clearly contain a large number of provisions relating to coordination between the FPC, the Treasury, the PRA and the FCA. Objective 2 says that that the Bank shall "aim to work with" other relevant bodies. While

we note that these words appear in the Bank's current financial stability objective, in the light of the Government's view of the failure of the Tripartite system introduced by the previous Government we do not consider that this is sufficiently ambitious or robust in relation to the operation of the new regulatory architecture. The relevant bodies should be required to work and cooperate with each other.

2.2 Exercise of functions

Paragraph 2.26 provides that the proposed levers at the disposal of the FPC need not be used in any particular order. We query whether this is the right approach (especially if the Government takes the view that the actions of the FPC are not justiciable for the purposes of judicial review – see below). In the recent financial crisis, risks in the system did not arise overnight. Early, graduated intervention may have been effective in significantly influencing market behaviour. And given the potentially invasive use by the FPC of its tools, we do not consider that it would be appropriate to provide the FPC with complete discretion. While we accept that it will be overly mechanistic to require the FPC always to exercise its powers in a set order to address a particular issue, we consider that the FPC should also be obliged to act here in accordance with the principle of proportionality. That is to say that it should be required to consider, before using its power to direct, whether its objective could not be attained by using a less invasive power/use the least invasive power to achieve the particular aim.

2.3 Accountability

Paragraph 2.28 of the consultation paper says that the Government proposes to legislate to exclude individual regulated firms from the FPC's powers. It is recognised in paragraph 2.29, however, that the FPC's macro-prudential interventions may be aimed at a small number of large institutions – perhaps only one or two - that could pose systemic risk. The paper does not propose any specific way of addressing this but merely says that the FPC will need to be aware of the potential for its activities to overlap with the regulators' own responsibilities for supervising individual firms and must take care to ensure that the firm-specific decisions continue to be taken by the line regulator. It is proposed, however, that the FPC be given a power to direct the PRA or FCA to implement measures imposed using the macro-prudential tools. There is no mention of the rights of firms to challenge such measures.

Paragraph 2.97 differentiates between two types of use of the FPC's power to direct. High level directions requiring the PRA or FCA to use their discretion to

determine how the FPC's aim can best be achieved are contrasted with the very specific use of the direction making power, requiring no discretion whatsoever on the part of regulators to implement it. Some of the macro-prudential interventions proposed could (if they were effected by the FSA under the current law) require the use of its FSA OIVoP powers under section 45 of FSMA if aimed at one or two institutions. In that event, an affected firm would have the right to refer the matter to the Tribunal. It is not clear precisely what (if anything) the Government is proposing here in relation to the rights of firms. If the PRA or FCA are given no discretion whatsoever by a direction of the FPC, then it appears unlikely that a firm would be able to challenge the measures implemented by the regulator in compliance with that direction. We imagine that any attempt to bring judicial review proceedings against the FPC would be met by the argument that its actions are not justiciable on the grounds that they concern matters of economic policy, notwithstanding that they affect very few firms. And in any event it appears unlikely that a court would be prepared to second-guess the FPC on matters within its expertise, taking into account the high threshold in actions for judicial review. However, the less discretion that is accorded to the regulators and the more a "one size fits all" approach is adopted by the FPC in the use of its direction making power, the more important it is that firms have a proper right to challenge matters that affect them. The alternative (as mentioned in paragraph 2.97) would be for the directions of the FPC to be expressed broadly and be binding on the PRA and the FCA as to the overall outcome to be achieved. The regulator would then have a discretion as to how it acted but firms would (we assume) have the same safeguards as apply currently. We consider that this approach is preferable and that the FPC should be required to use it unless giving the PRA or FCA a discretion in the particular case would be prejudicial to financial stability.

We broadly agree with the proposals in paragraphs 2.94 to 2.97 in relation to consultation. It is important to financial institutions, their investors and their counterparties that there is as much clarity as possible in relation to how the FPC's powers may be used. We note, however, that there will not necessarily be a requirement on the FPC to consult on a policy statement in advance of using a particular tool. It is proposed in paragraph 2.94 that the Treasury should specify, when setting out the FPC's toolkit in secondary legislation, whether the FPC should publish and consult on a policy statement in advance of using the tool and whether existing PRA and FCA procedural requirements should apply when implementing that tool. We do not agree that the secondary legislation should set out on a once and for all basis that there will, say, be no consultation whatsoever on certain uses of the direction making power. We would be concerned that this could lead to an approach whereby the more

coercive the tool is, the fewer safeguards would apply. The argument would be that such a tool would only be exercised in an emergency and it would be prejudicial to financial stability at that point for the authorities to have to comply with procedural safeguards. We see no reason why following enactment of the legislation the FPC could not be required to consult on a policy statement in relation to the use of all of its tools. In the case of the power to direct, it could be required to consult on a policy statement in advance of using the power, subject to an exception where the delay would be prejudicial to financial stability. The same would apply to consultation by the PRA and FCA. As set out above, we do not consider that systemic risks build up overnight. The presumption in relation to consultation should in our view be that procedural requirements will generally apply unless the circumstances genuinely warrant a departure from the norm, based on objective and predefined criteria.

It is recognised in paragraph 2.75 that the mechanism for creation of an ad hoc tool will rarely – if ever – need to be used. It is not clear from paragraphs 2.72 and 2.73 precisely how the mechanism would be used. Paragraph 2.72 refers to the possibility of the PRA or FCA refusing to comply with a recommendation of the FPC because they do not have the power to carry out the action proposed or because they believe that it would have significant unintended consequences. In the case of the latter is not clear whether the solution proposed in paragraph 2.73 would also involve extending the powers of the PRA or FCA in order to give them the legal powers to comply with the direction. We hope that is not what is being suggested. The creation of an entirely new tool, without warning, would be a radical step and potentially prejudicial to financial stability in itself. The ability to extend regulators' legal powers at the same time would be highly damaging to legal certainty.

Question 1 - What are your views on the likely effectiveness and impact of these instruments as macro-prudential tools?

Question 2 - Are there any other potential macro-prudential tools which you believe the interim FPC and the Government should consider?

We do not consider that we can comment on the likely effectiveness of the macro-prudential tools generally without greater detail as to their scope and operation.

We note that the proposed tools are very specific but that they are to be focused on system-wide, rather than firm specific, characteristics. However, as mentioned above, we note that the Government accepts that, in practice, a macro-prudential intervention may be aimed at a very small number of systemic

institutions. This seems to us to present a tension. Measures aimed at a very small number of institutions but applied on a "one size fits all" approach may operate unfairly. Different firms could be affected in different ways, perhaps disproportionately, by the same measure. However, if directions are focused very narrowly, there is a risk of the FPC assuming the role of the regulators. Paragraph 2.53 refers, for example, to the possibility of targeting capital requirements specifically on certain sectors or assets, recognising that correctly identifying the source of the risks would be an information-intensive process. In our view, this underlines that the FPC should generally be required, when exercising the power of direction, to give the regulators discretion as to how they implement the FPC's aim in using the particular tool in relation to individual firms.

There is very little in the Consultation Paper on how the arrangements would work where the power of direction is used in such a way that the PRA or FCA have no discretion. Complying with measures imposed by the PRA or FCA as result of the direction by the FPC may not necessarily be easy to implement quickly by affected firms. In some cases, they may be subject to contractual obligations that prevent them from doing so. For example, setting haircuts at a particular rate in repo transactions may require a UK authorised firm to breach its contract with a counterparty who is not subject to the same requirements. We are assuming that there is no suggestion that measures implemented in response to directions would have an impact on existing contractual arrangements.

3. PRUDENTIAL REGULATION AUTHORITY

Question 5: What are your views on the (i) strategic and operational objectives and (ii) the regulatory principles proposed for the PRA?

The formulation of a clear strategic objective is essential in setting the context for the scope of the PRA's rule making and other powers, particularly given the lack of clarity elsewhere in the paper as to what should be regarded as prudential matters falling within the remit of the PRA and what should be considered as conduct matters to be dealt with by the FCA. Accordingly, we agree with the principle of having a clearly expressed set of objectives and with the general concept of setting out factors to which the authorities should have regard, rather than expressing these as secondary objectives.

However, we question the formulation of paragraph 4 in Box 3A. It seems to us incorrect to say that promoting the safety and soundness of PRA authorised persons "includes" seeking to minimise any adverse effect that failure of that

person could be expected to have on the UK financial system. Rather, even if the PRA had failed to ensure the safety and soundness of an authorised person, it would not have failed in its strategic objective to the extent that the effect of that person's failure was minimised. Accordingly, it would seem preferable for paragraph 4 to be set out as a separate operational objective. Furthermore, it seems odd that the PRA does not have an obligation to advance its strategic objective but merely to act in a way that is compatible with it. We consider that it would be preferable to state that the authority is obliged to advance its strategic objective through either or both of its operational objectives.

In relation to the proposed regulatory principles:

- in relation to principle 3, we question the use of the word "general", which is not used in relation to any of the other principles. If there is any particular implication to be read into the use of the word here but not in principles 2 and 6, we consider that it should be stated explicitly;

- we do not consider that principle 5 (making information relating to authorised persons available to the public) is appropriate to be stated as a regulatory principle. Although this may be an appropriate tool to use in particular circumstances (as to which we comment in response to question 14 below), it does not seem to have the status of a general principle to be borne in mind generally by the authority in advancing its objectives. Underscoring this point, the use of the expression "in appropriate cases" makes the principle so vague and discretionary as not be helpful either as a guide to the authority or as a means of holding it to account;

- we consider that principle 6 should be expressed more strongly as a general obligation to exercise functions transparently, subject to a limited exception indicating the types of circumstances that would justify non-disclosure;

- we would urge the Government to reconsider its conclusion not to include as a principle the desirability of facilitating innovation. Although we recognise that some consider that undue weight may in the past have been given to this objective in its current form in section 2 of FSMA, we do not consider that this is a good reason for omitting the principle altogether. Without such a principle, it will be difficult for supervisors to give any weight to the benefits for users of financial services of new products and services, as against any risk to firms or consumers that they may pose. Clearly there is a need to weigh the risks against the rewards, but to omit the principle altogether indicates that the rewards are simply not taken into account. We suggest

that the principle should be included but reformulated, for example by referring to encouraging the development of a financial system and markets which respond to the needs of their users.

Question 6: What are your views on the scope proposed for the PRA, including Lloyd's, and the allocation mechanism and procedural safeguards for firms conducting the 'dealing in investments as principal' regulated activity?

We are concerned that the decision as to whether to subject an investment firm to the supervision of the PRA is to be taken by the PRA itself. There is a clear conflict of interest in permitting the PRA to determine the scope of its own jurisdiction in relation to particular firms. We also wonder what procedures there would be for conversion of a firm from FCA to PRA supervision (for example, how would the PRA obtain the necessary information to determine whether it considered that a firm had become suitable to be supervised by it and how would differences of opinion between the FCA and the PRA be dealt with?). Instead, we would favour a quantitative rather than a qualitative test that would eliminate the need for discretion to be exercised.

We consider that certainty of approach is the most critical issue for firms which have permission to deal as principal. We therefore prefer a clear and objectively certain test, and this test does not need to bear close relation to whatever ends up as being the internationally agreed test for identifying SIFIs.

In relation to the proposed threshold for investment firms being eligible for supervision by the PRA, we suggest that a "full scope BIPRU investment firm" would be a more appropriate category than a "BIPRU 730k firm" as being one of the conditions for a firm to fall under the PRA, thereby excluding, for example, limited activity firms. In addition we think there should be a balance sheet test to set an appropriately high threshold. We think the benefits of certainty outweigh the risk that a few firms may become subject to the PRA who arguably are not systemically important.

We think that the test should be clear and objective, and that the PRA should be required to supervise firms which meet the conditions, otherwise the certainty of an objective test is undermined.

It will also be necessary to avoid changes of regulator as balance sheets expand or contract. We suggest using an approach similar to that in the Conglomerates Directive so that for example, a firm which crosses the threshold will be treated as continuing to do so for a period of no less that 1/2/3 years

regardless of whether in fact it crosses back during that period. Such an approach provides the firm and the PRA with certainty.

Question 7: What are your views on the mechanisms proposed to make the regulator judgment-led, particularly regarding: rule-making; authorisation; approved persons; and enforcement (including hearing appeals against some decisions on more limited grounds for appeal)?

Although we support the principle of the PRA taking a judgment-led approach, we have a number of concerns about some of the mechanisms proposed to achieve this. In particular:

- use of principles rather than rules: the use of principles rather than rules, the purposive application of those principles and requiring compliance with the spirit rather than the letter all come with the cost of reducing the certainty available to authorised firms as to whether or not their actions are compliant. We appreciate the desire to avoid a "tick box" approach to regulation and for the authority to maintain sufficient flexibility to exercise its judgment where appropriate, but a regulatory system that is fit for purpose and reflects best practice needs to provide authorised firms with a clear view of the standards expected of them and provide for firms to be treated with due process. We consider that this requires an underlying body of rules which are coherent and susceptible to interpretation according to a well understood body of precedent or guidance.

  Moreover, we question how this approach will operate in an environment where most rulemaking is carried out at an EU level and increasingly by way of Regulation rather than Directive. Although we agree with the proposal for statements of purpose to be included with rules that are made by the PRA, we question the extent to which it will be possible within the framework of EU legislation in relation to rules that implement Directive/Regulation provisions.

- more limited grounds for appeal: we are very concerned by the proposal to limit the grounds for appeal against supervisory decisions. The process of making supervisory decisions should be regarded as a quasi-judicial rather than an administrative process. The decisions taken may have major implications for firms and individuals. Individuals who are refused approval will always have to declare this fact on other applications, even though in many cases the reasons will not be to do with issues of integrity or reputation. Thus the exercise of the authority's decisions is capable of having fundamental effects on firms and individuals, such as their ability to

carry on particular types of business (in relation to decisions on authorisation and variation of permission) or to be employed in the financial services industry (in relation to approval of individuals to perform controlled functions). A judgment-led approach in relation to matters of this type should not imply that the authority can exercise discretions subjectively, without regard to the underlying principles and objectives of the rules that are being applied. The authority's exercise of judgment should accordingly be subject to appropriate checks and balances. Is not right to give the PRA greater discretions and then take away recourse. Such a framework is not justified , we do not see judicial review as a real option and the very existence of a framework under which decisions can be reviewed imposes a valuable and necessary discipline on those taking the decisions. We regard the existing framework under FSMA, which provides for a reference to the Tribunal, as an appropriate safeguard which has the advantage of being backed by an existing body of learning and practice. We do not think that restricting a right of appeal to a judicial review –style process would provide a meaningful safeguard, given the very limited grounds on which a challenge can be made. We would also question the compatibility of a general restriction of this type with the European Convention of Human Rights. At the least, we would urge the Government to consider distinguishing between those types of decision that would remain subject to the current right of referral to the Tribunal (in particular, decisions relating to the approval of individuals to perform controlled functions and decisions relating to the authorisation of firms and the scope of their Part IV permissions) and other supervisory decisions that would be subject to a more limited right of appeal.

- the PIF: The purpose behind the proposed Proactive Intervention Framework is only briefly alluded to in the paper, but it seems to be intended as a precursor to the resolution of a failing institution. There is stated to be a presumption that, once a firm is placed within the PIF, some form of regulatory action will be taken. Given the apparently severe consequences of falling within the PIF, we consider it important that appropriate safeguards are placed around the trigger for a firm to be placed within it, both in terms of defining sufficiently tightly in legislation or rules the circumstances in which this can happen and in terms of the process by which the trigger can be exercised by the PRA. Furthermore, thought should be given to measures to ensure that the fact that a firm has been placed within the PIF does not become public (for example, by making appropriate amendments to the Disclosure and Transparency Rules and by overriding

contractual disclosure obligations), since this may lead to a loss of confidence in the firm.

Question 8: What are your views on the proposed governance framework for the PRA and its relationship with the Bank of England?

We suggest that more attention should be paid to the management of conflicts between the PRA and the Bank and its Financial Policy Committee – for example, in the situation where the PRA is considering whether or not to comply with a recommendation made by the FPC.

Question 9: What are your views on the accountability mechanisms proposed for the PRA?

We do not consider that these proposals raise specifically legal issues.

Question 10: What are your views on the Government's proposals for the PRA's engagement with industry and the wider public?

We agree with the Government's proposals that there should be no significant reductions to the existing requirements to consult set out in FSMA. Nevertheless, we have some concerns as to what is implied by the use of the word "significant". We also question the formulation of the exception to the PRA's obligation to publicly consult as being "where to do so would be prejudicial to its objectives". We would prefer a more focused and limited exception, referring specifically to the need for urgency. If there is sufficient time to consult, we find it hard to see a justification for not consulting based on the authority's objectives since one of the key purposes of consultation, as the paper itself points out, is to ensure that a proposed regulatory intervention is indeed justified by reference to the authority's objectives and the principles.

In the context of an approach under which the PRA will make greater use of principles, we would also flag the importance of consulting on principles and any associated guidance issued by the PRA as well as on rules made by it.

The paper states that the Government will give further consideration to the question of whether the requirement to consult could be streamlined when implementing EU rules. In our view, the Government should be cautious in diluting the consultation principle in such cases. Even when implementing rules made in primary or secondary EU legislation, there remain important functions to be carried out at national level as to the method of implementation (copy out or something further), the consequential effect of new rules on existing legislation and regulation and the provision of guidance. Consultation on these

matters is likely to improve the quality of decision making , reduce the likelihood of inadvertent and unintended consequences and improve firms' understanding of the context and implications of the new rules.

In relation to the proposals to clarify how proportionality will be applied in relation to the cost-benefit analysis of proposed new rules, we would point out that, even in cases where it is not possible to monetise or quantify costs and benefits, it will still be appropriate to identify clearly the failure that any new rules are designed to address and the likely effectiveness of the rules in curing that failure in order to justify a regulatory intervention.

We also agree that the PRA should be under a duty to make and maintain arrangements for consulting practitioners on its policies and practices.

4. FINANCIAL CONDUCT AUTHORITY

Question 11: What are your views on the (i) strategic and operational objectives and (ii) the regulatory principles proposed for the FCA?

As noted above, we support the formulation of clear statutory objectives. We suggest that paragraph 1 Box 4.A be amended to read:

"In discharging its functions the FCA must, so far as is reasonably possible, act in a way which:

(a) is compatible with its strategic objective, and

(b) advances one or more of its operational objectives."

Presumably the operational objectives are not expected to be exclusive.

We support the broad definitions of 'services' and 'consumers'.

With respect to the regulatory principles to which the FCA (and the PRA) must have regard, as noted above clarification is sought as to why Principle 3 is phrased as "the general principle". If this principle is in some way different to the other principles, it would be beneficial if this could be spelt out. If it is on the same footing as the other principles, we consider it desirable to delete the word "general".

As noted above we do not consider that Principle 5 is appropriate as currently drafted.