Financial Services and Markets Bill

Introduction to Phoenix

Phoenix is a FTSE 100 company and is the UK's largest long-term savings and retirement business with c13 million policies and £270bn of assets under administration. We are committed to improving outcomes and experiences for customers and putting them at the heart of what we do. We support people across all stages of the life savings cycle and help our customers secure a life of possibilities. We provide the support at the right time to ensure our customers feel safe on their journey to and through retirement.

The Financial Services and Markets Bill – Phoenix's perspective

Phoenix welcomes the Government's vision to maintain the UK's position as a leading centre of financial services, with a focus on world-leading, high-quality regulation. We recognise that the UK's regulatory framework is a key component of the competitiveness and global attraction of the financial services sector, and the wider UK economy.

Phoenix has the ambition to invest up to £50 billion over the next 5 years. However, being able to deliver this is contingent on using the Financial Services and Markets Bill to deliver a regulatory environment which promotes economic growth and investment in the UK. UK economic growth is critical to future UK prosperity, underpinning healthy public finances, a strong, productive economy, and good outcomes for those living and working in the UK. We welcome that the Government has made this a priority.

To achieve that environment, Phoenix wants to see the following outcomes from the Financial Services and Markets Bill:

1. A new primary objective focused solely on economic growth. The Bill offers an opportunity to deliver a regulatory regime focused on economic growth. This needs to be underpinned by a secondary objective focused on UK competitiveness, and governance and accountability mechanisms which ensure the new objectives are truly effective.

2. The Financial Services and Markets Bill provides a crucial opportunity for the UK to lead on green finance and sustainable investments. To harness this opportunity, the regulatory objectives of growth and competitiveness must be reinforced by an obligation for the regulators to advance their regulatory principles towards Net Zero.

3. To ensure that growth, competition, and innovation flourish, and to prevent regulatory overreach, the Government needs to clearly set out in legislation the principles under which the regulators operate and the limits of their remit.

4. The Bill misses an opportunity to address financial inclusion and the pressing need for better help for people when deciding on retirement provision. The FCA should therefore be given responsibility for promotion of financial inclusion.

Competitiveness and growth objective (Clause 24)

5. Clause 24 gives the PRA and FCA a new secondary objective for competitiveness and growth.

6. UK economic growth is critical to future UK prosperity, underpinning healthy public finances, a strong, productive economy and good outcomes for those living and working in the UK. The Government has rightly made this an absolute priority - Phoenix is therefore calling for the Bill to be amended to reflect this as follows:

   - **A *primary* growth objective - ensuring that the regulator reflects the priorities of the new Government in delivering a financial services industry that serves and delivers for the wider UK economy.**

   - **A *secondary* competitiveness objective – ensuring that regulatory policymaking takes into account the needs of the UK to remain a leading global centre of financial services, underpinned by a strong regulatory regime which continues to set the standard for regulation globally.**

7. The pensions sector has the potential to drive growth and investment, supporting the UK Government's ambitions for net-zero and levelling up. As we set out above, under the right regulatory treatment, Phoenix ambition is to invest up to £50 billion over the next 5 years.

8. As a leading pension provider, Phoenix's business is built upon people trusting us with their investments. We would not support any watering down of protections for consumers. Phoenix is, however, concerned that the Bill as it stands proposes only a secondary growth objective – ranking below the other objectives – that will therefore weigh insufficiently in the PRA's decision making to enable real opportunities for growth to be captured. (Notably in the Explanatory notes, the Government says that it "considers that the regulators' *existing* objectives set broadly the right strategic considerations and wants to maintain the regulators' focus on these objectives."[1]) We are therefore suggesting splitting the currently proposed

[1] *Financial Services and Markets Bill: Explanatory Notes*, page 37, para 213

objective to ensure that economic growth is an absolute priority – but to make clear that it would not be appropriate to prioritise the UK's competitive position over consumer protection.

9. The new growth objective needs to be underpinned by accountability mechanisms which ensure the new objectives are truly effective. These should include:

    - The regulators should be required to set out at the point of publication how new policy or decisions impact UK growth
    - Parliament is provided sufficient resource to ensure that there are effective checks and balances for the regulators to discharge their duties towards the objectives
    - A requirement for the regulators to communicate regularly with the Treasury Select Committee on the impact of their policies on their objectives, and how their work is delivering on those objectives
    - A requirement for the Treasury to make recommendations to the regulators onsetting out clear outcomes that they are targeting to support the economic policy of the government when advancing its objectives and discharging its duties.

10. A primary growth objective will properly enable the PRA to balance out safety and soundness of firms and protections for policyholder with growth. Under the current regime, the outcome is that pension funds and insurers are underinvested in productive finance and illiquids, which in other geographies produce more investment in their economies, and the potential for better returns.

11. Phoenix recommends that:

    - **the Government should establish a new primary objective focused solely on economic growth**
    - **the Government should underpin this objective with a secondary objective focussed on UK competitiveness**
    - **the Government should set out clearly how it expects a new growth objective to impact the way the PRA makes policy**
    - **HMT should continue to provide more granular, regular guidance through its remit letters with regard to its expectations of regulators. This should include an indication of how it expects to monitor and measure specific regulatory outcomes against the objectives within a specified timeline.**

Net zero have regard (clause 25)

12. Clause 25 creates a new regulatory principle that the regulators must have regard to the UK net zero emissions target.

13. We support industry calls that there should be a secondary statutory objective for regulators to facilitate the transition of the financial services sector to net zero to support investment and the transition to net zero. The Financial Services and Markets Bill provides a crucial opportunity for the UK to lead on green finance and sustainable investments. To achieve this ambition the regulatory objectives of growth and competitiveness must be reinforced by an obligation for the regulators to advance their regulatory principles towards net zero, to unlock the potential to provide trillions of pounds of private investment to support the transition to a low carbon economy.

14. Phoenix recommends that **the regulatory objectives of growth and competitiveness must be reinforced by an obligation for the regulators to advance their regulatory principles towards net zero.**

Regulatory principles

15. While we agree that the objectives establish that robust regulatory standards and the independence of the regulators are the cornerstone of UK competitiveness and attractiveness, we believe it is vital the Government also use the Bill clearly to prescribe the limits of regulatory action and increase democratic accountability.

16. One example of where this would be needed is the matching adjustment (MA) in the Solvency II legislation:

    - The MA is a counter-cyclical tool that allows life insurers to recognise in their liability valuation their long-term investment horizon. The original intention of the MA was to give life insurers who meet very strict criteria the ability to weather short-term market volatility, and not contribute to market crises by selling assets in times of stress

    - The MA has been a crucial tool in enabling insurers to invest in long-term, illiquid assets but still lags behind comparable international tools leading to the offshoring of risk and relatively stifled investment. The broad principle of the insurance regime recognising the long-term investment horizon should be enshrined in primary legislation to ensure that their specific role in the broader economy is protected to ensure the efficient operation of the broader financial services sector

- The current insurance objective is vague insofar that it gives the regulators enough leeway that they have unfettered discretion over the level of policyholder protection firms provide. We believe that the principle behind its role in the regime is something that needs to be enshrined in primary legislation, and any PRA rules need to demonstrably align to this definition

- The changes the PRA proposed to the MA in 2021 would have led to an increase in regulatory capital, seen as corresponding to an increase in policyholder protection, despite existing protection covering policyholders against 99.5% of future events. The increase in capital would have increased the cost to consumers of accessing insurance protection, preventing the most vulnerable in society from accessing the protection they most need. The reality of knock-on impacts on consumers has been forgotten through this process as the regulator demands protection at higher than 99.5% confidence when arguably consumers would be perfectly happy with 99.5% certainty that their insurance will be paid for a lower level of premium.

17. A regulatory perimeter in primary legislation would give confidence and clarity to all stakeholders that the oversight and objectives for the financial services industry are clear. This would provide a stable and conducive environment for consumer protection and growth. Without such a perimeter, we see a strong risk that the objectives of the government are ultimately not optimally served by the regulator.

18. A regulatory perimeter must be supported by the principle that the advancing their objectives does not undermine democratic accountability. We welcome increased oversight of financial services by Parliament, and support the creation of the new Treasury Sub-Committee on Financial Regulation. The Bill should therefore ensure that the regulatory objectives should be supported by a mechanism to ensure sufficient and effective checks and balances so that the regulators are meeting and have advanced their objectives in detail.

19. The Government should therefore in the Bill:

- **set out the broad principles by which a sector should be regulated**

- **provide that regulators cannot implement changes that would impede the Government's objectives without providing a significant and robust rationale; and**

- **set out the purpose of the regulatory regime, so that the regulators have clear outcomes that they are targeting. We think this is particularly crucial regarding the new growth and competitiveness objective, to ensure that this measurably changes the way the regulator takes decisions**

- **identify and expand on opportunities for oversight of the regulators by Parliament and public consultation; and**

- **empower HM Treasury to specify outcomes of rules linked to government policy.**

Financial Inclusion

20. One area entirely missing from the Bill as it stands is any reference to financial inclusion. This is a clear gap.

21. In its response to the Government's consultation on the Future Regulatory Framework, Phoenix noted the lack of any clear duty or cross-cutting 'have regard' provision to help tackle financial inclusion. We are disappointed that the Financial Services and Markets Bill misses the opportunity to address this.

22. Financial exclusion is one of the biggest drivers of poor consumer outcomes in the UK – it is a clear oversight that there is no specific statutory requirement for the FCA to address, or even consider, financial inclusion issues across its work. As a consequence, this is an area significantly missing across all areas of the FCA's work – despite the FCA being the single UK body with the clearest ability and access to information to act on this. With many of the most pressing issues falling in between the remits of government and regulators, this makes addressing financial inclusion problems more difficult.

23. Although financial inclusion issues are most often associated with access to and ability to navigate banking services, it is one we encounter often in the long-term savings and pensions space. One example of high concern to Phoenix is the issue of the 'guidance gap' – the fact that many people receive very limited, if any, meaningful help in deciding on the best way to invest their pension savings at the point of retirement[2]. Not enough people have the right information about their pensions and their retirement. The result is real harm to many people, who lack an accurate understanding of their saving and investment options as they move through life, and what they will need for the retirement they want. Not fully understanding their options on the way they use their pension savings in retirement means that some people will not make the best use of that money – in extremis, some risk running out of money altogether.

24. Phoenix is therefore calling for the Government **to add a new regulatory principle that the regulators must have regard to the need to tackle financial inclusion in the UK.** Clause 25 imposes this requirement on the regulators for net zero – we believe the Government should add a new clause to the Bill to replicate this approach for financial inclusion.

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[2] See *A Guiding Hand – Improving Access to Pensions Guidance and Advice*, Social Market Foundation 2022 (research sponsored by The Phoenix Group)