



HM Treasury - Financial Services Future Regulatory Framework Review: Proposals for Reform

IFoA Response

The Institute and Faculty of Actuaries (IFoA) is a royal chartered, not-for-profit, professional body. We represent and regulate over 32,000 actuaries worldwide, and oversee their education at all stages of qualification and development throughout their careers.

Key points

The IFoA supports the Government's aims behind the Future Regulatory Framework review, and we recognise that the measures proposed within HMT's consultation paper should help support that vision.

In our view, the overall system of supervision and macro-prudential policymaking should be under the scrutiny of Parliament. While the Bank of England must remain independent in its monetary policy, macro-prudential policy should not automatically be outside of the remit of scrutiny.

We agree with the proposal to add secondary regulatory objectives in relation to economic growth/ international competitiveness for both the PRA and FCA. It is clearly in the public interest that the PRA/ FCA continue to meet their existing primary objectives. It is therefore important that any additional secondary objectives do not distract either regulator from meeting their primary objectives. However, the balance between primary/ secondary objectives and which should predominate at particular times is essentially a political decision, which should reside with Parliament/ Government.

Greater regulatory responsibility should be balanced with effective policy input and appropriate scrutiny/ accountability to HMT and Parliament, including the Treasury and other Select Committees. Technical regulatory rules, such as how risk should be measured, can have strategic implications. We therefore support the proposal that HMT have a new power to require the regulators to review their rules, where HMT or Parliament deem it to be in the public interest to do so.

In relation to parliamentary scrutiny, it is important that Select Committees are allocated the resources to manage thorough independent assessment of the fulfilment of policy and regulatory functions, rather than relying on the appearance before them of a select group of interested parties.

We agree with the proposal that the regulators should publish/ use a CBA framework; this should improve transparency. However, the CBA framework should be extended beyond assessment of costs and benefits to consider regulatory outcomes, whether intended or otherwise.

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1. The Institute and Faculty of Actuaries (IFoA) welcomes the opportunity to respond to HM Treasury (HMT)'s updated proposals for the reform of the financial services Future Regulatory Framework (FRF). We support the Government's aims behind the FRF review, including the vision for a green and competitive financial services sector, acting in the interests of consumers and wider society. We recognise that the measures proposed within HMT's consultation paper should help support that vision.
2. In developing our response, we have drawn upon input from a range of IFoA members working in both life and general insurance, together with specialists on institutional investment and sustainability issues. We have also reflected on our experiences of regulatory interaction in recent years.
3. It is important to note that, as for any IFoA response, we have considered HMT's updated FRF proposals from an independent, public interest perspective. In particular, we have focussed on the potential impacts of the FRF review on consumers and society as a whole.
4. We therefore welcome that this updated consultation builds on the previous one, including reflecting on the range of earlier feedback provided. In this response, we refer to points made in our submission to the earlier FRF consultation where relevant.
5. In general terms we believe policymaking should be principles-based. We support taking this one step further by making explicit the purposes of regulation (overall and specific). We expect that the purpose and principles will not change much over time, but that the rules may need to be changed when required to address loopholes, unintended abuse or otherwise. Setting out the intended purpose of regulation more thoroughly and explicitly will help in assessing the success of the principles and rules developed to meet the intended purposes.
6. In our view, the overall system of supervision and macro-prudential policymaking should be under the scrutiny of Parliament (including, for example, the Treasury Committee). While the Bank of England must remain independent in its monetary policy, macro-prudential policy should not automatically be outside of the remit of scrutiny. A common problem faced by many countries is that the delineation of policymaking and policy review responsibilities among various regulators and bodies, which can prevent an holistic assessment of regulation. Parliament should approach regulation as an overall system with deeper and broader analyses and assessments, with the specific purpose of looking at the entirety of the system.
7. In setting regulatory policies consistent with existing/ additional objectives, we believe that taking a long term view of risk will be in the public interest, rather than incentivising short termism. In this regard, we believe the Treasury Committee could play an important role in keeping the focus on what is in the longer term public interest.

Question 1: Do you agree with the Government's approach to add new growth and international competitiveness secondary objectives for the PRA and the FCA?

8. As we mention above, the IFoA supports the Government's vision for the UK financial services sector. We share the Government's ambition for an industry that is financially stable, internationally respected, globally competitive, acting in the interests of communities and citizens and powering growth across the UK.
9. We agree with the Government's proposals to add new growth and international competitiveness secondary objectives for both the PRA and the FCA. We believe this would be in the wider public interest, and would help support the shared vision for the UK financial sector. As we noted in our response to HMT's previous FRF consultation, it is important that the Government defines high-

level objectives to take account of the interests of all (relevant) stakeholders. The PRA and FCA's primary and proposed secondary objectives can be used to guide legislation, inform enforcement, and act as a starting point for scrutiny and holding parties accountable. The more comprehensive the objectives, the more useful they will be in assessing complex situations. *Note also our comments on the impact of sustainability on economic measures used in policymaking, in our response to question 2 below.*

10. It is clearly in the public interest that the PRA and FCA continue to meet their existing primary prudential and conduct objectives respectively. It is therefore important that any additional secondary objectives do not distract either regulator from meeting their primary objectives. In particular, care should be taken to ensure that the regulatory approach given the secondary objectives is consistent with these primary objectives. Our point on distraction also extends to resourcing: it is important that any increased regulatory workload is resourced appropriately, and not at the expense of meeting ongoing regulatory priorities.
11. Taking a broad perspective of what is in the public interest is key. As noted in HMT's consultation paper, the financial services industry is an 'engine of growth for the wider economy', and we believe it is in the UK public interest that the UK financial services sector remains competitive, is agile, and continues to foster innovation. In our view the additional objectives would help support economic growth and international competitiveness. The balance between primary and secondary objectives will need to be appropriate however: whilst the secondary objectives should not detract from the regulators meeting their primary objectives, their secondary status should not mean that they are always over-ridden by the primary objectives.
12. Although the regulatory frameworks for the PRA and FCA should be designed in such a way that primary and secondary objectives are mutually compatible, in practice this is unlikely to be feasible at all times. The balance between primary/ secondary objectives and which should predominate at particular times and in particular circumstances is essentially a political decision, which should reside with Parliament/ Government; it therefore requires appropriate oversight of the regulators.
13. In setting regulatory policies consistent with existing/ additional objectives, we believe that taking a long term view of risk will be in the public interest, rather than incentivising short termism.

Question 2: Do you agree that the regulatory principle for sustainable growth should be updated to reference climate change and a net zero economy?

14. The IFoA recognises that the climate is changing globally at an unprecedented rate and is presenting ecological, social, economic and financial risks. The potential impacts of these risks are global and systemic. As well as highly disruptive physical changes, there are significant implications for the entire financial system. However, we believe that the financial services industry has a critical role in financing the transition to a net zero economy, and finance should be used as a force for good through active stewardship and products that incentivise behaviour in line with global climate targets, and the Government's commitment to achieve a net zero economy by 2050. Financial services regulation can therefore play a mitigating role in relation to climate change.
15. We therefore agree with the Government's proposal that the existing regulatory principle for sustainable growth should be updated to reference climate change, and the Government's commitment to achieve a net zero economy. However, we would go further. We note (and are actively supporting) parliamentary interest in considering how environmental sustainability could

be incorporated into economic measures which inform policymaking ¹. Depending on the outcome of this parliamentary focus on 'economic sustainability' metrics, any additional regulatory growth objectives may need to reflect this sustainability dimension.

Question 3: Do you agree that the proposed power for HM Treasury to require the regulators to review their rules offers an appropriate mechanism to review rules when necessary?

16. We agree with the Government's view that greater regulatory responsibility should be balanced with effective policy input and appropriate scrutiny/ accountability to HMT and the wider Government. A robust and transparent system of checks and balances is of particular importance if, as a result of the FRF, the regulators acquire significantly greater powers.
17. Given this, we support the proposal that HMT have a new power to require the regulators to review their rules, where HMT or Parliament deem it to be in the public interest to do so. As recognised in HMT's consultation paper, it is essential that this greater accountability does not compromise the regulators' independence: it is appropriate that HMT request a rule review, but this should not extend to forcing through a specific change to the rules. We also suggest that a focus on regulatory outcomes is important, focussing not only on the effectiveness of regulation in achieving desired outcomes but also any unintended consequences.
18. We note the expectation that HMT's proposed power be used sparingly, with the examples cited relating to a change in market conditions or a rule no longer having its intended effect. These circumstances are potentially appropriate. Some policy interventions can have unintended consequences, to the detriment of the public interest. We would however suggest that HMT take a proactive, prospective view of emerging issues. This could potentially help mitigate issues before they fully take effect, rather than a focus purely on regulatory 'fire-fighting', after an issue has crystallised. We reiterate that this should not impinge on the PRA/ FCA's independence.
19. Furthermore, and reflecting on experience in the light of the Covid-19 pandemic, an assessment of systemic risk implications of rules and future systemic risks could be useful in any HMT prospective risk outlook assessment.

Question 4: Do you agree with the proposed approach to resolve the interaction between the regulators' responsibilities under FSMA and the government's overseas arrangements and agreements?

20. Paragraphs 4.35 to 4.37 of the FRF consultation paper refer to leaving technical rule-making to the regulators. It is important to recognise that technical regulatory rules, such as how risk should be measured, can have strategic implications, particularly when applied across the entire industry. Measurement of risk has direct implications for capital usage. It is therefore essential that HMT has visibility of such technical rule-making, but is also able to respond appropriately when in the public interest. A particularly technical example relates to the Solvency II risk margin, which had the unintended consequence of significant UK longevity risk having to be reinsured offshore such as to Bermuda. We note that risk margin is now prominent within the scope of HMT's Solvency II review.

¹ We refer to the recent call for evidence on the Environmental Audit Select Committee: How can economic success take better account of nature and environmental sustainability? Amongst others, the IFOA is providing evidence to this inquiry.

Question 5: Do you agree that these measures require the regulators to provide the necessary information on a statutory basis for Parliament to conduct its scrutiny?

21. As we explained in our response to Question 3, we believe that if the regulators gain greater responsibility following the implementation of the FRF, then this should be balanced with appropriate strengthened scrutiny and accountability. The IFoA supports the principle of parliamentary scrutiny of the regulators (together with that from HMT): we regard such scrutiny as being of paramount importance.
22. We agree with the proposed measures to strengthen parliamentary scrutiny in relation to setting the strategic framework and objectives for financial services regulation - and holding the regulators to account in relation to their (revised) primary and secondary objectives. In particular, we support the specific proposed measures i.e. the requirements to notify the relevant committee of a regulatory consultation, and the need for a regulatory response to Parliament.
23. We noted in our response to the previous FRF consultation that when reviewing strategic regulatory principles, setting/ amending these strategic priorities are political decisions, with regulators then implementing those decisions. Hence parliamentary scrutiny is particularly important in this respect. However, it is clearly in the public interest that there is robust, independent parliamentary scrutiny, and we agree that the Select Committee framework has a key role in this regard. We welcome the intention to facilitate flexible and dynamic Select Committee oversight - this was important following the onset of the Covid-19 pandemic, for example.
24. As referred to in HMT's consultation paper, we also envisage that the Treasury Committee would play a key role in Parliament's independent scrutiny of the regulators. We believe that taking a long term view of risk will be in the public interest, rather than being overly-influenced by short term pressures, such as the five year election or 24 hour media cycles. In this regard, we suggest the Treasury Committee could play an important role in keeping the focus on what is in the longer term public interest.
25. Such parliamentary scrutiny should extend beyond the Treasury Committee to include other Select Committees where there is overlap and expertise elsewhere, for example with respect to climate change. (This example is particularly pertinent given the proposed change to regulatory principles). It is also important that Select Committees are allocated the resources to manage thorough independent assessment of the fulfilment of policy and regulatory functions, rather than relying on the appearance before them of a select group of interested parties.
26. HMT should also have an awareness and understanding of the implications of technical rule-making by the regulators. Where HMT/ Parliament need technical input from parties other than the regulators to understand the implications of technical decisions, some form of independent technical practitioner panel reporting into HMT would be useful.
27. It would be helpful for parliamentary scrutiny to include a prospective view of future financial risks, rather than focussing on issues once they have materialised, and potentially after they have had an adverse public interest impact. Financial service regulation and indeed financial services have a long-term impact on consumers, business/ industry and wider society as a whole. Given this, parliamentary scrutiny should include a focus on long term risks and challenges together with dealing with immediate priorities.

Question 6: Do you agree with the proposals to strengthen the role of the panels in providing important and diverse stakeholder input into the development of policy and regulation?

28. The IFoA supports the proposals to strengthen the role of the relevant FCA and PRA panels. As discussed in HMT's consultation paper (and referred to across our responses to this consultation), stakeholder engagement (and scrutiny) is very important in developing an informed view of the likely impact of regulation. We also recognise that policymaking should be informed by an evidence base where possible.
29. We agree that engagement with stakeholders likely to be impacted by the relevant regulation will help develop a rounded view of its potential impact, and is more likely to identify reasonable alternatives where possible/ relevant.
30. An inclusive culture with diversity of thought is a prerequisite to having a good risk management culture. Diversity and inclusivity are therefore relevant to prudential and conduct regulation. We therefore strongly support the proposals to improve the diversity of stakeholder input to the development of regulation. A range of perspectives and expertise across the relevant FCA/ PRA panels should provide invaluable insight, and broadening but also improving the quality/ robustness of the panels' review processes. A diverse membership would also help reduce the risk of 'group think' from industry 'insiders'.
31. We would go beyond the proposal of a statutory requirement for regulators to maintain a statement on the appointment processes for their panels; we would encourage proactive broadening of the panel membership. This could involve linking relevant remuneration to meeting diversity targets on panel membership, for example. On a related point, we support the suggestion that panel membership be expanded where required, to increase its diversity.
32. We believe that the voice of the individual consumer is not sufficiently represented in the policymaking and stakeholder engagement processes, particularly groups of consumers who tend to experience less positive/ more negative impacts from the financial system. This includes younger generations, vulnerable customers, excluded customers, customers with disabilities and those in lower socio-economic circumstances. We therefore welcome the acknowledgement of this aspect (in relation to vulnerable customers) in the current consultation paper, and we believe that the regulatory panels would benefit from the perspectives these wider groups of consumers could provide. A creative approach may however be necessary to tap into the experiences of such consumer groups.

Question 7: Do you agree that the proposed requirement for regulators to publish and maintain frameworks for CBA provides improved transparency to stakeholders?

33. We support the proposal that the PRA and FCA be required to publish and adhere to a CBA framework, and we agree that this should improve transparency. However, we believe that a CBA framework focussing on just costs and benefits will limit regulatory accountability. Instead, the CBA framework should be extended to consider regulatory outcomes, whether intended or otherwise. In our view, a CBA is a key tool in business decision-making, and a robust and consistent approach to a CBA assessment will help support effective regulatory policymaking. The analysis would be stronger and more insightful if it were extended to consider outcomes.
34. Given the FRF proposals discussed above, it would also be useful for the CBA framework to consider how any proposal would meet the regulator's primary and secondary objectives, and any relevant 'have regards' considerations. It would also be helpful for such analysis to explain how any tensions/ trade-offs between differing objectives and 'have regards' considerations were resolved.

35. We recognise and concur with the feedback points made in relation to the earlier FRF consultation with respect to a regulatory CBA: any such analysis should be balanced and give appropriate weighting to the costs and benefits of any proposal, and consider these with reference to the public interest. Where, for example, the FCA have considered the impact of a proposal on potential individual/ industry behaviour, we have found such analysis insightful and helpful in our assessment of the proposal's merits. In our view, consideration of future behaviour would also be useful in relation to prudential as well as conduct regulation.
36. Furthermore, we believe that where relevant, any regulatory CBA should consider 'viable' alternatives to the proposal being made: there can often be a range of policy interventions in a given context, rather than there being a binary choice between the status quo and a single regulatory preference for intervention. Consideration of alternatives, the various impacts on stakeholder behaviour, and justification for the preferred approach should make for better grounded policymaking.
37. Analysis of behavioural impacts/ alternative proposals should also help anticipate unintended consequences of any proposal, before they crystallise. Although these additional considerations could increase the cost of any CBA, taking a proportionate approach and consulting with industry stakeholders pre-consultation should help mitigate this risk. A robust and broad CBA process may help avoid future wider societal costs, if it steers regulatory decision makers away from making an ineffective policy intervention (perhaps with future unintended consequences and resulting costs).
38. One factor which should also improve the effectiveness of the CBA process is regulatory dialogue with industry/ wider stakeholders in the pre-consultation phase, as referred to above. We also agree that understanding how pre-consultation dialogue has influenced the regulator in developing their firm policy proposal is important, and we welcome the inclusion of this aspect within the CBA framework.

Question 8: Should the role of the new CBA Panel be to provide pre-publication comment on CBA, or to provide review of CBA post-publication?

39. Although we do not have a strong preference between a pre- or post-publication comment, we note that the pre-publication phase is usually subject to a detailed consultation process. One benefit of post-publication comment is that the impact of a measure could be assessed by the CBA Panel. This may lead to an earlier awareness of unintended consequences/ harm arising from a regulatory intervention.
40. Irrespective of whether the CBA Panel comments on a pre- or post-publication basis, we suggest that it should make an independent assessment of the consistency of the measure proposed with the regulator's differing objectives and 'have regards' considerations.

Question 9: Do you agree that the proposed requirement for regulators to publish and maintain frameworks for how the regulators review their rules provides improved transparency for stakeholders?

41. In our view, post implementation review of regulatory policy interventions is a critical component of the regulatory policymaking process. This review process could consider whether interventions are/ remain appropriate and also whether the measure has had the desired effect. As mentioned above, such reviews could identify unintended consequences of the intervention, or indicate where regulatory rules are no longer fit for purpose, following a change in the market environment for example. Hence we agree that following a framework for regulatory review of rules should increase transparency for stakeholders, and lead to improved regulatory outcomes.

42. We note that the consultation paper acknowledges that following a rules review process could increase the burden on regulators, including potentially diverting regulatory resource from other activity. We recognise this risk, and suggest that the criteria for deciding when a review takes place should consider the extent to which any review is in the public interest. Criteria could include considering whether a rules change relates to a known regulatory 'hotspot' or systemic risk. Focussing on actual or anticipated problem areas could mean that where regulatory resource needs to be allocated to a rules review, that allocation of effort is proportionate and in the public interest. Any diversion of effort to rules oversight may also lead to better targeting of regulatory rules.

Question 10: Do you agree with the government's proposal to establish a new Designated Activities Regime to regulate certain activities outside the RAO?

We do not have any points to add in response to this question.

Question 11: Do you agree with the government's proposal for HM Treasury to have the ability to apply 'have regards' and to place obligations on the regulators to make rules in relation to specific areas of regulation?

43. The IFoA agrees with the proposal that HMT should be able to add 'have regards' obligations to the PRA and FCA, where it is in the public interest to do so. As noted in our response to the previous consultation, we suggested that the FRF review provided the opportunity to integrate a number of other factors into the existing statutory objectives, including 'have regards' considerations as part of regulatory policy/ rule making.
44. Although we believe there is a balance to be struck to maintain regulatory independence, our view is that it is appropriate for the Government and Parliament to require regulators to give due consideration to specific matters of public interest as part of their (regulatory) rule making process. We believe this should be done in such a way that the regulators have latitude to set the relevant rules, but with the 'have regards' requirement being considered by the regulator in a transparent basis. This transparency should extend to the regulator demonstrating that, given a 'have regards' consideration, it is then able to show how it maintained independence. We also support the principle that any 'have regards' considerations should not interfere with the regulators meeting their primary and proposed objectives.
45. In our response to the earlier FRF consultation, we suggested there should be greater consideration of how regulation can reduce intergenerational unfairness across financial services policy, and in particular, the transfer of risk to individuals. The IFoA's Great Risk Transfer report outlines how such risk transfers have manifested across financial services and wider society. More recently, we have also considered financial inclusion with respect to insurance, in a joint report on the Poverty Premium in insurance. We suggest that financial risk transfer and financial inclusion are both relevant considerations the PRA/ FCA could focus attention on, in the public interest.
46. We also suggested in previously that there should be greater consideration of climate risk and how financial services regulation can mitigate it. In this respect, the proposal above to incorporate climate change into regulatory principles is a powerful alternative to adding a further 'have regards' on climate change.
47. In the context of our response on parliamentary scrutiny above, we touched on the need to consider long term risks and challenges, as well as dealing with shorter term issues. Regulatory setting of rules on how risk should be measured has a direct implication for the flow of 'long-term

productive capital'. We believe there is scope to include an appropriate 'have regards' consideration of long term policy impacts, although this would be a cross-cutting factor.

48. Although we are clear that any regulatory framework should not be static and it should be responsive to an evolving financial environment, in setting objectives and additional 'have regards' considerations, it is important to 'future proof' the framework where possible. Taking a longer term, strategic view of what is in the public interest should be helpful in this respect.

We hope that these comments are useful to HMT, and we would be delighted to discuss any of these further with you. Should you want to discuss any of the points raised please contact me, Technical Policy Manager (steven.graham@actuaries.org.uk) in the first instance.

Yours Sincerely,



Steven Graham
On behalf of Institute and Faculty of Actuaries