Lord Blackwell – Written evidence (SCG0007)

Since I have not been actively involved in Financial Services or engaged with the regulators for almost 3 years, I am conscious my observations may now be out of date. The secondary objectives for growth and competitiveness was introduced after I retired, and I have no direct experience of how that has been implemented.

However, based on my prior experience, the regulators have historically not given significant consideration to these objectives and have acted in ways that have had a negative impact on both growth and competitiveness of the banking and insurance industries.

The FCA, in particular, has pursued a somewhat blinkered regulatory approach to protecting consumers without due regard to the impact of their regulations on both the cost of products and the ease with which they can be made available to consumers.

While consumers do need protection to maintain fair and informed trading, the 'duty of care' philosophy has moved the balance of responsibility for consumer purchase decisions so far towards the Banks and Insurance Companies that the costs of compliance (in terms of systems and training) and complexity of the sales process has become a significant barrier to marketing many products. When you add in the risk of enforcement action for both companies and individuals if mistakes are made, the end result has been to reduce the appetite of suppliers to market products that carry high compliance costs and enforcement risks – reducing availability and increasing costs for domestic households. As a result potentially beneficial transactions that would support growth and enhance wealth for individuals – for example, the investment of savings in securities rather than bank accounts - have been inhibited.

To embrace the growth and competitiveness objective the FCA needs to shift the balance of regulation to consciously reduce compliance costs – focusing on preventing deliberately unfair trading behaviour while placing more onus on consumers to be informed and responsible purchasers. Politicians and the public will need to recognise that the trade off is that there will be some poor purchase decisions – as there are, for example, in other significant but less regulated markets such as house and car purchases – but not hold the provider as solely responsible.

Both the FCA and PRA also need to move away from a focus on tick box regulatory enforcement to a more judgement based supervisory engagement with major institutions. The size of the supervisory teams and the relatively junior experience of those conducting the day to day interface with financial institutions means that many interactions demonstrate an overly rigid and risk averse application of the detailed

rules. If the primary engagement was through fewer but more experienced staff, there might be more willingness to take considered supervisory judgements in dialogue with the bank or insurance company's senior management, avoiding unnecessary costs and compliance issues.

A further overhead inhibiting financial service companies from playing their full part in supporting economic growth is the consequence of having two regulators with wide and often overlapping regulatory agendas. This is particularly true for the largest financial institutions where both regulators have large and deeply engaged supervisory teams reviewing similar topics – for example senior appointments, management conduct and culture, systems capabilities and risk management.

Not only does this duplication absorb large amounts of executive time, but the differing and uncoordinated priorities of the two regulators can result in unprioritized mandatory demands on IT resources that squeeze out the organisation's capacity to carry forward its own – perhaps more valuable – systems upgrades and new product developments. At worst there can be instances where the demands of the two regulators can be in conflict – for example the FCA's desire to make loan and mortgage products more available to a wider market against the PRA's policy of imposing higher capital requirements on those same higher risk segments. Rather than resolving these conflicting objectives between the regulators it has been left to the regulated institutions to find a way through the conflict.

Short of remerging the two regulators again, one beneficial move to support growth and competitiveness would be to require them to form joint supervision teams for the major institutions which could avoid duplication and shape an integrated priority list of regulatory interventions in dialogue with management.

22 October 2024