

Building Societies Association – Written evidence (SCG0024)

Who are we?

The Building Societies Association (BSA) represents all 42 building societies, as well as 7 larger credit unions. Building societies serve around 26 million customers across the UK and have total assets of over £500 billion. Together with their subsidiaries, they have helped over 3.6 million families and individuals to buy a home with mortgages totalling over £370 billion, representing 23% of total mortgage balances outstanding in the UK.

Introduction

The BSA is grateful for the opportunity to respond to this inquiry on behalf of its members.

We welcome the new secondary objective to support the international competitiveness of the UK economy and its medium to long term growth given to the Financial Conduct Authority and the Prudential Regulation Authority ('the regulators') under the Financial Services and Markets Act 2023 (FSMA).

The previous government took this positive step to improve the regulatory landscape of financial services, and we understand that the regulators will take time to fully embed the new objective within their policy development and undergo the cultural change required of them. Prioritising the competitiveness and growth of financial services is vital to ensuring a strong and prosperous economy, for which our industry provides significant support.

In terms of competition, the BSA has observed that the regulators tend to focus a lot of their efforts on new entrants. We would like as much emphasis to be placed on existing challengers such as mutuals where barriers remain in place that impact competition and growth by constraining mutuals unnecessarily.

The BSA supports the Government's commitment to double the size of the mutual and cooperative sector. We do not believe in measures that are deregulatory or that might result in riskier lending or unconstrained growth in financial services mutuals. However, we do believe that diversity of business models is good for financial stability and good for customers. We will therefore continue to promote corporate diversity at

every opportunity – and especially the important role of financial mutuals at the heart of the future of UK financial services.

Response to questions

Q1. What opportunities or changes should be prioritised in order for the regulators to meet their secondary growth and competitiveness objectives effectively?

Encouraging diversity of business models

It is very important that the regulators have regards to mutuals at the beginning of policy development. We encourage the regulators to properly consider intricacies in different firms' business models. We hope that with time, the regulators will continue to embed this objective into their work and appropriately act with regards to policy impacting mutuals.

Regulating proportionately

We hope the regulators will consider an evaluation of proportionality in all forms of regulation as part of regular reviews, as well as when creating new policy. Many building societies and credit unions are relatively small, even compared to some challenger banks, yet in the recent past have faced similar regulatory burdens as large banks, as well as high compliance costs. While FSMA already dictates that regulators should act proportionality we see too many incidents when this is not the case. We would therefore welcome more focus on proportionality, including ensuring that the right frameworks and incentives are in place to promote proportionality.

Simplifying rules and regulation

We believe that regulation should be simple, agile and straightforward to navigate, and therefore welcome ongoing work to simplify regulatory rulebooks. This would help to reduce duplicate and/or conflicting rules. For example, we would welcome simplifying or removing a number of retail conduct rules or guidance and relying instead on requirements under the Consumer Duty. These include provisions contained in BCOBS, MCOB and PROD, and mainly relate to information required to be provided to consumers and to product governance arrangements. More broadly, for both the regulators, we would favour a 'one in one out' approach to policy development whereby existing similar rules are reviewed and adapted rather than new rules always being added.

Cost benefit analysis

We are also in favour of enhanced scrutiny to the Cost Benefit Analysis process for policy developments. This should inform policy development at the earliest stage in the process such that policy proposals are grounded in empirical evidence.

Q2. 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?

We believe that the regulators should apply greater focus to their new secondary competitiveness and growth objective alongside their primary objectives.

Earlier this year, we were concerned to see the FCA's proposals around enforcement guidance and publishing enforcement investigations. We believe the proposals have a number of inherent risks for the FCA, the firms it regulates and potentially the wider economy, as we set out in our response to CP24/2 (available on request). No other G7 country takes the FCA's proposed approach to publishing the subjects of an investigation at its beginning in the way that the FCA is suggesting. The FCA itself admitted that it could have trailed plans better prior to the release of its consultation paper as it didn't include its plans in its regulatory initiatives grid, where forthcoming proposals and consultations are usually positioned. We do however welcome recent changes to the FCA's proposals and look forward to responding to CP24/2, Part 2, in due course.

Another example where we believe competitiveness and growth may not have been properly considered is the PSR's APP fraud reimbursement requirements. These differ from the approach taken in many other areas in Europe, and have been influenced by their objective around protection of consumers primarily. While that may be appropriate, we see a risk that the current arrangements create the perception that APP fraud is a victimless crime and could encourage more fraud. In addition, these rules could be viewed as anti-competitive, with those wishing to use financial services judging the UK less favourably.

Q3. 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?

There are some advantages in having a number of regulators in the financial services sector, allowing them to focus on their specific area of regulation, but this means each of the financial services regulators have taken on differing agendas to promote economic growth and international competitiveness. We believe that the regulators should, at a minimum, increase their collaboration on this key topic, and there should be a consideration if combining the regulators would drive growth and competitiveness more efficiently.

While many other regulatory frameworks impede competitiveness across sectors, one which has a strong impact on the building society sector is the continued disproportionate and blanket application of Public Interest Entity (PIE) audit scope to all building societies, regardless of their size, nature or complexity. Despite the Financial Reporting Council's core objective to "create a more resilient audit market through greater competition and choice," the impact of the FRC's regulatory framework has led to an audit market where the risk appetite of auditors has been incredibly restricted. For building societies, this has resulted in uncompetitive audit tendering processes, fees escalating far in excess of inflation and audit processes more extensive than helpful to building societies, their members, the greater public or broader financial stability. The BSA welcomes the commitment by the Government to remove unnecessary rules on smaller PIEs, and urges this to be done alongside a proportionate supervisory regime by the FRC which will go some ways to improving competition for audit firms, and ultimately make UK markets more attractive.

Q4. 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?

In order to fully embrace their secondary growth and competitiveness objective and undergo the cultural change required, the regulators may

need to consider taking more risk. We believe it would be beneficial for the regulators to conduct an immediate assessment of their capability capacity with a position to taking more risk to meet their new secondary objective.

We were pleased to see the Government's newly issued growth-focused remit letters, which were sent to the regulators in November and announced alongside a range of welcome measures set out by the Chancellor at Mansion House, and the separate call for the regulators to report on the landscape for mutuals. We welcome the Chancellor's call for the regulators not to stand in the way of sensible risk taking, and the BSA hopes the letters will act as an important step in influencing the culture of the regulators to properly fulfil their secondary growth and competitiveness objective. For future remit letters, we believe an assessment of the impact of regulation on mutuals should be included alongside a requirement that the regulators measure the success of their policies in fostering a diversity of business models.

Q5. How effectively have the FCA and PRA consulted or engaged with industry in relation to the new secondary growth and competitiveness objective?

We believe that the regulators have engaged with industry in relation to the new secondary growth and competitiveness objective, such as the international competitiveness conference in September 2023. We were also pleased to see the launching of the PRA inbox for stakeholders to submit their views on regulation on an ongoing basis. We hope that this provides an additional channel for raising concerns or submitting proposed resolutions to problems going forward from a broad range of stakeholders.

The BSA would like to see more engagement with the industry on diversity of business models, the mutuals landscape and how this impacts on competition and competitiveness of the UK.

Q6. 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?

We believe the FCA's regulatory sandbox has been good for start-ups, but that competition shouldn't be viewed only through the lens of start-ups. There are many other businesses, like building societies, credit unions and other mutuals that have existed for some time and should also be given more opportunities to compete on a level playing field. The current legislative framework and regulations place a number of restrictions on building societies and credit unions in a way that is against competition – for example, the Sourcebook (PRA SS20/15) is building society specific.

Q8. 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 Government should develop and adopt specific metrics to measure the impact of policy on the mutuals sector and diversity of business models more broadly to flag issues as they arise. The BSA is also of the view that more needs to be done to regularly review regulators to highlight what regulators are doing well, what lessons can be learned for other regulators and further ways to strengthen those positive actions. We believe this is as important as scrutinising and critiquing when inefficiencies or mistakes have been made.

Q9. Does the requirement within the secondary growth and competitiveness objectives to align with international standards create any constraints to fulfilling those objectives?

We believe a strong commitment to implementing international standards helps the regulators advance their primary and secondary objectives, supporting broader financial stability. However, Basel banking standards need only be applied to internationally active banks, whereas the EU and UK currently apply the standards more broadly. We therefore welcome the development of policy for the PRA's Small Domestic Deposit Takers (SDDT), where the opportunity to have more proportionate regulation has been progressed. The question of an appropriate regime for mid-tier building societies that do not qualify for SDDT but are not internationally active still remains to be seen.

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