

Future Regulatory Framework Review Phase II: Consultation

Barclays is a transatlantic consumer and wholesale bank with global reach, offering products and services across personal, corporate and investment banking, credit cards and wealth management, with a strong presence in our two home markets of the UK and the US. With over 325 years of history and expertise in banking, Barclays operates in over 40 countries and employs approximately 85,000 people.

Executive Summary

The UK's institutional architecture for the regulation of financial services is regarded as world-leading, to the extent that its policies, institutions and mandates have been replicated in jurisdictions across the world. Barclays welcomes the second phase of the Future Regulatory Framework Review and the UK Government's commitment to review the effectiveness of its regulatory architecture. We recognise the importance of this exercise to ensure that the UK's approach to financial services regulation is aligned with the Government's ambition and vision for the sector and continues to provide a stable, predictable, world-class regime for firms, market participants and consumers.

We are pleased to provide our responses to the questions set out in the consultation paper, focussing on where we see opportunities for enhancing the UK's financial services regulatory architecture. Our key suggestions are listed below:

The post-EU regulatory framework proposal

1. A new approach to regulation should be incorporated into FSMA, based on the principle of 'same activity, same risks, same regulation', rather than entity-based regulation.
2. The regulatory perimeter should be updated to ensure regulators have supervisory oversight of the full spectrum of the modern financial ecosystem.
3. The Government should commit to review the effectiveness of their framework proposal after there has been a period of trial to ensure activity-specific principles are sufficiently adhered to in the rulemaking process.
4. The Government should set a financial services strategy, every 5-10 years, to provide the sector and regulators with a road map for public policy and regulatory actions.
5. The regulators' statutory objectives should recognise the wider policy scope of the UK's regulatory standing internationally and as a place to do business. There should be objectives or principles for the regulators to 'have regard to' the global competitiveness of UK banks, the ability of UK banks to compete with non-bank competitors or overseas persons reaching into the UK.
6. Regulatory consultations should include transparent rationale for proposals to exceed internationally-agreed standards and approaches taken in financial centres of a similar size and scale.

Accountability, scrutiny and stakeholder participation

1. We support the independence of the regulators. We also believe that Her Majesty's Treasury, as the senior government agency, should be given a limited power of discretion

over the regulators, should rules be introduced that are inconsistent with their statutory and regulatory principles.

2. External stakeholders should be consulted or drawn-upon at an earlier stage in the policymaking process through a combination of discussion papers, roundtables and industry workshops and other forms of bilateral consultation.
3. FCA Panels could be utilised more effectively to opine on policy and rulemaking in addition to future regulatory issues and horizon scanning.
4. Judicial Review is adversarial and a last resort for organisations. Further review and an alternative approach is needed, to enable regulated firms to appropriately challenge regulators' policies and decisions without fear of impairing supervisory relationships.
5. In light of the general review of financial services regulation, the Financial Ombudsman Service should be subject to a refreshed plan to reconsider its jurisdiction, funding and purpose.
6. Parliament should consider additional resource in order to scrutinise regulators' rule making, through either a Joint House of Lords Committee or a financial services regulation sub-committee of the Treasury Select Committee. This scrutiny should be specific to assessing the extent to which regulatory rules align to framework legislation, Parliament's intent and the Government's financial services strategy.
7. The Regulatory Initiatives Grid should be published more frequently, recognising the impact of multiple operational regulations, and include thematic reviews in line with the financial services strategy.
8. Government, industry (including, if appropriate, non-financial services firms) and regulator cooperation to tackle policy issues, such as for APP scams and access to cash, is positive and should be used more frequently.