

# Financial Services Future Regulatory Framework Review

## Phase II Consultation

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The British Vehicle Rental and Leasing Association (BVRLA) represents the demand side of the automotive industry. Our members engage in vehicle rental, leasing and fleet management, purchasing around 50% of new vehicles sold annually in the UK. The sector supports over 465,000 jobs and supplies UK businesses and consumers with a combined fleet of over five million cars, vans and trucks.

The BVRLA and its members are supportive of HM Treasury's work looking at the financial services regulatory framework. The UK's departure from the European Union creates an opportunity to review not just onshored EU legislation but also any UK legislation that is no longer fit for purpose. This is an opportunity to ensure that UK financial services have clear, transparent, outcomes-led regulation by regulatory bodies which are accountable to Government.

### Consultation questions

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**Q1: 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?**

We believe the FSMA model has been effective. However, the EU Consumer Credit Directive (CCD) and the Consumer Credit Act (CCA) also determine the processes and regulations in the credit sector.

As the UK is no longer bound by the CCD there is now scope to simplify and modernise the regulatory environment through the adaptation of the FSMA model. This must also include a review of the CCA, or else the regulatory approach outlined in this consultation will not be possible.

**Q2: What is your view of the proposed post-EU framework blueprint for adapting the FSMA model?**

The departure of the UK from the EU has given the government more autonomy to act around financial services regulations. This increased autonomy could create positive reforms as imagined in the blueprint proposed. However, it will be critical in any post-EU framework for regulators to be strongly independent and the interaction between regulators and Government transparent. Regulators will also need robust accountability and governance controls.

**Q2(I): What are your views on the proposed division of responsibilities between Parliament, HM Treasury and the financial services regulators?**

We agree with the proposed division of responsibilities. Allowing regulators to have more flexibility will enable them to be more responsive and consistent in their approaches, which is in the best interest of firms and consumers. It is also correct for Parliament to set the broad regulatory framework within which the regulators can operate with increased flexibility.

It is critical that government and regulators consult with stakeholders on the approaches they are taking. In these consultations, there must be sufficient time for responses from stakeholders and detailed analysis from the regulator or government.

**Q2(II): 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?**

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We agree with the proposal that Parliament set the policy approach in key areas. We believe a key area of reform that needs Parliamentary attention is the CCA. The consumer credit regime should be simplified and a single modern set of rules (the regulator's) established.

The CCA's shortcomings have been exposed during the Covid-19 pandemic. The constraints created through its provisions meant that there was a lack of consistency between the approach of the regulator and requirements enshrined in primary legislation. This created inconsistent outcomes and required firms to risk non-compliance or act in ways that would not be in the best interest of their consumers. While changes were possible through Statutory Instruments, their scope was limited by the primary legislation.

**Q2(III): 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?**

Existing accountability procedures and mechanisms should be extended to these new principles.

**Q3: Do you have views on whether and how the existing general regulatory principles in FSMA should be updated?**

Broadly the FSMA regulatory principles are satisfactory. However, for the proposed structure to work the Financial Ombudsman Service, an important part of the framework, will need to be both more consistent in its decisions and provide greater transparency around how they were reached.

**Q4: 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?**

We agree with the regulator's existing statutory objectives. It is vital that when Parliament sets the framework legislation in key areas of regulation they are clearly consistent with the statutory objectives of the regulators. Additionally, regulators will need to be clear around what outcomes they want to achieve in regulated markets with any changes they make and that these are in line with all their statutory objectives.

**Q5: Do you think there are alternative models that the government should consider? Are there international examples of alternative models that should be examined?**

No, we do not, the FSMA model and the approach outlined in the consultation are of a global standard. However, it will require that both onshored EU legislation and outdated UK legislation are rapidly reformed. The CCA is not an international benchmark.

**Q6: 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?**

We agree generally with the approach set out in the consultation. However, with greater flexibility, regulators will also need to demonstrate greater accountability and transparency. Processes for accountability, scrutiny and engagement need to be robust enough to function both when rapid changes are needed and in slower periods of reform. It is inappropriate if key accountability or engagement measures can be disregarded in the interests of rapid action. Government needs to give more consideration

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to a core set of measures that ensure accountability and engagement irrespective of time or other pressures. We believe transparency throughout any process is key.

**Q7: How do you think the role of Parliament in scrutinising financial services policy and regulation might be adapted?**

Parliament will need to take an active role in scrutinising regulators and financial services policy. While existing parliamentary structures and committees may be able to do this new structures should also be considered. A key consideration for Parliament should be how to ensure there is a framework for transparent engagement with regulators and stakeholders which can occur when either stakeholders, the regulators or Parliament view it as critical.

**Q8: 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?**

The proposed close coordination between HMT and the regulators is something we support as long as there is transparency with stakeholders. A route to this transparency would be to release the minutes of meetings between HMT and regulators. At a minimum, the meeting notes should be accessible through Freedom of Information requests.

**Q9: 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?**

The FCA's approach to decision making during the Covid-19 pandemic underscored the lack of sufficient protections around stakeholder involvement in the policy-making process. The expansion of the FSMA model will require additional protections so that these approaches are not repeated. The FCA gave insufficient time to respond to consultations, did not perform cost-benefit analyses and did not give equal weight to their statutory objectives. If the policy-making process had been better conducted, it is likely that measures would have been better constructed, more nuanced and consumers and firms had better outcomes.

The principles controlling regulatory engagement will need to be strengthened if regulators are to have more flexibility and scope. Again, transparency in regulatory decision making will be key to this. Greater engagement opportunities will also play a role, for example, multi-stakeholder roundtables before consultations are launched

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## About the BVRLA

- Established in 1967, the BVRLA is the UK trade body for companies engaged in vehicle rental, leasing and fleet management.
- BVRLA members are responsible for a combined fleet of over five million cars, vans and trucks on UK roads, that's 1-in-8 cars, 1-in-5 vans and 1-in-4 trucks. The vehicle rental and leasing industry supports over 465,000 jobs, adds £7.6bn in tax revenues and contributes £49bn to the UK economy each year.
- On behalf of its 1,000+ member organisations, the BVRLA works with governments, public sector agencies, industry associations and key business influencers across a wide range of road transport, environmental, taxation, technology and finance-related issues.
- BVRLA membership provides customers with the reassurance that the company they are dealing with adheres to the highest standards of professionalism and fairness.
- The association achieves this by maintaining industry standards and regulatory compliance via its mandatory Codes of Conduct, inspection and governance programme and government-approved Alternative Dispute Resolution service. To support this work, the BVRLA promotes best practice through its extensive range of training, events and information-sharing activities.

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