ICAEW
REPRESENTATION 21/21

FINANCIAL SERVICES FUTURE REGULATORY FRAMEWORK – PHASE II CONSULTATION

Issued 19 February 2021

ICAEW welcomes the opportunity to comment on how the UK regulatory framework for financial services needs to adapt to our new position outside the EU published by HM Treasury on 19 October 2020, a copy of which is available from this link.

Annex A provides a map of our response below, to the consultation's specific nine questions.

Executive Summary
The UK regulatory framework for financial services is of vital importance to the future and recovery in the UK. The financial services sector has been crucial in delivering the lending and support to people and businesses during the pandemic. It is also a vibrant and world leading sector that contributes a great deal to the UK, not least through its impact on employment, tax receipts and its contribution to UK GDP. The UK's future outside the EU is likely to be based on building on its strengths so it will need a regulatory framework that can support its growth and evolution. And the financial services sector and its regulatory framework will need to evolve, to deal with the clear and present issues of today, like the pandemic but also those that may lie ahead in the not-too-distant future e.g. climate change.

The UK's 'FSMA' framework has been through two crises and in some ways has fared well; it is a framework that is held in high regard internationally. However, the proposals seek to grant the financial services regulators greater powers. We agree with that approach but think greater controls will be needed and the current framework needs to adapt appropriately. If the UK wishes to drive its 'car' faster then we will need better 'brakes' and 'seat belts', ones which are appropriate.

However, better 'brakes' need to work well and be applied judiciously. Additional 'checks and balances' although necessary, could if overdone, make the framework more cumbersome. Critically, there is a balance to be struck, as regulators will often need to move at pace to deal with particular issues eg, fintech. We therefore encourage the government to review the recommendations below but would also highlight the importance of keeping the framework agile and fleet of foot. This will require continuous effort to make the system work well for its participants but also act as a control on powerful bodies with new powers. Going forward it will be a difficult but important balance to achieve.

Most importantly, these challenges come at a time when the UK faces unique circumstances. The pandemic poses an economic threat to the UK so it is important that the financial services industry can support growth in the UK and business flows. Growth in the UK is a public good and will help all parts of the economy and society. The framework needs to support UK growth and err from the safety and stability of the graveyard. This is recognised when setting

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monetary policy. We have an inflation target that is not set at 0%. In a similar way our framework should engender safe and sound financial institutions but accept that individual firm failures will happen from time to time and that is a sign of a dynamic economy.

ICAEW is a world-leading professional body established under a Royal Charter to serve the public interest. In pursuit of its vision of a world of strong economies, ICAEW works with governments, regulators and businesses and it leads, connects, supports and regulates more than 186,500 chartered accountant members and students around the world. ICAEW members work in all types of private and public organisations, including public practice firms, and are trained to provide clarity and rigour and apply the highest professional, technical and ethical standards.

KEY POINTS

1. The UK has long been recognised as a successful global financial centre with high standards. Compared to other wealthy nations its financial services framework is held in high regard and the UK's voice has been an integral part of the policy setting framework at the European level and globally eg, Basel. However, the Basel framework was incepted to deal with the issues of the time, which were then around the absence of a level playing field internationally. But today, the challenges in front of us are very different. The key challenges we face in a post-pandemic world are economic and on ensuring growth. If the UK can build a framework that supports a growth agenda, it will support the competitive position of the UK and support our future success. This consultation therefore comes at a very critical time.
2. Overall, we agree with the approach to build a more agile framework and the best way to do that is to take the rules that apply to financial services out of the statute book and move them to a place where they can be more readily adapted. This in turn should be supported with appropriate transparency, visibility and accountability.
3. We broadly support the direction of travel of the new proposals but note that they may bring certain risks:
   a. In the short to medium term, we are likely to see the newly emboldened regulators publish new, more agile rules. However, we think the consultation process needs to better engage with stakeholders. The views of smaller firms and the voices of those impacted by financial services (not just financial services firms and their customers) needs to be given more prominence. The tapestry of financial services regulation is likely to be linked to a greater extent than before with wider societal changes. For example, it will be important for the rule makers to look at the impact on climate change, sustainability and aspects like operational resilience when drafting financial services regulations. To do so otherwise, there is the risk that the current consultation process does not meet the needs of current or future stakeholders.

   b. A UK regulator with more rule-making abilities will need stronger oversight, consistent with their greater powers. In the past this has been done reasonably well by the Treasury Committee. Going forward there is the risk that this framework could miss important gaps; absent a specialist Treasury Sub-Committee, better reporting and/or more use of impact studies and cost benefit analyses for new rules.

   c. Post Brexit there is an opportunity to have fewer rules for smaller firms. Too often the rules cater for the voices of those who want consistency with international regulations (eg, Basel). Proportionate rules would allow smaller and in particular UK-focussed firms to grow and foster a competitive market.

   d. While there is a role for regulators being more accountable and having a dialogue with government, political interference in rule-setting could mean more 'boom and bust'. In countries where political interference is more common, this has caused particular problems in certain geographies. Greater transparency may help to off-set this risk in the context of a UK setting.

   e. There are inevitable tensions in the regulatory objectives and greater clarity may help around how to balance 'safety and soundness' vis a vis a drive to support greater competition.

4. We therefore make the following recommendations:
   I. **The consultation process needs to better engage with stakeholders.**
   II. **Oversight of the more powerful regulators should be enhanced.**

III. **Proportionate rules should be adopted for UK-centric firms.**

IV. **The interaction with government needs clarity and better controls.**

V. **Tensions in the regulatory objectives should be addressed early.**

Recommendation I – Enhance Consultation Process

5. Market, industry and customer participants have expressed concern that some consultations can feel like the outcome is predetermined and that limited changes are made in response to the consultation feedback. To alleviate this there could be more visibility that all views are brought in and taken on-board, in terms of the final policy rules. We believe that earlier and more transparent engagement with stakeholders, and an enhanced role for the statutory panels in particular, would help to address this.
6. The UK should also take the opportunity to capture a wider set of stakeholders through its consultations. For example, the impact of climate change outcomes, which will be driven in large part by financial services policy, does not just affect a bank and its customers - there is the wider impact on society and future generations. The membership of panels and groups should therefore be broadened to capture those impacted.
7. Overall, we think the consultation process can be enhanced by:
   a. A greater role for statutory panels
   b. A re-establishment of standing groups
   c. Improving the evidence base for policy decisions
   d. Changing the typical timing around consultations
   e. More regulatory coordination for new rules and transparency about the policy path.

Statutory Panels

8. As above, there is room for the existing statutory panels to play a greater role. Statutory panels play an important role through their representation of key stakeholder groups. If the role of panels is clear and they run smoothly on both sides, then many of the concerns around policy setting might be addressed through this mechanism alone. Making statutory panels work well is a key plank to the policy framework’s future success.
9. We believe that the independent challenge function of the panels should be enhanced to give them more ‘teeth’ and agree with the consultation’s suggestion that panel memberships, their remits and resourcing, including panel diversity, would be relevant issues to examine. We think their work should be given more importance in the scrutiny of the regulators.
10. The PRA and FCA should work together on a baseline of good practice as their reporting is currently very different. The FCA has clearly benefited from a longer history of working with panels, evidences stronger buy-in to the approach and yields better reporting of the process as a consequence.
11. A useful first step in any review of the role of the existing statutory panels could be to carry out an independent review of the effectiveness of the FCA and PRA statutory panels in meeting their current mandates but also to consider whether mandates may need to change to deliver enhanced scrutiny of the policymaking process.
12. We note a large degree of discretion in how the PRA may chose (or not) to pre-consult the panel. Such provisions could be modified to more clearly define the circumstances where the Panel will need to be pre-consulted for important policy issues. It may also be helpful for the

circumstances and rationale for the PRA not pre-consulting the panels to be more clearly set out.

13. The PRA Practitioner Panel Report for 2019/20 only comprises 5 pages[1] with limited details on items considered by the Panel and the impact on the PRA and ultimate outcome. We believe that such information could be more detailed as a way to enhance transparency and scrutiny.

14. The Consumer Panel had *"called for better integration of consumer interests, including SMEs, into policy development and decision making across financial services(…) and for regulators to be more transparent on what they expect from firms during the period of transition and once the UK has left the EU."* Such level of detail in reporting is helpful to constituents and could be emulated by the PRA Practitioner Panel and other statutory panels.

15. Finally, there will be a need for enhanced resourcing of the panels (both quantitative and in terms of broader expertise) as a result of the broader responsibilities of the regulators for onshored rules post-Brexit.

Standing Groups

16. In the past the former combined regulator, the Financial Services Authority (FSA) operated 'standing groups' which could provide independent technical expertise to the regulator. They shared insights with the regulator on technical issues like credit risk, in a way that statutory panels have not. This was particularly helpful on topics before they went to consultation. That early engagement with standing groups would help regulators formulate their views on policy development. We see statutory panels and standing groups working in a complimentary fashion – statutory panels offering a top-down perspective on the likely stakeholder response and expert standing groups providing a bottom-up perspective on more technical aspects around how the policy objective might be achieved.

Evidence

17. Cost/benefit analysis should better reflect the likely impact on affected stakeholders and more clearly demonstrate that the benefits delivered, justify the costs. The aim here should clearly be high-quality, evidence-based policy, and we agree that it will be important not to over-burden firms with information requests.

18. Regulators already make use of such reviews in some areas. The FCA, for example, has publicly committed to carrying out ex-post reviews and set out its framework for doing so. The PRA might adopt a similar policy and together they might develop a common standard. Ex-post reviews could be useful for the review and scrutiny of cost-benefit analyses in view of the risk that regulators may underestimate costs and overstate benefits where they have already settled on a course of action.

19. More routine use of such reviews and making them mandatory in some circumstances would help ensure that rules remain effective in changing market conditions. We understand that ex-post reviews are difficult and expensive to do in practice and could divert the regulators' attention from other important tasks and priorities (the recent Covid-19 pandemic being an example of where regulatory resources have been stretched and where regulators have had to carefully prioritise and sometimes postpone regulatory initiatives). We are also conscious that ex post reviews could potentially introduce a greater burden for the industry, for example if additional data was required from firms to conduct reviews. We therefore believe that post

[1] https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/publication/2020/practitioner-panel-and-insurance-sub-committee-annual-report-2020.pdf?la=en&hash=23815B489798FE7C645ED8E816BA0C340F5D6BDA

implementation reviews need not cover every new rule and that their use should be proportionate to the potential impact of a rule to avoid a never-ending cycle of levelling up of standards shortly after they have been implemented by firms.

Timing

20. The consultation process, particularly when there is some degree of urgency in adopting new rules or remedying a deficiency can feel rushed, with a very short window for responding. Consultations with very short consultation periods do not support the idea that there is transparency around policy development.
21. On the other hand, the policy making process itself is very long - for example, conception to implementation can be as long as 5 years or more (e.g. the Retail Distribution Review or MiFID 2) by which time the market will have changed and require a new set of rules.
22. Nonetheless it often still leaves firms very little to implement changes, from the time policy requirements are finalised. The Fourth Money-Laundering Directive is an example of implementation timescales which were particularly challenging for firms with final regulations (providing certainty on requirements) only available a few days before they came into force.
23. The advice of statutory panels and standing groups might better be used to guide consultation timings.

Coordination

24. In the UK there are examples of an overlap on mandate for a particular regulatory topic (the ICO and PSR on data, for example) and necessary co-ordination with international regulators. There is therefore a real need to address the cumulative impact of regulatory change on firms and a need to recognise the burden on firms, particularly since the financial crisis, of trying to implement rules on a global basis when regulatory requirements vary, and implementation timeframes overlap.
25. We welcome the initiative by the FCA to publish a "Regulatory Initiatives Grid"[2]; a useful tool for firms to plan their regulatory implementation work and engagement strategy within a 24-month horizon. It could be useful to enshrine in the consultation process a requirement for UK regulators to produce and publish such a document as a basis, first for further scrutiny of the regulatory roadmap, and secondly for the identification of unduly burdensome timeframes.
26. Relevant planned activities by other regulators should be acknowledged and be subject to some form of oversight by an external, independent body with appropriate expertise (see Recommendation II below). Ideally this grid should also reference any overlapping initiatives by international regulators as a tool enabling UK regulators to have regard to the cumulative impact of their policy initiatives and timetables on global firms. Formalised collaboration by UK regulators through some form of shared business plan, setting out upcoming issues that cut across their individual responsibilities would also help address some of these issues.

Recommendation II – Stronger oversight for stronger regulators

27. It is vital that the exercise of regulatory powers, including rule-making powers and responsibilities delegated by primary legislation, are subject to appropriate accountability. This is because in the recent past the regulators have defaulted to a position that focuses on safety and soundness, and this has come at the expense of delivering on their competition objective and the 'desirability of sustainable growth' principle. At this time the UK has the

[2] https://www.fca.org.uk/publications/corporate-documents/regulatory-initiatives-grid

opportunity to make a break from that historic skew and position itself in a way that supports a dynamic financial sector and a competitive UK position. Whilst existing mechanisms such as the Treasury Committee have been used to hold the regulators to account, oversight can be enhanced in a number of ways:

a. Ex ante and Ex post reviews

b. Changes to Treasury Committee including a new sub-committee

c. Better use of statutory panels

Ex ante & Ex post reviews

28. In our view, enhanced scrutiny to replicate the functions previously carried when we were in the EU (eg, ECON and the European Supervisory Authorities) should focus on ex-ante reviews (e.g. cost benefit analyses and stakeholders engagement) of new and material changes to financial services regulation and ex-post reviews of impact (for example, did a new rule or regulatory action achieve the desired outcome and, if so, why not and what else needs to change?) to identify successes and learning points for the future, and ultimately help make the regulatory system more robust and effective. These tools function well at the EU level and it is a more rigorous process with legislators than the one currently set out in the proposals for the UK.

Treasury Committee

29. It is important that the remit of the Treasury Committee continues to shadow the policy responsibilities of HM Treasury and, while this does limit the bandwidth of the Committee to take on additional responsibilities, the accountability mechanisms and scrutiny of financial services regulators broadly worked previously but should be enhanced to reflect the new challenges.

30. We do not believe that the Treasury Committee, as it currently operates, is equipped with the time or expertise to cope with the ever-growing demands or the new regulatory framework, in particular, the type of in-depth, technical reviews of financial services regulation that are performed by the EU Parliament Committee on Economic and Monetary Affairs (ECON). In our view this is due, in part, to the calls on the time of the Committee but also to the more limited access to necessary expertise. ECON has, for example, 60 members (with identified substitutes) which provides the committee with access to a wide range of expertise in addition to dedicated policy advisers.

31. One possible evolutionary approach could be to create a dedicated sub-committee, or new joint committee co-chaired by the Treasury Committee chair, with members drawn from both houses on the basis of their experience/expertise (eg, in financial services or law). Representation from the House of Lords in particular, would do a great deal to take some of politics out of the oversight of financial services regulation. This sub-committee/joint committee - which would also need access to dedicated support that better reflects the resources available to ECON. Any oversight needs to be properly equipped to oversee the regulators. Professionalised oversight properly funded (using fines monies) and resourced, could focus on more detailed and technical scrutiny to feed into the work of the Treasury Committee and its oral evidence sessions with the regulators. A cross-party and technical focus could also help avoid a media ‘sound bites’ approach, which can distract regulators from other important work.

32. In a similar way to external members of the Financial Policy Committee providing international perspectives to domestic issues, a new sub-committee/joint committee should also have a source of external perspectives. For example, on; how well the UK is interacting

with global standards; approaches being taken by international regulators to common challenges; and, engagement with international bodies and regulatory authorities.

33. While some international, as well as industry, perspectives might be provided through the statutory panels, external advisers, such as retired senior regulators, policy-makers and senior industry experts and academics, could be appointed to the sub-committee/joint committee to help facilitate its work and provide constructive challenge and insight.

34. Under a divergent framework, maintaining a level playing field for UK regulation over a period of time, insofar as it needs to be demonstrably level depending on firm categorisation, will rely on a periodic review process being undertaken by the Treasury Committee (or another Parliamentary committee constructed for the purpose) of HM Treasury and the UK regulators.

35. We also note the International Regulatory Strategy Group's suggestion to establish a new external and independent committee to scrutinise the regulators' rule proposals and the evidence on which proposals are based (including cost-benefit analysis where relevant, with a similar function to the Regulatory Policy Committee). We agree with the remarks made in the consultation that setting up such a committee could be challenging and that its mandate would need to be carefully defined but that there would be, as explained in our remarks about greater scrutiny of the regulators processes for consultation including CBAs, that there could be some merit in exploring these options for independent review.

Statutory Panels

36. We also believe it is important to consider the role which the statutory panels could play in an enhanced accountability and scrutiny framework. In particular, expanding their role and remit could offer a new sub-committee/joint committee with access to the expertise and perspectives of both users of financial services and markets and recipients of financial services regulation.

37. One approach could be to strengthen the panel's engagement with the regulators, ensuring timely pre-consultation on proposals and an appropriate interval to review, discuss with PRA/FCA staffers and provide informed views. In addition to providing their input to the regulators, the panels could also provide a periodic update to the sub-committee/joint committee to help inform their agenda and identify potential issues for scrutiny.

Recommendation III – Proportionate rules

38. The future regulatory regime needs to be proportionate to the nature and scale of the risks that individual firms are exposed to (Section 2.37). This is counterbalanced by the need for the regime itself to be proportionate in its application and not overburdened with a profusion of activity-specific regulatory principles (Section 2.42). The regime will need to balance primary legislation and detailed regulations.

International firms

39. For multinational firms, it will quickly become challenging to maintain a clear inventory to the differences in detailed implementation and timing of EU and onshored UK regulation, as is already the case for some securitisation and securities financing rules. Therefore, a bifurcation in the PRA and FCA rulebooks to recognise the different objectives of international and domestic firms above would seem inevitable if clear and effective UK regulation is to be achieved in the future.

40. The timetable for doing this cannot be protracted, to realise the benefits for UK domestic firms of more competitive and effective rule making and to reduce the complexity of running

parallel regulatory regimes for international firms. A period of 18 – 24 months to put in place the new framework would seem achievable, once the current equivalence discussions with the EU have been concluded.

41. The impact of that divergence, if implemented, may impact the UK entities in multinational groups below the group company level, depending specifically on how the changes are rolled out (eg, via firm permissions or via group size and complexity), in the same way as UK domestic firms. Therefore, a detailed cost benefit analysis will need to be rolled out prior to implementation, and thereafter when rules are modified, to make sure that individual firms or sectors are not impacted disproportionately by the changes.

42. Parliament and the government will need to closely oversee that initial decision-making around the potential divergence of the UK rule set, but, after that initial decision making, the financial services regulators will have to take responsibility for the detailed rule drafting. There will be a need for more resource and capability in the UK regulators to achieve this task, given that the delegation principles for the adoption of recent European regulation in the UK, which have been a combination of legislation and direct regulation, has effectively removed a significant level of primary responsibility for drafting and detailed decision making for rule setting from the UK regulators. This is not a criticism of current efforts, simply a right sizing of resource to meet the changed environment. To do more, the UK regulators will need more resource.

43. The strategy will initially require a clear political direction for the creation of a fair but effective diversified regulatory regime via primary legislation, and detailed but proportionate rule drafting by the UK regulators, carefully co-ordinated and overseen by HM Treasury, to set the right template from the start. Evaluation of the strategy's effectiveness will be have to be outcomes focussed, via periodic impact assessments, and will need to demonstrate that the balance between competition and consistent consumer and financial market principles has been maintained, so that consumers do not feel that the regulatory oversight has been compromised by the changes.

UK centric firms

44. In the midst of these potentially conflicting objectives, it is important that the objectives of individual firms are best met by a clear and simple delineation between those firms which, for narrow equivalence purposes or to meet prevailing European rules and best practice for broader competitive and regulatory reasons, require their oversight to remain as close to EU regulation as possible, and those firms for which EU rules are a disproportionate burden as they are primarily domestic UK firms and for which a more targeted set of regulatory principles would be appropriate.

45. Importantly, we are not suggesting financial services customers see different information. This should be consistent for consumers, regardless of whether the firm they are dealing with is international or UK centric. However, there is an opportunity to simplify the prudential rules for UK centric firms and bring these together in one rule book. At times rules have been set out in many places eg, 'Dear CEO' letters, sector specific approach documents or 'Frequently Asked Questions' help sheets. That scattered approach makes it harder for smaller firms to navigate as they do not have an army of lawyers or huge policy teams. The regulators should work to build a single rule book for UK firms.

Fintech

46. The same principles, a drive towards a less onerous regime in places, may well apply to specific sectors where innovation is important. The UK's competitiveness objective would

seek to encourage those fintech firms to maintain operations in the UK, ensuring a dynamic and plural market.

Recommendation IV Clarity and control around government interaction

47. While there is a role for regulators being more accountable and having a dialogue with government, political interference in rule-setting could mean more 'boom and bust'. Arguably, prior to 2008, the FSA was not independent enough and political pressure led to a 'light touch' approach to regulation that contributed towards the financial crisis. There needs to be some sort of mechanism via which the regulators can challenge the policy approach proposed by Parliament and Government if the regulators believe it would override or go against their statutory objectives.
48. In countries where political interference is more common, this has caused particular problems. In those countries which mandate a stronger role for government more generally, we have seen issues have become politicised through government targets etc.
49. Furthermore, in the EU we have seen examples where individual MEPs can feed into legislation leading to some unusual policy choices. Issues have clearly becoming politicised; in conflict perhaps with the common good.
50. A greater role for politicians will also affect the UK's agility either directly or through UK regulators anticipating political challenges and being paralysed into inaction. The UK now needs a framework that supports growth and competitiveness, and political interference might only slow our growth and emergence from this crisis.
51. This is notwithstanding that we support the view that policy should be discussed at HMT and at the Financial Policy Committee. However, it is less clear each of the UK's 650 MPs should have views on prudential banking regulations and the EL-P deduction, for example. There is clearly a balance to be struck on the role of government. Looking at international comparisons, less political interference has historically led to better outcomes. The UK regulators are already bound by their objectives, principles and enhanced processes (e.g. statutory groups) which will act to support good policy outcomes and accountability. We reiterate the importance of the recommendations we have made above around statutory panels, a new treasury sub-committee and better reporting.
52. A key question is whether the policy frameworks set for specific areas of activity should ever be allowed to override the statutory objectives of the regulators. The key is achieving a balance between the two.
53. We recognise that specific considerations may attach to individual regulated activities, however, we believe that setting activity-specific regulatory principles through primary and secondary legislation could result in a patchwork of differing or overlapping regulatory principles to be applied by the regulators, some of which could reflect shorter-term, broader, public policy considerations.
54. In some circumstances, it is possible that a conflict could arise between public policy objectives to support the economy and the regulatory objective to maintaining fair and efficient markets. For example, facilitating first time mortgage borrowers versus seeking to ensure consumers do not take on unaffordable levels of debt. Regulators may also need to take action to prevent consumer harm in a specific sector which could lead to economic consequences if firms close or exit the sector (as seen, for example, in high cost credit).
55. While regulators must be accountable for their actions, it is important they are able to operate within clear and certain rules on engagement, which do not result in sub-optimal outcomes, either for individual firms or the financial services industry, as a result of an abundance of caution or limits on regulatory flexibility or agility. For example, a real or perceived need for

greater levels of evidence before taking decisions that may be subject to security, less ability to intervene at speed.

56. In our view, there should, therefore, be a layered approach:

- Additional macro and regulatory considerations, which are applicable to industry sectors or more than one regulated activity, should be included in the regulatory principles in section 3B of the FSMA and we support a review of the existing regulatory principles to seek to ensure that they remain appropriate.
- Broader strategic, economic or public policy considerations that are relevant to specific regulated activities or are more time-limited should be included in the Chancellor's remit letters to both the PRA and FCA.
- Regulatory priorities should continue to be set out in the PRA and FCA's annual business plans and subject to Parliamentary scrutiny.

Recommendation V – Address tensions in regulatory objectives

57. In some circumstances, it is possible that a conflict could arise between public policy objectives to support the economy and the regulatory objective to maintaining fair and efficient markets. For example, facilitating first time mortgage borrowers versus seeking to ensure consumers do not take on unaffordable levels of debt. Regulators may also need to take action to prevent consumer harm in a specific sector which could lead to economic consequences if firms close or exit the sector (as seen, for example, in high-cost credit). The Regulatory Initiatives Grid again works well to ensure there is coherence in the regime between the regulators and their respective operations. It therefore should be carried forward into the new framework.

58. But most importantly, these proposals come at a time when the UK faces unique circumstances. The pandemic poses an economic threat to the UK so it is important that the financial services industry can support growth in the UK and business flows. Growth in the UK is a public good and will help all parts of the economy and society. The regulators and government therefore have a responsibility to ensure the success of 'UK plc'. The financial services regulations we adopt will be an integral part of the UK's economic growth as the sector plays an important role in directing capital flows to the growing and successful parts of the economy.

59. In reply to the call for a focus on economic growth, many professional regulators have noted the inevitable tension this brings with their 'safety and soundness' objective. However, if we adopted solely a safety, consumer protection objective it would effectively kill all competition in the UK financial services market - only the biggest and 'safest' firm would be authorised. But a monopoly provider is in no one's interest; least of all the consumers'. So, we think the framework should engender safe and sound financial institutions but accept that supporting growth will inevitably mean individual firm failures will happen from time to time, and that is a sign of a dynamic economy. The UK needs to balance consumer protection with the need to recover from the Covid crisis. The regulatory regime needs to be part of that recovery and growth should play a greater part in the regulators' objectives.

60. The regulatory principles acknowledge that 'consumers should take responsibility for their decisions'. This is something that could be leveraged more greatly to support a growth agenda but only if it is supported at the same time by support for financial literacy in the UK. This is an area where ICAEW and its members are prepared to play a role.

61. In our view, there should be a layered approach to the UK's regulatory objectives and plans. At the highest level there would be some areas that should be a matter of government policy

overall. At lower levels there would the areas set out in each regulators business plans covering business as usual activities. And then in addition there would be all of the issues between these two levels. Specifically, this might include:

- Additional macro and regulatory considerations, which are applicable to industry sectors or more than one regulated activity, should be included in the regulatory principles in section 3B of the FSMA and we support a review of the existing regulatory principles to seek to ensure that they remain appropriate,
- Broader strategic, economic or public policy considerations that are relevant to specific regulated activities or are more time-limited should be included in the Chancellor's remit letters to both the PRA and FCA.
- Regulatory priorities should continue to be set out in the PRA and FCA's annual business plans and subject to Parliamentary scrutiny.

62. Under Recommendations II and III we cover the need for regular oversight of the financial services regulators to check that rule making stays in line with the core principles of government and Parliament, and that the rule changes proposed do not become so detailed, industry and sector specific that they become a disproportionate regime to administer and implement, both for regulated firms and the regulators themselves.

63. Care also needs to be taken so that there are not excessive relaxations offered to individual types of firms, for capital and conduct regulation, over the longer term so that the other regulatory objectives of financial stability, customer protection and market integrity are potentially compromised. Some short term preferencing of the competition and UK competitiveness objectives may, however, be entirely appropriate in some specific circumstances.

64. We recognise that specific considerations may attach to individual regulated activities, however, we believe that setting activity-specific regulatory principles through primary and secondary legislation could result in a patchwork of differing or overlapping regulatory principles to be applied by the regulators, some of which could reflect shorter-term, broader, public policy considerations.

Annex A

The answers to the consultation questions can be found here:

1.	*How do you view the operation of the FSMA model over the last 20 years? Do you agree that the model works well and provides a reliable approach which can be adapted to the UK's position outside of the EU?*
	See 'Executive Summary' & paragraph 47.
2.	*What is your view of the proposed post-EU framework blueprint for adapting the FSMA model? In particular:* *• What are your views on the proposed division of responsibilities between Parliament, HM Treasury and the financial services regulators?* *• What is your view of the proposal for high-level policy framework legislation for government and Parliament to set the overall policy approach in key areas of regulation?* *• Do you have views on how the regulators should be obliged to explain how they have had regard to activity-specific regulatory principles when making policy or rule proposals?*
	See Recommendation IV
3.	*Do you have views on whether and how the existing general regulatory principles in FSMA should be updated?*
	See 'Executive Summary'
4.	*Do you have views on whether the existing statutory objectives for the regulators should be changed or added to? What do you see as the benefits and risks of changing the existing objectives? How would changing the objectives compare with the proposal for new activity-specific regulatory principles?*
	See Recommendation IV
5.	*Do you think there are alternative models that the government should consider? Are there international examples of alternative models that should be examined?*
	See paragraphs 28 and 30, and Recommendation IV
6.	*Do you think the focus for review and adaptation of key accountability, scrutiny and public engagement mechanisms for the regulators, as set out in the consultation, is the right one? Are there other issues that should be reviewed?*
	See 'Executive Summary', paragraph 3 and Recommendations I and II.
7.	*How do you think the role of Parliament in scrutinising financial services policy and regulation might be adapted?*
	See Recommendation II
8.	What are your views on how the policy work of HM Treasury and the regulators should be coordinated, particularly in the early stages of policy making?
	See paragraph 43 and Recommendation IV
9.	*Do you think there are ways of further improving the regulators' policy-making processes, and in particular, ensuring that stakeholders are sufficiently involved in those processes?*
	See Recommendations I to V.