

How smarter regulation can bridge the ‘trust gap’ in UK financial services and drive economic growth

Monday, 11th November 2024, by email only to:

Chancellor of the Exchequer Rachel Reeves MP

Plus cc'd key relevant stakeholders:

- Chief Secretary to the Treasury, Darren Jones MP
- Economic Secretary to the Treasury, Tulip Siddiq MP
- Shadow Economic Secretary to the Treasury, Richard Fuller MP
- Chair of the Treasury Committee, Meg Hillier MP
- Chair of the Industry and Regulators Committee, The Rt Hon. the Baroness Taylor of Bolton
- Chair of the Financial Conduct Authority, Ashley Alder
- Chief Executive of the Financial Conduct Authority, Nikhil Rathi
- Chair of the Lords Financial Services Regulation Committee, the Rt Hon. the Lord Forsyth of Drumlean

Dear Chancellor,

Ahead of your Mansion House speech on Thursday 14 November, we the undersigned individuals and organisations, are taking the opportunity to state our support for your growth agenda and to respond to your manifesto's¹ call for involvement from civil society in your plans for growth to help build a stronger economy.

In particular, we believe that a timely opportunity exists for the new Government to boost economic activity by enhancing ‘trust and confidence’ in the financial services sector through working with all stakeholders to introduce smarter regulation that better protects and serves consumers and small businesses.

¹ Labour party manifesto; Kickstarting Economic Growth section:
<https://labour.org.uk/change/my-plan-for-change/>

Currently, the growth potential of the UK financial services industry is held back by the low level of trust the public has in the sector. The Financial Conduct Authority's biannual Financial Lives survey² shows that:

- Only 11 percent of adults strongly agree that they have confidence in the sector, with a further 30 percent agreeing slightly
- Levels of confidence have not grown, even as memories of the Global Financial Crisis fade
- Vulnerable and marginalised groups are the least likely to trust the industry, pointing to problems with financial inclusion
- Perhaps most disappointing of all, young people are more distrusting than older ones, suggesting that the problem may worsen, not ameliorate, over time.

The FCA research shows that consumers cite high-profile financial scandals, as well as their own personal negative experiences, as drivers of distrust. They are also more comfortable with their own providers than those they don't currently use, suggesting that the industry as a whole is judged by the standards of its 'bad apples'. It also implies that consumers may be resistant to trying new products and providers, an obvious barrier to innovation and growth.

If the Government is to succeed in its ambition to boost economic activity and tax receipts from the sector, this trust gap must be bridged. We believe that this requires a substantial reduction in the prevalence of misconduct cases³, and that there must be an enhanced focus on ensuring that consumer detriment is fully compensated when things go wrong, so that the public can have trust and confidence in knowing there are robust checks and balances in the regulatory framework that protect their interests.

The 'caveat emptor' approach taken by the previous administration was, in our view, profoundly damaging to the economic prospects of this crucial industry. On its watch, a series of independent reports concluded that financial regulation was not provided to an adequate standard. Examples of those reports include:

² <https://www.fca.org.uk/publication/financial-lives/financial-lives-survey-2022-key-findings.pdf>, pp221-234

³ Violation Tracker UK provides verified data on malpractice by the FS sector: <https://violationtrackeruk.goodjobsfirst.org/industry/financial+services> is greater than any other sector by size of fines <https://violationtrackeruk.goodjobsfirst.org/top-industries>

- Cultural Change in the FCA, PRA & Bank of England: Practising What They Preach? (New City Agenda, October 2016)⁴
- Report of the Independent Investigation into the Financial Conduct Authority's Regulation of London Capital & Finance plc (Dame Elizabeth Gloster, November 2020)⁵
- Review of the FCA's Handling of the Connaught Income Fund Series 1 and Connected Companies (Raj Parker, December 2020)⁶
- Protecting pension savers—five years on from the pension freedoms: Pension scams (Work and Pensions Committee, March 2021)⁷
- Independent review into the supervisory intervention on Interest Rate Hedging Products (John Swift KC, December 2021)⁸
- Investigation into the British Steel Pension Scheme (National Audit Office, March 2022)⁹

In addition, there were numerous other scandals that have so far not been subject to independent reviews but deserve such scrutiny, many of which were taken up in correspondence with successive Economic Secretaries to the Treasury and raised in Parliament by Labour MPs. These included:

- The exploitation of vulnerable, low-income workers by payday lenders and 'rent to own' retailers
- The ongoing plight of mortgage prisoners
- The Woodford Equity Income Fund, in which a 'superstar' fund manager jeopardised prudent savers' pensions with the victims then being denied by the FCA access to the statutory protections of the Financial Ombudsman Service and the Financial Services Compensation Scheme which had been the bedrock of market confidence

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https://newcityagenda.co.uk/wp-content/uploads/2016/10/NCA-Cultural_Change_in_regulators_report.pdf

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https://assets.publishing.service.gov.uk/media/5fda3d698fa8f54d60878b2f/Gloster_Report_FINAL.pdf

⁶ <https://www.fca.org.uk/publication/corporate/connaught-independent-review.pdf>

⁷ <https://committees.parliament.uk/publications/5322/documents/53036/default/>

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<https://www.fca.org.uk/publication/corporate/independent-review-of-interest-rate-hedging-products-final-report.pdf>

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<https://www.nao.org.uk/wp-content/uploads/2022/03/Investigation-into-the-British-Steel-pension-scheme.pdf>

- The peer-to-peer lending sector, where ‘light touch’ regulation, the result of Treasury lobbying, allowed rogue platform operators to fleece consumers
- Secured bond providers such as Blackmore Bond and High Street Group, where it is suspected that client monies were simply stolen by scheme promoters
- The Philips Trust Corporation case, in which one in four UK building societies targeted vulnerable, elderly customers with untruthful promises to persuade them to take out family trusts, resulting in substantial wasted costs, difficulties and delays selling homes and, in many cases, the misappropriation of lifetimes’ savings
- A series of scandals involving the mistreatment of SMEs by banks, which remain unremedied, in most cases more than a decade after the alleged wrongdoing occurred

As things stand, unpicking the above cases and dealing with the ongoing series of fresh scandals that will inevitably keep occurring, until the underlying causes are addressed, will provide a substantial headwind to economic growth under your administration, and will continue to divert Treasury resources and attention.

We believe that the performance and reputation of the financial services industry is the product of the standards of conduct it exhibits and the customer outcomes it delivers, and that these, in turn, are shaped by the standards of legislation, regulations and enforcement to which the sector is subject. If we are to improve the industry’s performance, we must therefore address the legislative and regulatory shortcomings that have allowed its standing to suffer and the resultant trust gap to emerge and grow with dire economic consequences. Put bluntly, our financial regulation must become smarter.

The negative externalities of the trust gap are felt by the industry, the Treasury and every citizen in the UK. From underperforming pensions and investments to the burden on the public purse caused by fearful investors’ understandable reluctance to risk their assets in poorly stewarded markets, to the reluctance of small business owners to fuel their growth by borrowing from banks lest they are ripped off - a sizable deadweight loss exists that can only be solved by the Treasury addressing the root causes of the problem, namely regulatory shortcomings.

But this is not an appeal for *more* regulation. On the contrary, our vision is that there is substantial scope to remove red tape that generates bureaucracy for no benefit. This is an appeal for *smarter* regulation that is *properly enforced*.

That latter point is key, given that there is ample evidence we can share with you that ineffective enforcement has been a notable weakness in the performance of our conduct regulator. There are two particularly worthy sources of evidence that shine a bright light on the Financial Conduct Authority's failure to protect and its poor enforcement problem:

- Firstly, the recent Power Without Responsibility¹⁰ report that shows the UK has a serious accountability gap when it comes to senior executives - those at the helm of large firms that engage in economic crime, financial wrongdoing or regulatory breaches rarely face any consequence at all and the innocent shareholders of those firms pay the fines that the organisations' leaders seem to treat as just 'the cost of doing business'; all this despite a remarkably potent and well-conceived set of powers enshrined in The Senior Managers and Certification Regime¹¹ that Parliament wanted to be put in place as a direct consequence of the carnage caused by the Global Financial Crisis.
- Secondly, the testimonies provided to the influential All-Party Parliamentary Group on Investment Fraud and Fairer financial Services' Call for Evidence about the Financial Conduct Authority¹² that show the powers Parliament has given the Financial Conduct Authority are being systemically under-utilised. Those testimonies are central to a soon-to-be published report the APPG is producing; it will be a forensic assessment of the FCA's consumer protection performance and will include recommendations for reform developed by an independent panel of experts that includes a former Labour Party Assistant General Secretary/Director of Finance and

¹⁰ The Power Without Responsibility Report by Spotlight on Corruption:
<https://www.spotlightcorruption.org/wp-content/uploads/2024/02/Spotlight-Power-Without-Responsibility-full.pdf>

¹¹ The Senior Managers and Certification Regime; an individual accountability regime that focuses on Approved Persons being fit and proper:
<https://researchbriefings.files.parliament.uk/documents/CBP-9168/CBP-9168.pdf>

¹² Over 170 written testimonies have been provided to the APPG on Investment Fraud and Fairer Financial Services. Some of the testimonies provided are already in the public domain:
<https://www.appgiffss.org/call-for-evidence-about-the-fca/videos-and-testimonies>

two former Chairs of the Financial Conduct Authority's Financial Services Consumer Panel.

Furthermore, a recent report¹³ indicates there is a meaningful link between the enforcement gap and the trust/confidence gap in several areas of the economy, not just the financial services sector - it is easy to see how lax regulation that is badly enforced has led to dismay and dissatisfaction in several areas; the water and energy sectors being other good examples where the public are feeling that "enough is enough."

We have ideas, energy, front-line experience and a willingness to do all we can to help your ambitions of achieving the safe, sensible and sustained growth our country desperately needs.

Our proposals include several smarter regulation initiatives that directly reflect the aspirations set out in your Financing Growth: Labour's Plan for Financial Services paper¹⁴, including:

- Stripping out needless red tape by replacing the Consumer Duty with a Duty of Care
- Accelerating the FCA's ability to learn from regulatory failures
- Strengthening the governance, review and accountability of the FCA, Financial Ombudsman Service and Financial Services Compensation Scheme
- Counteracting the understandable nervousness of SMEs to make good use of banking services
- Providing an equitable and efficient way to deal with new and legacy disputes
- Incentivising the FCA to enforce properly through heightened scrutiny of the extent to which it makes use of the powers Parliament has given it

The honest majority of financial services firms would gain immensely from the strengthened safeguards and protections promised by these measures, which can be introduced at no

¹³ [Protecting All We Care About](https://unchecked.uk/wp-content/uploads/2024/06/UnChecked_GJF_Protecting_Report_JUNE2024_V8.pdf) by Good Jobs First and Unchecked UK:
https://unchecked.uk/wp-content/uploads/2024/06/UnChecked_GJF_Protecting_Report_JUNE2024_V8.pdf

¹⁴Financing Growth: Labour's plan for financial services; policy priority 3 on re enforcing consumer protection is especially important we feel:
<https://labour.org.uk/updates/stories/financing-growth-labours-plan-for-financial-services/>

overall cost to the public purse. A small number of bad actors would find life immeasurably more difficult; but that is to be welcomed, given the risk of the entire sector being tainted, and its prospects impaired, by their wrongdoing.

Like you and your government colleagues,¹⁵ we believe in:

- Putting an end to economic policy making that serves the short term only, by creating a stable policy environment, strengthening our economic institutions, and giving investors the certainty they need to fuel investment and growth - be they overseas organisations building factories in the UK, or Brits working in those factories saving for their retirement
- Being mission-driven and focused on the future, so we can kickstart economic growth and rebuild Britain, seizing opportunities and removing barriers to growth as we go
- Stimulating a pro-business environment, with a competition and regulatory framework that supports innovation, investment, and high-quality jobs
- Capitalising on wherever the UK enjoys advantages over other countries including of course in our flagship financial services sector
- Creating wealth through the proven merits of securonomics¹⁶

It is therefore vital that financial regulation must avoid being burdensome, but must be directed at allowing the industry to play its critical role in delivering sustainable, reputation-enhancing growth.

We believe that an intelligent approach to the challenges we have described would result in a timely boost to our prospects for healthy growth and the restoration of the reputational integrity of the UK's flagship sector; a win/win for the City and the citizen - what's not to like?

¹⁵Labour Party manifesto: <https://labour.org.uk/change/my-plan-for-change/>

¹⁶Your speech of May 24th 2023 at the Peterson Institute, Washington DC

We ask you to consider working with us and other consumer stakeholders and civil society groups to introduce moderate, incremental improvements to the regulatory landscape aimed at improving fairness, consumer security and consumer outcomes. In turn this will boost confidence in the system as a whole and thereby additional growth to the economy.

We would welcome an opportunity to meet with you to discuss our thoughts and we look forward to hearing from you.

Yours sincerely,

All the undersigned, including for response purposes,

Andy

Andy Agathangelou FRSA

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