HM Treasury

Financial Services Future Regulatory Framework Review

Response to the Call for Evidence on Regulatory Coordination

March 2020

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Introduction

In July 2019, the government launched HM Treasury's Financial Services Future Regulatory Framework Review ('the Review'), a long-term review to consider how the UK's regulatory framework needs to adapt over the coming years to be fit for the future. The first phase of this Review has been considering the specific issue of coordination between UK regulatory bodies with responsibility for financial services regulation ('the regulators'), with the aim of improving the effectiveness of coordination in the future. To seek the views of stakeholders, the government published a Call for Evidence on this issue, which closed in October 2019.

The government is of the view that the institutional architecture for UK financial services regulation remains appropriate – the division of responsibilities between the Bank of England, the Prudential Regulation Authority (PRA), the Financial Conduct Authority (FCA) and the Payment Systems Regulator (PSR) has ensured clear and effective focus on prudential, conduct and economic regulation, addressing many of the regime flaws exposed by the 2007-08 financial crisis. But the division of responsibilities between several regulatory bodies risks creating challenges for regulated firms and entities ('firms') and regulators if coordination is not effective. Good coordination between regulators helps to avoid unnecessary operational costs, allowing firms to focus on their primary role serving consumers and creating wealth for the UK economy. The government and regulators are therefore committed to ensuring effective coordination of regulatory initiatives.

It is essential to understand how regulatory activity impacts firms in order to identify where improvements could be made. The Call for Evidence therefore sought views from the financial services industry, and other interested stakeholders, on how HM Treasury and the regulators work together to coordinate and manage the overall impact of regulatory initiatives, and how that coordination could be made more effective.

HM Treasury is grateful to the large number of respondents, including trade bodies, professional and financial services firms, consumer groups and regulatory bodies, who engaged constructively with the consultation. To address the issues raised by respondents, HM Treasury asked the financial regulators to consider what immediate steps could be taken to improve existing coordination arrangements. This document summarises the issues raised by respondents (Chapter 1) and explains how the regulators, working with HM Treasury, propose to improve regulatory coordination in the short-term through the introduction of a new mechanism to manage the pipeline of new regulatory initiatives (Chapter 2).

The coordination of regulatory initiatives naturally intersects with broader issues about the overall coherence and effectiveness of the UK's regulatory framework. Many responses therefore raised issues which went beyond the scope of the first phase of the Review.

Now that the UK has left the EU and has taken on full responsibility for financial services policy, it will be essential to ensure our framework supports robust, inclusive, evidence-based policy-making, underpinned by expert, independent regulators. The second phase of the Review will look at how financial services policy and regulation are made in the UK, including how stakeholders are involved in the process. The broader issues raised by responses to the Call for Evidence are therefore useful in developing the overall approach for the UK's long-term framework. The government's forthcoming White Paper on Financial Services will set out how the Review fits within the government's vision for the future of financial services.

Chapter 1

Context and overview of responses

Context

1.1 The Call for Evidence asked for submissions on how UK bodies, including HM Treasury and regulators with jurisdiction over the financial services sector, work together to coordinate regulatory initiatives. It asked about the range of regulatory activity undertaken by the government and regulators, including new legislation and regulation, publications, consultations and data/information requests. It also asked how firms and the regulators can work together to make authorisation, supervision and enforcement more efficient, including how firms and regulators might take advantage of new technology; how firms can facilitate data sharing to improve regulatory coordination; and how firms could adapt their internal systems, enabling them to respond to regulatory initiatives more efficiently.

1.2 In a regulatory regime which splits responsibilities between several public bodies, effective coordination between those bodies is essential. Inadequate coordination of regulatory initiatives could result in disproportionate and disruptive administrative burdens for firms, which could undermine firms' ability to focus on core business activities. At the extreme, uncoordinated regulatory activity could even increase the risks that regulation aims to reduce. This is why the government and regulators remain committed to ensuring effective coordination does occur.

1.3 Coordination by the public bodies responsible for financial services regulation is a feature of the existing UK regime. In particular, new requirements and mechanisms for effective coordination were introduced as part of the new regulatory architecture established in response to the 2007-08 financial crisis. Coordination between the Competition and Markets Authority (CMA) and the financial regulators is also important in the context of the concurrency regime.[1] At an institutional level, senior officials from the Prudential Regulation Authority and Financial Conduct Authority sit on each other's governing committees, and there are Memorandums of Understanding (MoUs) in place between the Bank of England, Prudential Regulation Authority,

[1] Concurrency covers both competition enforcement and markets work. The Financial Conduct Authority (FCA) and the Payment Systems Regulator (PSR) exercise competition powers concurrently with the CMA. The FCA's remit covers the provision of financial services in the UK and the provision of claims management services in Great Britain. The PSR's remit only extends to issues relating to participation in payment systems.

Financial Conduct Authority, Payment Systems Regulator and Competition & Markets Authority and between these authorities and other regulatory bodies such as The Pensions Regulator (TPR), the Information Commissioner's Office (ICO) and the Financial Reporting Council (FRC). These MoUs govern a variety of activities, including policy making, data sharing and the supervision of dual-regulated firms.

1.4 The government and the regulators have also put in place more targeted coordination structures in areas where multiple authorities have an interest. Some responses to the Call for Evidence highlighted where these were working well. Examples given included the Joint Authorities Cash Strategy Group (JACS) and the Cross-Market Operational Resilience Group (CMORG).

1.5 Nevertheless, it is right that we keep the effectiveness of coordination arrangements under review, particularly given the significant change that the financial services sector has undergone since the existing mechanisms were introduced. In recent years, both firms and regulators have had to respond to one of the most significant periods of regulatory reform the sector has faced. Now that the UK has left the EU, firms and regulators will face further change in adapting to a standalone UK regime, however, the UK authorities will also have considerably more discretion as to the timing of the implementation of regulatory initiatives. For this reason, HM Treasury chose to focus the first phase of the Review on this important issue.

1.6 As the UK looks to take advantage of the global opportunities afforded by our new position outside of the EU, it will be more important than ever to ensure that regulatory action supports the ability of firms to serve their customers and to compete in global markets. While the UK remains committed to world-leading standards of regulation and supervision, those standards must be implemented in ways which avoid unnecessary administrative burden and disruption for firms.

Overview of responses

1.7 The government received over 60 responses to the Call for Evidence. Respondents included trade bodies, professional and financial services firms, consumer groups and regulatory bodies. While UK regulatory bodies already work together to manage the overall impact of regulatory activity on the sector, the responses suggest that the effectiveness of coordination could be enhanced. The key themes raised on the coordination of regulatory activity were:

- **how public bodies manage the cumulative impact of regulatory change on firms**. The volume and timing of regulatory initiatives (including new regulatory requirements, data requests and consultations), can have significant impact on firms. Coordination should seek to avoid unnecessary pressure points and ensure the flow of regulatory activity is manageable for firms

- financial services regulation is technically complex and constantly evolving, with requirements regularly updated to respond to changing conditions. **Where the policies or objectives of one public body overlap with the remit or objectives of another, there is a risk of unintended interactions that needs to be managed**. The regulators and HM Treasury must coordinate their policy work to ensure that unintended consequences are avoided

- while consultation on new proposals is vital to ensure that stakeholders can contribute to the policy-making process, **responding to consultations can be resource intensive for firms**. As with regulatory activity in general, issuing multiple consultations in a short period of time should be avoided where possible

- producing cost/benefit analysis of new proposals for regulation is also an important part of policy making. **It is important that such cost/benefit analysis is as robust as possible**. Some respondents were concerned that the quality of such analysis is not consistently high

- **requests for data can also be resource intensive for firms to respond to**. While it was recognised that the collection of data is vital for effective supervision and for regulators to exercise their functions, the purpose of some data requests was not always clear, and firms do not always have clarity on how data are shared between regulators. Regulators should work together to ensure data requests are targeted, proportionate and only made where they genuinely aid regulation and supervision

- **the coordination of supervision for dual-regulated firms**. Where regulators share the responsibility for supervising a particular firm, they should work together to avoid duplication and ensure consistency in the requests made of firms

- **automation of supervisory engagement, such as the submission of firm data, could reduce the resources that firms need to allocate to supervisory compliance**. Regulators should work with the industry to exploit the opportunities offered by regulatory technology (often referred to as 'RegTech') to make regulation and supervision more efficient for both firms and regulators

1.8 A summary of the responses is set out in Annex A.

Chapter 2
Government response

Regulatory coordination

2.1 The financial services sector is an engine of growth for the UK economy. Ensuring we have an internationally respected regime, that allows the sector to thrive within a framework of high standards, is therefore a policy priority for the government. A well-designed regulatory framework should provide for effective and efficient coordination across regulatory bodies. The financial crisis showed how a fragmented regime can lead to significant risks being underestimated or missed altogether. Joined-up regulators are therefore essential to deliver financial stability, competition and effective consumer protection. But regulatory activity needs to be reasonable and proportionate, doing no more than is necessary to achieve intended policy outcomes. So effective coordination is necessary to avoid duplication by regulators; to ensure that regulatory requirements do not conflict or overlap; and to deliver the smooth roll-out of initiatives so that affected firms do not become overwhelmed by regulatory change.

2.2 As explained in Chapter 1, the UK framework already provides for a range of processes and mechanisms designed to ensure effective coordination across HM Treasury and regulatory bodies. But, as responses to the Call for Evidence suggest, there is scope for the regulators and government to work together to better understand and sequence the impact of new initiatives on firms and consumers.

2.3 While some of the issues around regulatory coherence will need to be addressed as part of the broader framework review, the government wants to act now to begin improving the effectiveness of coordination arrangements. HM Treasury therefore asked the regulators to develop proposals which can be implemented quickly. In response, the regulators have proposed a new consolidated forward-look of upcoming regulatory initiatives. The proposal is designed to provide a more effective structure within which HM Treasury and the regulators can work together to identify and address any peaks in regulatory demands made on firms, and to give stakeholders (including industry) a clearer picture of upcoming initiatives so they are better placed to plan for them.

2.4 This **Regulatory Initiatives Grid ('the Grid')**, to be launched over the summer, will provide an indicative two-year forward look of major upcoming regulatory initiatives affecting the financial services sector. In response to the feedback received in the Call for Evidence that consultations, data requests and new requirements all contribute to the administrative burden on firms, the Grid will include all publicly announced supervisory or policy initiatives[1] that will, or may, have a significant operational impact on firms.

2.5 The Grid will be published twice a year and will set out an indicative timetable for each regulatory initiative. For the sector, this will provide a clearer picture of expected regulatory activity, which should mean that firms will be better informed about initiatives which may affect their business, improving their ability to plan ahead. For the regulatory bodies that contribute, the Grid will be a useful tool for managing the overall flow of initiatives.

2.6 The Grid will be managed by a coordinating Forum: **the Financial Services Regulatory Initiatives Forum ('the Forum')** with a membership comprising the Bank of England, PRA, FCA, PSR, CMA, and HM Treasury (as an observer member), as the main contributors to the Grid. Other bodies (such as the Information Commissioner's Office (ICO), The Pensions Regulator (TPR) and Financial Reporting Council (FRC) will be invited to attend and contribute to the Grid on an ad hoc basis, if and when responsible for a major initiative affecting the sector.

2.7 On the basis of internal consultation and stakeholder feedback, and where appropriate, individual members of the Forum may decide to alter the timing of initiatives, consistent with and subject to their statutory functions and objectives, and any statutory deadlines that may apply.

2.8 The Forum members will review the functioning of the Grid and Forum after one year and consider any improvements that may be made to their operation on the basis of feedback from stakeholders and the views of participating bodies.

2.9 The aims of the Grid and Forum are consistent with the FCA, PRA and PSR statutory Regulatory Principles set out in the Financial Services and Markets Act 2000 (FSMA)[2] and the Financial Services (Banking Reform) Act 2013 (FSBRA)[3]. In particular, the operation of the Grid and Forum should support the principles of proportionality and transparency:

- proportionality: the principle that a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction

1 The Grid will not include firm-specific enforcement or supervision activity.

2 Financial Services and Markets Act 2000, Part 1A, Section 3B (in respect of the FCA and PRA) (http://www.legislation.gov.uk/ukpga/2000/8/section/3B)

3 Financial Service (Banking Reform) Act 2013, Part 5, Section 53 (in respect of the PSR) (http://www.legislation.gov.uk/ukpga/2013/33/section/53)

- transparency: the principle that the regulators should exercise their functions as transparently as possible

2.10 Participation in the Forum and the Grid is also expected to further the CMA's commitment to openness, transparency and engagement with those affected by its work,[4] and to be open and transparent about the work it does.[5]

2.11 HM Treasury will highlight the importance of this new initiative in the next remit letters to be issued to the FCA and Prudential Regulation Committee (the governing committee of the PRA), and HM Treasury will participate in the Grid and Forum in line with its objective to promote stable and efficient financial services, supporting growth, consumers and businesses.[6]

Data collection

2.12 As set out in Chapter 1, a key theme in the responses was regulatory data requests and reporting. Responses highlighted the potential for regulatory technology ('RegTech') to improve processes for collecting data from firms.

2.13 The government agrees that RegTech has the potential to reduce the burden of regulatory reporting whilst allowing data to be accessed and analysed more quickly and in greater depth by regulators. However, there are implications - in particular for data protection and cyber security - which respondents highlighted, and which must be considered together with any potential benefits. Any move towards a greater use of RegTech must be developed and implemented in a workable manner, and in partnership with industry.

2.14 In January, the Bank of England published a Discussion Paper, 'Transforming data collection from the UK financial sector',[7] and the FCA published its revised Data Strategy.[8] These documents set out possible medium to long-term reforms to how the regulators collect data from firms.

2.15 The Bank of England's Discussion Paper invited views on a number of potential areas of reform, focusing on the possibility of using technology to streamline and enhance the data gathering process for both firms and the Bank of England. The paper focused on, in particular, the development of common data standards; the modernisation of reporting instructions, such as the drafting of machine-readable instructions, and; changes to the reporting architecture, such as

4 *Visions Values and Strategy for the CMA* (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/274059/CMA13_Vision_and_Values_Strategy_document.pdf)

5 *Transparency and disclosure: Statement of the CMA's policy and approach* (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/270249/CMA6_Transparency_Statement.pdf)

6 *HM Treasury Single Departmental Plan* (https://www.gov.uk/government/publications/hm-treasury-single-departmental-plan)

7 *Transforming data collection from the UK financial sector*, Bank of England, January 2020 (https://www.bankofengland.co.uk/-/media/boe/files/paper/2020/transforming-data-collection-from-the-uk-financial-sector.pdf)

8 *Data Strategy*, FCA, January 2020 (https://www.fca.org.uk/publications/corporate-documents/data-strategy)

regulators being able to pull data directly from firms' systems, or the Bank of England collecting granular data rather than requiring firms to compile reports.

2.16 The FCA's Data Strategy aims to allow the FCA to increase the use of data science and analytics to improve the regulatory reporting process. The strategy commits to allocating increased resource to data science, and growing the overall data and analytics skills of the workforce; improving the flow and quality of the data collected, and; investigating how technology can change their interface with firms, including exploring the potential for a machine-readable and executable Handbook.

2.17 These solutions echo a variety of respondents' suggestions for how the data gathering process could be improved through the use of RegTech. HM Treasury supports the Bank of England's Discussion Paper and the FCA's Data Strategy, which underline their commitment to maintaining the UK's status as a leading jurisdiction for the use of technology in financial services.

2.18 Respondents also raised the volume of data requests, in particular ad hoc data requests, and the impact on firms' resources. This concern encompasses requests made to short deadlines, duplicative requests, the proportionality of requests to smaller firms and a lack of clarity for firms on how information is shared between regulators.

2.19 Gathering information is an important part of how the regulators discharge the functions and duties given to them by Parliament. However, the government and the regulators acknowledge the impact of data requests on firms' resources. The regulators have a variety of mechanisms to ensure that data is requested in a proportionate and coordinated manner and is shared between them where appropriate. The regulators monitor the information requests they send out to the firms they regulate. The FCA and PRA have dedicated governance groups to monitor information requests, and ensure those requests are sequenced and designed in a proportionate way. They also have processes in place to provide extensions for requests where appropriate. The CMA manages data requests within individual investigations as part of the governance process for those cases.

2.20 In some cases, it is appropriate to undertake ad hoc data requests, when information is required in relation to a specific firm, or cohort of firms, or when analysing a new emerging risk. The nature of some of these data requests mean that it is not always possible or appropriate to notify firms of them in advance.

2.21 With regards to data sharing between regulators, the FCA and PRA have an MoU [9] which, among other things, governs their data sharing

[9] *Memorandum of Understanding (MoU) between the Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA)* (https://www.fca.org.uk/publication/mou/mou-pra.pdf)

process. The Bank of England (including in its capacity as the PRA), FCA and PSR also have a joint MoU with respect to payment systems.[10] The CMA has MoUs with each of the FCA and the PSR, which include provisions for the sharing of information in the context of the concurrency regime.[11] The FCA and Bank have representatives on a number of data-related committees to improve coordination, and for some requests (routine and ad hoc), the FCA collects data on the Bank's behalf. To further improve data sharing, the FCA and PRA are also developing a more detailed data sharing agreement.

2.22 Some respondents raised the statutory framework for information sharing between regulators, and suggested changes that could be made to improve data sharing. The government is considering the specific suggestions made and will take these forward if it deems them to be appropriate.

Phase II of the Future Regulatory Framework Review

2.23 While the Call for Evidence to which this document responds focused on specific issues raised by the coordination of new regulatory initiatives, it also set out the longer-term context for the broader review of the UK's regulatory framework, which HM Treasury continues to progress. It described the fundamental challenges that financial services regulation will need to address in the years ahead. The most immediate of those challenges is how our framework arrangements will need to adapt to the UK's position outside of the EU.

2.24 While this response aims to improve the coordination of UK regulatory institutions so that the roll-out of new regulatory initiatives is coherent and well-managed, the government recognises that regulatory coherence is an important principle of good regulation more broadly and should be reflected in the design and operation of our financial services regime.

2.25 The UK's withdrawal from the EU provides an opportunity to develop a more coherent, agile regime which is better equipped to meet the specific regulatory needs of UK firms, markets and consumers. The implementation of EU requirements has led to a fragmented rule-book for firms. Some requirements were implemented through regulators' rules, while others were transposed by government through a mix of UK primary and secondary legislation. Additionally, many EU requirements apply directly, and EU law has therefore added a further source of regulation that firms must keep track of.

2.26 The government will use the next phase of the Review to develop a more coherent approach to FS regulation in the UK. The aim is to adapt the regulatory framework so that it provides for a clearer split of regulatory

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10 *Memorandum of Understanding between the Bank of England, the Financial Conduct Authority, the Payment Systems Regulator and the Prudential Regulation Authority* (https://www.psr.org.uk/sites/default/files/media/PDF/BoE-FCA-PRA-PSR-MoU.pdf)

11 *Memorandum of understanding between the Competition and Markets Authority and the Financial Conduct Authority – concurrent competition powers*; *Memorandum of understanding between the Competition and Markets Authority on the use of concurrent powers under consumer protection legislation* (https://www.gov.uk/government/publications/cma-and-fca-memorandum-of-understanding)

responsibilities. The Review will explore how the UK's expert, independent regulators can take the lead on designing and implementing the specific requirements that apply to firms, while ensuring there is appropriate democratic policy input. The Review will therefore consider what the role of ministers and Parliament should be in deciding how important public policy issues are to be addressed in key areas of financial services sectoral regulation.

2.27 This will include looking at how stakeholders are engaged in the regulatory process and how the impact of proposed initiatives is assessed, for example through impact assessment and cost/benefit analysis. The government will take forward evidence provided in response to this Call for Evidence that touched on these issues during the next phases of the Review.

2.28 As set out in the introduction, the next phase of the Review will form part of government's upcoming White Paper on Financial Services, to be published in the Spring.

Annex A
Summary of responses

Box A.1: Question 1

The Call for Evidence asked:

1. How UK bodies, including the Treasury and regulators with jurisdiction over the financial services sector, work together to coordinate regulatory interventions for financial services firms (‘regulatory interventions’ includes regulatory changes, regulatory initiatives, publications, consultations and data/information requests), including:
   a. how UK bodies balance the benefits to consumers of financial services (both individual and businesses) of timely regulatory action against the impact on firms of meeting potentially challenging timeframes on requirements
   b. how UK bodies understand and assess the overall impact of simultaneous regulatory interventions on firms, particularly in the way these are sequenced and how they consider the wider regulatory landscape
   c. whether UK bodies request the right amount of information from firms as part of the policy-making process, and whether these processes provide an adequate opportunity for firms to highlight the impact of proposed changes

A.2 Many respondents highlighted the significant contribution the financial services sector makes to the UK economy, as well as the strengths of the financial services regulators and the current regulatory framework, many aspects of which are considered to be world-leading. Respondents highlighted a number of areas where there is scope to improve how the government and the regulators work with each other, and with industry, to coordinate regulatory interventions for financial services firms, ensuring the best outcomes for firms, consumers and markets.

A.3 Whilst respondents acknowledged the benefits of timely regulatory action for consumers, many stressed the need for these benefits to be balanced against the capacity for firms to respond to changes, and that the costs of regulatory change programmes can also impact on consumers. Respondents also emphasised the need for the framework to be proportionate, properly reflecting the different types of financial services firms in the UK, and the different levels of risk across the sector.

A.4 Respondents highlighted other bodies which contribute to the overall regulatory landscape for firms, in addition to those named in the Call for Evidence, including: the Information Commissioner's Office (ICO), The Pensions Regulator (TPR), the Financial Reporting Council/Audit, Reporting and Governance Authority, the Financial Services Compensation Scheme (FSCS), the Financial Ombudsman Service (FOS), and the Open Banking Implementation Entity, as well as government departments and law enforcement agencies.

A.5 Many respondents commented on the complexity of the financial services regulatory regime, and the need to ensure that changes in policy by one public body do not interact with other policies to produce unintended consequences. Respondents highlighted in particular the concurrent responsibilities of the Bank of England, FCA and PSR on payments regulation; the FCA, PSR and CMA on competition policy and enforcement; and the FCA, the Department for Work and Pensions (DWP) and TPR on pensions regulation. Some pointed to the challenges of complying with cross-sectoral regulation alongside financial services regulation, highlighting the tension, for example, between data protection legislation and other regulatory requirements.

A.6 However, respondents also provided a number of examples of effective coordination, including:

- coordination between the FCA and Bank of England on operational resilience, through the Cross-Market Operational Resilience Group (CMORG)
- coordination between the FCA and CMA where there is overlap between competition remedies
- coordination between the ICO and the FCA, and the ICO and the CMA, based on Memoranda of Understanding governing cooperation, coordination and information sharing
- the Joint Forum on Actuarial Regulation (JFAR), which is attended by the Financial Reporting Council (FRC), the FCA, the Institute and Faculty of Actuaries, TPR and the PRA
- the Open Banking Implementation Entity, which is subject to joint governance oversight by the CMA, HM Treasury, the FCA, and the ICO

A.7 A number of respondents suggested that coordination could be improved through the increased use of existing mechanisms, such as more regular 'remit letters' from HM Treasury to regulators, increased use of memoranda of understanding, overlapping boards, and joint market studies. Some also suggested the creation of new coordinating mechanisms, such as a central coordinating committee to direct financial regulatory policymaking. Other recommendations included the issuance of a strategy and policy statement by HM Treasury, setting out the objectives and priorities for financial regulation, and the adoption of a shared business plan by the Bank of England, PRA, FCA and PSR.

Cumulative impact of regulatory change

A.8 Many respondents highlighted the cumulative impact of regulatory change initiatives – including consultation and policy papers, new regulator rules, changes to legislation, and voluntary initiatives – on industry. Respondents raised initiatives instigated by the government, regulators and the EU as contributing to this issue, with some also citing voluntary initiatives that firms undertake at the request of government or the regulators.

A.9 Respondents pointed to the significant volume of regulation that has come into force over the past few years. Several respondents highlighted that, since 2017, industry has had to implement, among other things, Open Banking reforms, the General Data Protection Regulation (GDPR), changes to the Senior Managers & Certification Regime, the ring-fencing of retail banks, LIBOR transition, the Markets in Financial Instruments Directive (MiFID) II, the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation, the Insurance Distribution Directive, and the Benchmark Regulation, in addition to preparing for EU exit.

A.10 Respondents described the cumulative impact of regulatory change both in terms of cost and increased operational risk. A number of respondents stated that the costs of complying with regulatory change divert resources away from innovation and projects that might benefit consumers. Examples given included:

- one firm calculated the cost of complying with regulatory change as up to 50% of its IT budget
- one firm calculated the cost of complying with regulatory change as in excess of a third of its annual investment budget

A.11 Respondents also raised the volume of systems changes needed to respond to regulatory change and the associated operational risk, particularly when insufficient time is given to firms to implement system changes, or when implementation dates fall mid-week or over holiday periods. Some suggested common implementation dates, or the alignment of the implementation of linked initiatives, to reduce operational impact. A number of respondents also reported difficulties in recruiting specialist staff to make system changes.

A.12 Respondents suggested a variety of solutions to improve coordination of regulatory interventions, including:

- the adoption of a shared regulatory delivery calendar or publication of combined workplan of upcoming initiatives
- the creation of a body with responsibility for monitoring the cumulative burden of regulatory change on industry, or an extension of the remit of another body (such as the Bank of England's Financial Policy Committee) to do the same

A.13 Alongside the cumulative impact of initiatives, respondents highlighted instances where implementation deadlines had been unrealistic, including an instance where finalised guidance notes were published by a regulator to take effect immediately. Respondents pointed to a need for government and regulators to involve industry when determining implementation timelines, and to ensure that regulatory requirements are finalised well before implementation deadlines. However, respondents also highlighted that regulators are willing to move implementation deadlines where necessary.

A.14 Respondents also commented on the need to ensure existing regulatory changes were fully implemented before embarking on new initiatives, and to ensure that new regulation was not being introduced where existing regulation could effectively address the same issue.

Consultation

A.15 The majority of respondents raised concerns relating to consultations. The most common theme was the volume of consultation papers and policy statements issued by public bodies, which can be time-consuming and resource intensive to respond to, in particular for small and mid-sized firms. By way of example, one respondent cited an 18-month period where 96 policy statements and over 150 consultation papers were issued, and another identified 9 separate consultations on sustainability and responsible investment that were issued between January and October 2019.

A.16 As well as the volume of consultations, some respondents pointed to instances where consultations were run for a short period of time (some as little as four weeks), over the holiday period, or at peak points in the financial reporting cycle. However, other respondents commented that consultations generally run for the right amount of time.

A.17 Additionally, a small number of respondents raised concerns about a lack of transparency in the consultation process, commenting that it can be unclear how proposals are revised following feedback received.

A.18 However, there were also positive comments from respondents, including that the consultation process in the UK (and particularly that of the FCA) is one of the best designed globally, seeking the right level of information and frequently responding to concerns raised.

A.19 Some respondents commented that general and informal industry engagement can be as, if not more, effective than formal consultations. Suggestions to improve the consultation process included joint consultations to improve coordination, conducting pre-consultation engagement, and a greater use of forums and practitioner groups.

Impact assessment & cost/benefit analysis

A.20 A common theme in the responses was the perception that there is insufficient consideration given to the cumulative burden of regulatory change during the policymaking process. Respondents said that regulators do not factor in the impact of changes made by other regulators, and that there does not appear to be any one body with a clear picture of the total cost of being regulated.

A.21 A number of respondents raised the quality and rigour of impact assessments and cost/benefit analysis (CBA), providing examples of CBAs where costs were understated, and benefits undefined.

A.22 A number of respondents suggested that the regulators' CBA should take into account wider market forces and the impact of other regulatory authorities. A small number suggested 'cumulative impact assessments' which could consider a broader scope of regulatory activities in calculations.

A.23 A small number of respondents suggested establishing an independent body, similar to the Regulatory Policy Committee, to scrutinise CBAs produced by the financial services regulators. Another suggestion was that the UK should adopt a process similar to the EU process for impact assessments, where assessments are published and consulted on as legislation is developed.

A.24 Some respondents also suggested greater use of post-implementation reviews, including undertaking assessments on a rolling basis to greater understand the full impact of regulatory changes.

Data requests

A.25 The majority of respondents raised regulatory data requests, and in particular ad hoc data requests, requiring firms to commit significant resource, often over a demanding timeframe, in order to provide the information requested. Many respondents felt that this can be exacerbated by the volume of simultaneous requests for information, and duplicative requests. There were a number of consistent themes across the responses:

- duplicative or overlapping requests between different regulators, in particular the FCA and PRA for dual-regulated firms, and a lack of clarity on how information is shared between regulators
- data requests made to short timescales without appreciation for other live requests or the resources required to meet the requests

- requests for the same data in different formats, or slightly different data sets, leading to duplication of work in firms
- data requests designed for large firms, without consideration for capacity of small firms to respond
- a general increase in the volume of data requested, with a lack of transparency over why the data is being requested, leading to concerns that data requests are poorly designed, or will not gather the right data to inform policy making

Box A.2: Question 2

The Call for Evidence asked:

2. How firms and the regulators can work together to make authorisation, supervision and enforcement more efficient, including:
   a. how might firms and the regulators take advantage of new technology to make supervisory reporting more efficient, flexible and less burdensome
   b. how might firms allow or facilitate data sharing between regulators to improve regulatory coordination
   c. how firms go about making sufficient investment in their systems and controls to ensure these are fit for the future

Coordination of supervision and enforcement

A.26 Many respondents emphasised the importance of coordinated and consistent supervision by the regulators and highlighted the role that technology can play in streamlining the supervision of firms. Respondents commented that whilst coordination between supervisory staff at senior levels is generally good, there is room for improvement at more junior levels, and that regulators of dual-regulated firms often do not appear to share data on the firms they are supervising.

A.27 Respondents made a number of suggestions as to how coordination of supervision could be improved, including greater data-sharing between regulators of dual-supervised firms, more frequent meetings of a firm’s supervisory college, combined supervisory visits to firms and jointly produced assessments of a dual-regulated firm’s risk.

A.28 Some respondents also highlighted coordination of enforcement activity, with one respondent saying that the transparency and timely communication of enforcement is vital, and that firms and regulators should collectively work on enforcement.

A.29 However, some respondents commented that they found the coordination between the regulators they interact with to be effective. Respondents also gave positive feedback on the FCA's willingness to provide information to firms, including via supplementary guidance, Q&As, roadshows, and engagement with trade bodies.

Taking advantage of new technology

A.30 Similar to the response to Question 1, respondents raised the burden of regulatory reporting requirements. Examples were given of duplicative requests for information, and of regulators transposing EU requirements in slightly different ways, causing duplication of effort.

A.31 Many respondents highlighted the potential for regulatory technology ('RegTech') to improve the efficiency of the supervisory reporting process, and were positive about the regulators' Digital Regulatory Reporting initiative, and the regulators' approach to technology in general (for example, the regulatory sandbox for new products) which has helped make the UK a leading FinTech destination.

A.32 Respondents made specific suggestions of ways in which technology might be deployed to improve the supervisory reporting process. These included the creation of a shared platform model, which regulators would jointly use to make data requests and through which they could coordinate; the use of data lakes, to enable real-time sharing of granular data; and the use of blockchain, AI and machine learning to support data gathering and analysis.

A.33 However, a small number of respondents highlighted challenges presented by the adoption of technological solutions. As well as concerns about data protection and cyber security, some respondents commented that the age and complexity of their IT systems would mean that they are less able to keep pace with new technological solutions than their competitors, and cautioned that the rapid deployment of innovative technologies risks increasing rather than reducing the burden of reporting on firms.

Data sharing

A.34 In response to the question of how firms might facilitate data sharing to improve regulatory coordination, respondents suggested that the greater standardisation of processes, requirements and technological solutions would facilitate the provision of data that could be shared between regulators. The adoption of consistent data standards, and the standardisation of regulatory processes and technologies, domestically and internationally, would allow for greater automation, as would the creation and use of data lakes which regulators could access.

A.35 Respondents made clear that there is a role for government and the regulators in driving standardisation across the sector. Respondents also advocated a clear framework by which UK bodies can share firm-provided data.

Investment by firms in systems and controls

A.36 Respondents highlighted the importance of firms investing in their systems and controls on an ongoing basis, without which the likelihood of problems arising increases. However, one respondent said that, in the years following the financial crisis, most major financial institutions have sought to cut costs significantly, thereby reducing investment in technology upgrades.

A.37 Several respondents said that public bodies could facilitate greater investment by firms, through mitigating the volume of simultaneous regulatory change programmes and data requests, which crowd out investment in technology; specifying common data standards; and incentivising the adoption of RegTech solutions - for example, by certifying or approving certain RegTech products.

Other issues raised

A.38 As well as issues outlined above, a number of respondents also raised wider issues, some of which relate to how the framework should adapt to the UK's position outside of the EU. These included:

- the importance of clearly defining the roles of the regulators, the government and Parliament in the framework, including the balance of powers between each
- the need for an appropriate level of accountability, scrutiny and transparency in the framework – in particular, appropriate Parliamentary scrutiny of the regulators
- the need for regulation to be clear in the requirements it places on firms, and the role of supporting guidance in this
- the need for regulatory initiatives impacting smaller firms to be proportionate
- the importance of regulatory coordination at the international level
- the need to maintain the competitiveness of the UK financial services industry

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