The City of London Corporation – Written evidence (SCG0043)

This written evidence should be considered further and additional to the oral evidence provided by Policy Chairman Christopher Hayward and Director of Policy and Innovation Kerstin Mathias to the Committee in May 2024.[1]

This memorandum sets out the City Corporation's key messages on:

1. international comparisons on authorisations,
2. proportionality,
3. driving Foreign Direct Investment,
4. regulatory changes for advice and guidance,
5. regulatory sandbox cohorts.

1. Authorisations: International comparison

Authorisations are a vital part for oversight of regulated firms and management of the authorisations process is important. Regulatory efficiency on authorisations is an important element of the UK's competitiveness as an international financial centre. Complex and slow authorisations can discourage growth and investment. However, where authorisations are simple, transparent, maintain standards and timely they encourage faster investment decisions and can provide clear jurisdictional advantage.

The FCA and PRA report their authorisations metrics to provide greater transparency on their performance, both the FCA and PRA publish their metrics quarterly.[2] Key FCA and PRA authorisations metrics for 2024/25 include[3]:

- The headline results are that approvals of Approved Persons under the SMCR regime has moved from 90%-98% on target to 99.4% on target.
- Approved persons – of which are AR related has remained static over the 2023/4 period.
- New firm authorisations have remained static over the same period.

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[1] https://committees.parliament.uk/event/21265/formal-meeting-oral-evidence-session/

[2] FCA solo-authorisations metrics: FCA Authorisations operating service metrics 2024/25 Q1 | FCA

PRA dual-regulated firm metrics: Authorisations Performance Report Q2 FY 2024/2025 (bankofengland.co.uk)

[3] FCA Authorisations operating service metrics Q1 2024/25: FCA Authorisations operating service metrics Q1 2024/25

- PRA key performance metrics for all firms for new authorisations and senior managers regime[4]:
    - New authorisations compliance is red (under 90%) and currently sitting at 71%
    - Senior managers regime compliance is green (98% and over) and is current sitting at 100%.

<u>How do other jurisdictions compare to the UK?</u>

Many international financial centres measure and publish statistics on performance of regulators relative to authorisations. TheCityUK conducted research on a meaningful international comparison of regulators' contribution to advancing economic growth and international competitiveness. Its research across 21 jurisdictions[5] examined whether:

- The financial regulators in those jurisdictions have competitiveness and/or growth objectives or other expectations
- KPIs or other measures used to monitor those objectives/expectations or the performance of financial regulators more generally
- Any entity monitors the regulators' performance against these objectives/expectations more generally.[6]

Research found that approaches vary across jurisdictions in setting metrics/KPI to measure performance of financial regulators and publication of data by regulators. The measurements cannot be interpreted as offering concrete guidance about the most efficient approach to measuring competitiveness relative to authorisations, but it is clear that many financial centres judge that publication helps promote a competitive approach by regulators.

The table below sets out theCityUK findings[7].

KPIs or other measures used to monitor objectives/expectations or performance

Jurisdiction	Metrics/KPIs and publication of data
Australia	Yes
Bermuda	The BMA produces annual reports which include market statistics across competitor jurisdictions to assess operational effectiveness
Cayman Islands	No KPIs, but the CIMA publishes some data
China	No
Estonia	No
France	Yes
Germany	No KPIs
Guernsey	No KPIs, but the GFSC publishes some data
Hong Kong	Yes
Ireland	Yes
Italy	No KPIs

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[7] TheCity ... mic *growth:*

Japan	Yes
Jersey	The JFSC has established KPIs and monitors and reports on progress
Luxembourg	No
Malaysia	No formal KPIs, but some qualitative data is published in the regulator's annual report in relation to its statutory objectives
Netherlands	No
Singapore	Yes
Sweden	Yes
Switzerland	No KPIs
UAE	No
USA	No (though regulators typically prepare reports to Congress summarising activity in specific subject matter areas)

The table outlines that regulators in some jurisdictions publish data that could provide useful benchmarks on authorisations. However, the lack of comparable data across a wide range of jurisdictions makes it difficult to assess the performance of UK regulators against their international counterparts:

- France: Autorité des marchés financiers (AMF) has published some KPIs in its 2024 supervision priorities but only one relates to competitiveness: the average turnaround to approve French funds. The AMF intends to develop new KPIs reporting on its attractiveness.
- Ireland: Central Bank of Ireland publishes extensive authorisations data in its Regulatory Service Standards Performance Reports, but the data excludes some categories of cases, which limits its comparability to the performance data published by the UK regulators.

- USA: the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC) will not accept proposals or applications for processing until they have reached a final decision.[8]

International comparisons of Senior Managers Certification Regime (SMCR)

Jurisdictions which are often discussed in this context include -

Singapore:

The Singaporean system is very different from the UK. The Monetary Authority of Singapore (MAS) is both the central bank and regulator for Singapore and its monetary policy objective is to maintain price stability conducive to sustainable growth of the economy. On authorisations the MAS has in place legislation and guidelines that address many elements of different jurisdictions' accountability and conduct regimes, including the UK's SMCR.

The Guidelines on Individual Accountability and Conduct (guidelines) sets out five high level outcomes financial institutions should achieve to promote accountability of senior managers, strengthen oversight over material risk personnel and reinforce conduct standards among all employees.[9] The objective of the guidelines is to assist financial institutions by providing a framework and best practices for strengthening accountability and standards of conduct and is not intended to be exhaustive or prescriptive. MAS states that financial institutions should not 'adopt a check-box mentality in applying the guidelines' but notes financial institutions that choose not to adopt the specific guidance should be prepared to justify their decision and demonstrate how they achieve the relevant outcomes through other means.

Ireland:

The Central Bank of Ireland introduced the Senior Executive Accountability Regime (SEAR) requiring in-scope firms to set out clearly and fully where responsibility and decision-making lie within the firms' senior management and imposes a legal duty of responsibility on persons carrying out pre-approval controlled function roles in such firms.[10]

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[8] TheCityUK and Freshfields: *Advancing international competitiveness and economic growth: how do financial regulators compare?* Page 7

[9] Monetary Authority of Singapore, Guidelines on Individual Accountability and Conduct: guidelines-on-individual-accountability-and-conduct.pdf

[10] Central Bank of Ireland, Individual Accountability Framework: Individual Accountability Framework | Central Bank of Ireland

Similarly to Singapore's approach, the SEAR draws on the UK's SMCR to increase accountability for senior individuals within firms, encourage individuals to take personal responsibility and to promote good culture and governance. In Ireland most senior individuals carrying out defined senior manager or controlled functions must be assessed for fitness and probity and confirmed to meet these standards by the relevant regulators. However, there are differences between the approaches taken by the UK and Ireland, in particular regulatory reporting requirements. In the UK there are prescriptive reporting requirements with firms required to report annually to the FCA details of conduct rule breaches resulting in disciplinary action. In contrast, the CBI takes a more subjective approach, giving firms flexibility with the requirement being to report issues promptly and appropriately.

USA:

The Securities and Exchange Commission (SEC) Division of Examinations (Division) annually publishes its examination of priorities (examination) for the upcoming year. This examination informs investors and registrants of key risks, trends and topics for examiners as they conduct their scrutiny of firms. However, the US does not have any explicit framework like the UK's SMCR, the SEC's 2024 priorities that relate to the UK include examination of investment advisers and advice they provide to be consistent with policies and procedures. The SEC notes that '*these priorities reflect the Division's assessment of certain risks, issues and policy matters arising from market and regulatory developments, information gathered from examinations, and from other sources.*'[11]

<u>Position of the UK</u>

Overall, from these international comparisons one can see that the UK's approach is more prescriptive even when jurisdictions base their authorisations regime on the SMCR. However, there is a clear indication that accountability of firms and senior managers across all these jurisdictions is important but metrics to measure accountability is not uniform. While regulators are operating under different legal and economic structures, complex and like-for-like comparisons can prove difficult but this comparison also demonstrates what jurisdictions do not publish KPIs. Metrics published by UK regulators are a demonstration of their commitment to transparency and accountability. It reinforces the perception that the UK is at the global forefront of initiatives to ensure its regulatory regime is proportionate, effective, and responsive.

[11] U.S. Securities and Exchange Commission, 2024 Examination Priorities Division of Examinations: 2024 Examination Priorities Report

2. Proportionality

Current regulation does not distinguish between firm types and sizes. Rules and supervision models are not sufficiently clear nor adaptable to factors such as a firms' size, complexity of business, capital and liquidity requirements[12]. Proportionality should be considered by regulators when exercising its duties. We received feedback from industry on the following areas where rules are disproportionate within financial services:

- Commercial insurance market
- Prudential regulation
- Conduct and payments

Commercial insurance market

The FCA's General Insurance Pricing Review while uncovering concerns about the treatment of existing consumers at renewal in the motor and home markets, however its fair value product review includes large parts of the commercial insurance market[13]. Having this sector in scope is disproportionate, the London Market group notes that it 'serves sophisticated corporates in a sector where there is no evidence of this type of market failure. The review is cumbersome, costly and complying with some elements may be impossible for London Market brokers and insurers'[14].

The London Market Group points to types of regulations that necessitate reaction, but which are often overlooked when measuring regulatory burden and proportionality. For instance, there are significant number of 'dear CEO' letters together with policy statements, thematic reviews and ad hoc data requests all of which have created a 'significant body of regulatory requirements and expectations essentially leading to regulatory modifications outside of the more formal rule book'.[15]

Prudential regulation

We have received feedback from the banking sector about proportionality issues in prudential regulation, specifically disproportionate rules in both ring-fencing and the PRA's approach to credit loss provisions.[16]

The ring-fencing framework is unique to the UK and places a burden on firms - other jurisdictions have decided not to use this approach. In particular, there is a burdensome duplication in relation to resolution and

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[12] London Market Group: *A plan for the future: one year one and next steps*, page 8 LMG_5-point-plan.pdf
[13] London Market Group: *A plan for the future: one year one and next steps*, page 8
[14] London Market Group: *A plan for the future: one year one and next steps*, page 8
[15] London Market Group: *A plan for the future: one year one and next steps*, page 8
[16] The City of London Corporation request examples from firms on its experiences with disproportionate rules.

operational resilience requirements which have the same aim as ring-fencing and deliver it directly. Some practitioners say that the split between these requirements has created unique hurdles for UK banks in serving their customers efficiently and holistically and as a result may incentivise customers to go to non-banks who can provide a certain product with fewer frictions but ultimately offer less value.

The PRA’s approach to expected credit loss provisions under the revised IFRS 9 accounting standard effectively counts expected losses twice: in provisions and capital. While this is not unique to the UK, (Basel standard) this double count is disproportionate and can undermine confidence, restrict lending and add risk to the financial stability of firms and the system as a whole.

<u>Conduct and payments</u>

We have also received feedback on disproportionate rules on conduct and payments in APP fraud and Financial Ombudsmen Service (FOS).

On APP fraud the current rules only require banks to reimburse fraud, with a very low level of what is expected from consumers as a standard of caution. Over time this approach will erode the UK’s first line of defence against fraud, as it fails to solve the underlying issue of harm and the distress of consumers experiencing APP fraud in the first place. In doing so it will also negatively affect growth over the long term.

The FOS is an essential part of the framework for consumer trust and quick resolution of simple complaints, and it is important that the process is as effective as possible for consumers. But the FOS now often applies new interpretations of regulations to past conduct, and can make “test case” decisions of wide application. This has increased the number and complexity of the FOS’s assessments, reducing the FOS’ ability to deliver as effectively as possible for consumers. Some practitioners note that it also means that the FOS judges against standards and requirements that did not exist at the time, which causes uncertainty/deters investors, undermining banks’ ability to support the economy. The banking sector notes that a first step to address these concerns would be for the FCA to review its dispute resolution handbook (the “Disp” rules) that it applies to the FOS.

Overall firms find disproportionate rules across the financial services sector impacting its ability to deliver effective outcomes. To drive competition and growth in the UK economy both government and regulators need to look at firms’ experiences in how rules in key areas are being operationalised and ensure proportionality.

3. Organisations promoting the UK: Foreign Direct Investment

Attracting FDI is an important way to boost growth. There are two elements to that growth:

- The initial economic growth caused by direct investment
- Longer-term growth generated by the continued activity of the foreign investment in the UK.

The UK faces a gap of around £50bn in business investment annually relative to competitors. Supporting UK financial and professional services sector as a priority sector would help to attract more FDI, which in turn would generate significant economic growth for the UK economy. Giving this support is particularly important given relatively weak domestic investment.

The Harrington Review identified problems with the UK's approach to FDI promotion, including an uncoordinated, confusing and reactive approach to FDI and investor needs. The review makes it clear that these problems are particularly stark when compared to the approach of our competitors who are actively targeting investment, building senior relationships and offering incentives.

Other major economies are targeting attracting FDI more strategically and with tangible incentives, in an increasingly competitive global environment the UK risks being outcompeted in the appeal for international investment. Currently, the USA is the largest FDI investor in the UK followed by Holland, Belgium, Luxembourg, Germany and Japan.

Driving Foreign Direct Investment and supporting growth

The City of London recently issued key recommendations designed to boost UK economic growth through foreign direct investment'[17]:

- Foreign sovereign investors have created more than 3,200 jobs and invested £1.7bn in FDI in the past decade.
- Sovereign investors who have established a UK officer, over the past decade, have more than doubled their UK investments in the five years post-establishment. This was worth a £13.4bn investment uplift in sectors such as infrastructure, technology and renewable energy.

[17] The City of London Corporation: *Catalysing UK economic growth through financial services foreign direct investment: a call to action* Catalysing UK economic growth through financial services foreign direct investment (theglobalcity.uk)

- These benefits are UK wide with 92 investments across 36 different cities and towns outside of London.
- Traditional FDI estimates often overlook the FS sector's broader impact. Sovereign investors with UK offices invested £119.5bn in total over the decade, driving long-term economic growth.
- Encouraging FDI by sovereign investors currently without presence in the UK, could attract about £7.7bn of additional investment by 2030.

The City of London Corporation has recommended developing a long-term financial and professional services strategy, overseen by an FPS council, and piloting a dedicated financial and professional services investment hub as part of a broader National Investment Agency strategy.[18]

On 10 October the Government announced the appointment of Poppy Gustafsson OBE appointed as Minister for Investment and a scaled up Office for Investment which will bring together expertise from industry and business leaders for the first time.[19] We welcome the bolstered Office for Investment and look forward to working with them on FDI. We also welcome the announcement of an industrial strategy and the selection of financial services and professional services as two out of eight growth driving sectors.[20]

4. Regulatory changes for advice and guidance

The boundary between 'advice' and 'guidance' impacts the ability of FCA-regulated firms to provide financial advice, in particular the impact these rules have on providing advice to retail consumers and their ability to invest.

Advice Guidance Boundary Review

The Committee requested information on this topic.

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[18] City of London Corporation: *Vision for Economic Growth – a roadmap to prosperity* Vision for Economic Growth — a roadmap to prosperity

[19] https://www.gov.uk/government/news/new-investment-minister-to-spearhead-bolstered-office-for-investment

[20] https://assets.publishing.service.gov.uk/media/670cde8692bb81fcdbe7b745/industrial-strategy-green-paper-final.pdf

While the FCA intended to consult on its proposals for a new core investment advice regime in 2021, the Edinburgh Reforms allowed for potential significant change and in August 2023 a joint review with the Treasury on Advice Guidance Boundary was announced.

The Advice Guidance Boundary Review is informed by key themes and insights across the FCA's earlier work and initial proposals to close the advice gap include: [21]

- Further clarifying the boundary (proposal 1)
    - Provide FCA-authorised firms with greater certainty that they can give more support to consumers without providing a personal recommendation under the existing framework
- Targeted support (proposal 2)
    - Rethink the way financial support is delivered to customers and explores a new regulatory framework which enables firms to broaden support they can provide to consumers
- Simplified advice (proposal 3)
    - Building on FCA's November 2022 consultation feedback on 'Broadening access to financial advice for mainstream investments' to explore a simplified form of advice that enables firms to support consumers with simpler needs and smaller sums to invest, and to do so in a commercially viable way.

We received feedback from trade associations representing the investment and insurance sectors on the Advice Guidance Boundary Review. Overall, these trade associations were supportive of proposals 2 and 3 but noted recommendations to further strengthen the FCA's proposals:

- Proposal 1
    - Insurance trade association noted that this will not assist in addressing the advice gap (neutral to negative) and would prefer the FCA to focus on the other proposals
- Proposal 2
    - Insurance sector trade association noted a very positive reaction on establishing a new regulatory framework for targeting support and will enhance consumers' investment journeys and improve access to financial guidance
    - Investment sector trade association suggested recommendations that can further enhance this proposal including accountability and limiting liability (firms offering support should operate under appropriate permission),

[21] HM Treasury and FCA Policy Paper: *Advice Guidance Boundary Review – proposals for closing the evidence gap*, pages15-16 dp23-5.pdf (fca.org.uk)

product recommendations (avoiding consumers mistaking product recommendation for advice) and reducing friction (opt-out basis to increase uptake).

- Proposal 3
  - Positive reaction on exploring simplified form of advice, however an investment sector trade associate noted while not as commercially attractive as targeted support it still remains necessary
  - The Association of British Insurers (ABI) noting simplified advice needs to cover decumulation decisions given the potential for consumer harm without support and there should be no investment limit.[22]

Opening consumer investment opportunities – Barclays analysis

The ability for consumers to make informed decisions through advice and guidance from firms has long been an untapped area. Recently, Barclays conducted analysis on how to empower retail savers to engage with investing and found that after establishing a prudent emergency fund there remains an estimated £430bn of UK savings, held in cash by 13 million individuals that could be invested.[23] Barclays identified two broad barriers that inhibit savers from engaging with investing:

- A difficulty on the part of consumers in identifying the type of financial investment product that may suit their financial objectives
- The inability to make simple side-by-side comparisons of specific products within an investment type.[24]

To unlock the economic growth opportunity for the benefit of the UK's capital market and consumers Barclays sets out five key policy recommendations:

- FCA should develop a 'badge' for one or more entry-level investment product types that firms could use
- FCA should ensure a simpler sign-up journey into 'badged' products
- Government and FCA should alter the regulatory framework for the provision of financial guidance to enable (regulated) private sector firms to suggest investment actions or products to their own customers

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[22] Association of British Insurers, ABI Response to the Advice Guidance Boundary Review Policy Paper Our response to the Advice Guidance Boundary Review policy paper | ABI
[23] Barclays: *Empowering retail savers to engage with investing: the role of public policy*, Empowering retail savers to engage with investing: the role of public policy (home.barclays) Barclays conducted original market research with UK consumers with savings of at least six months' income.
[24] Barclays: *Empowering retail savers to engage with investing: the role of public policy*

- The Money and Pensions Service (MaPS) should place a renewed focus on providing public-facing generic investment guidance
- Government should adopt an explicit policy aim to develop accessible comparison tables for entry-level 'badged' financial products.

The barrier and policy recommendation are essential for opening the economic opportunity to enable consumer investment and illustrates how the current rules are limiting this. Any new regulatory framework the FCA proposes through its Advice Guidance Boundary Review should have explicit and concrete examples on consumer-facing guidance for firms.

With the Advice Guidance Boundary Review still ongoing the FCA has issued clarification to FCA-authorised firms on how to provide support for consumers making investment decisions. This clarification encourages firms to provide greater levels of support for consumers and how the advice boundary currently operates.[25] However, it does not represent any change in regulatory requirements for firms, rather outlines areas industry has already called attention to.

Without regulatory change to enable firms to provide guidance this economic opportunity will remain locked; however, the City of London Corporation is encouraged by the FCA reviewing this sector and taking industry feedback into account.

5. Regulatory sandbox cohorts

The City Corporation has strongly supported the creation and implementation of sandboxes to help drive innovation. In late 2023 the FCA and City of London Corporation launched a year-long project to support the development of technology solutions to combat Authorised Push Payment Fraud. This included partnering with Smart Data Foundry to create a synthetic dataset housed on the Digital Sandbox platform and which successful applicants could access to help accelerate the development of solutions in this area. Over the course of the year over 90,000 calls were made to the dataset by 38 different project teams and five enhancements to the data were carried out based on feedback received from users. The FCA has recently confirmed that it will continue to host the dataset on the Digital Sandbox so that innovators can continue to access it.

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[25] FCA: Helping firms provide more support to customers making investment decisions | FCA The FCA states that this is designed to build greater confidence among firms to operate closer to the boundary, hoping to improve access to investment guidance and advice for consumers.

The FCA's Regulatory and Digital Sandboxes provides firms and innovators the ability to test product and services in a controlled environment:

- Regulatory Sandbox is for firms wanting to test new products live in the market with consumers
- Digital Sandbox is a service provided by the FCA Innovation Hub designed to facilitate the development and launch of cutting-edge solutions within the financial services industry.

Since August 2021 the FCA moved the Regulatory Sandbox to an always open model, allowing firms to submit their applications throughout the year. 23 firms operating in retail lending, retail investments, retail banking, payments and wholesale have been accepted into the always open firms model.[26] More recently the FCA published its 10-year anniversary on innovation services[27]:

- Regulatory Sandbox:
    - 250 applications received and the FCA supported around 90 firms (wholesale firms)
    - 44% of firms accepted to the Regulatory Sandbox tested their proposition (wholesale firms)
    - 70% of applications received were from London based firms
- Digital Sandbox:
    - 25 firms have access the Digital Sandbox, developing proof of concept using data related to fraud, the FCA register and open finance
    - Since launching the Digital Sandbox in 2023 two wholesale applications have been accepted
    - Since launching the Digital Sandbox there have been 53 AI-related applications which accounts for 42% of total applications made.

In 2024 the FCA hosted its Digital Sandbox Spring Expo showcasing 13 projects from the Digital Sandbox service across financial inclusion, RegTech, data and enablement and fraud detection[28].

The perception of the UK's growth and competitiveness is helped from sandboxes, which have moved from initially being an innovative offering to now being positioned a standard and stable UK offering as demonstrated by the regulatory and digital sandbox services across a number of areas.

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[26] FCA: Regulatory Sandbox accepted firms | FCA
[27] FCA 10 year anniversary FCA Innovation Services: 10 year anniversary: FCA Innovation Services
[28] FCA: Digital Sandbox | FCA

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