LONDON MARKET GROUP

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# MAKING THE UK MORE COMPETITIVE

## METRICS FOR SUCCESS

# MEASURING SUCCESS

The London Market has a highly international character whose strength lies in its concentration of capital and expertise which draws business to London from around the world. However, that capital and expertise is mobile, the international insurance market is highly competitive, and the impact of regulation is inevitably a factor in both the perception and the reality of the UK as a place to do business.

Overall, the London Market Group (LMG) supports the continuation of the UK's regime encapsulated within the Financial Services and Markets Act 2000 (FSMA) regime at a high level. In particular, clients and investors in the London Market see significant benefits from an approach that maintains alignment to international regulatory standards and in which the UK plays a leading role in developing those standards.

## AN URGENT NEED FOR CHANGE

If London is to keep pace with other emerging regional hubs, more must be done to retain its place as a global centre. Creating a competitiveness objective for the regulators in the UK is a core part of maintaining the UK as the leading global (re)insurance market. But words are not enough. For us, the success of this development hinges on establishing an approach to regulation that genuinely focuses on risk and sets the right rules for the right firms in the right way.

It also rests on measuring change. Ensuring that regulators are held to account to deliver on any new 'competitiveness' objectives will be key across all areas of their work. This should include annual reporting against these objectives and contributory activity. It should also include some international benchmarking against other regulators.

Our proposed approach is based on the premise that regulators can immediately start setting the tone for the future. However, delivering on this agenda requires more than just words, it requires action. The main body of this report sets out the detail of our six priority initiatives through which this competitiveness agenda can start to be established and measured.

In the first instance this means getting the basics of operational effectiveness right to give a platform to build on, however, it should also involve setting the tone for future 'activity-specific' regulation by increasingly considering proportionality in current and ongoing activity. A focus on proportionality will help lay the groundwork for the growth of new entrants, new business models and the wealth of new investment opportunities that exist.

# 1 CREATE A ONE-STOP SHOP FOR REGULATORY INFORMATION

*For those looking to set up a business in the UK, whether they will be single or dual regulated firms, navigating the regulatory terrain is complex and expensive. This is undoubtedly a negative factor when weighing up possible locations for investment. A more competiive offering with a consolidated set of regulatory information could make investment easier quite quickly.*

## WHY ACTION IS NEEDED?

Together the Prudential Regulation Authority (PRA) and Financial Conduct Authority (FCA) set a range of expectations for firms predominately through their handbooks. This is in addition to the range of materials made available to support applications and authorisations. Regulatory activity also consists of other documents such as 'Dear CEO' letters, speeches, policy statements and thematic reviews which combine to set overall expectations. Together, this can create a significant and additional body of regulatory requirements, guidance, and expectations beyond handbooks themselves.

At a minimum, this patchwork of information increases the compliance burden and can be difficult to navigate, particularly for smaller firms with limited resources. However, the consequences can be more significant, particularly if firms are not aware of changes or new expectations.

## WHAT SHOULD BE DONE?

To start to address this challenge, the first step should be a comprehensive exercise to consolidate all regulatory information and documentation in a form of regulatory 'one-stop shop': easily available, logically organised, and navigable according to firm type.

## WHAT WILL BE ACHIEVED?

Reforms of this nature could support a relatively 'quick win', that would support all firm types over a relatively short time frame. In particular, this has the potential to support new market entrants, who are likely to be most at need of clearly navigable information tailored to their needs and dependent on their various permissions and activities. Such firms by their nature will also not have the institutional memory needed to understand the evolution of the regulatory landscape over time.

## MILESTONES AND MEASURES

The success of this initiative would be best measured through establishing and monitoring a clear set of milestones:

- In the first instance, the UK regulators should have reviewed the existing firm types and published a reclassification within an initial one year period.
- There should then be a further year to organise and re-present all information in a structured format.
- These steps should be linked to the activity proposed later in this report to also review the rules as they impact each firm type. Updates to the information provided will need to be refreshed in accordance with this activity.

# 2 HELPING OPERATIONAL EFFICIENCY

*Businesses need to be able to make operational changes to their management structure in a way that means they can adapt to new circumstances swiftly. So as not to lose business momentum, they need a regulatory approval process that responds in a timely fashion.*

## WHY ACTION IS NEEDED?

The FCA and PRA are required to approve certain senior staff appointed by firms to 'controlled functions' in line with the Senior Managers and Conduct Regime. They are legally required under Section 61 of Financial Services and Markets Act 2000 (FSMA) to decide on applications within three months of receiving an application, although the clock can be stopped if there is a need for supplementary questions. Concerns have been raised across the market regarding the recent performance in meeting these objectives, as there has been experience in the market of approvals taking longer than they should.

Experiences include delays in having case handlers assigned, which in turn means a delay to the start of the application. Concerns have also been raised regarding the appropriateness of questions being asked by regulators in connection with the type of application being made. This suggests that regulators may not be streamlining their questions appropriately to ensure they are suitable to the application type.

## WHAT SHOULD BE DONE?

Both regulators should revisit the timeframes for the complete review cycle for authorisation of individuals. This should involve re-assessing the time it takes for a case to be assigned through to final decision on authorisation and the publication of revised Service Level Agreements (SLAs) for the complete authorisation cycle.

If there is then an opportunity to shorten the application process the Treasury should look to explore its options. The legal requirement of completing application reviews within 90 days could potentially be reduced if the regulators can find ways to sustainably adjust current timescales.

In addition to the focus on timeframes, it is recommended that any application for authorisation of an individual should be carefully assessed within the remit of what legislation permits under FSMA Section 61(2). This should ensure that applications are being fairly considered and not declined due to unnecessary or inappropriate information requests.

## WHAT WILL BE ACHIEVED?

Addressing this issue will boost the competitiveness of the London Market by reducing the compliance burden for firms who regularly need to clear applications for approved individuals and whose business can be negatively impacted by delays in appointing to key roles. This could in turn also promote the openness of the London Market for overseas talent.

## MILESTONES AND MEASURES

For example, published indicative timeframes could be as follows:

- Assign a new application to a case handler within 5 days of the application being made
- Complete an initial application review within 14 days of allocation to a case handler
- Allow a period of no more than 21 days to allow for questions and responses
- In addition, the regulators should publish monitoring data on the following:
- Proportion of cases which required escalation to sponsoring firms, including summary trend data on the reasons for escalation
- Average time it takes to assign a case handler
- Average number of days it takes to complete an application in full

# 3 RESPONDING TO MARKET OPPORTUNITIES

*To take advantage of dynamic market changes, businesses need to be able to respond swiftly to new opportunities. They will have many choices about how and where to do that, and the speed and responsiveness of regulators is a vital factor.*

## WHY ACTION IS NEEDED?

At different times, firms have to make a range of applications to the regulators – e.g., to obtain new authorisations or to update existing status. These processes can be slow and act as a barrier to change and dynamism. A good live example of where particular challenges exist relates to Change in Control applications to the PRA or FCA under FSMA Section 178. In these circumstances, if specific thresholds are breached (e.g. due to an acquisition or increase in a qualifying holding) then a formal application has to be made. The assessment period in these instances is intended to be 60 working days from commencement.

However, there have been growing concerns about delays. In particular there have been delays in appointing case officers, with a typical two-month lag at present. This in turn delays the start of the assessment process. Following the start of application review, there are then also frequent follow up questions, which can slow the process even further.

## WHAT SHOULD BE DONE?

It is acknowledged that a number of practical changes are already in the process of being embedded. However, whilst this is welcome, it should be accompanied by more specific measures and targets.

The regulators should re-assess the time it takes for cases to be passed through the different types of authorisation cycle, and this should be supported by revised SLAs for each stage of the various categories of decision. As with approval of individuals, this should include an ambitious target of five days for assigning case officers, as well as creating concise windows for questions and responses.

## WHAT WILL BE ACHIEVED?

The speed and quality of decision making with respect to authorisation of applications is a crucial part of supporting competition and innovation. In addition to supporting existing businesses, it also has the potential to demonstrate the willingness of the UK to welcome good businesses and in particular new entrants.

There are clear steps that can be taken and a good opportunity to create a revised model that is robust, protects customers and markets but demonstrates to investors the openness and competitive intent of the London Market.

## MILESTONES AND MEASURES

Both the FCA and PRA already publish metrics on adherence to their statutory targets. This includes the percentage of applications which are completed within 60 days of receiving a complete notification. In addition, examples of additional data the regulators should consider publishing include:

- Average time it takes to reach a decision for each type of application
- Average time it takes to assign a case handler
- Proportion of applications overdue by greater than 30 days
- Data on the number of applications which have been rejected. This should include summary trend data on reasons for rejections and case studies on common problems
- Data on the types of follow up questions asked of firms, including case studies on common challenges to support firms in improving the quality of submissions

# 4 ATTRACTING NEW MARKET ENTRANTS

*London has to be able of offer a compelling investment proposition to (re)insurance businesses looking to come here. Understanding the regulatory expectations and getting the right approvals in the right timeframe is a core imperative. There are clear opportunities here to support the competitiveness of the London Market and to make it a more attractive location in which to do business.*

## WHY ACTION IS NEEDED?

For firms establishing a presence in the UK market the process can be complicated and, in some cases, disproportionate to the risks involved. This issue is a particular challenge for new firms as well as for overseas firms looking to establish a presence in the UK market. Meeting current expectations can be time-consuming and resource intensive, and in some instances can lead to missed opportunities as firms decide to focus their attention elsewhere in jurisdictions with a more proportionate approach. This is something that has been further brought into focus following Brexit as firms look to structure their operations so as to minimise the impact of leaving the Single Market.

## WHAT WILL BE ACHIEVED?

Following Brexit, firms have already had to undergo significant change, with risks of activity moving to EU jurisdictions and beyond. An excessively burdensome process for approving branches runs the risk of the London Market missing out on a range of activities, and the risk of new business taking place elsewhere. A review of existing practices, and experiences can support a more proportionate approach going forward and support efforts to prevent leakage of activity to competitor markets.

## WHAT SHOULD BE DONE?

In the first instance, it is proposed that regulators take a more proportionate approach to approvals. This should be determined via a review of the current approach to new market entrants with a particular focus on international firms. The aim should be for rules and expectations to be applied proportionally to the risks presented by the firm's UK presence.

In addition to this, many international firms have no UK clients and so, in addition, it is proposed that the UK regulators explicitly rely on the supervisory activities of applicable home state regulators. To support this, they should publish a list of acceptable home state regulators upon whom they are willing to place reliance. Where a firm has its head office in one of these states then a lower level of supervisory activity should be carried out.

The approach should also extend to expectations around the level and coverage of Senior Manager appointments for firms who have a relatively limited presence in the UK. For example, firms who only have a Branch should have expectations in terms of management that are proportionate to their presence, with reliance placed on Approved Persons in their Home State where appropriate.

## MILESTONES AND MEASURES

As an immediate first step, the UK regulators should draw up and publish a list of acceptable home state regulators.

Beyond this, the regulators should be actively demonstrating the impact they are making in terms of encouraging new entrants. This means that data should be published showing the degree of success obtained in achieving this. As part of overall 'competitiveness' reporting, the following data should be published on an annual basis.

- The number of new applications made per year, set out by firm type (e.g. insurance vs reinsurance) and entity structure (e.g. branch versus subsidiary)
- Approval and rejection rates. This should include qualititative lessons learnt including case studies of where firms have failed in an application and why

# 5 REDUCING THE COST OF DOING BUSINESS

*Firms are asked to provide an extensive volume of data by the UK regulators. In many instances, these requests are important and, where they can be seen to contribute to good market or customer outcomes, have broad support. However, at the same time it should be noted that, in aggregate, these data requirements can present a significant burden on firms, and can also be inefficient, particularly where similar information has to be provided separately to different regulators.*

## WHY ACTION IS NEEDED?

Firms are required to provide an extensive volume of data covering a large range of their business activities. These range from financial data such as capital and liquidity positions through to newer requirements around matters such as how environmental, sustainability and governance (ESG) related matters are taken into account. There is a significant opportunity for reform centred around the scope and scale of data requirements placed on firms. A very live topical example relates to Solvency II. This regime has broadly brought benefits to the London Market, particularly in terms of Pillar II risk management, strong balance sheets and the ability to write global programmes. However, whilst these objectives are important overall, there is the potential to streamline a number of the data reporting requirements which can run up to thousands of pages per firm.

## WHAT SHOULD BE DONE?

It is proposed that the PRA use their ongoing review of the current data requirements under Solvency II to create revised expectations for firms that focus on the priority areas of risk. This could, and should, ensure that requirements are differentiated according to firm size and activity as appropriate. This should then be extended to the full spectrum of data requirements placed on firms. There should be a co-ordinated review carried out by the PRA and FCA in consultation with industry to work through all existing and new forms and returns to determine which requirements should remain and where efficiencies can be created.

This initiative should include the identification of opportunities to remove requirements and should also focus on identifying opportunities for data to be provided on a smaller number of templates and also for reporting to both regulators simultaneously. The regulators themselves should also seek opportunities to overcome any existing barriers to sharing between themselves where appropriate.

## WHAT WILL BE ACHIEVED?

The test of this initiative will be through material reductions in data requirements requested by the PRA and FCA going forward. Whilst there is a clear route to improvement with respect to Solvency II reporting, there is potential to replicate this approach across a wide range of reporting requirements. This is particularly important as new reporting requirements tend to be added incrementally (e.g. new expectations with respect to ESG, cyber and operational resilience).

There is also an opportunity to link this proposal to more proportionate activity-specific regulation. As with many other elements of regulatory activity, the provision of data is something else that should be tailored to firm type and level of risk. The extent of any requirements should be tailored accordingly.

## MILESTONES AND MEASURES

To support evaluation, current requirements should be measured and used as a baseline for future reductions. As a starting point, this should include quantifying the following measures:

- The number of reporting returns required for each type of firm
- The average number of fields of data requested from each firm type across the list of returns;
- The average length of submissions;
- Estimates of the time taken by firms to comply with existing information requirements; and
- Average cost to firms of preparing regulatory reporting submissions.

# 6 THE RIGHT REGULATION FOR THE RIGHT FIRM

*Making sure that businesses are not burdened by regulation that is not pertinent for their operations will reduce costs and improve the attractiveness of London as a (re)insurance centre. This should involve setting the tone for future 'activity-specific' regulation by increasingly considering proportionality in current and ongoing activity.*

## WHY ACTION IS NEEDED?

The FCA in its capacity as a conduct regulator has introduced, a significant number of new customer focused regulatory initiatives over recent years. This focus on good customer outcomes is an important part of the FCA's objectives and is widely supported across the industry. However, in some instances there appear to have been unintended consequences associated with some of these new rules. As such, some wholesale market participants have been caught by new expectations even though they are in practice at arms-length from affected customers. This issue is accentuated where firms within the supply chain are extra-territorial, and therefore out of jurisdiction.

## WHAT SHOULD BE DONE?

The Pricing Practices Policy Statements introduced new rules to Insurance: Conduct of Business Sourcebook (ICOBS) which came into effect on 1st January 2022. Both Policy Statements have confirmed that an evaluation of the market would take place following implementation. This will include initial monitoring through reporting data for firms. It will also include a longer-term evaluation of the effect on the market starting in the first half of 2024.

It is proposed that, as part of this two-stage post implementation review, the FCA review the applicability of these rules to ensure that the scope of the rules is limited to those firms with direct customer impact. A particular way of doing this that should be considered is to align the scope of the rules to those market participants who are eligible for Financial Ombudsman Service (FOS) complainants. As with other proposals in this Report, this will further support the overall intention of a move to a more accurate and proportionate 'activity-specific' model of regulation going forward.

Having considered this issue in the context of the General Insurance pricing context, the broader approach to delineating scope should be drawn on and replicated in any other areas of customer facing regulation, whereby current, or proposed scope captures firms who do not themselves have a direct impact on customer outcomes.

## WHAT WILL BE ACHIEVED?

Appropriately delineating the applicability of the General Insurance Pricing Rules would have the benefit of ensuring that the burden of compliance required to deliver good customer outcomes is clearly focused only on those firms who have a material impact on end users. Based on this analysis, a descoping may be achievable – in particular via the FCA's planned full review in 2024.

However, this should not be the limit of the ambition in this particular area, and the FCA should be mindful of the benefits that could be created for existing and new firms by applying careful scoping to any new rules as part of future plans to embed a much more streamlined 'activity-specific' approach to regulation.

Other regulatory initiatives where a similar issue exists, or may become apparent in the future, should be identified now to facilitate a preventative approach to future regulatory activity. This should include ensuring appropriate cost benefit analysis (CBA) is carried out across all regulatory initiatives and that this is then supported by robust post-implementation review once new rules have been implemented.

## MILESTONES AND MEASURES

The key performance indicator for this initiative with respect to the General Insurance Pricing Rules will centre around the publication of the FCA's ongoing monitoring activity. As part of this, the data will be expected to demonstrate at a firm by firm level what impact the rule changes have had and how compliance has led to material benefits for customers.

This data should be published and then used to inform the proposed 2024 post-implementation review activity. A detailed impact assessment should be carried out at that point and should include an assessement of the extent to which the new rules have had a customer benefit for all firm types.

The results of this specific impact assessment should be used to inform future Cost-Benefit Analysis activity when introducing new rules in other areas.

# ABOUT THE LONDON MARKET GROUP

The London Market Group is the only body which speaks collectively for all practitioners in this significant market, representing the views of insurance brokers, those insurers and reinsurers operating within Lloyd's, and branches of overseas insurers and reinsurers operating in London – reflecting the full extent of the Market.

This plan reflects the perspectives of the International Underwriting Association of London (IUA), the Lloyd's Market Association (LMA) and the London & International Insurance Brokers' Association (LIIBA) and Lloyd's of London.

## FOR FURTHER INFORMATION CONTACT:

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