



**FINANCIAL MARKETS AND SERVICES APPG INQUIRY INTO THE ROLE OF
THE UK PARLIAMENT IN THE FUTURE REGULATORY FRAMEWORK FOR
FINANCIAL SERVICES:
WRITTEN EVIDENCE BY THE FINANCE & LEASING ASSOCIATION**

About the FLA

1. The Finance & Leasing Association (FLA) is the leading trade body for the UK asset, consumer and motor finance sectors. In 2019, FLA members provided £140 billion of new finance to UK businesses and households. Nearly £105 billion was in the form of consumer credit, accounting for over a third of all new consumer credit written in the UK. Over £35 billion of finance was provided to businesses (including £20 billion to SMEs) and the public sector to support investment in new equipment, representing over a third of UK investment in machinery, equipment and purchased software.
2. Our members provide both regulated and exempt lending and are subject to regulatory oversight by the Financial Conduct Authority (FCA), Prudential Regulation Authority (PRA) and the Competition and Markets Authority (CMA). The Financial Ombudsman's Service (FOS) also plays a quasi-regulatory role in interpreting FCA rules and guidance. The FLA's Lending Code and Business Finance Code have also formed part of the overarching regulatory framework for over 25 years, providing additional protection for customers.
3. We have responded only to relevant questions.

The Future Regulatory Framework

4. The removal of the EU layer from the policy framework offers an opportunity to simplify the financial services policy framework and make it more transparent.
5. Key to effectiveness will be ensuring that each of the key players – Parliament, Government, FCA and the other Financial Services and Markets Act (FSMA) bodies – have clearly defined roles and accountabilities and that their functions are exercised transparently.
 - Parliament should clearly retain for itself the function of determining the framework through primary legislation and calling all the players to account.
 - The FCA should, as now, have significant powers to set and enforce the detailed rules in a transparent, independent, evidence-based and agile way.
 - There is, however, an opportunity to redefine the role of Government in this framework, to address a perceived or real current democratic deficit – where society's expectations would be, for example, that significant decisions around strategic direction and scope of regulation should be the preserve of Government, as held to account by Parliament.

- But it is essential that any enhanced role for Government be exercised in a transparent and consultative way in accordance with procedures set out in statute (such as an amended FSMA), for example through orders and instruments subject to parliamentary scrutiny. It is essential for market and consumer confidence that significant government control should not be exercised behind closed doors.

Response to Questions

Policy

- *What role, if any, should parliament play in the formulation of financial services policy?*
 - *How can parliament ensure that wider public policy goals are reflected in financial services regulation?*
6. Parliament acts as an important check on Government policy, particularly through Bill committees or select committees. They should continue to invite ministers and regulators to give evidence and be accountable for their actions.
 7. Regulation is too often drafted in silos so it must be responsive to wider public policy, which reflects societal change. For example, the importance of reaching net zero emissions and closing regional disparities must be factored into rules where appropriate.

Legislation

- *Do you think that the role of parliament in scrutinising primary and secondary legislation on financial services needs to be changed post-Brexit? If so, in what way?*
 - *Could the role of the Treasury Committee encompass detailed scrutiny and review of financial services legislation? If so, would this be desirable?*
 - *Should the House of Lords play a greater role in the scrutiny and review of financial services legislation?*
 - *Would a joint Financial Services Scrutiny Committee help improve the quality of future financial services legislation?*
 - *Are there lessons to be learned from the experience and practices of other legislatures?*
8. If the future framework is to be future-proof and fleet-of-foot (i.e. competitive), certain matters currently dealt with inappropriately through primary legislation should be delegated to secondary legislation or to FCA rules, subject to parliamentary scrutiny. Examples include (at the EU level in the Consumer Credit Directive) the scope of regulation and the detail of the Standard European Consumer Credit Information document, and (in the UK Consumer Credit Act) numerous provisions about product features, customer processes and consumer letters.

9. The UK Parliament is in general less engaged on the detail of legislation than the European Parliament, which has a well-established mechanism for scrutinising proposals, via the appointment of a rapporteur (draftsperson) who works closely with committee specialists and political advisors on the fine detail. Although this can be a lengthy process for more complex or controversial legislation, it ensures proper scrutiny (according to a mandated timeframe) with importantly the opportunity for stakeholders (market participants, including intermediaries, and consumer representatives) to share their expertise. In general, this is because MEPs tend to specialise in areas more than their Westminster counterparts and therefore engage in the detail.
10. If the rules are introduced post-Brexit and the intention is to apply the same detailed level of scrutiny, then Parliament will need to evolve. We have no firm views on which body will undertake this but one possibility would be a sub-committee of the Treasury Committee split across cross-party lines. The House of Lords might be better placed to perform more detailed examination of legislation given that they do not have the constituency and other responsibilities that MPs have. Peers generally have more widespread experience and will be in position for longer as they do not face re-election every few years. A joint committee could also work but would have to be suitably resourced and ensure that it was properly aligned.

Regulators

- *How can parliament best scrutinise the work of regulators with expanded powers post-Brexit?*
 - *How can parliament effectively scrutinise coordination between multiple regulators—including those with broader responsibilities, such as the Competition and Markets Authority and the Information Commissioner's Office—on issues of common interest?*
11. The current arrangements under which Parliament invites regulators to parliamentary committees on a regular basis, usually to coincide with events (e.g. the Budget) or publications (annual reports), works well.
 12. Brexit offers the opportunity to revisit the overlap between regulators. Our members provide both regulated and exempt lending and are subject to regulatory oversight by the Financial Conduct Authority (FCA), Prudential Regulation Authority (PRA) and the Competition and Markets Authority (CMA). The Financial Ombudsman's Service (FOS) also plays a quasi-regulatory role in interpreting FCA rules and guidance.
 13. We would therefore welcome an enhanced oversight role for Parliament to ensure coordination between regulators so that firms and their customers benefit from a consistent approach. For instance, FOS decisions sometimes set a precedent where the FCA has not previously considered an issue or where its principles-based regulation has not been prescriptive. As the FOS makes its decisions based on the individual merits of each case, this creates the risk that further 'regulation' is created without taking into account wider considerations. In his 2008 [report](#), Lord Hunt concluded that the FOS should work to identify where its practice diverges

from regulatory rules and work with regulators to achieve alignment. These recommendations have yet to be taken forward.

14. Depending on the remit of the regulatory bodies concerned, this could be a collaboration between a joint sub-committee of select committees so if the CMA was the subject of inquiry, the Treasury Committee might establish a joint sub-committee with the Business, Energy and Industrial Strategy Committee.

Resources

- *What resources and expertise do parliamentary committees and individual parliamentarians need to effectively discharge their roles in the future regulatory framework for financial services?*
- *Should there be a mechanism that allows further involvement from regulators and the sector in the law-making process?*

15. A dedicated team of clerks is a pre-requisite for enhanced scrutiny. They should be encouraged to engage with stakeholders, including regulators outside the formal confines of evidence sessions and make recommendations to parliamentarians.

Finance & Leasing Association
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