

Response to the House of Lords Industry and Regulators Committee's Inquiry into UK Regulators

TheCityUK is the industry-led body representing UK-based financial and related professional services. We champion and support the success of the ecosystem, and thereby our members, promoting policies in the UK, across Europe and internationally that drive competitiveness, support job creation and enable long-term economic growth. The industry contributes over 12% of the UK's total economic output and employs nearly 2.5 million people, with two thirds of these jobs outside London, across the country's regions and nations. It is the UK's largest net exporting industry and generates a trade surplus exceeding that of all other net exporting industries combined. It is also the largest taxpayer and makes a real difference to people in their daily lives, helping them save for the future, buy a home, invest in a business, and protect and manage risk.

We are writing to the Committee to welcome the inquiry into UK regulators. For several years TheCityUK has been focused on the UK's framework for financial services regulation and the interaction between government, regulators, and industry. TheCityUK commends HM Treasury (HMT) and the financial services regulators for the progress they have made on the Smarter Regulatory Framework, and the Department for Business and Trade (DBT) for their Smarter Regulation programme. We would like to acknowledge the positive engagement we have had with government and regulators on these issues.

TheCityUK would like to emphasise the significant impact that non-financial regulators can have on the attractiveness and success of the UK as an international centre for financial and related professional services. We would like to see more alignment of UK regulators with government policy that supports the UK's economic growth, and more coherence between regulators that positively supports investment and growth.

Our response focuses largely on the financial services regulatory framework, which has undergone an extensive programme of change in comparison to other industries. Although our response is focused on our industry, we suggest there are effective structures, mechanisms and metrics that have been implemented by the financial regulators and government which could be considered more broadly across the UK's regulatory landscape.

1) Are UK regulators being given a clear job to do?

TheCityUK believes that UK financial services regulators have been given a clear job to do. We welcomed the Financial Services Markets Act (FSMA) 2023, which has given these regulators much broader powers and responsibilities to regulate our industry and address developments such as crypto-assets. TheCityUK acknowledges the complex trade-offs regulators must make when balancing their statutory responsibilities and objectives, alongside the multitude of other factors they must consider when making decisions. We stress the need for sufficient

resource and expertise in the regulators, to ensure they effectively address their expanded remit whilst also delivering their core role.

Whilst we support that a considerable amount of financial and professional services regulation is conducted on an industry specific basis, there are some cases where regulators whose remit spans the whole economy also have a significant impact on our industry, for example the Financial Reporting Council (FRC). TheCityUK welcomed the letter from the DBT to the FRC expanding their remit to promoting the competitiveness and growth of the UK economy. We also welcomed the announcement from the Chancellor to extend the growth duty to economic regulators, Ofcom, Ofwat and Ofgem. These are positive steps to ensure that financial regulators and others impacting our industry have clear mandates focused on growth and international competitiveness. We recommend government ensures that all regulators have this mandate.

2) Is the right balance being struck between the responsibilities of regulators and those of the Government, particularly where there are political or distributional trade-offs that need to be resolved?

The FSMA 2023 gives UK financial services regulators a high level of independence and a significant amount of discretion over their policy approach. These changes will have wide reaching impacts on the whole of society. We believe that the right balance has been struck between the responsibilities of the regulators and those of government. But it is important to monitor how the new accountability measures, also introduced under the FSMA, will balance these new powers. The test of whether these accountability measures are sufficient is whether future regulatory policy and rules achieve the right balance between protecting customers and supporting UK growth and competitiveness.

A stable and predictable regulatory environment is a vital foundation for ensuring the long-term competitiveness and success of the UK as leading international financial centre. But regulatory policy also needs to be effectively and proportionately balanced to deliver an environment which is neither 'over regulated' nor 'under regulated', but proportionately regulated (e.g. taking the least intrusive option consistent with the objectives).

We believe the financial services regulators' new secondary international competitiveness and economic growth objective is intended to create this balance. It is too early to determine the impact of this new objective, but it will be important to ensure that the regulators are transparent about how it is integrated into their operations and governance processes, to embed the cultural change that is needed.

3) Are regulators appropriately independent of government? Is the right balance being struck between strategic and political input from government and preserving the operational independence of the regulators?

The International Regulatory Strategy Group (IRSG) – as joint venture between TheCityUK and the City of London Corporation - produced a report on '[The Architecture for regulating finance after Brexit](#)' in which we set out that regulatory independence is one principle that should be used to assess the effectiveness of the UK's regulatory framework. Regulators must be independent and free from undue political and business influence. They must act in the pursuance of their publicly stated roles and objectives. This provides certainty and is crucial for the UK's role as a leading international financial centre, encouraging investment into the UK and assuring firms they are competing on a level playing field.

Given that the financial services regulators have been given significant discretion over regulatory policy, it is important that they are subject to strong oversight and governance to ensure that they are effectively balancing their objectives.

Although we support the principle of regulatory independence, government should be responsible for setting the overall policy, with regulators delivering in line with policy.

4) Does the government provide too much or too little guidance to regulators in making decisions, particularly in deciding between different objectives and priorities?

TheCityUK is not aware of any specific guidance from government to the financial services regulators on how they should achieve an appropriate balance between their primary objectives, secondary objectives and matters to which they must have regard.

The Chancellor sends the financial services regulators remit letters, which provide guidance about aspects of the government's economic policy to which the regulators should have regard when considering how to advance their objectives and discharge their functions. The powers in FSMA also provide the government with tools (in the form of Secondary Instruments) to set out the broad parameters for regulatory policy.

We recommend the government provide guidance to the regulators to help them successfully balance their objectives in line with long-term policy objectives for the industry. We also encourage both government and Parliament to acknowledge that effective regulation and delivery of long-term growth involves a degree of risk tolerance and that a zero-failure culture inhibits growth and innovation.

5) Are the roles and remits of different regulators sufficiently discrete, or is there overlap and duplication?

TheCityUK believes that the roles and remits of the financial services and related professional services regulators are sufficiently discrete. There is some overlap between the FCA and PRA in certain areas such as governance and business model analysis, which inevitably results in some supervisory duplication and additional burden to firms. In certain instances, there may be a need for responsibilities to sit with multiple regulators. For example, TheCityUK recommends the government consider whether both the FCA and Competition and Markets Authority (CMA) should have powers related to unregulated market data vendors¹.

We recommend that the FCA and PRA continue to work closely together to ensure that proposals for areas of common responsibility, such as operational resilience and the Senior Managers and Certification Regime (SMCR), are aligned and do not impose duplicative processes on regulated firms. We also recommend the government consider where there may be gaps in the financial services framework, such as those referred to above and ensure they are adequately addressed.

More broadly, consideration should be given to the efficiency of having two pensions' regulators (The Pensions Regulator (TPR) and the FCA) and two ombudsmen (Financial Ombudsman Service (FOS) and Pensions Ombudsman) in the UK's regulatory framework for financial services.

6) How effectively do regulators co-operate with one another, and how could this be improved?

TheCityUK believes that the regulators co-operate relatively effectively. This has evolved and is evidenced through various tools and initiatives such as the Financial Services Regulatory Initiatives Forum, Memorandum of Understanding between the FRC and FCA, their work together on different products and systems, and public statements on their commitment to collaboration on issues of common regulatory interest such as payments.

The regulators signpost each other's consultation and discussion papers. However, there could be greater coordination and coherence on major cross-cutting issues. We question whether it is necessary and efficient for the regulators to run parallel consultations on the same issue. This creates additional work for regulated firms, and organisations like ours, that could be addressed through a single coordinated consultation. For example, both the FCA and the PRA have recently issued separate consultation papers on diversity and inclusion in financial services which contained very similar proposals with only minor differences between the papers.

7) Do the UK's regulators have the necessary skills, capabilities and expertise internally to perform the roles they have been given? If they do not, how could this be improved?

¹Page 48, Paragraph 4.16, [MS23/1.4: Wholesale Data Market Study Notice Update Report \(fca.org.uk\)](#)

TheCityUK commends the PRA and FCA for progress they have made to increase skills, capabilities, and expertise – for example, to address challenges around authorisations.

The implementation of the new secondary international competitiveness and economic growth objective will require a transformation programme in each of the regulators to embed consideration of the objective in their operations and processes. TheCityUK recommends the new objective is reflected in internal policies, skills matrix, ongoing training and development, internal management information, senior management responsibilities and board oversight to ensure that the required change in outcomes is achieved and demonstrated. A program of rolling secondments from industry to help develop skills could be considered, for example to government departments charged with policy on growth and competitiveness.

In addition to consideration of the technical capabilities of the regulators, the committee should also consider the culture and mindset of the regulators. To support economic growth and drive international competitiveness, UK regulators will need to adopt a growth mindset and accept a certain degree of risk and uncertainty in the system to allow for innovation and economic growth. As they take forward their activities, they will need to be focused on long-term regulatory outcomes rather than processes. For example, one of the most significant changes that financial services regulators could make to enhance UK competitiveness is moving away from a “stop the clock” approach to processing regulatory applications. This approach creates delays and adds additional costs and burdens to firms, when the focus should be on whether senior managers are fit and proper.

8) Who should hold the regulators accountable for their performance against their objectives? What is the appropriate role of Parliament in performing this scrutiny role?

The boards of the regulatory authorities should be accountable for the performance of the regulatory authorities against their objectives. The boards should have appropriate and transparent governance arrangements in place to measure, manage and report against their performance.

Parliament has an important role in overseeing the work of the regulators and holding them to account for their performance against their objectives. The existing mechanisms such as the Treasury Select Committee and House of Lords Committees play an important role in providing accountability and oversight of the regulators. TheCityUK called for supplementary Parliamentary oversight in our work on ‘the Future Regulatory Framework’ (now ‘Smarter Regulatory Framework’) and were delighted that the Treasury Select Committee established a sub-committee on financial services regulation.

We recognise the deep expertise held by Peers, which is useful in scrutinising the financial services regulator. So we welcome the proposal from the Lords Liaison Committee to establish a Financial Services Regulation Committee in the Lords. We would welcome further detail on how this committee will coordinate with other Parliamentary committees

to avoid duplication and additional demands on regulators' resources at a time when increased consultations are likely on tranche 3 of converting retained EU law (REUL) into the 'Smarter Regulatory Framework'.

The current Parliamentary committee approach to scrutiny and accountability could be enhanced through:

- Having a standing group of regulatory experts that can be called upon by the committees to provide technical support and make recommendations to the committee on what policy areas should be scrutinised in further detail. This would help depoliticise the work of the committees and develop subject matter expertise.
- Enhancing the respective Parliamentary committees' permanent secretariat to provide technical support, make recommendations to the committee, and manage a calendar of matters the committee should consider such as:
 - Critical review of regulators' annual reports, and their reports on the implementation of the new secondary objective. If necessary, this could be done through commissioning a skilled persons review.
 - Holistic review of the annual funding requirements of the regulatory framework including FCA, PRA, Financial Ombudsman Service (FOS) and Financial Services Compensation Scheme (FSCS) and overall trends over time.
 - Calling the chairs of the regulatory panels, particularly the new cost benefit analysis panels, to give evidence to the Parliamentary committees.
 - Reviewing the key performance indicators that the regulators should measure their performance against.
 - Conducting a periodic survey of the industry to inform understanding of where the perceptions of the regulators and the industry differ in relation to the performance indicators they report.
- Ensuring that there is a clear distinction between Parliamentary scrutiny of financial services retail business and wholesale business. These are two very distinct types of business activity that each require scrutiny based on a strong understanding of the purpose and nature of the business, the risks that each presents, and the regulatory approach appropriate to each.

Finally, Parliament's role in holding regulators to account is important to industry. But any additional mechanisms should not negatively affect the balance that needs to be struck between oversight and the need for de-politicised flexible, agile, regulatory decision-making. Across the entire UK regulatory framework there should be a focus on avoiding politicisation of regulatory activity as this does not lead to good outcomes for systemic stability or consumers. Increasing politicisation in the regulatory frameworks could damage the UK's respected international reputation as a financial centre with a predictable and stable business environment and genuinely independent regulators.

9) How should the government and the regulators themselves facilitate appropriate scrutiny and accountability of regulators? Are regulators sufficiently transparent about their own performance?

TheCityUK believes that the transparency of the regulators should be improved. For example, board minutes should contain sufficient detail to demonstrate they are overseeing the cultural change required to implement their new secondary objectives. FCA board minutes published so far do not evidence consideration of the new objectives, while the Bank of England publishes minutes of its court of directors, the operations of the PRA are overseen by the Prudential Regulation Committee (PRC) that does not appear to currently publish minutes of its meetings.

It would also be helpful for the regulators to set out in their annual reports how outcomes have changed as a result of their secondary objective and matters they must have regard to, in addition to publication of their performance indicators and outcomes.

We welcome the addition of the 'PRA objectives analysis' section in recent consultations and the FCA's reference to their objectives in the recent diversity and inclusion consultation. TheCityUK believes these efforts to illustrate how the regulators have evidenced consideration of their objectives should be applied as standard to all regulatory consultation processes. It would be useful to understand how they have considered other matters they must have regard to, and for the regulators to set out how, if at all, their proposed policy has changed following their cost benefit analysis (CBA). This could be presented both quantitatively (for example reporting the percentage of regulatory provisions that were changed following cost-benefit analysis) and qualitatively (providing explanation of why changes may or may not have been made following recommendations of CBA panels).

The Legal Services Board has established a regulatory performance assessment framework² which sets out standards expected for effective regulation in the legal services sector, the characteristics that would support those standards, and examples of how those characteristics might be evidenced. The government could consider defining a similar assessment framework for financial services regulators, to help inform Parliamentary oversight through specifying indicative guidance on how the regulators might evidence effective regulatory performance.

Given the importance of the financial services industry to the UK economy, the government could also provide the National Audit Office (NAO) with a mandate and funding to undertake more frequent (triennial) value for money assessments of the financial services regulators (both the FCA and PRA) in the context of the costs of the wider regulatory framework including FOS, FSCS and the CMA.

² [Regulatory Performance Assessment Framework Sourcebook \(legalservicesboard.org.uk\)](https://legalservicesboard.org.uk)

10) What mechanisms and metrics could be used to hold regulators accountable on a regular and ongoing basis and to judge whether a regulator is performing well?

We successfully advocated for the addition of Clause 39 in FSMA which introduces a new power for HMT to require regulators to report on their performance. This will be one useful tool in ensuring that regulators are held to account in achieving their objectives.

TheCityUK acknowledges that financial services regulators already publish several metrics that provide transparency on their performance. For example, the FCA publishes quarterly operating services metrics, a perimeter report, and complaints metrics. However, we believe additional metrics are needed to ensure that the reporting on the new secondary growth and competitiveness objective for the regulators is sufficient to support scrutiny of the regulators' work in embedding their new objective. In our response to HMT's measuring success consultation, we set out the following recommendations:

- The metrics should not only assess the efficiency of regulatory execution but also track objective, external economic indicators that speak to the UK's international competitiveness.
- The regulators should ensure and make it clear that the mechanisms they use to gather data for metrics from the industry are as light touch as possible and ensure anonymity. This will help to maximise the volume and openness of the data provided by industry.
- HMT should measure the outcomes of regulation, and regulatory change, in meeting the public policy objective by using the permanent metrics we propose, and reviewing how these are reflected in regulators' annual reports. This would help inform government and Parliament on achieving the right balance between regulating to protect consumers from risk of harm and supporting economic growth and competitiveness.
- An anonymous regulatory perceptions survey could give regulators an objective overarching sense of how the industry views alignment of a set of rules with the secondary objective.
- The need to advertise information on where regulators metrics are held. For example, many in the industry were unaware of the Financial Regulatory Complaints Commissioner and the data they report.

TheCityUK's full list of proposed metrics for the regulators can be found in Annex A.

Although metrics are a useful guide to assess regulators' performance in meeting their objectives, there can sometimes be a time-lag between measures regulators have taken to address inefficiencies and results shown in data or metrics used to assess their progress.

11) Do any of the UK's international comparators address the above questions particularly well? What lessons, if any, can the UK learn from other jurisdictions on these matters?

In relation to balancing competing regulatory and political objectives, there are several countries that manage these trade-offs without undermining their focus on stability. Relevant financial regulators in Australia, Singapore, Japan, Malaysia and Hong Kong all have competitiveness or growth as a regulatory objective. Canada's is formulated as protecting the interests of consumers while having due regard to competitiveness. Many of these countries have adjusted their regulatory objectives and their implementation since the financial crisis, but without abandoning competitiveness altogether.

Conclusion

The UK-based financial and related professional services industry is an engine for growth across the country, helping people to start a business, plan for retirement, buy a home, save for the future, manage risk with insurance, and buy goods and services. It also helps provide the capital that businesses need to grow, and the support services which enable job creation and allow new ideas to flourish. It is also playing a vital role in enabling businesses across the economy to adapt to change and transition to net zero. The regulation and supervision of the financial services industry has a significant impact on the ability of firms to meet the needs of their customers. It also has a major impact on the UK's reputation and position as a leading global financial centre.

TheCityUK supports the Committee's interest in fostering a debate about UK regulators. Engagement with industry and interventions on the future of UK regulation from regulators, parliamentarians and government to date has shown that there is a willingness to engage on these issues, which is appreciated by our industry.

The financial services regulatory framework is in a unique position compared to other industries, given it has recently undergone extensive change, which continues to be embedded. The Financial Services and Markets Act (2023) was a positive step in creating a regulatory architecture for financial services that provides clarity of roles, a clear remit to authorities, regulatory independence, and the necessary accountability. We welcomed the efforts by Parliament to increase parliamentary scrutiny of the regulators, in particular their implementation of their new secondary objective. Whilst we wait to see how these changes will impact the UK's status as a leading international and professional services centre in the longer-term, we do not at this stage recommend further significant changes to the industry's framework. However, we do recommend a more systematic and rigorous approach be taken to assessing how the regulators are fulfilling their objectives, and that further work be done to increase transparency on their performance against those objectives.

Although our response to your inquiry is limited to financial and related professional services, we emphasise the importance of the UK's broader regulatory environment in driving investment and growth. The UK's regulatory environment is a key marker of the UK's attractiveness as an international financial centre, and we support policy change that continues to enhance the predictability, efficiency and agility of regulators.

Annex A

Metrics proposed by TheCityUK in response to HM Treasury's call for proposals on metrics, spring 2023

Outcome	Proposed metrics	Cadence	Justification
The regulators have regard to the regulatory burden on firms.	Cumulative cost to firms of regulations which have come into force in the previous 12 months and an estimate of costs over the next 12 months, by financial services industry / activity type.	Annual	While Cost-Benefit Analysis (CBA) panels inform the policy made by regulators, it is important that there be a consideration of the cumulative impact of regulation. This can be published with the cumulative benefits to justify these costs. International comparisons can also be part of this broader justification.
	Number of regulations repealed or disapplied in the previous 12 months.	Annual	This will be part of a measure of the volume of work for the industry.
	Number of additional regulations which have come into force in the previous 12 months.	Annual	This will be part of a measure of the volume of work for the industry.
	Number of opinions issued by the Regulatory Policy Committee on FCA regulatory proposals.	Annual	Complaints are made through complaint schemes, but these schemes did not appear to capture issues in authorisation approvals over the last couple of years.
	Number of complaints logged by firms regarding regulatory/supervisory burden, broken down by industry and firm type.	Annual	This should be part of a new regulatory complaints process intended to identify emerging issues.
	Targeting of supervisory resource (under supervisory approach) in comparison to where material regulatory failings have occurred over the previous 12 months.	Annual	This can inform HMT and Parliament of where there are issues resulting from resource constraints.
	Number of ad hoc data requests made to the industry.	Annual	This would contribute to measuring the volume of work for the industry.
	Percentage of policies implemented found to be achieving outcomes as expected and with the expected cost benefit.	Annual	This can be part of policy evaluation reviews and measuring the success of individual regulations.

Applications are processed within statutory timeframes (broken down by financial services industry and application type).	Mean processing time ¹ of cases completed within the six-monthly period (working days or weeks).	Six-monthly	This would be an additional metric to include on the quarterly reporting done by the FCA. We recommend the PRA begin to conduct similar reporting as well.
	Number of cases determined within the six-monthly period within the statutory deadline.	Six-monthly	We recommend the PRA begin to conduct similar reporting as well.
	Number of cases determined within the six-monthly period outside the statutory deadline.	Six-monthly	We recommend the PRA begin to conduct similar reporting as well.
	Average time taken for each step of the application processes to be completed (e.g. allocation of a case officer, determination of complete application, initial review, closed).	Six-monthly	This is to increase the transparency of the processing of applications.
	Median average time taken to determine if an application is considered complete or incomplete.	Six-monthly	This is to increase the predictability of time taken to complete processes.
Firms have greater certainty about likely processing timelines.	Modal average processing time for cases completed within the six-monthly period (working days or weeks).	Six-monthly	This would be an additional metric to include on the quarterly reporting done by the FCA; we recommend the PRA begin to conduct similar reporting as well.
	Median average processing time for cases completed within the six-monthly period (working days or weeks).	Six-monthly	This would be an additional metric to include on the quarterly reporting done by the FCA; we recommend the PRA begin to conduct similar reporting as well.
	Maximum processing time for cases completed within the six-monthly period (working days or weeks).	Six-monthly	This would be an additional metric to include on the quarterly reporting done by the FCA; we recommend the PRA begin to conduct similar reporting as well.
Applications are managed in a transparent way.	Number of outstanding applications at the end of the six-monthly period.	Six-monthly	This is to give greater transparency and accountability for potential backlogs.
Firms are being attracted to the UK, or the UK is an attractive	Number of new applicants by firm type and entity structure.	Annual	This is part of evidencing aspects of the UK regime which foster innovation, entrepreneurship, and competition.
	Number of firms leaving the UK market.	Annual	This is part of evidencing where the UK environment might be

place to conduct business.			driving businesses away from the UK.
	Number of third country branch applications by firm type and entity structure.	Annual	This is part of evidencing the attractiveness of the UK regulatory environment.
	Trends in business written in the UK in comparison to trends in other jurisdictions over previous 12 months.	Annual	This will be a part of demonstrating the UK's attractiveness compared to other jurisdictions.
	Trend in proportion of business written in the UK by third country branches over previous 12 months.	Annual	This will be a part of demonstrating the UK's attractiveness compared to other jurisdictions.
	Average time taken from a firm registering at Companies House to being authorised.	Annual	This is a key KPI used by international benchmarking agencies which measures the ease of doing business.
UK market innovation provides creative solutions in response to changing societal and business needs.	Number of applications to the FCA's Regulatory Sandbox, and percentage accepted.	Annual	This is part of evidencing aspects of the UK regime which foster innovation.
	Number of applicants to the FCA's Innovation Pathways, and percentage which received/are now receiving that support.	Annual	This is part of evidencing aspects of the UK regime which foster innovation.
	Number of applications to the FCA's Digital Regulatory Sandbox, and percentage accepted.	Annual	This is part of evidencing aspects of the UK regime which foster innovation.
	Number of new ideas proposed and selected for implementation to facilitate: <ol style="list-style-type: none"> 1. The creation of, and benefit from, new technologies 2. The UK pathway to Net Zero, and the wider transition to green sustainable finance 	Annual	This is part of evidencing aspects of the UK regime which foster innovation.

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