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Future Regulatory Framework Review
Financial Services Strategy
HM Treasury
1 Horse Guards Road
London, SW1A 2HQ

Sent via email to: FRF.Review@hmtesury.gov.uk

RE: FDATA Response to HM Treasury's Financial Services Future Regulatory
Framework Review

On behalf of the membership of FDATA Europe, please find our response to the
questions set forth in the Financial Services Future Regulatory Framework Review,
Phase II Consultation.

Should you have any questions relating to this response, please do not hesitate to

ask. Warmest regards,

Ghela Boskovich
Regional Director, Head of FDATA Europe



FDATA Europe Response: Financial Services Future Regulatory Framework Review

Question 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?

Response 1:

The FSMA model functions well, allows for a stable, non-partisan and relatively apolitical approach to maintaining industry stability and consumer protections while allowing for the market itself to evolve and innovate.

FDATA agrees that the FSMA model will serve UK financial services well as it paves a new tract outside of the EU.

However, we do see the value of HM Treasury having a full view of the intricacies of regulation across all financial services verticals, including banking, insurance, and investment, as well as market activities, infrastructure, and the rise of third-party providers.

This holistic view has given HM Treasury unique insight into the intersection of these verticals, that will come together under an Open Finance Policy, with an eye on a future Open Data Economy that will require regulatory harmonisation across industries.

FDATA suggests that empowering a single government entity/regulator with this particular capability to see the whole picture has value, and should be preserved, even if the FSMA model serves as the operational template for the UK.

Question 2: What is your view of the proposed post-EU framework blueprint for adapting the FSMA model? In particular:

- What are your views on the proposed division of responsibilities between Parliament, HM Treasury and the financial services regulators?
- 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?
- 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?

Response 2:

FDATA supports the overall blueprint approach that allows for flexibility and broad outcome based regulation proposed in this consultation. We support enshrining standards rather than specifications in the primary legislation, and support a standards-based approach for the regulators, allowing for specifications to be determined or influenced by the market itself.

FDATA also believes that equivalence arrangements ought to be left in the hands of the FCA/PRA rather than shift to government or Parliament to decide. The FCA has the experience of supervision and enforcement, and are in the best position to determine if firms (from financial institutions to licensed third party providers) meet the behavioural and compliance thresholds. In the EU the Member State national competence authorities manage the licensing process, as they are also the authorities who oversee and supervise those firms. The UK ought to maintain a similar level of expertise on par with the EU in managing equivalency permissions/arrangements.

FDATA supports transparency in regulatory decision making. Similar to the requirements in GDPR that mandate any artificial intelligence algorithm decision making needs to be explained, we believe the rationale, assumptions, and objectives for regulatory policy making also requires similar 'explainability'.

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

Response 3:

FDATA agrees that the proposed post-EU framework blueprint facilitates the objectives of clear, coherent, and effective allocation of regulatory responsibilities across appropriate parties, which makes holding those parties to account easier and more effective.

We also agree that the proposed framework blueprint allows for an adaptive and agile approach to regulating a dynamic UK financial services market, while simplifying and rationalizing the regulatory rulebook for the UK.

FDATA believes that technology – regtech – will facilitate the delivery of the rulebook, and points to the FCA's work on machine readable rules as an example of making regulation and compliance more accessible for market actors. We encourage the adoption and use of technology to further enhance the agility and responsiveness of regulators to evolving and innovative financial services value proposition being brought to market.

Question 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?

Response 4:

The existing statutory objectives remain relevant; however, the technological advancements that would enable the delivery of those objectives were not conceived when those objectives were outlined 20 years ago. The impact of technology on the market, the competitive landscape, and on consumer well-being need to be considered as these statutory objectives are reviewed.

FDATA supports including UK financial services market competitiveness and international competitive advantage as statutory obligations. The thriving financial technology hub in the UK is a result of an open and forward-thinking regulatory regime, one that provides stability and promotes competition. This in turn has attracted investment, talent, and innovation to the UK: all of which has made fintech an economic engine for the UK. It would be criminal to neglect the principle of international competitiveness in the overall framework blueprint for financial services regulation.

FDATA's work on, and its involvement in, the delivery of Open Banking services to the UK has been an exercise in advocating for nascent technology firms to have a fair and even competitive landscape on which to deliver value propositions that benefit UK consumers and small business, while collaborating with consumer protection interests to ensure that those value propositions maximise the benefits to those consumers, and mitigating risks to both consumers and the market. Balance can be struck between competing interests, a balance that does not detract from either side's objectives. The same can be said for statutory requirements: innovation and competition do not come at the expense of system stability and soundness or consumer protection. An outcomes-based approach to regulation, based on standards rather than proscriptive regulation and specifications, allows for both competition and stability to co-exist.

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

Response 5:

An example of a progressive financial services regulatory model is that of the Monetary Authority of Singapore (MAS). It is an integrated regulator and supervisor, responsible for banking, capital markets, insurance, and payments. Parliament passes Acts (statutory laws), which fall under the purview of MAS, and MAS oversees additional subsidiary legislation, and directions, which have the force of law. It has competition, stability, and innovation mandates; it also has a harmonious and holistic view across the entire market.

Question 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?

Response 6:

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

Response 7:

Question 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?

Response 8:

FDATA supports routine consultation between HM Treasury and regulators as early as possible in rule and legislative proposal processes. We also support wide industry consultation across stakeholders to help shape rules and legislation before they are formally proposed.

Question 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?

Response 9:

FDATA supports the practices for public consultation already in place. We actively advocate on behalf of our members (regulated, licensed, third party providers of open banking services), and routinely participate in various public consultations put on by HM Treasury, the Competition and Markets Authority, the FCA and PSR; we also participate in consultations across other ministries whose efforts touch on aspects of Open Finance and Open Data, including the ICO, DCMS, and BEIS. Our experience of these consultation processes has been positive, affording our members a share of voice in stakeholder discussions.

We support more frequent calls-for-input, earlier in the rule/policy shaping process. We note the absence of acknowledged technology representatives in the composition of the stakeholder panels. As technology is shaping the way financial services are delivered to market, and is expanding the number of consumers who can now avail themselves of those services that were beyond their reach when the FSMA model was conceived 20 years ago, it is also shaping how regulators approach their responsibilities. It may serve to solicit more technology (and technology infrastructure) provider insight in stakeholder engagement efforts.

FDATA would support efforts to test policy proposals before they are implemented. Evidence based regulation is de rigueur, as is outcomes-based regulation: both of which can be shaped and tested in an economic data sandbox. Just as the FCA has set up its own innovation sandbox to test the impact and fitness of individual firms before granting licenses, so too can regulators hypothesise and test policy models using synthetic (or pseudonymised) data to forecast impact and outcomes of proposed policy. We strongly encourage HM Treasury to consider a policy test sandbox/laboratory as part of the policy making process. The Global Open Finance Centre of Excellence (GOFCoE), in collaboration with the University of Edinburgh, has economic observatory capability of this nature. Leveraging both the UK's supercomputer and live economic/financial data library, organisations like GOFCoE could provide UK regulators with such a policy testing sandbox.