BlackRock.

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HM Treasury
1 Horse Guards Road
Westminster
London
SW1A 2HQ

Submitted via email to: FRF.Review@hmtreasury.gov.uk

RE: Financial Services Future Regulatory Framework Review: Phase II consultation

BlackRock[1] is pleased to have the opportunity to respond to Phase II of the Financial Services Future Regulatory Framework Review, issued by HM Treasury.

BlackRock supports a regulatory regime that increases transparency, protects investors, and facilitates responsible growth of capital markets while preserving consumer choice and assessing benefits versus implementation costs.

We welcome the opportunity to comment on the issues raised by this review and will continue to contribute to the thinking of HM Treasury on any issues that may assist in the final outcome.

We welcome further discussion on any of the points that we have raised.

Yours faithfully,

Nicholas Gibson
Head of Compliance, EMEA
nicholas.gibson@blackrock.com

Adam Jackson
Global Public Policy Group
adam.jackson@blackrock.com

[1] BlackRock is one of the world's leading asset management firms. We manage assets on behalf of institutional and individual clients worldwide, across equity, fixed income, liquidity, real estate, alternatives, and multi-asset strategies. Our client base includes pension plans, endowments, foundations, charities, official institutions, insurers and other financial institutions, as well as individuals around the world.

Executive summary

The UK has now left the EU, and has the opportunity to design a more tailored regulatory framework its financial services industry, while also adapting the system to ensure that it is able to handle the additional responsibility this entails for government, parliament, and the regulators.

The UK already hosts a world-leading, well respected financial services industry, underpinned by robust governance and high regulatory standards. While the Financial Services and Markets Act model needs some adaptations to make it fit for purpose post-Brexit, we agree that it continues to provide a reliable approach outside of the EU. Adaptations should include a mechanism for ideas and feedback to be sourced from industry and other stakeholders - consumer groups, think tanks, and civil society - in the course of both making and adapting regulation; and making sure Parliament, the civil service, and regulators have enough resource and expertise to carry out their responsibilities.

We also see benefit in expanding the set of objectives that currently underpin UK financial services regulation. The present set of objectives – financial stability, consumer protection, market integrity and competition – are undoubtedly crucial and should remain in place. But complementary objectives could help to realise the primary purpose of financial markets: funding the economy while providing end-investors with a means of generating returns. As such, we recommend a new objective for regulators to remove unnecessary barriers to investing in alternative and long-term asset classes; alongside an additional objective for regulators to not only protect those who are already saving or investing, but to encourage more people to start doing so.

Finally, we believe it is important to ensure that all UK policymakers – not just those with an explicit remit in financial services – are appraised of the Government's overarching objectives for financial services policy. For example, one of the main sources of capital in the UK is the pension savings system: this is subject to consequential policy decisions made by The Pensions Regulator and the Department for Work and Pensions, but with different oversight and accountability mechanisms. It will be important to ensure all relevant authorities are appropriately joined up and collaborating effectively to ensure the fundamental purpose of financial markets is fulfilled.

Responses to questions

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?**

Yes, the FSMA model is reliable and broadly fit for purpose now the UK has left the EU. It provides a mechanism for setting regulators' objectives and holding them to account, and should continue to do so as those objectives are refined or expanded.

However, exiting the EU will bring additional discretion, responsibility, and workload for the Government, Parliament, and regulators – as such the main adaptations that will need to be made are (i) providing a mechanism for ideas and feedback to be sourced from industry and other stakeholders - consumer groups, think tanks, and civil society - in the course of both making and adapting regulation; (ii) expanding the set of regulatory objectives (see question 3); and (iii) making sure Parliament, the civil service, and regulators have enough resource and expertise to carry out their responsibilities.

2. **What is your view of the proposed post-EU framework blueprint for adapting the FSMA model? In particular:**
    a. **What are your views on the proposed division of responsibilities between Parliament, HM Treasury and the financial services regulators?**
    b. **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?**
    c. **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**

The model of government and Parliament setting principles and policy objectives, with regulators taking these into account when designing specific regulatory requirements, is broadly the right one. However, as well as including activity-specific policy within the legislative framework, government and Parliament should be considering principles and objectives for the financial system as a whole – discussed further under question 4 – such as encouraging more individuals to invest for their financial wellbeing, and lowering barriers to long-term investment. Meeting these objectives requires regulatory change across different parts of the ecosystem. In turn, regulators would also need to have regard to these objectives and be held accountable to them.

3. **Do you have views on whether and how the existing general regulatory principles in FSMA should be updated?**

The consultation paper suggests a new principle could be for regulators to have regard to easier to navigate rulebooks, taking advantage of innovation to reduce the regulatory burden. This would be a welcome development, but we would recommend a broader concept: that regulation should be assessed on whether it benefits end-consumers and meets other regulatory objectives in practise – this in turn should give UK policymakers the opportunity to find areas where the same outcomes can be achieved with a lower overall regulatory burden. If regulation becomes overly bureaucratic with little added protection to consumers, it should be reviewed: such regulation will often mean only larger well-resourced market participants can implement it effectively. Similarly, supervisory interventions should be evidence-based, to avoid unnecessary additional bureaucracy and operational burden to firms.

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?**

The present set of objectives – financial stability, consumer protection, market integrity and competition – are undoubtedly crucial and should remain in place. But we believe complementary objectives could help to realise the primary purpose of financial and capital markets: funding the economy while providing end-investors with a means of generating the returns they need to meet their objectives.

In practise, this could mean an objective for the FCA and other regulators as necessary, to remove unnecessary barriers to investing in alternative and long-term asset classes, such as infrastructure, renewable energy, and others. This has the dual benefit of providing capital to projects and companies that need it, driving economic growth; while also allowing end-investors with long-term horizons to benefit from the associated returns.

It could also mean an additional objective for regulators to not only protect those who are already saving or investing, but to encourage more people to start doing so – reviewing current and proposed regulation to that end. This is particularly important as the balance

continues to shift from Defined Benefit to Defined Contribution pensions as the means of providing for UK citizens' retirement. Moreover, the Bank of England has estimated that between March and November 2020 UK household savings were £125 billion higher than the counterfactual of COVID restrictions not being in place, and that this will continue to rise over the course of this year.[2] It is therefore increasingly important to enable a wider range of people to benefit from the advantages of investing relative to keeping cash in bank accounts. Ultimately, the UK should look for citizens to have the same level of engagement with capital markets and personal investments as there is in countries such as Australia or the United States.

We do not believe UK regulators should be given an explicit objective to encourage the competitiveness of the UK financial services sector. One reason for this is that it risks undermining regulatory cooperation and convergence that underpins many market access arrangements. Moreover, a robust, expert, high-quality regulatory ecosystem will encourage investment and growth. An approach to regulation that makes changes solely with competitiveness in mind could ultimately undermine the integrity of markets, and compromise the UK's reputation in financial services. The power to decide how to strike the balance between pursuing competitive advantage versus maintaining alignment with other markets properly rests with government and ministers, who should consider this on an issue-by-issue basis. For regulators, a more fitting objective is to monitor and reduce the cumulative impact and burden of regulation on firms; including by avoiding 'gold-plating' of international standards.

5. **Do you think there are alternative models that the government should consider? Are there international examples of alternative models that should be examined?**

There has been some suggestion that the UK could replicate some of the governance structures around financial services policy that exist in the European Union. We would not support this approach, as it would import both the strengths and weaknesses of the EU system. Instead, the UK should look to improve its own system by drawing on the strengths: providing sufficient resource and expertise to support proper scrutiny, while maintaining the balance between the executive and legislative branches of government. This could be achieved, for example, by a dedicated financial services sub-committee of the Treasury Select Committee, supported by specialist civil servants.

However, we do not see this sub-committee as being a replica of the Committee on Economic and Monetary Affairs (ECON) within the European Parliament. EU legislation has to apply equally and fairly throughout the Single Market, requiring a high degree of granularity. This in turn means that the European Parliament has a more significant role in the (re)drafting of detailed regulation than has traditionally been the case in the UK. While this has some benefits – notably uniform application of EU law in the EU and more direct EU-level democratic and stakeholder oversight of detailed regulation – it can also mean complex and technical financial services regulation is drafted by the legislator instead of technical experts.

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?**

We agree that the existing mechanisms for holding the Government, HM Treasury, and the regulators accountable to Parliament will continue to be effective. We also agree that the Select Committees are the most appropriate means for Parliament to carry out this scrutiny. As we have discussed elsewhere in this response, it may be wise for a dedicated financial

[2] https://www.bankofengland.co.uk/-/media/boe/files/monetary-policy-report/2021/february/monetary-policy-report-february-2021.pdf

services sub-committee of the TSC to be set up, along with additional secretariat support. This support should not come at the expense of HM Treasury's own resources, which may also need to be enhanced in order to give Ministers support and access to expertise on a par with that of the regulators.

7. **How do you think the role of Parliament in scrutinising financial services policy and regulation might be adapted?**

The role of Parliament in providing scrutiny should stay broadly the same, however as discussed under questions 1 and 5, the primary challenge for Parliament in scrutinising financial services policy will be capacity and access to the right expertise. As suggested, one way to address this could be to set up a dedicated financial services sub-committee of the Treasury Select Committee, supported by specialist civil servants.

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?**

Coordination between HM Treasury and regulators should facilitate a clear understanding of the objectives and principles behind a given piece of policy, against a shared understanding of the ultimate purpose of financial markets: funding the economy while providing end-investors with a means of generating the returns they need to meet their objectives. It should also provide a means for the regulators to note technical issues or barriers faced in pursuing the policy, with discussion of any potential trade-offs that may need to be resolved. However, effective policymaking should not begin and end with the development and implementation of policy: regulation put in place to target a clear public policy objective should be subject to review by both HM Treasury and the regulators, taking into account industry feedback, to test whether it is working and any action that may be needed to rectify it.

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?**

Yes. As discussed under question 1, it will be important to augment the FSMA model with a mechanism for ideas and feedback to be sourced from industry and other stakeholders in both the development and adaptation of financial services policy. UK policymakers already make good use of the consultation process and are broadly responsive to feedback. Increasingly, UK policymakers are also sourcing industry views on new policies through fora such as HM Treasury's asset management taskforce, and the more recent productive finance working group jointly sponsored by HM Treasury, the Bank of England, and the FCA. The latter is a particularly good example of engaging industry to inform the overall policy direction at senior levels; but also at a technical level to ensure the correct execution of policy.

However, as noted in our response to Phase I of this review, the UK has previously been less successful in revising or even 'switching off' pieces of regulation that have been shown to be ineffective following industry feedback.[3] A prominent example of this is the implementation of the Packaged Retail Investment and Insurance-based Products Regulation (PRIIPs), which is widely recognised by both industry and the FCA itself to be confusing and counter-productive, but the requirements continue to apply. Taking on board and responding to feedback in policies should be made a central part of the UK regulatory system going forwards. There should also be scope for policymakers to learn from best practice abroad.

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[3] For further discussion, see our response to HM Treasury's October 2019 '[Financial Services Future Regulatory Framework Review - Phase I]'

Finally, it will be important to ensure *all* relevant authorities are appropriately joined up and collaborating effectively to ensure the fundamental purpose of financial markets is fulfilled. In this regard, it is notable that one of the main sources of capital in the UK is the pension savings industry, yet this is regulated separately to the rest of the financial system by The Pensions Regulator and overseen by the DWP rather than the Treasury, with separate Parliamentary oversight. At least three recent policy initiatives demonstrate the need for effective co-ordination between these actors:

- Ensuring that TCFD disclosure obligations for the pensions industry are properly sequenced with those of issuers;[4]
- Rules permitting pension fund consolidation allow for scheme funding shortfalls to be sufficiently addressed where buy out is not possible; and
- More fundamentally, ensuring investment practices, rules and pricing regulations are aligned with the long-term investment objectives of pension savers.[5]

Conclusion

We appreciate the opportunity to address and comment on the issues raised by the consultation paper, and will continue to work with HM Treasury on any specific issues which may assist in the ongoing review of the UK's regulatory framework.

[4] For further discussion, see our responses to DWP's June 2020 consultation 'Aligning your pension scheme with the TCFD recommendations'; and FCA's October 2020 consultation 'Proposals to enhance climate-related disclosures by listed issuers and clarifications of existing disclosure obligations'.
[5] For further discussion, see our response to DWP's August 2020 consultation, 'Review of the default fund charge cap and standardised cost disclosure'.