

UK Finance – Written evidence (SCG0039)

Executive summary

- UK Finance is the collective voice for the banking and finance industry. Representing 300 firms, we're a centre of trust, expertise and collaboration at the heart of financial services, championing a thriving sector and building a better society.
- UK Finance strongly supports the secondary competitiveness and growth objective (SCGO) for the Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA). We need a resilient financial system, and effective regulators to be competitive, but the new objective sends a signal that in addition to their primary objectives, the regulators now have a statutory requirement to assess how their strategies and activities support competitiveness and growth. This was further underpinned by recent remit letters from the Chancellor to the regulators outlining the government's expectations that the FCA and PRA support the government in their economic growth mission, through the secondary objective.
- Furthermore, the new objective enables the regulators to play their role in the new Government's central mission for the UK to have the highest sustained growth in the G7. At the Government's recent International Investment Summit on 14 October, the Prime Minister said he wanted economic and competition regulators to take growth seriously. With the right reporting mechanisms, metrics and oversight, the new objective will help the Government identify whether the FCA and PRA are supporting this mission.
- The FCA and PRA have had the new objective for just over a year. While some notable policy announcements have clearly taken account of it such as the PRA's final Basel 3.1 decision (which will require lenders to hold less capital than expected) as well as the FCA's final Listing Regime reforms, we think there is more to do for the regulators to meaningfully advance the new objective and demonstrate that it has led to a step change in their regulatory approaches.
- We note that throughout the inquiry the Committee has asked for regulatory policy proposals that would improve the UK's competitiveness and growth. We believe there are some specific measures that could significantly improve the competitiveness of the financial services sector and its ability to drive wider economic growth. For example, this could be supported by introducing greater certainty into the conduct regime, as a first step, by realigning the Financial Ombudsman Service (FOS) with the mandate originally conferred upon it by Parliament by ensuring the FCA has the final say on how its rules should be interpreted in major cases. This can be achieved by (i) reviewing the FCA's DISP rules (and we therefore welcome the FCA and FOS's recent call for input), and (ii) ensuring the FOS is included in the Government's proposed review of

regulatory mandates. We would also like to see the regulators focus more on internal cultural change to ensure the secondary objective is properly and always considered as part of their activities and governance. The regulators' reports on their new objective, while helpful, suggested a focus (amongst their other initiatives) on occasional training and e-Learning courses, which we do not believe will help drive that cultural change. To instigate transformational change within the FCA and PRA, the tone has to be set from the top and we look to the leadership of the PRA and FCA to ensure that their colleagues are fully aligned with the objective.

- We make further recommendations for the regulators and Government to consider, including addressing overlaps in the regulatory environment, particularly with regard to the FOS, and the role the Consumer Duty can play in supporting growth and competitiveness. We also recommend regular reviews and updates of the list of metrics so they remain fit for purpose (including a focus on outcomes in the real economy) and have called for a new Competitiveness Champion in Government, to increase the accountability of the regulators and ensure they are properly equipped to deliver on their new objective in the years ahead. Such a Champion should be given a remit to independently assess how the Financial Services and Markets Act 2023 is being implemented.

UK Finance's Chief Executive David Postings, set out during his Committee appearance that boosting the growth and competitiveness of the UK is a 'whole system' issue, requiring co-ordination between the Government, regulators and industry. However, the FCA and PRA (as well as the UK's other regulators) have a uniquely important role to play in finding a point of equilibrium between risk and protection for individuals and businesses that is consistent with growth and competitiveness. We are hopeful the SCGO will bring much-needed focus to these vital goals.

- Thank you for considering this written submission.

Questions

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

- To ensure that the regulators can best meet their new objective, it is vital that the FCA and PRA prioritise the following changes and opportunities.
- Now the Financial Services and Markets Act 2023 (FSMA 2023) is over a year old, efforts to independently assess how the Act is being implemented focusing on the SCGO, are crucial. To support this, the Government should appoint a Competitiveness Champion with a remit to consider the following areas:

- ▶ **Risk, growth and innovation:** look at how regulators and the sector understand the interplay between risk and growth, particularly in light of the secondary objective, and take advantage of the most recent technological advances.
 - ▶ **Regulatory landscape and coordination:** understand how we can ensure regulation of the sector is agile, cost-effective, and in the interest of consumers and systemic stability as well as being focused on economic growth. This assessment should include whether the current system has the right level of scrutiny of regulators and if it needs to be formalised, including through enhanced remit letters, in order to be more efficient and effective.
 - ▶ **Consumers, investors and society:** assess what consumers and investors need from financial services and what is the most appropriate role for the sector to play in wider society. Assessment of investor needs should consider international competitors and what benchmarks could be used to measure UK performance against others.
- While we welcomed the regulators SCGO annual reports, we observed that many of the initiatives cited as examples of advancing the SCGO appeared to be (i) very loosely linked to advancing the SCGO (e.g. the FCA highlighting its decision to move 10% of its workforce outside of London), (ii) work that the regulators should consider business as usual and matters of good public policy even in the absence of the SCGO (e.g. improving supervisory and authorisations efficiency), or (iii) work that was initiated or completed before the objective was introduced. We believe the regulators should demonstrate a much greater level of ambition and would like to see the new objective delivering significant, tangible policy changes. This would appear consistent with Sam Woods' recognition of "the need for a significant change [in what the PRA does]" to implement the SCGO. For example, we would welcome a bold initiative analogous to the 'strong and simple' reforms for small banks the PRA has undertaken to implement its separate secondary competition objective. The industry has made this point to the PRA in response to its approach to policy consultation and via its input to the Independent Evaluation Office (IEO's) assessment of the PRA's approach to the SCGO. In response, the PRA stated that it "considers that the most appropriate way to advance the SCGO [...] will be to consider the SCGO as it takes forward a wide range of initiatives across its general functions – rather than via a single 'flagship' initiative". It is disappointing that no rationale for this position is provided, and that the PRA has failed to recognise that launching a flagship initiative and advancing the SCGO through a range of other initiatives are not mutually exclusive.
 - More generally, we believe growth and competitiveness would be advanced if the PRA was to consider the current level of prudential requirements and if both the FCA and PRA were to commit to seeking efficiencies and removing unnecessarily conservative or duplicative requirements in a manageable and sequenced way.

- Cultural change in the regulators will be needed to embed the new secondary objective in their activities. The regulators should prioritise this with a more robust training programme than is indicated in their reports on the secondary objective. For example, both regulators provide training only for “relevant” staff. It is unclear which teams are in scope. We think a clear definition of “relevant” is needed, so that all appropriate staff receive this training, which we believe should occur at least annually. We believe the PRA’s approach of engaging multiple teams in driving forward the new objective will increase the likelihood of change permeating the regulator. Conversely, the FCA’s approach of giving a single team responsibility for this process risks other teams taking less responsibility for embracing the secondary objective, as it may become a ‘side of the desk’ activity for them.
- In addition, we are concerned that the FCA’s e-learning approach could become a tick box exercise, and instead support a more practical approach to training, building on the example in the PRA’s report, which will aid better understanding and decision making around the new objective. We believe building regulatory staff’s contribution to the objective to part of their performance review objectives or executive scorecards (or equivalent) could help deliver the change.
- We are pleased that both the FCA and PRA have embedded reporting mechanisms into their executive functions. The FCA considers implications of the new objective in submissions to its Board and Executive Committee, whilst the PRA submits similar considerations to the Prudential Reporting Committee and Supervision, Risk and Policy Committee. This is a positive approach which we welcome.
- Some aspects of the UK regulatory framework are too restrictive for the sophisticated high net worth client base, which is internationally mobile. This should be reviewed in light of the FCA’s secondary objective, and the competitive positioning of the UK. Specifically, there could be more flexibility around the opt up criteria for professional clients, where clients are ultra-high net worth individuals and families. Whilst these clients need some level of protection, they have the appropriate degree of sophistication and ability to bear risk. For example, the prescriptive opt-up criteria for elective professional clients under MiFID II, which at present are onerous, could be simplified.
- As the UK continues to adapt its regulatory framework post-EU exit, it should strike a balance between harnessing the opportunities that flow from the new flexibility afforded to the UK and maintaining the benefits that accrue from regulatory alignment in certain areas. An example of the latter includes the planned migration to T+1 settlement, where alignment on both timing and approach is critical across the UK, EU, Switzerland and the EEA to minimise cost, complexity and risk through the transition.

- Finally, we remain concerned that the current framework for Authorised Push Payment fraud reimbursement is acting as a drag on the UK's growth and competitiveness and must be enhanced to ensure that tech companies and telcos do more to prevent consumers suffering the distress of fraud in the first instance, and contribute to the costs of tackling fraud and reimbursing its victims. By reducing the incidence of fraud, this can improve the growth and competitiveness of the sector by giving consumers greater confidence to engage with financial services.

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?

- The regulators' primary objectives will always take precedence over their other priorities, so it is inevitable that their ability to deliver on the secondary objective will be constrained at times. While the sector is realistic about this and understands that the stability provided by the primary objectives are a foundation for competitiveness and growth, we want to see the regulators demonstrating that the secondary objective is leading to tangible changes in policy outcomes. The regulators' cost benefit analyses (CBAs) are a suitable place for them to demonstrate how they have considered the SCGO, and we would support such an approach. The new CBA panel should provide additional scrutiny of the regulators' approach. And, we recommend the regulators, with encouragement from Government, should increase the number of policy issues overseen by the panel over time.
- The two tiers of objectives should not be seen as pulling the regulators in opposite directions. While there are clearly areas for improvement, the UK's financial services regulatory system provides stability and safety to firms and consumers wishing to invest. This in turn boosts the competitiveness of the UK on the global stage and aids growth by attracting more investment.
- However, there are some areas where the regulators' recent direction may act counter to the competitiveness and growth objective, without sufficient evidence that it is progressing their primary objectives. While UK Finance members are fully committed to furthering diversity, equity and inclusion across the industry, some members have concerns about the potential cost and wider implications for growth and competitiveness of the FCA's proposals on diversity and inclusion.

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?

- The existing regulatory framework is complex; several overlaps between different regulatory bodies have the capacity to cause confusion. Multiple regulators and public bodies have remits that include financial services and UK banking. Regulators include the PRA, FCA, Payment Systems Regulator (PSR), Financial Reporting Council (FRC), Competition and Markets Authority (CMA), Lending Standards Board (LSB), Information Commissioner's Office (ICO) and The Pensions Regulator (TPR). The impact is twofold. First, there are known areas where these remits overlap; second, taken as a whole system of regulation, international competitiveness and growth are not sufficiently addressed by the collective regulatory remit. No single regulatory body has holistic responsibility for all regulation impacting banks.
- In particular, the role of the FOS should be a priority area of focus for the government. At present, the FOS acts as a de-facto regulator, which was not Parliament's intention when creating the FOS. This should be addressed by, among other things, amending the rules and processes governing the FOS to ensure that the FCA and other relevant bodies are consulted on any significant decisions, to ensure the FOS is interpreting FCA rules in the way the FCA intended. Ensuring the FOS is focused on its original mandate can also benefit the consumers it serves, by ensuring its resources are deployed to provide swift and effective redress rather than examining major, complex disputes that sit more comfortably within the purview of other bodies. It is clear that this part of the regulatory system is not functioning as efficiently as it could, creating significant uncertainty in the framework and therefore acting as a drag on the investor appeal for UK financial services. We welcome the announcement of a joint FCA-FOS call for input on modernising the redress system, made at the recent Mansion House speech.
- The Consumer Duty is a significant change in regulatory approach for the FCA. While the shift to an outcomes-based approach to regulation has the potential to streamline the handbook in ways that benefit consumers and firms, the

subjective nature of the Consumer Duty generates uncertainty and creates nervousness for investors. We would like to see the FCA set up a working group, with industry input, to consider how the regulator can ensure the Duty is integrated in a way that complements the secondary objective and does not exacerbate financial exclusion.

- One area of regulation that has a notable impact is the minimum requirement for own funds and eligible liabilities (MREL) requirements for banks, which create cliff-edge thresholds for smaller and mid-sized banks having to raise bail-in funds. We believe these requirements should be moderated, so that they are aligned with the scale of risk and indexed in line with GDP growth since the threshold limit was set almost a decade ago. This would enable small and mid-sized banks to grow their activities more smoothly, boosting competition to the benefit of consumers and increasing the flow of lending to small and scaling businesses.

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?

- Ensuring the right culture within the regulators is vital to the success of the secondary objective (see response to Question 1).
- A recent example that shows the secondary objective is not yet properly embedded is the FCA's enforcement proposal. We appreciate that this was published in the early days of implementing the new SCGO, but it was published without a proper assessment of how it delivers against the secondary objective and was not announced on the Regulatory Initiatives Grid, which raises doubts about whether the FCA yet has the culture or capabilities to embrace it fully. The enforcement proposals could have a negative impact on UK competitiveness, and we retain serious reservations about their substance. We acknowledge that the FCA has made some concessions in their updated proposals following industry feedback. These are now the subject of further consultation and we will work with members to respond to the updated proposals.
- We agree with the Bank of England's Independent Evaluation Office recommendation that the PRA should strengthen its internal culture with regard to the new objective, and ensure its leadership has sufficient oversight of how the objective is being embedded, by clarifying its own vision for the objective, extending training to more members of staff, refining external engagement mechanisms to facilitate more effective feedback through the policy cycle, and strengthening governance reporting. These recommendations would apply equally to the FCA, so we urge both regulators to implement them.

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

The sector engaged closely with HM Treasury (HMT) when it was developing the metrics. The PRA and FCA were also closely involved in that work, and UK Finance met both regulators as part of that process. We would welcome ongoing engagement with the regulators as their approach continues to evolve and would encourage a more proactive approach to industry consultation. For example, active working groups between regulators and industry would provide a better forum than conferences, which provide more passive engagement with their panel and audience set-up.

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?

- Fostering innovation should be a core part of the regulators' approach to the secondary objective. The digital economy, including the UK's digital payments ecosystem, has an important role to play in helping to support growth. Card payments alone facilitated an estimated 6.5% of GDP in 2022, or up to £161bn; equivalent to the Gross Value Add (GVA) of the construction sector. Payments is one area where a smart approach to regulation, informed by the secondary objective within a clear, predictable and proportionate regulatory framework could facilitate innovation in ways that support economic growth. Currently, firms face increasingly complex regulations, consuming up to 90% of payment firms' change budgets. The regulatory requirements and anticipated value of delivering initiatives are not always clearly understood or balanced against the risk and cost of delivery, in particular when it comes to significant infrastructure changes. The UK's complex and overlapping regulatory architecture poses a major challenge and is holding back innovation and improvements in customer outcomes. An example of the duplication and inefficiency, as well as lack of commercial considerations, is the PSR's work for JROC (the joint oversight committee for Open Banking, bringing together HMT, the FCA, the PSR, and the CMA) on the development of arrangements for non-sweeping Variable Recurring Payments – a potential new frontier of Open Banking payments. It has done so in a way that works against the emergence of a commercially sustainable market and does, self-deflatingly, stifle investment and innovation in the long term. We welcome HMT's National Payments Vision which seeks to clarify a number of these issues.

- This is reflective of a general lack of public-private partnership, a misguided approach of regulatory-mandated investment crowding out private sector investment, as well as regulatory inconsistencies in consumer protection standards that lead to worse consumer outcomes. We would encourage the PSR to pause this work so the industry can bring forward proposals that are commercially sustainable. In addition, we believe the PSR should also be handed its own secondary objective on growth and competitiveness, to be consistent with the other financial regulators and help keep these important considerations front of mind in their policy making.

Q7. 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?

- Many of the FCA and PRA's metrics require the regulators to report their activity, broken down across different sub-sectors. For example, the FCA is required to report on the total number of new firm authorisations, broken down by consumer investment, credit and lending, payment services/e-money and wholesale. This should provide clarity on which firms are being authorised most quickly, allowing the FCA to calibrate its approach if it appears that one area of the market is not being adequately supported.
- However, we believe the metrics could go further. Currently there is no requirement via the metrics for the regulators to show how they are supporting firms of different sizes. This is something we urge HMT and the regulators to consider introducing into the metrics framework in the future, particularly with the emergence of challenger firms and the need to drive growth and competition at all levels.

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?

- We support the overall metrics as set by HMT with the addition of the following suggestions. We would like to see the introduction of 'outcomes'-based metrics which would help track the trends in the markets that the FCA and PRA regulate.
- For example, many potential homeowners have been excluded from the mortgage market in recent years because of affordability and deposit requirements introduced after the financial crisis. The stock and flow of mortgages is something that could be tracked over time. While other factors will

also constrain mortgage lending, such as cost-of-living challenges, tracking this data would encourage regulators to consider how they can use the levers at their disposal to increase lending to groups like young professionals with a clear future salary progression.

- We see merit in HMT setting specific, stretching targets for the agreed SCGO metrics, and introducing a process for taking action to deliver performance improvements where those targets are missed. Setting measurable expectations for the regulators in specific areas will further enhance scrutiny of their performance. If HMT takes this approach, it could also usefully consider the steps that should be taken to drive performance improvement in the event that those targets are materially and/or persistently missed. This is consistent with the National Audit Office's report on ['Performance measurement by regulators'](#) which notes the importance of using performance information as "a mechanism through which improvements can be made". Options could include (i) a public exchange of letters, similar to that between the Governor of the Bank of England and the Chancellor in relation to the Bank's inflation target, or (ii) HMT making use of its existing statutory powers to commission investigations by independent persons and/or the National Audit Office, which could provide a means of investigating areas in which targets have been missed and identifying options for improvement.
- There are a number of metrics that would benefit from an explanation of how they relate to growth and competitiveness. For example, it is not clear how increases in the total number of FCA and PRA staff, or the total number of people within the scope of the Senior Managers and Certification Regime are considered to be good or bad for growth and competitiveness.
- Additionally, we believe some of [HMT's](#) metrics could be tracked at a higher frequency than they are currently, to enable regulators to respond to trends in more rapid and agile ways. We suggest two specific metrics – the FCA's 8th metric ('satisfaction of firms based on interactions with the regulators, broken down by type of interaction') and the PRA's 9th metric ('number of new entrants, exits from UK market, for each sub-sector') should be measured on a quarterly basis.

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

- Given the prominence of the UK as a leading global financial centre and the world class reputation of the FCA and PRA, it is often the case that the UK plays a leading role in the development of baseline international standards. If this continues, we don't see there being a significant tension between the delivery of the new secondary objective and staying aligned with international rules.

- The UK does have the flexibility to take its own approach where required. The final Basel 3.1 rules, as set out by the PRA, are a good example of the regulator taking steps to implement an international standard in a way that maximises the UK's competitiveness.

Q10. Are the existing accountability measures around the secondary growth and competitiveness objective adequate?

- FSMA 2023 introduced useful new accountability mechanisms including the creation of the Lords Financial Services Regulation Committee, as well as the creation of CBA panels to scrutinise regulations more closely and the introduction of the new metrics. These are helpful first steps, but we believe more can be done.
- In particular, the regulators are only required to report separately on the delivery of their secondary objective twice, after which point their analysis can be merged into their regular reporting documents. This risks the detail getting lost which we fear will impact the level of scrutiny of the regulators' activities on this issue. We believe HMT should require the regulators to report separately on an ongoing basis annually.
- In relation to the CBA panels, we believe the FCA's approach to the panel reflects a limited view of the impact its policy decisions can have on growth. We see the FCA's new CBA panel as an important mechanism for advancing the SCGO, given that proportionate and robustly evidenced regulation can support the competitiveness and growth of the sector. We note, however, that the FCA's statement of policy on CBA states that it will not consult the panel on a CBA when the expected net cost of the policy change (broadly, the cost of implementation and compliance) is within the range of -£10m to +£10m. We are concerned that this threshold could ultimately mean that potentially significant policy changes that affect growth and competitiveness but cost firms little to implement are not scrutinised by the CBA panel, thereby undermining its usefulness. The FCA's February 2024 enforcement proposals, for example, were not accompanied by a CBA at all and therefore would not have been scrutinised by the CBA panel had it existed at the time, despite being hugely significant. The FCA should make a specific commitment to make a referral to the panel where a policy intervention is particularly novel, contentious or otherwise significant. We also consider that any policy changes accompanied by a CBA which are signed off by the FCA Board should also be scrutinised by the CBA panel. We believe that where a CBA hasn't been referred to the Panel, and a significant number of respondents to the accompanying consultation paper argue that it should have been, the FCA should then refer the CBA to the panel.
- Finally, we believe the Government should create a Competitiveness Champion to identify progress against the new objective (see response to Question 1).

Q11. 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?

- There are several examples the FCA and the PRA can learn and apply from other international comparable supervisors. By looking at these examples, the FCA and PRA can better meet the demands of competitiveness and growth, establishing a financial environment where firms and innovations can thrive more effectively:
 - ▶ A significant example lies in the high standard set by the EU in competition policy enforcement, especially in the technology sector. When Apple restricted access to its near field communication (NFC) technology, the EU's competition regulators stepped in swiftly, **mandating** that Apple open up its NFC services free of charge to all competitors. This has led to a series of legally binding commitments from certain digital wallet providers designed to "open up competition", fostering a more equitable landscape for fintech firms across Europe. In the UK, however, the response from the PSR was much slower, with an inquiry still ongoing - leading Apple to impose a fee for access to its NFC technology. The EU's decisive action thus provided a more supportive environment for technology innovation than the UK's more fragmented response, which had limited impact due to the FCA, PSR's and CMA's delayed intervention. While we understand that the PSR is not bound by the SCGO and that the same degree of evidence base is necessary here in the UK, we believe that the speed and quality of response from UK regulators relating to competition inquiries is relevant to the objective. When considering the efficacy of the SCGOs, it's important to consider the disadvantages, if any, that UK firms face against international competitors.
 - ▶ The Monetary Authority of Singapore (MAS) is promoting Singapore as a leading centre for Green and Sustainable Finance in Asia and globally. As part of this, MAS has taken concrete policy and regulatory steps to deliver on its vision and foster a competitive environment, including: i) the publication of the Singapore-Asia Taxonomy which is one of the first taxonomies globally to include the concept of a transition category, ii) the Transition Credits Coalition to test the use of high-integrity transition credits in transactions for the early retirement of coal-fired power plants and iii) a Green and Sustainability-Linked Loan Grant Scheme to support corporates of all sizes to obtain green and sustainable financing by

defraying the expenses of engaging independent service providers to validate the green and sustainability credentials of the loan.

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