

BRIEFING NOTE

Financial Services & Markets Bill 2022

INTRODUCTION

We welcome the provisions in the Financial Services and Markets Bill that relate to a **new growth and international competitiveness objective for the** Financial Conduct Authority (FCA) and **reporting requirements** for this.

BIBA strongly supports the need to maintain high levels of consumer protection. This is vital – indeed, consumer confidence in the market is the thing which guarantees a thriving sector. We therefore do not want to see anything which dilutes consumer protections. However, regulation also underpins and facilitates a competitive market and the current weight of regulation produces ‘form over substance’ that is a risk to a healthy market.

DETAIL

The insurance broking sector has (like many sectors) a large number of micro-enterprises, including one-person businesses, that are part of and serve the needs of their local community. Small firms in particular are overburdened under the weight of regulation to the point this is massively affecting productivity and many firms have chosen to sell or close, reducing customer choice.

In 2019, BIBA commissioned London Economics to research the cost of regulation on UK insurance brokers, compared to other jurisdictions. As part of that research London Economics found that for small firms, 26% of their full-time equivalent staff had their time taken up with regulatory matters.

Losing a quarter of a small firm’s workforce to deal with an abundance of regulatory requirements has an obvious negative impact on insurance brokers contribution to UK productivity. Indeed, firms leaving the market have cited the weight of regulation as a deciding factor. The FCA’s own data reflects this, showing that the number of authorised insurance brokers has fallen from 8,261 in 2006, to 4,197 in 2021.

The research conducted by London Economics also highlighted that the direct regulatory costs borne by insurance brokers in the UK are among the highest of all jurisdictions covered, with the UK ranking third out of the 23 jurisdictions covered in their research.

ENHANCING THE BILL’S OUTCOMES

We believe that there are two aspects of the Bill that should be amended to achieve the correct balance between customer protections and proportionate regulation.

Status of the new objective

The bill in its current form (*see s24 of the bill*) effectively creates a new tertiary objective (*see diagram right*) – subordinate to all the existing FCA objectives - to the point where it could become irrelevant in practice.

We therefore propose amending Clause 24(2) in the Financial Services and Markets Bill to provide that the new objective be a primary, operational objective for the FCA, sitting alongside its existing operational objectives.

By carrying greater weight, it would encourage the FCA to consider whether proposed new rules would improve outcomes for consumers, whilst maintaining the UK’s reputation as a thriving, competitive market in which to do business. This amendment would align with the Government’s Growth Plan 2022 to reduce the barriers caused by unnecessary and excessive regulation to allow businesses to realise their potential.

Strategic objective

Ensuring relevant markets work well

Operational objectives

Securing an appropriate degree of consumer protection

Protecting and enhancing the integrity of the UK financial system

Promoting effective competition in the interests of consumers

Secondary objective

Facilitating the long-term growth and international competitiveness of the UK economy, including the financial services sector

Opportunity for appropriate accountability

Secondly, as the regulators are given much greater powers to draft rules that replace revoked EU laws, so the accountability framework should enable a commensurate level of scrutiny by Parliament.

S26 of the bill proposes that the FCA explain in its annual report how it considered the new growth and international objective but this amounts to the FCA 'marking its own homework' – and significantly after the event.

In the run-up to publication of the bill, the FCA indicated its lack of support for this new objective, and we feel it is important that government is explicit in setting out its expectations for judging success in meeting the objective.

One possible way of achieving this is to amend s26 to require the FCA to include within their consultation papers and policy statements, how it has considered this new objective when drafting their proposals. This would support effective scrutiny of this objective by the Treasury Sub-Select Committee on Financial Services Regulation and enable the sub-committee to 'hold the regulator's feet to the fire'.

Promoting the new growth and international competitiveness objective to be an operational objective may remove the 'get out of jail card' that the regulator may use when under scrutiny, that any consideration of the secondary objective was eclipsed by one or more of the operational objectives. As an operational objective, the FCA would be required to give equal account of it when facing Parliamentary oversight.

WIDER BENEFITS

More broadly, a thriving and innovative market helps to maintain the UK's position as a global centre for insurance and capitalise on its status as the 'go to' destination for complex risks. The financial services sector is important as an engine for growth in the wider economy.

The UK insurance market, with its expertise, depth of capital and innovation, can cover complex risks that are currently uninsured in many countries. The knowledge within the UK insurance market can be exported to build understanding of the protection gap around the globe.

ABOUT BIBA

The British Insurance Brokers' Association (BIBA) is the UK's leading general insurance intermediary organisation representing the interests of insurance brokers, intermediaries and their customers.

BIBA membership includes more than 1,800 regulated firms, employing more than 100,000 staff. General insurance brokers contribute 1% of GDP to the UK economy; they arrange 72% of all general insurance with a premium totalling £74bn and 92% of all commercial insurance business.

Insurance brokers put their customers' interests first, providing advice, access to suitable insurance protection and risk management.

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