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Financial Services Regulation Committee
House of Lords
London
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Dear Select Committee members,

House of Lords Financial Services Regulation Committee – Call for evidence on the FCA and PRA’s Secondary Objective

We welcome the opportunity to respond to your call for evidence on the FCA and PRA’s Secondary International Competitiveness and Growth Objective.

The Quoted Companies Alliance has examined the proposals and advised on this response from the viewpoint of small and mid-sized quoted companies.

Instead of answering each question contained in this call for evidence, we will provide our overarching views on the FCA’s Secondary International Competitiveness and Growth Objective. We will limit our response to the FCA’s work and remit as this is the regulator QCA members have most direct interaction with.

We welcome the FCA’s secondary objective and its overall work towards fulfilling it. The FCA has undertaken a comprehensive reform agenda to improve the competitiveness of the UK’s capital markets, one which the QCA has engaged with and broadly supported. We also recognise that, given the relatively brief period since the objective’s inception, there will inevitably be areas for improvement.

In our response below, we provide our observations on those areas where we feel improvements could be made. Specifically, we argue that the FCA has at times inconsistently applied its secondary objective and that there is a potential need for greater oversight on the objective’s application. Finally, we provide a list of recommendations for improving the secondary objective across both the international competitiveness and growth components.

Consistency in approach

With regard to the regulatory changes implemented by the FCA, the QCA has welcomed reforms to the listing rules and prospectus rules and believe these should contribute to making the UK a more competitive listing venue.

However, in other areas, we believe there has been an inconsistent approach adopted by the FCA. For example, there was significant and justified resistance to the FCA’s consultation *Enforcement Guide and publicising enforcement investigations – a new approach*, subsequently coined the ‘name and shame’ proposals. The QCA and a number of other organisations called for the FCA to rethink its reforms in this area in light of its secondary objective as it risked making the UK a less attractive and hostile financial centre for firms.

Increased oversight

In addition, while we welcome the FCA’s first SICGO report, we question whether there is a need for greater oversight as to how they fulfil their secondary objective. A number of proposals have been offered from a range of organisations on this point. For example, the Government’s proposal for a Regulatory Innovation Office contained in its 2024 Manifesto is one that merits consideration to the extent that it would effectively monitor the FCA in its work in pursuing its secondary objective.

Additional measures and metrics

In terms of the content of the Secondary International Competitiveness and Growth Objective, we believe that there are a number of areas that would improve its impact, application and monitoring:

International competitiveness

- **International comparability** – the FCA should assess and publish information on how they have due regard for the regulatory frameworks of other jurisdictions and major international financial services, with a particular focus on how the UK remains competitive against these. The FCA should use benchmarking to draw inferences in changes to market outcomes by evaluating the experience in markets with different but comparable regulatory structures.

The FCA already aims to implement consistent global standards which helps to lower compliance costs for internationally active firms, but it should also assess where UK rules go above and beyond the rules in other jurisdictions. As a general comment, if approaches to UK regulation differ substantially to those in other jurisdictions, it should be made clear why this is necessary.

- **UK positioning** – the FCA should ensure that they have due regard for the unique nature of the UK’s markets, and in particular, how they have given consideration to flexibility and proportionality within their regulatory framework (please see below on ‘proportionality’ for a more detailed discussion of this area).
- **Speed of processing authorisations** – in addition to publishing the percentage figure for authorisations and applications, the FCA should provide information on the number of calendar days taken and how far in advance of the statutory deadline these authorisations are being approved.
- **Engagement with market participants** – the FCA should ensure that they have sufficient processes for engagement to ensure high-quality, responsive, and timely engagement with market participants of different sizes and complexities.

Growth

- **Proportionality** – the FCA should publish their approach to proportionality and how they have taken into consideration the size, complexity and available resources of market participants prior to any regulatory action. For example, the FCA should outline how, in performing a cost benefit analysis prior to the implementation of regulation, they have considered the relative impact of regulation on market participants of different sizes and complexities.

While the FCA’s first SICGO report does outline its approach to proportionate regulation, this refers to the extent to which regulation impacts growth and that the “regulatory costs or restrictions on firms are proportionate to the expected wider economic benefits” (SICGO, p.10). As outlined above, the FCA should adopt a more comprehensive principle of proportionality that factors in the impact of regulation on companies of different sizes and sectors.

- **Regulatory burden** – the FCA should publish information on how they have taken into consideration the regulatory burden and how it impacts growth, including consideration of the costs, both financial and administrative, of any regulatory action.
- **Pre-implementation assessment** – the FCA should highlight how a proposed regulation will likely deliver improvements in market outcomes compared with the status quo. The FCA should include a high-level overview, as well as an explanation of how the proposed regulation and/or regulatory action/developments will result in improved outcomes for different market constituents, including companies and investors.
- **Post-implementation market outcome assessment** – the FCA should highlight how regulation and/or regulatory action/developments have resulted in improvements in market outcomes. This should include ex post analysis of the market outcomes as a result of the regulation in place along with a comparison of outcomes that would have arisen without such regulation. The FCA should include a high-level overview, as well as an explanation of how regulation and/or regulatory action/developments have resulted in improved outcomes for different market constituents, including companies and investors.
- **Deregulation** – the FCA should emphasise their ongoing commitment to deregulation as a key component of boosting growth. This includes detailing a continuous programme of deregulatory measures that have, or are intended to, remove or simplify existing rules and how they have, or will, deliver positive market impacts. The FCA should conduct an exercise to identify areas that are currently impeding growth that they intend to tackle.

In this light, the FCA must also take into account the sequencing of regulatory interventions. For example, where a rule or requirement has been introduced and subsequently removed and the removal has had no effect as the market has permanently adjusted their practices to meet previous requirements.

- **Duplication of legal and regulatory requirements** – the FCA should work with other regulators and government to identify, on a targeted basis, potentially overlapping requirements between law and regulation and take action to remove these duplications.

We welcome the FCA’s review of its Handbook and look forward to further initiatives geared toward streamlining overlapping requirements after its recent review of the Consumer Duty.

- **Innovation and regulatory sunseting** – the FCA should have due regard for potential imbalances between innovation and regulation in order to avoid instances where emerging technologies can outpace regulation and legislation, causing innovation to stall while entrepreneurs wait for clear regulatory guidance or permission. The FCA should consider regulatory sunseting for all new regulation whereby a new regulation is accompanied by a sunset date, which includes a justification for the date.

If you would like to discuss our response in more detail, please do not hesitate to contact us.

I would welcome the opportunity to discuss our members’ experiences before your committee. I know that a number of larger trade bodies have already appeared and I hope that by considering the QCA you will view this as the committee also operating proportionately.

Yours sincerely,

A handwritten signature in blue ink that reads "James Ashton".

Chief Executive