TheCityUK – Written evidence (SCG0016)

1. What opportunities or changes should be prioritised in order for the regulators to meet their secondary growth and competitiveness objectives effectively?

A close working partnership between the government, regulators and industry is vital. This includes working together on the development of the Financial Services Competitiveness and Growth Strategy and the Trade and Investment Strategy, in which financial regulators must be embedded, including through alignment with their own respective strategies. They must play a key role in enabling trade through regulatory dialogues, cooperation and agreements. The financial regulators must also work with industry to better understand how UK regulation and mechanisms for cross-border activity can grow the UK footprint of international firms.

Further opportunities include ensuring regulators' culture permeates throughout their organisations (see Q4), with their respective remit letters being a useful tool to support this, enhancing proportionality between oversight and the size of the business being regulated, agility in calibrating regulation to remove impediments to growth (including by balancing risk against the benefits of faster growth) and speedier authorisations of applications to invest capital, appoint new leaders and create new companies. Greater, more dynamic engagement with industry will deliver more effective policymaking with less need for amendments and clarifications. We encourage greater use of Subject Expert Groups (SEG) by both regulators.

We welcome the creation of the regulators’ cost benefit analysis (CBA) Panels and note the FCA will not consult their panel when the expected net cost of a policy change is between
-£10m and +£10m. Significant policy changes which could materially affect growth and competitiveness, but cost firms little to implement, may not be scrutinised. We encourage the CBA Panels to work with the Practitioner Panels to understand the significance of policy interventions regardless of their expected net cost. The Practitioner Panels could help the FCA and PRA construct archetype firms by size and sector, and report on an indicative cumulative assessment of the additional regulatory costs to which these archetypes are subject over time. Further work is necessary to bolster how regulators quantify benefits in order to address concerns about the robustness of the rationale for proposed policy changes. For example, the FCA estimated that the Consumer Duty could result in one-off costs of up to £2.4bn, yet no quantitative estimate of the benefits was made prior to implementation.

2. **To what extent are the regulators focused on the objective to promote international competitiveness and growth? Are there areas where the ability of the regulators to fulfil their secondary objectives might be constrained by having to fulfil their primary objectives?**

The UK's current political and regulatory approach must adapt, including to geopolitics, to contribute to competitiveness and growth. As noted by the Chancellor in her recent Mansion House speech, it is often too focused on eliminating the risk of loss from the financial system. This is the first year the regulators have had to report against their secondary objectives and a lack of historical context makes it difficult to judge overall success. However, the extent to which they are giving sufficient regard to the objective is still unclear. For example, we believe the FCA underestimates the potential impact of their new enforcement proposals on the stability and attractiveness of UK markets.

The Committee has also responded to the FCA on cost disclosure requirements for listed investment trusts. However, recent work on Basel 3.1 rules is positive evidence the PRA has taken the objective into account and been receptive to considering evidence from industry, ensuring a more appropriate set of final rules (compared with the earlier version).

More can be done to ensure the objectives inform regulators' decision-making and are embedded in their culture, as evidenced by specific choices when developing and implementing policy. While we understand the regulators' primary objectives take precedence over their secondary objectives, they are not inherently in conflict and can and should complement each other. For example, ensuring consumers can understand and access a wide range of products and financial instruments can address the long-term harm of excess cash savings. The regulators should work with the industry to identify and implement concrete initiatives designed to advance the objective e.g. the PRA's 'Strong and Simple' framework which contributed to its secondary competition objective.

The UK regulatory authorities must work together to address potential tensions that may arise through different authorities' pursuit of their respective primary/secondary objectives e.g. through a review/update of the Memoranda of Understanding between authorities, to ensure potential differences of approach are addressed.

3. **What are some of the barriers in the current regulatory framework (including the role and responsibilities of other regulators and bodies such as the Payment Systems Regulator, The Pensions Regulator and the Financial Ombudsman Service) that could hinder efforts to drive economic growth and international competitiveness in (a) the UK economy and (b) the financial services sector?**

Regulatory uncertainty, particularly in conduct regulation, and suboptimal regulatory coordination are key barriers. The unpredictability of redress requirements (as acknowledged in the Chancellor's Mansion House speech), is a barrier to investment in UK-based financial services firms. We welcome the joint FOS and FCA call for input on modernising the redress system. Updating the FOS's rules and processes to enable consultation with relevant stakeholders, including the FCA, can ensure consistent interpretations of FCA rules. The FOS must focus more on individual disputes and less on the interpretation of precedent-setting regulatory matters, improving its service to consumers. The FOS must be part of the government's planned review of regulatory mandates (page 12 of Financing-Growth.pdf).

Enhanced coordination across members of the Financial Services Regulatory Initiatives Forum (FS-RIF) can help to address this e.g. the FCA and the Pensions Regulators should focus on consistency of regulation between trust- and contract-based pension schemes and work to shift pensions focus from cost to outcomes. We recommend that the government ensures all FS-RIF bodies (including the PSR) have a secondary competitiveness and growth objective.

The difficulty of navigating a multiplicity of regulators' rules, guidance and legislation can lead to unintended complexity and risk aversion from firms. For example, firms may self 'gold-plate' for fear of non-compliance, which reduces proportionality and increases costs, which is a further drain on the financial services industry. There should be an open approach to revisions and streamlining when it becomes apparent that rules are not working effectively e.g. through a regular assessment of the waivers that have been granted to firms to identify specific issues. We also believe that both the FCA and PRA should develop machine-readable regulation (MRR), with links to other sources of information.

4. **Do the regulators have the right capability and capacity to fulfil their regulatory objectives on growth and competitiveness? To what extent might the culture of the FCA and PRA influence their ability to fulfil their growth and competitiveness objectives?**

We welcome continued engagement with the FCA on their authorisation processes and the progress made by both regulators on authorisations. However, the regulators should apply a more consistent approach to engagement and be more agile and dynamic when consulting with stakeholders – regardless of the policy area, as engagement can vary between regulators and policy issue. The International Regulatory Strategy Group (IRSG), a joint venture between TheCityUK and the City of London Corporation, proposed a method of enhancing regulators' agility in policymaking.[1] This could contribute to the objective through streamlined use of regulators' resources, minimising firm regulatory burdens, speeding up decision-making and policy development, and enhancing communication between policy and supervision teams.

The delivery of long-term growth (of both the financial services industry and the UK economy) involves setting a different culture around risk tolerance and a balanced consideration of the risk and growth return trade-offs. The FCA and PRA leadership have reflected this in their speeches and some reforms e.g. the Listings Review. However, there are industry concerns that the 'lived experience' of firms e.g. their day-to-day engagement with the relevant supervisory teams does not match the changed 'tone from the top'.

We have some concerns about the lack of industry experience and understanding among regulatory staff. Poor understanding of firms' business models is exacerbated by regular churn in supervisory teams. The regulators should explore secondments and exchanges to bolster their understanding of the impacts of their approaches on customers and firms.

5. How effectively have the FCA and PRA consulted or engaged with industry in relation to the new secondary growth and competitiveness objective?

There are some examples of good engagement with the regulators, including the PRA's independent evaluation and its approach to policy consultation. However, the regulators' reports on their progress against their secondary objectives were high-level stocktakes rather than evidence of meaningful engagement. We would like to see more dynamic engagement throughout the policy lifecycle (including ex-post evaluation) from both regulators to identify and enact changes that would make a difference to consumers and the industry. For example maximising their operational efficiency, reducing regulatory duplication, minimising 'gold-plating' and responding rapidly to legitimate industry concerns.

---

[1] IRSG response to CP27/23: The Prudential Regulation Authority's approach to policy, (section 5 on the PRA's policy cycle) available at https://www.irsg.co.uk/assets/Responses/IRSG-response-to-PRA-CP27-23.pdf

6. **In delivering their secondary objective on growth and competitiveness, what opportunities are there for the regulators to help to promote and support innovation in the financial services sector? How effective has the FCA's regulatory sandbox been for supporting greater innovation in the financial services industry?**

The regulators must keep up with technological advancements and their applications. Greater pace and a dynamic approach to policymaking, in partnership with industry, are needed to bolster the UK's competitiveness and allow the benefits of e.g. digital assets and Artificial Intelligence to be realised sustainably to support UK economic growth while proportionately and flexibly managing risks. The FCA's sandbox has been effective to date and they recognise the need to expand the scale of sandboxes, including through initiatives such as the Digital Securities Sandbox which can help modernise the UK's capital markets. However, it is now 10 years old and the FCA should work with the industry to develop successor programmes.

7. **How should the regulators ensure that any measures introduced to meet the secondary growth and competitiveness objectives work for businesses of all sizes across the sector, including startups, scaleups, and incumbents?**

A judicious approach to rule changes is needed, with a high bar set for any rule changes. The regulators should establish a comprehensive assessment process to enhance their prioritisation of regulatory activity, with a focus on competitiveness and growth (for example, on capital markets and pensions reforms).

Proportionality must be a vital component of both regulators' approach (e.g. the PRA's 'Strong and Simple' framework). A KPMG survey[2] noted that smaller asset management firms hold proportionally more capital than larger ones, which could constrain their ability to invest in and grow their business. There is a need to assess proportionality on a granular basis, through CBAs, to understand the possible risk of disproportionate impacts on firms. For example, a global asset manager managing less than 10% of its global assets in the UK is required to hold 70% of its global regulatory capital in the UK, due to the FCA's application of the Investment Firms Prudential Regime (IFPR). Understanding the needs of customers is also crucial to the proportionality of regulation. The FCA's current rule review should build on its discussion paper on commercial and bespoke insurance business and consider the differences between wholesale and retail customers e.g. where firms can face uncertainty in clarifying whether they are in the scope of certain consumer-oriented

---

[2] KPMG 'Wealth and Asset Management Risk and ICARA Benchmarking Survey', (page 17)available at: https://assets.kpmg.com/content/dam/kpmg/uk/pdf/2024/01/navigating-tomorrow.pdf

rules. We believe rules and guidance should be proportionate and reflect the resources and sophistication of the client.

8. Are there any additional metrics over and above those already agreed by the regulators that would better enable stakeholders to track progress and support scrutiny of their work against the secondary growth and competitiveness objective? How should a measure of growth be included in these metrics?

The metrics should be viewed as a long-term project, enabling progress to be tracked more effectively. The current metrics should be viewed as a starting point and subject to review. For example, the FCA could include a metric on investment fund authorisations. The PRA could report on the level of capital allocation in the UK. The FCA's number of listed entities metric could be accompanied by data on trading volumes and market capitalisation. We recognise these are not solely controlled by the regulators and would be useful in a broader sense, rather than scrutiny of regulators' work in isolation.

Some of the existing metrics lack clarity e.g. the number of new market entrants or senior managers, where it is unclear whether an increase or decrease has a bearing on competitiveness and growth. HM Treasury (HMT) should work with the regulators and industry to identify how metrics could be improved and, where appropriate, consider the potential to set targets, thereby enhancing scrutiny of their performance. In addition to quantitative metrics, the regulators should report on qualitative assessments e.g. the most significant own-initiative steps taken to boost the competitiveness and growth of the industry, and to reduce rule duplication and 'gold-plating'.

9. Does the requirement within the secondary growth and competitiveness objectives to align with international standards create any constraints to fulfilling those objectives?

FSMA 2023 enables the regulators to implement international standards tailored to the UK. There are no constraints to aligning with international standards and fulfilling the secondary objectives. Regulators must fully consider this and the UK's relative international competitiveness when working with partners to draft standards. The regulators should make clear how their proposed implementation is consistent with both the needs of the UK market and their primary and secondary objectives. There remain concerns about UK regulators' 'gold-plating' of both international standards and the evolving domestic regulatory landscape impacting, for example, the level of capital firms have to hold in the UK, which some of our members consider disproportionate to other jurisdictions. This includes where de facto 'gold-plated' standards are imposed by UK regulators through supervision. For example, 'Dear CEO' letters, which are not subject to the secondary objectives, nor the rigour of Parliamentary scrutiny, and can impact firms' ability to serve customers across the economy.

10. Are the existing accountability measures around the secondary growth and competitiveness objective adequate?

Existing accountability measures are not yet adequate. Regulators must be accountable and subject to appropriate levels of scrutiny (for both policymaking and supervisory powers). Accountability means regulators being subject to defined standards and remedy mechanisms such as court interventions and independent expert reports if they do not adhere to these standards. Scrutiny involves being subject to external observation and examination, including Parliamentary committees, that should ensure regulators are using their powers as intended within the parameters set out in primary legislation and following the principles of better regulation. We recommend a systematic approach to considering regulators' accountability to Ministers, Parliament (both Houses, between which we believe there is scope for greater collaboration), the firms they supervise and the public. HMT could set out how and when regulators should engage with and respond to each constituent. Consideration should be given to whether the regulators' statutory panels could bolster their role in ensuring appropriate scrutiny of the regulators.

11. Are there examples of regulatory policies in other jurisdictions that should be considered by UK regulators to help facilitate the new secondary objective? What might the FCA and PRA be able to learn and apply from comparable supervisors in other markets in terms of applying secondary objectives on growth and competitiveness?

We are not aware of policies in other jurisdictions that could inform the UK regulators. Our joint report with Freshfields[3] included an analysis of regulators across 21 jurisdictions and illustrated that, at a high level, some regulators have a comparable objective or expectation to advance competitiveness and/or growth. However, our analysis also confirmed that none of these jurisdictions publish quantitative metrics equivalent to those of the UK regulators. This suggests that qualitative research to compare regulators' performance and regulated companies' day-to-day experience would be beneficial to consider this in further detail.

---

[3] TheCityUK, 'Advancing international competitiveness and economic growth: how do financial regulators compare?', available at https://www.thecityuk.com/our-work/advancing-international-competitiveness-and-economic-growth/

28 November 2024