ICAEW
REPRESENTATION 11/24

SMARTER REGULATION - THE REGULATORY LANDSCAPE

Issued 17 January 2024

ICAEW welcomes the opportunity to comment on the Call for Evidence - Smarter Regulation - The Regulatory Landscape published by Department for Business and Trade on 17 October 2023, a copy of which is available from this link.

ICAEW agrees that having a good regulatory regime is of fundamental importance for the UK economy and supports the efforts of the "Smarter Regulation" initiative to improve it.

The evidence we refer to in our response suggests that there is considerable room for improvement.

We would like to see government:

(i) Further develop both the principles of regulation that regulators are expected to adhere to in the conduct of their regulatory activities and principles that are expected to apply when regulators are being established or reformed.
(ii) Take steps to promote adherence to these principles in a consistent way, including developing ways to measure how well they are being applied.
(iii) Establish a new way of keeping Parliament informed about the functioning of the regime in a systematic and regular way across the whole field of regulation, with measures and other evidence set out in reports produced independently of the regulator.
(iv) Provide key information about the regime to the public in a more coherent and digestible way than is currently the case, including listing the regulators to whom all or any of the above controls should apply.

We do not underestimate the complexity of the regime or the related challenges in improving it. Some reforms will take time to implement and bear fruit, but we urge government to pursue the Smarter Regulation initiative on an ongoing and high priority basis and make such changes as can usefully be made in the short term.

Reducing the volume of regulation or number of regulators may be a consequence of "Smarter Regulation" but should not be its driving purpose. The priority should be to improve the architecture of the regulatory regime to ensure that regulation acts in a proportionate, coordinated and effective manner.

ICAEW
Chartered Accountants' Hall Moorgate Place London EC2R 6EA UK
icaew.com

ICAEW is a world-leading professional body established under a Royal Charter to serve the public interest. In pursuit of its vision of a world of sustainable economies, ICAEW works with governments, regulators and businesses and it leads, connects, supports and regulates more than 166,000 chartered accountant members in over 146 countries. ICAEW members work in all types of private and public organisations, including public practice firms, and are trained to provide clarity and rigour and apply the highest professional, technical and ethical standards.

ICAEW's regulatory and disciplinary roles are separated from ICAEW's other activities and are carried out by the Professional Standards Department (PSD) and overseen by the independent ICAEW Regulatory Board.

ICAEW is:

- The largest recognised supervisory body (RSB) and recognised qualifying body (RQB) for statutory audit in the UK. There are 2,299 firms and 6,692 responsible individuals registered with us under the Companies Act 2006.
- The largest recognised supervisory body (RSB) for local audit in England. We have 10 firms and 100 key audit partners registered under the Local Audit and Accountability Act 2014.
- The largest insolvency regulator in the UK. We license over 830 insolvency practitioners (out of a total UK population of 1,541) as a recognised professional body (RPB) under the Insolvency Act 1986.
- A designated professional body (DPB) under the Financial Services and Markets Act 2000 (and previously a recognised professional body under the Financial Services Act 1986). We license 1,785 firms to undertake exempt regulated activities under this Act.
- A supervisory body recognised by HM Treasury for the purposes of the Money Laundering Regulations 2017, dealing with around 11,000 firms.
- An approved regulator and licensing authority for probate under the Legal Services Act 2007. Over 350 firms are accredited by ICAEW to carry out this reserved legal activity.

and:

- More than 290 firms are accredited to perform ATOL returns work under the ICAEW Licensed Practice scheme for ATOL Reporting Accountant work. This was set up in 2016 after the Civil Aviation Authority (CAA) gave approval for ICAEW to license, register and monitor firms which perform ATOL returns work.
- Our Practice Assurance scheme provides ICAEW members working in practice with a framework of principles-based quality assurance standards. We monitor around 12,000 firms to ensure they comply with the Practice Assurance standards.

This response is being made by our Reputation & Influence department and in our capacity as a representative body for our members, not in our regulatory capacity. We have, however, included evidence provided by PSD along with other evidence in making this response.

For questions on this response, please contact representations@icaew.com quoting REP 11/24.

KEY POINTS

1. We agree that regulation is essential to reduce risk of harm, promote quality and economic growth and to instil trust in markets and business affairs. Poor regulation can be counter-productive and we broadly agree with the objectives of the Smarter Regulation initiative outlined in the introduction to the Call for Evidence:
   - Only using regulation where necessary,
   - Implementing it well, and
   - Ensuring its use is proportionate and future proof.
2. The Call for Evidence is aimed at understanding what works well, or not so well in the regulatory landscape, why and how it might be improved, and it highlights the need for regulatory agility; proportionality; and consistency of approach and looks for "real-world" experience.
3. Our members have a wealth of real-world experience through running and advising businesses of all sizes and have knowledge of regulation across an enormous variety of regulated sectors. We have consulted them widely in preparing this response and drawn on our experience of these matters over many years, for example we typically respond to over 100 consultations on regulatory change a year.
4. We have responded to the specific questions raised in the Call for Evidence in the Response Form provided for the purpose and have annexed it to this document for reference. We cross refer to that evidence or commentary where relevant here rather than repeating it, by reference to the relevant question in the Form, eg [Qx].
5. We have seen examples of good regulation and regulatory practices, but most feedback has highlighted criticisms of it, which is perhaps inevitable in a consultation of this kind. We do think, however, that they demonstrate a need for reform and improvement.
6. We outline below some of the key concerns arising about the regime. We do not believe that the solutions lie simply by looking at examples of what works well. Rather, the mechanisms for assessing the effectiveness of the regime and bringing about continuous improvement need to be improved.

GENERAL CONCERNS ABOUT THE UK'S REGULATORY REGIME

COMPLEXITY

7. It is not easy to summarise even the key features of the regime and underlying legislation, as we found when preparing the ICAEW briefing on the UK's regulatory regime. For example, it is necessary to track a series of statutory instruments even to know to which regulators the Principles of Good Regulation apply and to which the separate Growth Duty apply. It is far from easy to see what the differences in the regulators covered are, let alone know why there are differences or which regulators are not covered and why.
8. The fact that the regime is complex is not entirely surprising as it has grown organically over many decades, often in response to issues of the moment rather than following a coherent plan [Q6, Q10-Q12]. Nevertheless, reforms to simplify would be welcome and tools should be developed to make it easier to navigate regardless.

VOLUME OF REGULATION

9. We received frequent comments about the volume of regulation and material associated with it, such as guidance [Q12]. We agree that regulation that serves no useful purpose should be removed and regulation that is inconsistent with other regulation should be reformed, but note that previous initiatives to reduce the amount of regulation in the UK and elsewhere such as the UK's "one in two out" initiative and the Paperwork Reduction Act in the USA

have rarely been perceived to be successful and constant change in regulation is itself a burden on business.

INCONSISTENCY AND LACK OF COORDINATION

10. Inconsistent regulation and inconsistent approaches taken by regulators are matters for concern [Q8-Q10]. Complexity and scale of regulation may be partly responsible for this, for instance the sheer volume of regulation may make it practically impossible for a regulator in one area to know enough about potentially overlapping areas to take them sufficiently into account in its work. It is clearly apparent from our members that inconsistency and lack of coordination across regulators add a significant burden to business. We believe that better coordination is needed and that our suggestions for change would help facilitate this.

SHORT TERM POLITICAL INFLUENCE

11. There is a strong view that government should use existing tools as effectively as possible before proposing to introduce new regulation or regulators and that it does not currently do so [Q9-Q12].
12. We note that the Smarter Regulation initiative seeks to address this concern by calling for more robust justification for new regulation early in the policy development process. The mechanisms we propose to assist Parliament scrutinise the regulatory regime would also assist.

FAILURE TO APPLY PRINCIPLES OF GOOD REGULATION

13. The Principles of Good Regulation and the Regulators' Code provide a reasonable benchmark for what constitutes good or bad regulation or regulatory practices and they apply to a great many of the UK's regulators. They call, for instance, for a joined-up approach, clarity, consistency and for regulation to be targeted and only to be imposed where necessary.
14. If they had been adhered to perfectly throughout the regime, the incidence of problems would have been reduced.
15. However, they are clearly not being adhered to sufficiently. In addition to the points noted above there are concerns for example about proportionality [Q20, Q37], levels of support regulators give to those they regulate [Q17-Q18], the nature of guidance provided and the quality of rule drafting [Q12].

RECOMMENDATIONS FOR CHANGE

THE NEED FOR CHANGE

16. Feedback we received illustrates how the burden of regulation can have adverse impacts beyond direct and easily quantifiable costs. In some cases, the cumulative impact of regulatory burdens is causing businesses, especially small businesses, to cease some areas of activity or contributes to decisions to cease business altogether [Q23]. Some additional work is an unavoidable and natural consequence of the benefits that regulation brings. However, some costs are caused by shortcomings in the regime, eg, unnecessary complexity and inconsistencies, and it is therefore important that efforts are made to address the shortcomings.

DEVELOP AND APPLY OVERARCHING PRINCIPLES OF REGULATION

17. We believe that the regime could be materially improved were key principles that are common to all, or most, UK regulators developed and applied consistently to across the regulatory regime.
18. The Principles of Good Regulation and Regulators' Code continue to provide a foundation for the sort of principles we have in mind. However, we believe that:

- Government should consult on updating them to reflect experience of stakeholders since they were introduced and learnings from reform initiatives such as the current Smarter Regulation initiative. They should then be reaffirmed by government.
- They should be applied more robustly and visibly across the regime.
- Mechanisms to assess whether regulators are adhering to the principles and for improving adherence to them across the regime need to be strengthened as outlined in the later sections of this response.

19. We have the following initial suggestions regarding any potential updating exercise.

Developing the principles for regulatory activities

20. The Principles of Good Regulation are wide-ranging and some are very broad. For example, the principle that regulation should be "targeted" suggests not only that regulation should be targeted at the problem it seeks to address but also that a "goals" based approach should be used and that enforcement should be based on risk. It seems that more than one important principle is contained here. The Principles and Code overlap and we believe that any review should be done on a holistic basis.
21. Given the wide range of businesses subject to regulation in terms of size and complexity and the difficulty in developing a spectrum of rules that are smoothly proportionate to all, further principles on how the concept of proportionality should be applied could be helpful. For example size thresholds bring certain challenges.
22. While agility is important, business needs regulation to be predictable too and there is a balance to be struck [Q13-Q16].
23. There may be scope to simplify principles or requirements for regulators to have regard to the impact of their actions on matters that could impact society adversely in areas outside the immediate remit of the relevant regulator, such as obligations to have regard to economic growth, sustainability, innovation or, in the case of regulators without an express competition remit, competition. It is hard to see that any regulator should be oblivious to such matters or, therefore, why the relevant principles could not be applied universally and more simply than is currently the case.
24. Such principles could also make clear that government itself has an essential role in bringing about the desired outcomes beyond its involvement in the regulatory regime, for example creating the right environment for economic growth in all respects. This could help to address concerns about short term political influence noted above.

Principles for establishing or reforming regulators (governance)

25. The Call for Evidence raises questions about regulatory objectives, independence and other matters relating to how regulators are established and governed. For many these may seem to be esoteric matters, but they are the source of some of the complexity and inconsistencies in the regime and, therefore, of some of the concrete difficulties that arise.
26. There are various factors that should be considered by those responsible for establishing new regulators or considering reform of existing regulators, for example whether the regulator is a public body and, if so, how it should be classified under Cabinet Office Guidance. We think it would be helpful if relevant guidance and similar materials could be consolidated and set out in a transparent and accessible manner to allow for greater public understanding of the underlying principles involved that help shape the regulatory regime. This would cover matters such as when a regulator should be independent of government, the means by which such independence can be created or undermined, what powers of enforcement should be given to regulators and in what circumstance criminal sanctions should be applied for regulatory purposes.
27. Such principles could also cover why categories of objectives such as "strategic", "overriding" and "operational" objectives should be created in some cases but not others and how regulators are expected to balance potentially competing objectives, especially ones that are applied across many regulators [Q5].

28. Funding models for regulators and how their costs are monitored and controlled is also a key consideration in how regulators should be established and governed that does not seem to be covered sufficiently robustly in the current Principles of Good Regulation. For example, it would be helpful to know what principles apply to determine whether one regulator should be funded through taxes whilst others are funded on a different basis such as levies on those being regulated and what mechanisms apply to ensure that, whatever funding model is used, the costs are controlled, and the regulator is providing value for the money. It is important that such matters are easily visible to the public because they will often ultimately bear costs, whether through taxation or through the costs being passed on by those incurring them through their charges for goods and services.

MEASURES OF EFFECTIVENESS OR SUCCESS

29. The principles outlined above would provide a framework to help stakeholders understand how the regime should function and assess whether it is in fact functioning as intended.
30. However, the principles are broad in nature, and we suggest that specific measures should also be developed to enable the effectiveness of any regulator in meeting its objectives, including its adherence to the relevant principles, to be measured on an ongoing basis. These metrics could also be used on an aggregated basis to assess whether the UK's regulatory landscape is becoming more or less effective.
31. For example, as regards funding models and assessing value for money, direct costs could easily be tracked from one year to the next as they are generally already included in annual reports or accounts regulators are required to produce and adherence to some of the principles (eg, to consult before making rule changes) could easily be measured as could the number of regulatory sanctions imposed and the amount of financial penalties levied by relevant regulators.
32. But effectiveness should not just be measured only by performance indicators that are easy to establish and assess objectively. For example, outcomes should be measured, but the nature of any measures would depend on the objectives of the regulator. Some desirable outcomes may by their nature be difficult to measure or it may be difficult to determine to what degree the regulator was responsible for the outcomes.
33. Assessing the effectiveness of any regulator is therefore likely also to require expertise and resources and analysis of potentially complex circumstances.
34. There is, of course, little point in establishing underlying principles of regulation or ways of measuring their effectiveness unless there is someone with responsibility to assess levels of performance and the assessments are used to bring about change if necessary.
35. Many regulators are currently meant to have regard to the Regulators' Code. Most will say that they do, but it is difficult to know if this is true, or to assess performance on a comparative basis. It is, therefore, vital that appropriate accountability mechanisms are in place, as considered below.

A NEW WAY OF KEEPING PARLIAMENT INFORMED (ACCOUNTABILITY)

36. There are various bodies and mechanisms intended to help Parliament keep the regulatory regime in check. For example, Parliamentary Committees review specific regulators or aspects of the regime, and the National Audit Office has a role to play. However, we do not believe that current mechanisms to hold regulators to account are working as well as would be desirable.
37. This has been identified as a key issue in relation to certain oversight regulators with what has been described as their "near-omnipotence" resulting in regulatory overreach, growth in scope of regulatory activity, and disproportionate application as identified in the Response Form:

> "The key issue we observe with the UK regulatory regime as it relates to professional services is the lack of clear and effective accountability of oversight regulators. While each of the oversight regulatory bodies has a set of powers awarded to it by an area of law and/or government, each body is able to operate with apparent freedom to achieve its regulatory remit as it sees fit."

38. Parliament is the body with ultimate power to hold regulators to account. We have seen a variety of suggestions regarding how the current mechanisms for Parliamentary scrutiny of the regime might be strengthened and we suggested in our response to the Better Regulation Framework consultation in 2021 that a new body is required to help Parliament hold regulators to account.
39. We continue to believe this, although would add that any new body might comprise a collective of existing bodies or be existing bodies supplemented by additional resource.
40. Its objective would be to help keep Parliament informed, systematically and regularly across the whole field of regulation, with measures and other evidence set out in independently compiled reports. The following factors should be considered in relation to any new body:
    - It should be independent of government and not under control of the regulators.
    - It should have power to require regulators to provide relevant information to it and to receive information about regulators from regulated persons or the public on a confidential basis.
    - It should itself be proportionate in its approach.
    - It should have the expertise and resources to seek out and evaluate information it receives and to analyse complex circumstances.
41. Any such body would not necessarily displace existing arrangements for systematic review of regulation but could complement and leverage them and operate on a continuous rather than ad-hoc or periodic basis.
42. We would not expect it to have powers to sanction regulators, but rather it would assist Parliament in its arduous task of ensuring that the regulatory regime which it has created is performing as it intended.

A ROAD MAP

43. It is necessary to understand how the regime works or is intended to work to improve it. That is currently an enormous challenge. The regulatory regime is not a structured coherent whole but has developed organically as noted earlier.
44. We note that there is no fixed definition of "regulator", and the Call for Evidence says only that there are "about 90" of them. We suggest that government should provide a definition and list of regulators for the purpose of ensuring that relevant bodies are identified and subject to the sort of controls and disciplines outlined in this paper.
45. The definition should not be so broad as to catch bodies that do not need to be held to account in the way envisaged here, for example sports clubs that are regulators of their members by virtue of setting and enforcing their membership rules, but it must be possible, for example, to list the 90 or so referred to in the Call for Evidence and explain on what basis they are selected and others are omitted as a starting point..
46. A road map could, in addition to listing the UK's regulators who fall within the relevant definition of "regulator", provide key information about each of them in comparable form. This could cover, for instance:
    - their legal basis;
    - statutory objectives;
    - how they are funded and their annual cost;

- their rulemaking and enforcement powers;
- applicability of Regulators' Code and growth and innovation duties or other general regulatory principles;
- overlap with other regulators, including identifying relevant enforcement bodies, as noted above; and
- process for accountability and independence.

47. If relevant regulators were generally to map outline their "perimeters" as does the FCA, this feature could also be mapped to help identify gaps and assist in efforts to improve coordination between overlapping regulators.
48. While not within the scope of the Call for Evidence, the financial regulators should be included in the definition of regulators and any mapping exercise given their size and economic importance. Local authorities should also be included as they have powers of enforcement in key areas of regulation and HMRC should be included [Q11].
49. As regards Smarter Regulation across the UK regime, a coordinated and holistic approach would clearly be needed so that, for example, lessons learned from the reforms of the financial services regulators are considered alongside the outcomes from this Call for Evidence.

CONCLUSION

50. The evidence we have provided suggests that the UK's regulatory landscape is difficult to navigate and that there is little confidence that it is fully effective and under control.
51. We have suggested that government should update and expand underlying principles that are common to all or most regulators to give a sense of direction, develop measuring tools to enable progress to be assessed, find new ways to help Parliament ensure that the landscape is shaped to the best advantage of the UK and provide a map to make it easier for stakeholders including the public to understand the position.
52. We look forward to seeing feedback and suggestions from other bodies and will be happy to engage in ongoing discussions given the importance of the issue to the UK.

Department for
Business & Trade

SMARTER REGULATION AND THE REGULATORY LANDSCAPE:

ICAEW RESPONSE TO CALL FOR EVIDENCE QUESTIONS

Call for Evidence

This document contains all the questions in the call for evidence on Smarter Regulation and the regulatory landscape. You can access full details of this Call for Evidence on: https://www.gov.uk/government/calls-for-evidence/smarter-regulation-and-the-regulatory-landscape

This document is designed to support you in completing the online questions, which is our recommend method of response. Alternatively, you may provide your answers in this document and return it to smarter.regulation@businessandtrade.gov.uk. Full details on ways to respond are available online.

Section One: Questions on the Landscape of Regulation (Required)

There are around 90 regulators in the UK and they spend almost £5bn per year across regulatory activities and running costs, covering most sectors of the economy.[1] The scale and responsibility assigned to regulators makes the performance of these entities in delivering the best outcomes in the sectors/areas that they regulate key to the UK's economic success.

Please note that any questions asked about a 'regulator' is pertaining to the relevant regulatory body to your answer. We are not seeking information about individual persons employed by regulatory bodies.

Question 1: Based on your experience, do you think that UK regulators are supportive of the individual businesses they regulate in a way that appropriately balances considerations of consumers and other businesses within the sector more broadly?

Please provide detail here. Examples are welcomed.

Practice varies between regulators and what is "appropriate" will depend upon the objectives each regulator has been set. We give examples of supportive or unsupportive experience in response to later questions.

Question 2: Please name the UK regulator(s) you engage with most frequently:

Please specify here:

ICAEW is regulated by four "oversight regulators" in relation to its regulatory activities arising as a professional body and we have frequent engagement with them in that capacity, namely:
- Financial Reporting Council (FRC)
- Office for Professional Body Anti-Money Laundering Supervision (OPBAS)
- Legal Services Board (LSB)
- Insolvency Service

We have other regulatory functions summarised in the narrative part of our response, Rep 11/24, which is publicly available from the representations page of our site [link].

We also engage frequently with regulators in our capacity as a professional membership body acting in the public interest, for instance responding to consultations on rule changes and providing technical advice and help in areas of specialist expertise. They are too numerous to list here, but by way of illustration we have engaged with the following in the past couple of years to varying degrees:

- Charity Commission of England and Wales (and charity regulators in Scotland and Northern Ireland)
- Companies House (i.e. regulatory functions performed by it)
- Department of Business and Trade (regulatory functions e.g. drafting secondary legislation and guidance)
- Department for Work and Pensions (in capacity of regulator of pensions)(DwP)
- Department for Energy Security & Net Zero

[1] See https://www.nao.org.uk/wp-content/uploads/2020/03/Overview-Regulation-2019.pdf

- Department for Environment, Food & Rural Affairs
- Financial Conduct Authority (FCA) and Prudential Regulation Authority
- Fundraising Regulator
- HMRC (in its capacity as regulator, e.g. enforcing rules and providing guidance on rules)
- Information Commissioner's Office
- Home Office (in its regulatory capacity relating to the new prevention of fraud regulation)
- Pensions Regulator
- Regulator of Social Housing.

Our members are in influential positions in a huge variety of businesses and act as advisors to hundreds of thousands of businesses. Collectively they engage with most, if not all, UK regulators. By way of illustration only, The Gambling Commission, OFQAL OFSTED, the General Medical Council and the Office for Students were among regulators cited in feedback about the Call for Evidence.

ICAEW's regulatory and disciplinary roles are separated from ICAEW's other activities and are carried out by the Professional Standards Department (PSD) and overseen by the independent ICAEW Regulatory Board. This response is being made by our Reputation & Influence department and in our capacity as a representative body for our members, not in our regulatory capacity. We have, however, included evidence provided by PSD along with other evidence in making this response.

Question 3: What do you consider to be the most positive and/or negative aspect of how the UK regulators that you engage with operate?

Please provide your answer here. Examples are welcomed – you may wish to include the basis of your interaction with a regulator(s), e.g. your regular communication with regulators. You may also wish to consider both the outcomes that regulators deliver and the process through which they go about delivering these outcomes, including how they interact with those they regulate.

In summary, the positive aspects are found when regulators apply the Principles of Good Regulation and demonstrate the good behaviours encouraged by the Regulators' Code. These include consulting meaningfully with those they regulate, providing clear and helpful guidance where necessary, seeking to understand problems the regulated might face in complying and ensuring rules are enforced in a proportionate way, including having a proportionate approach on enforcement. We provide some more concrete examples in response to later questions that examine some of these qualities.

Section Two: Complexity and Ease of Understanding the Regulatory System

The large number of regulators in the UK is driven in part by the scale of our economy and the range of different sectors and activities that require some form of regulation, whether to ensure markets work well or to otherwise protect workers, consumers, and other members of the public. While this structure may have advantages in terms of scope, we also recognise that it creates risks of overlaps or duplications between the mandates of different - potentially increasing complexity for those being regulated and the burden of regulation.

Statutory duties are placed on the regulators through legislation. Regulators often have a set of duties across different primary and secondary legislation which they must fulfil in carrying out their core functions. They also frequently have wider objectives, for instance as set out in statutory guidance.

We are aware that not all questions will be relevant to all respondents. Please address as many questions as are relevant to your experience.

Question 4: Based on your experience or understanding of UK regulators, do you find it clear what the overall purpose and objectives of individual regulators are?

Please provide further detail here if this question applies to you. Examples are welcomed.

Many people, including many of our members, will not know what are the overall purposes and objectives of the regulators that impact them, i.e. they don't necessarily look at the underlying legislation. They will simply try to understand what the rules are and then try to comply with them. They will often rely upon the regulator concerned to explain what is required and, perhaps, why and look no further.

By contrast, ICAEW considers these issues as part of its policy and regulatory work and when providing guidance to its members. In our experience, the answer will vary from regulator to regulator. There do not seem to be any guiding principles on how objectives are set, and this is a matter of potential concern which we consider further in Rep 11/24. In the case of the FRC, there are no overarching statutory objectives – an unusual and unsatisfactory state of affairs as highlighted in the Kingman Report of 2018 - "Uniquely amongst major UK regulators, it [FRC] has no meaningful statutory base".

Question 5: Within these overall objectives (as considered in the preceding question), do you find it clear what the specific statutory duties (i.e required by legislation) of individual UK regulators are?

Please provide further detail here if this question applies to you. Examples are welcomed.

The answer will differ depending on the regulator concerned. The following are just a few examples, but there seems to be little consistency and we are not aware of any principles that inform law makers in creating objectives such as these, again, something we consider further in Rep 11/24.

- The FRC does not have any overarching statutory objectives, but it does have specific functions deriving from legislation. It is far from easy to know what these are as they are contained in diverse legislation and result from delegation of powers/duties stated to be with "the Secretary of State" or the like.

- By contrast, the FCA has strategic and operational statutory objectives but how it is meant to balance the various objectives and, by extension, how the public are meant to know if it's doing so appropriately, is a matter of some debate.
- The Legal Services Board (LSB) has broad regulatory objectives coupled with powers to set performance targets for the regulators under its ambit.
- The Charity Commission of England and Wales has reasonably clear objectives, but it may nevertheless be unclear to some to what extent it is designed to support and help charities or to punish infractions which is a potential issue for all bodies with dual responsibilities. Devolution also complicates matters as the regulator of charities in Scotland has a separate statutory basis, but many charities operate throughout the UK.

Question 6: Do you think that the statutory duties (i.e required by legislation) imposed on UK regulators:

1. Cover the right issues?
2. Are clearly stated in relevant statute, including where supplemented by relevant guidance?; and
3. Are sufficiently consistent across regulators, where this is relevant?

Please provide further detail against each of these three points, if this question applies to you. Examples are welcomed.

1. In the case of the FRC, the statutory duties (and related powers) do not seem to specifically enable the regulator to meet the objectives that it seems the government wants to see, which is why the government proposed related reforms, including reform of the FRC to create, in effect, a new body, the Audit, Reporting and Governance Authority (ARGA).
We note that FCA provides a report on its "perimeters" which sets out areas of potential concern that are outside its remit and we comment further on the potential of extending this approach to other regulators in Rep 11/24.

Where there are no apparent gaps in statutory duties, and related powers, this may be because the regulator has very broad duties and powers. This is not necessarily a good thing.

2. The question supposes that objectives will be contained in a single statute. But as noted above, the FRC does not have overarching statutory objectives. The main objective of many regulators is to ensure compliance with laws and regulations that may be contained in diverse legislation which can mean the position is more complicated than it might seem. This is illustrated in the insolvency sector where the general regulatory objectives include to "secure fair treatment" but insolvency practitioners are required to collect and distribute assets in accordance with statutory priorities prescribed by legislation and in accordance with voluminous rules to produce outcomes that some, such as those who recover nothing from an insolvency, may consider to be unfair.

We assume the reference to statutory objectives being supplemented by guidance is a reference to statutory guidance that has been through appropriate parliamentary processes e.g. secondary legislation. We do not believe that regulators created by statute to meet specific objectives should be able to set their own objectives, though they may wish to explain how they are meeting the objectives etc. See also Q12 regarding the place of guidance more generally.

3. There seems to be little consistency across regulated sectors and we believe that understanding and trust in the regime and its efficiency could be improved were areas of overlap to be mapped and some guiding principles to be applied.

Question 7: As set out above, UK regulators have a remit that is set through legislation and guidance. Which of the below do you consider best applies?

1. Regulators always act within the scope of their remit;
2. Regulators go beyond their remit in a way that may negatively impact the outcomes that they are required to deliver; or
3. Regulators go beyond their remit in a way that supports the outcomes they are required to deliver

Please provide further information for your response if applicable. Examples are welcomed.

This question does not explain who can require a regulator to deliver an outcome if it is not in the regulator's remit. The term 'remit' is not defined and could include powers and objectives. In our view, it would be unreasonable to require a regulator to act in a way that exceeds its powers or the scope of its objectives as it could then be acting unlawfully.

This is one reason why, if government wishes the FRC to alter behaviours, for instance, behaviours of company directors, it should be given express statutory powers and duties for the purpose and not expected to do so through indirect means, for example through relying on audit processes to change director behaviour. For example, attempts to improve internal controls within companies and disclosures in the financial statements through requirements of auditors to report on issues such as noncompliance with laws and regulations and related party transactions might better be addressed by direct regulation. The FRC may be doing its best in this respect, but there are limits to what a body can do without having an appropriate statutory remit. If the "required outcomes" are not met this could have an adverse impact on trust in the regulator and beyond.

We note the following comments about regulatory overreach and the continued growth in scope of regulatory activities in the context of certain oversight bodies:

> "While well-intentioned, some oversight bodies continually cast their net ever wider so that each year, there are new areas where the body will direct for changes to be made.
>
> As well as the breadth of a body's remit, we also observe that some oversight bodies decide to continually increase the depth of their enquiries and oversight and seek to be involved in even greater aspects of a regulators' activities, in considerably more detail. We have seen these enquiries extended to areas not directly connected to our regulated activities.
>
> All of the increased breadth and depth of activity by oversight regulators comes at a cost – with above inflation increases in their budgets year on year, which are passed onto the bodies they oversee (and in turn the regulated population and the end consumer). There is little or no scope to challenge these growing costs; while feedback can be given via annual consultations processes led by the oversight bodies, the bodies do not have to change fee levels in response".

Question 8: Do you often have to engage multiple UK regulators on the same issue or area?

1. Yes
2. No

Please provide further information for your response if applicable. Examples are welcomed.

1. Yes, we are frequently involved in matters where multiple regulators are involved and so are our members. To give just a couple of examples in areas where we have an interest in regulatory policy development:

- The pensions sector is regulated by the DwP, tPR and FCA.
- Insolvency is regulated by the Recognised Professional Bodies (including ICAEW), the Insolvency Service and FCA.
- HMRC in performing regulatory functions, eg enforcing tax rules or providing guidance, interacts with countless other areas of regulation, for instance with accounting treatment e.g. of gift aid payments for charities, pensions and insolvency, where HMRC is often the largest unsecured creditor and has related creditor rights.

The fragmented nature of the regulatory requirements is evident in some roles performed by local authorities, for example their licensing and enforcement functions. A review of the regulatory landscape is not complete without taking those roles into account and the possibility that national regulation or standards might be preferable. On the positive side of fragmentation, there are occasionally examples where a constructive regulatory approach is adopted at a local level, which could provide a model more widely.

A business noted that where it has encountered a data breach it would be expected, or required depending on the specific circumstances, to engage with the ICO, the FCA and one or more of its local licensing authorities and that, in its experience, regulators take very different approaches on the same or similar issues and that there is rarely effective engagement between UK regulators.

Question 9: Do you consider that UK regulators collaborate effectively with each other and their international counterparts?

Please provide your answer here if applicable. Please break down your response by national and international. Examples are welcomed.

We are aware that there are various forums for regulators, with or without wider participation, to meet and discuss regulatory issues, for example the UK Regulatory Network and the Digital Regulators Cooperation Forum and that that there are mechanisms intended to govern how areas of overlap are dealt with, for instance in Memoranda of Understandings and the Code for Crown Prosecutors, where regulators have powers of prosecuting criminal offences. However, like so much of the UK's regulatory landscape, it is difficult to get an overview of them and therefore to know whether all areas are appropriately covered – you need to know what you are looking for to find it. See Rep 11/24 for our suggestions regarding mapping.

We also query whether the arrangements are as effective as they could be as this appears to be a source of friction for many of our members across a variety of sectors. For instance, our members with expertise on the UK's anti-economic crime regulatory regime pointed to difficulties arising from the large number of regulatory bodies involved in the regime, including investigating and enforcement bodies and the differing perspectives and priorities they seem to have.

Similarly, the sanctions regime is proving challenging, with various bodies involved, including Department for Business and Trade, the Foreign, Commonwealth and Development Office and various enforcement bodies, including a new one proposed recently with little prior debate, the Office of Trade Sanctions Implementation, in addition to the established Office for Financial Sanctions Implementation. In the words of one of our members: "[The] Sanctions regime is not understandable, it is dispersed and ambiguous."

The pensions sector offers another example, where there is overlap between the tPR, DwP and FCA. Difficulties can arise from this as is illustrated by the fact that tPR guidance and related DWP regulations have not been developed in tandem. Similarly, in the charity sector, the charity accounting regulations, which are regulations set by the relevant government department and implemented through secondary legislation, have not been updated to refer to the current Statement of Accounting Practice (SORP) so that the Charity Commission's guidance to charities needs to explain why charities may nevertheless be able lawfully to apply the current SORP. Some members have also found the relationship between data protection regulation, e.g. to keep data only for so long as necessary, and other requirements to obtain and keep information for anti-

crime purposes, to be a source of concern. We are aware of a variety of cases where the Information Commissioner's Office has had to clarify/state its position to enable other regulators to use or share data that they might otherwise have been reluctant to share or use, which illustrates the complexities that can arise. This issue may increasingly come to the fore in the context of developing regulation for sustainability and technology, particularly in terms of Artificial Intelligence.

As regards international collaboration, even if non-UK regulation is not directly applicable in the UK, it is important for international businesses operating in or from the UK that a consistent approach is adopted where possible to minimise costs arising from compliance. The success of International Accounting Standards in promoting consistency in international markets and trust in financial statements illustrates how international collaboration can be productive. Similarly, the efforts made to keep the UK's data protection regime sufficiently similar to the EU regime to maintain "equivalence" has been widely welcomed by many of our members, although data protection regulation continues to be an area of concern to many too. The pre-Brexit position when European privacy regulators engaged with the ICO as part of the GDPR principle of lead supervisory authority has been cited as an example of good international cooperation.

We note, however, that collaborating internationally can be resource intensive and outcomes uncertain.

There are examples in recent years of the US auditing standard setter, the PCAOB, the international auditing standard-setter the IAASB, and the UK's FRC issuing differing proposals on the subject of The ISA 700 series – standards on auditor reporting - within a period of about 18 months. These bodies could and should have taken more account of what the others were doing, and should have engaged among themselves on a more systematic basis. The global firms to which their respective standards apply will in practice iron out these differences, which means that a great deal of regulatory effort is wasted. We believe that this is an area where our regime could be "smarter" and echo comments made by the Regulatory Horizons Council on this:

> "If every regulator has to try something itself, collect evidence itself about what is working and what is not, and then itself adapt, that feedback loop will inevitably be longer and less efficient than if regulators learn from each other. Government should therefore consider what steps could be taken to enable, encourage and potentially require collaboration across regulators, as a counterbalance to regulators' focus on how to achieve their own statutory duties through the exercise of their own powers within their own remit."

Question 10: Where you engage with multiple UK regulators, do you find it clear which regulator is responsible for a specific issue or area, and how regulator mandates interact?

Please provide further detail here if applicable. Examples are welcomed.

It is not always clear. For instance, it has been necessary for ICAEW to publish guidance to help members it regulates understand when they will require FCA authorisation to undertake a particular investment activity. Regardless of whether the regulation is clear or not, the requirements mean that Insolvency Practitioners will need to be licensed both by ICAEW and FCA in some circumstances to provide debt advice for which they are among the most skilled and experienced professionals available. They may naturally be deterred from doing this eg because of the cost involved, which means that the pool of available skilled people smaller than it might be.

We have also received feedback from members in charities that they can find it difficult to navigate when multiple regulators are involved. Taking just fundraising as an example, charities may need to interact with numerous regulators. Their starting point may be the Charity Commission and its guidance on the subject (40 pages), but this refers extensively to the Fundraising Regulator's Code (117 pages) and lists various other relevant bodies in an appendix, e.g. the Gambling Commission for lotteries, local authorities who have powers e.g. in relation to cash collections and the

Advertising Standards Authority, described as a "self-regulator", but whose standards must, in effect, be met for much advertising activity.

The requirement for insolvency practitioners, as agents of an insolvent employer, to collectively consult where they propose to make certain redundancies as part of retained EU law, can be at odds with the duty of insolvency practitioners to maximise returns to creditors as insolvency itself is not treated as a special circumstance for the purpose of the relevant employment legislation.

Even if the respective responsibilities of regulators would be clear if a person were to read and digest all the legislation, guidance, codes, MOUs between the regulators etc that determine the matter, the question still remains whether it should be necessary to take such steps to understand the position. If the landscape is difficult to navigate, and there is a risk that mistakes will arise as a result.

We comment further on coordination of regulators in Rep 11/24.

Question 11: Do you consider there to be underregulated areas of the economy, or gaps in regulatory responsibility between UK regulators?

Please provide further detail here if applicable. Examples are welcomed.

We agree with the premise of Smarter Regulation that regulation should only be introduced for good reason and where there are no reasonable alternatives. Nevertheless, we think that the following areas should be considered:

- Will writing is not regulated but we understand that quality of services provided is variable and could be causing significant public harm.
- Platforms used to raise funds for charities are not themselves subject to charity regulation and it has been suggested to us that it might raise standards were the platforms to be regulated.

We have previously called for "accountant" to be a protected title as some 30% of accountants are currently unregulated, and some are regulated only by HMRC for AML purposes. ICAEW is a robust regulator of its members. But the chartered accounting profession is sometimes tarred by a brush coloured by the unregulated activity. This is a source of frustration to our members. It is a weakness of the regulatory regime that it does not acknowledge the role of the professions as a force for good as it should. Failing protected title, we believe that government could highlight the fact that accountancy as such is not currently regulated to promote better understanding of the position.

We note that FCA produces reports on its "perimeters" [link] identifying the extent of its powers and possible harms not within its remit and it would be helpful if regulatory perimeters could be mapped more generally.

As noted in the Call for Evidence there still remain some areas of activity that are not "regulated" in the ordinary sense of the word, but where the activity is prohibited or constrained by law and relevant authorities or private persons can take enforcement action through the criminal or civil courts. This is not necessarily "under regulation" but if the government is to resist calls for ever more regulation it may need to remind the public of this from time to time for instance when frauds connected with unregulated investment in whisky and fine wines or art occur.

HMRC issued a call for evidence in relation to tax advice in 2020 which included a suggestion that formal regulation for tax advisers might be introduced. However, as noted in HMRC's follow up report dated 10 March 2022 concerning its review of powers to uphold its Standard for Agents, the feedback from professional body agents was that HMRC already has extensive powers and one of the key messages given to it was summed up in the comment: "HMRC has all the powers that they need, but they don't use them". If the government is serious about "Smarter Regulation" it can

demonstrate it by always asking itself the question “do we have the relevant powers and could we ourselves do better to fix the problem we have identified” before proposing new regulation. Merely creating an additional layer of regulation adds to complexity, potentially making it harder to know who is accountable for shortcomings and could lead to unintended policy outcomes, for example making tax advice too expensive and potentially reducing compliance as more taxpayers try to “do it themselves”.

The UK’s tax regime is also instructive as regards rule making, because it is an exemplar of so many poor characteristics, including the length of the tax legislation, the need for extremely lengthy guidance on it and its sheer complexity which adds to uncertainty. All these problems also add to the time it takes to administer, a matter of particular importance given the reduced budgets and staff which government departments are facing. We would also point to our ten tax principles (the ten tenets) that should underpin a good tax system. These were first devised nearly 25 years ago but the principles remain good today and have potentially wider application. For example, the second tenet is the requirement for certainty. This states that it should not normally be necessary to resort to the courts to resolve how the rules operate. Litigation arising from the tax regime should be avoided wherever possible as it is very expensive and time consuming, with cases taking years to reach a conclusion. We believe that that lessons could be learned from tax litigation cases, whether civil or criminal, to understand which parts of the legislation are leading to litigation and how legislation and policy/regulation in the future could be written in such a way that there is less room for different interpretations and thus litigation.

We understand that the role of local authorities is outside the scope of the Call for Evidence and planning regulation is also outside our main areas of expertise, but we have received anecdotal evidence that standards of inspection and enforcement for breaches of building regulations and planning permissions are often poor (including disabled access and environmental requirements) and the lack of legal accountability for building inspectors is anomalous and detrimental to the public interest.

Question 12: Do you consider that guidance issued by UK regulatory bodies makes the regulatory system clearer and easier to understand?

Please provide further detail here if applicable. Examples are welcomed.

We do not believe that guidance is a good substitute for good legislation; indeed if voluminous guidance is needed that could be symptomatic of poor regulation. We note that the Government stated in its response to the Constitution Committee report of January 2019, that “guidance should not generally be used for the purposes of interpreting legislation” and, in particular, “that it should not stand in the place of anything that should be contained in legislative provision subject to appropriate scrutiny (in particular, provision that has the effect of imposing legal requirements)”.

We note that regulation may leave some matters open to be determined eventually by the courts. Aside from the tax regime, but this is not necessarily a bad thing in all areas of regulation, because it avoids lengthy regulation that seeks to cover every possible eventuality. However, it means that there can be uncertainty until such time as a court case arises.

The question then is what is the point of guidance? There is a risk that it goes beyond the actual rules and that allowing for the option of adding guidance just creates an environment where actual rule-drafting does not get the focus it needs to provide clarity from the start.

We appreciate that legislation and other rules having significant force, must be drafted in a way that is legally sound and so may be complex and that guidance may sometimes be needed to explain in simple terms. But in principle we think it should be possible to draft legally sound rules capable of being understood by persons with a reasonable knowledge of the subject matter and a willingness to read a moderate amount of text.

We believe that policy makers should take into account possible challenges in framing regulation in a comprehensible way when forming their policy objectives or consider all the alternatives to making regulation.
One alternative to having voluminous rules (supplemented by guidance) is to encourage good behaviours through the use of principles, such as ethical standards. However, the distinction can be a fine one, as we noted in commenting on the FRC's Ethical Standard:

> "We are concerned that the Ethical Standard is increasingly being used to address specific enforcement findings and therefore becoming more rules-based. The Ethical Standard is intended to provide a guide to best practice, rather than to be a vehicle for pursuing enforcement outcomes. We are concerned that the Ethical Standard is becoming increasingly focussed on technical breaches, rather than encouraging best practice in ethical behaviour."

Guidance, or similar material bearing other descriptions, does, however, have a useful role to play in some circumstances. For example statutory guidance constitutes law or regulation and can be amended more easily than is typically the case with statutes, which may be appropriate, although similar principles regarding the need for consultations will typically then apply.

The statutory guidance on people with significant control of UK companies is helpful in addressing some of the questions that would inevitably arise from the legislation. It has the force of law and the potential to be changed more easily in future than would be the case had its provisions been contained in statute. It resulted from a collaborative effort, including participation by ICAEW, and has stood the test of time. The non-statutory guidance from the Department for Business and Trade cannot be as helpful because it cannot change or make the law. It provides some case studies, but they are typically simple ones while our members need to advise in relation to complex arrangements where the guidance does not readily provide answers.

The guidance by ICAEW and ICAS on realised and distributable profits under the Companies Act 2006 helps those concerned to identify, interpret and apply the principles relating to the determination of realised profits and losses for the purposes of making distributions under the Act and we consulted on it.

Statements of Recommended Practice (SORPs) are sector-driven recommendations on financial reporting and auditing practices specialised sectors, e.g. the charity sector, which supplement FRC standards and are made under processes set by FRC and are subject to consultation processes. We think this sort of sort of material is useful.

There is also a place for guidance that is merely informational in nature, for instance signposting where relevant laws, including court judgments, can be found or outlining what the publisher considers to be "best practice". ICAEW produces guidance of this kind for its members and newspapers and other media outlets similarly provide information to the public on a wide range of regulatory matters.

A practical difficulty that arises is the large volume of guidance relating to similar issues and knowing which have regulatory force and which do not. For example, the Equality and Human Rights Commission's Statutory Code of Conduct Employment has a formal status as it is approved by the Secretary of State under a statutory process, but it seems largely to be informational in nature, the Courts still being left to determine questions such as the right of local authorities to protect the interests of its constituents as well as interests of travellers, to take a recent example. It is 320 pages long.

We believe that in considering the burden and volume of regulation, DBT is right to take include guidance and similar materials into account.

Section Three: Regulator Agility, Responsiveness and Skills

Regulators need to be responsive to change and wider systemic factors. As new issues and novel technologies emerge, regulators must be adaptive, coherent and coordinated to ensure that issues do not fall through the cracks and that responses are timely. Regulator agility means quick and effective implementation of current rules, as well as adapting rules when circumstances change and it is appropriate to do so.

We are aware that not all questions will be relevant to all respondents. Please address as many questions as are relevant to your experience.

Question 13: Do you find UK regulators to be agile and responsive to new and emerging issues?

Please provide further detail here if this question applies to you. Examples are welcomed.

Evidence takes time to gather, assessing the impact of relevant events is not straightforward and regulators should try to consult relevant stakeholders before changing rules. There is an inherent tension between wanting to reduce the burden of regulation, including constant change, and encouraging innovation on the one hand and wanting regulators to prevent some potential harm from happening before it does on the other.

While agility is desirable, business typically wants regulation to be predictable and stable where possible and changes in regulation typically need to be considered carefully to avoid unintended consequences. A stable and predictable regulatory regime both increases the scope for compliance, thereby helping government achieve its policy objectives, and reduces the burden on business, as companies need to devote less time, resource and attention to understanding and implementing new regulatory requirements.

Question 14: What factors do you think work for and against UK regulators' ability to respond sufficiently rapidly?

Please provide further detail here if applicable, covering both factors working for or against agility where possible. Examples are welcomed.

There are a variety of possible reasons touched on elsewhere in this response, including whether a regulator's objectives are clear and whether it has sufficient powers, skills and resource to identify issues and act rapidly. We think that the complexity of the landscape and absence of clear signposting may also be problematic for instance where the emerging issue could be within the remit of more than one regulator, or not within the remit of any.

Where regulation straddles different regulators it may be necessary for them to co-ordinate action. The most agile action for one regulator may simply be to ban a given activity within its scope even if that might push problems to other areas of the regulatory regime. For example, FCA banned debt advisors from providing debt packaging services to insolvency practitioners relatively quickly after concluding that it could not police and enforce its previous rules with the risk that the undesirable conduct would continue, but outside the ambit of FCA regulation. In that case the Insolvency Service and FCA did collaborate, and the Insolvency Service also took steps to mitigate the resulting risks, but this took time and involved disparate consultation exercises.

It has been suggested to us that the system for making out of court administration appointments could be streamlined but this would require coordinated action by both the regulator (the

Insolvency Service) and the court system. Two examples of this were given. The first involves complexity of the steps required:

> "There are a number of complicated steps required leading up to the making of an out of Court administration appointment. Where companies have not followed the precise process required, or ambiguity remains, on a significant number of cases the officeholders have had to go to Court to seek confirmation that they have been validly appointed. Simplifying the procedural steps and/or making clear which steps are essential and sufficient for an appointment to be valid could eliminate ambiguity and reduce the cost of Court applications falling on insolvent estates."

The other concerns speed of the process:

> "When a company (or a secured creditor) appoints an administrator out of Court, the notice of appointment (NOA) must be filed electronically at Court and is effective from the time that it is filed if it is not returned by the Court due to a procedural defect. There is therefore a period after the filing of the NOA and before the Court has confirmed the appointment where the Administrator has probably been appointed but the appointment has not been confirmed and therefore the Administrator is likely to be hesitant to do anything. This is obviously unhelpful. Particularly given that the Court accepts NOAs until 4pm but may not confirm the appointment until the following morning (although the Court does tend to issue confirmations until 5pm). This means that for a business that conducts significant volumes of international trade or where the precise timing of an appointment is important (e.g. for an airline when the directors want the appointment to be made at a time when all of the planes are on the ground for safety reasons), the company will be pushed to an unnecessary (in cost terms) urgent Court appointment in front of a judge, potentially 'out of hours'."

Question 15: Do you consider the processes that UK regulators have in place allow them to make decisions in an appropriate time frame?

Please provide further detail here if applicable. Examples are welcomed. You might wish to consider whether the decision-making time frame effectively balances the trade-off between the benefits of reaching a quick decision versus those of reaching the right decision.

There are various types of decision that regulators need to take, for instance whether to introduce new rules to constrain or ban some activity, whether to investigate aspects of a sector and whether to instigate enforcement proceedings.

We think it essential that regulatory enforcement processes are conducted without unnecessary delay. However, they should also be designed to reach the right decision at every stage in the process. Regulators have powers that can ruin the reputations of those they regulate and their livelihoods along with it. Defending claims made by regulators will be stressful and time consuming and decisions need to be reached on the basis of evidence in accordance with normal rules of justice. Regulators with judicial or quasi-judicial powers should have appropriate processes in place to ensure that their enforcement function is performed impartially and separately from their other functions as appropriate as we believe, for instance, is the case with ICAEW's own enforcement process.

While there are appeals processes against administrative decisions of regulators, these involve additional expense and stress for those involved, and they are not a substitute for rigorous processes from the outset.

This is especially relevant to those performing roles that expose them to personal action brought in the courts by third parties in connection with the performance of regulated activity such as auditors and insolvency practitioners.

We note that the burden of proof for criminal liability is higher than that for civil liability so if government wants to speed up enforcement processes, it should avoid using criminal sanctions for regulatory purposes. The Law Commission has produced extensive commentary on this topic.

Question 16: In the sector(s) that you operate in, do you think there are specific improvements that UK regulators and / or the Government could make to facilitate a more agile implementation of rules and regulations?

Please provide further detail here if this question applies to you. Examples are welcomed.

We do not believe that frequent change to rules is intrinsically a good thing. One constant in the feedback we receive from our members is that frequent changes in rules is a large burden and wastes time and effort. As is acknowledged in this Call for Evidence, there is a balance to be struck between speed and other qualities. The balance may differ depending on the context. For example, accounting and audit rules, which include the application of international standards, are intended to stand the test of time and they need to be interpreted and applied in many different factual situations. They are reviewed periodically and updated following extensive consultation. Businesses needs advance notice of proposed changes so that they can plan accordingly.

Where it is necessary for rules to be introduced or changed faster than might otherwise be desirable, we suggest that those involved should be especially careful to adopt a proportionate approach so that they address the obvious harms in question in a way that minimises uncertainty and unintended consequences in the short term. We have in mind here the regulatory approach adopted for Covid. It was clearly necessary to act quickly, but it is also clear that some of the rules were too detailed and difficult to understand, they changed so frequently that it was sometimes difficult to know which applied at any given time, that they were enforced sporadically and sometimes in ways that seemed unfair to the public and had unintended consequences including being susceptible to fraud, such as business grants, and economic and health impacts that have still to be fully understood. Those rules were of course temporary but the fallout from them continues. We have the benefit of hindsight in considering them now, but we suggest some of the adverse impacts were entirely predictable and that better regulatory disciplines could have helped produce better outcomes.

Question 17: Do you think UK regulators have the appropriate mix of skills to deliver their objectives?

Please provide further detail here if this question applies to you. Examples are welcomed.

We think that this is a question government should explore more fully – the complexity of the UK's regulatory regime and the numerous interactions between different sectors and areas of expertise present some real challenges. We believe that there are some skills gaps, for example:

- Knowledge of company law (and related accounting and audit requirements) outside of relevant professions or specialist bodies (eg, the legal and accounting professions)
- Drafting skills
- Specialist knowledge of overlapping sectors (eg, for non-insolvency sectors, knowledge of the insolvency regime as noted below).

The complexity of the regime and amount of overlapping areas can be problematic. For instance, staff in regulators of energy companies may not understand the duties of insolvency practitioners, i.e.to recover assets for creditors, and it may be hard for those involved to reconcile their varying duties, eg, consumer v creditor duties.

Question 18: Do you think UK regulators are appropriately resourced to discharge their duties?

Please provide further detail here if this question applies to you. Examples are welcomed.

We believe that regulators should always be sufficiently resourced to discharge their duties, including duties to enforce through taking court action, which can be expensive. By way of example, we supported an increase in funding to enable Companies House to perform its new duties, including verification of identity, a duty with which we agreed. We also emphasised that the proposed new regulator ARGA should be appropriately resourced.

However, there is a naturally occurring risk that regulators will never think that they are sufficiently resourced and current mechanisms to place downward restraints on regulators' spending appear to be ineffective. Shortcomings may be due to insufficient resource or other factors, e.g. poor management, insufficient freedom from government to manage properly, antiquated systems and unrealistic expectations from those who set the duties or assess whether they are being discharged.

We are not in a position to assess this fully and believe it is vital that government and Parliament do so effectively. We value the work of the National Audit Office in this respect but believe closer scrutiny on an ongoing basis is required.

We note that the FRC has been allocated increased resource despite the fact that many of the reforms promised in the context of creation of ARGA are not being taken forward.

We appreciate that HMRC is not in scope of the Call for Evidence, but it is part of the regulatory regime and it impacts the regulatory regime in many ways, for instance as a creditor in insolvencies, as a driver of investment decisions, for instance in regulated pensions, and provides guidance to the public on the tax rules and its procedures. Its performance is therefore very important to the regulatory regime. In addition to the points raised on HMRC in answer to Q10, HMRC's guidance on the Worldwide disclosure process has been highlighted by one of our members as an example of guidance being less helpful than it might have been.

The NAO highlighted in April 2023 that the Environment Agency (EA) and Natural England, two of around 30 bodies involved in regulating for environmental outcomes, both face workforce and capability challenges against a backdrop of growing demand to increase activity. With the risks to the economy, businesses and communities due to climate change and degradation of nature growing, adequate resourcing of the UK's environmental regulators needs to be addressed.

Question 19: Do you think existing processes enable UK regulators to test new regulatory reform proposals?

Please provide your answer here if this question applies to you. You might wish to consider whether the decision-making time frame effectively balances the trade-off between the benefits of reaching a quick decision versus those of reaching the right decision. Examples are welcomed.

The position varies between regulators, and this is another area where it would be useful to be able to see the overall picture of the landscape more.

The use of regulatory sandboxes can be helpful for industry and regulators to learn the impacts of technology and how these innovations fit within regulatory regimes. The government's proposal for a joint AI (Artificial Intelligence) regulatory sandbox is welcome and allowing widespread participation in initiatives like this should help promote understanding and agility.

The FRC's Scalebox aims to assist small audit firms to grow their share of the audit market and some processes like this may offer an alternative to more regulation intervening in the market. It is

perhaps too early to judge how effective this has been, but in principle it seems helpful to enable regulators to explore approaches such as this.
Similarly, the FCA sandbox processes offer firms an opportunity to test new products in a regulatory environment.

We do not see these sorts of processes as alternatives to consultation with all relevant stakeholders on new regulatory reform proposals, but they can complement usual processes in relevant cases.

Section Four: Proportionality in Implementing Regulation

The methods regulators employ to meet their objectives can increase or decrease the burden on those they regulate. A proportionate approach to managing risk is key to balancing important protections with an environment that fosters innovation and accelerates economic growth and technological development.

We are aware that not all questions will be relevant to all respondents. Please address as many questions as are relevant to your experience.

Question 20: Do you consider UK regulators to be proportionate in the measures they take, e.g. in applying regulations or responding to emerging issues?

Please provide further detail here if this question applies to you. Examples are welcomed.

No, application of regulations is not always proportionate. This may not be manifest in looking at a single rule, but the cumulative impact also needs to be considered. For example, in 1980 there were approximately 50 pages of auditing standards and guidance. Now, based on the handbook of international standards on which UK standards are based, there are over 1000 pages and successive UK governments have dealt with this in part by raising audit thresholds. This impacts the availability of audit to SMEs, which is not without considerable value to that sector. Attempts to deal with it through a recently finalised standard for the audit of less complex entities internationally, which ICAEW fully supports, have not been considered by the FRC which believes that UK standards remain proportionate.

One of our members had the following comment on the accounting standards of the International Accounting Standards Board:

> "Part of the issue is not just the volume of rules but the verbosity of rule-makers/ regulators. For example, with all the best of intentions IASB tries to help everyone by having standards that include: i) the actual rules, ii) some explanatory material about them; iii) sometimes some examples; and iv) a basis for conclusions that goes through most of it all over again. I.e., they intend to be helpful by going through it up to four times. In reality, however: it is a burden to everyone by having more text to read; IASB risks expressing it differently on those four occasions and thereby creating confusion; it risks loose/ imprecise thinking when drafting item (i), which is the really important part (any draftsman would be tempted to think that he/ she can always try another way of expressing it in the other three); and it consumes valuable time of the IASB in the drafting etc of the other three. "

As regards proportionality of initiatives applied by the certain oversight regulators to those who they oversee, the following point was made and considered to be a consequence of lack of accountability of the oversight regulators:

> "….requirements for initiatives and changes are applied to all bodies that are overseen, regardless of the size of their supervised population, or the resources available to them to deliver what is asked. For some organisations, this is pushing them to breaking point as they are simply unable to cope with delivering the volume of activities. Should this direction of travel continue, the likely outcome is that unfortunately some regulators will decide to exit the regime, which would damage regulatory effectiveness across the market and impact on competition and consumer choice."

Concerns about proportionality of sanctions for regulatory breaches or misconduct were also highlighted:

> "Sanctions for regulatory breaches or misconduct have to be a credible deterrent to wrongdoing, but there is a delicate balance to be struck. Where a primary driver of a sanction level is the press headlines or the political capital that can be achieved, there is a risk that sanctions become so high that people are deterred from working in a profession at all. This is especially the case where very large sanctions are issued for inadvertent breaches and there has been no unethical or dishonest conduct. The result can then be that the quality of a profession becomes diminished as those who can pursue careers in other industries (where they are less likely to be made bankrupt by a regulatory sanction) exit the talent pool."

Question 21: In making decisions that involve risk, which of the below do you consider most accurate?

1. UK regulators are too risk averse in their decision making
2. UK regulators achieve the right balance of risk in their decision making
3. UK regulators allow for too much risk in their decision making

Please provide further detail here if this question applies to you. Examples are welcomed, including being specific on the type of risk you are referencing.

It is difficult to comment on this as we are not aware of any generally applied objective measures by which the level of risk accepted by regulators in their decision making can be assessed. Also, we are unable to interrogate the reasons why regulators reach their decisions in specific cases. However, we think that the following sentiment about expectation of zero failure by oversight regulators is relevant to the regulatory regime more widely:

> "Regulation should of course exist as a means of enabling performance improvement and raising standards. However, there needs to be a real-world perspective applied to the expectation that regulation can prevent 100% of failures. The reality is that some businesses will fail, and mistakes will be made in any profession. There is a danger that oversight regulators expect continuous improvement to the point where any wrongdoing or unfortunate event in a regulated population is considered as a failure of the regulatory regime."

This also gives rise to questions about regulatory focus on administrative compliance rather than substantive breaches in the context of oversight regulators as outlined in the following comment:

> "Certain areas of regulation have prescriptive requirements for businesses/firms within scope. However, the disadvantage of the prescriptive requirements is that oversight regulators can focus on whether a business/firm has complied with what can be administrative provisions, ignoring whether there has been any actual wrongdoing. For example, the failure by a business/firm to document a risk-assessment of a bona fide and law-abiding client is a breach of the Money Laundering Regulations but will not have resulted in the business/firm enabling money laundering activity.
>
> The impact of the breach should be a significant factor in determining any sanction on the business/firm, but this aspect can be overlooked with technical/administrative breaches treated as seriously as if they result in criminal activity. Clearly compliance with legal and regulatory requirements is important, but for regulation to be effective it should place the most attention (and resource) on instances where actual harm has been caused as a result of non-compliance."

Please see also our answer to Q26 regarding administrative requirements.

Question 22: Do you consider that individual UK regulators have the appropriate level of discretion when taking decisions that involve risk?

Please provide further detail here if this question applies to you. Examples are welcomed, including being specific on the type of risk you are referencing.

Some feedback we received suggests that regulators have a significant amount of discretion when taking decisions that involve risk and they would like to see more transparent decision-making by regulators.

> "At present, there is significant variation between regulators on the clarity of their guidance and subsequent regulatory enforcement decisions.....there is an opportunity for regulators to develop and use a common 'regulatory toolkit' so that they can implement regulation in an effective, transparent and consistent manner. Such a toolkit would contain the standardised steps regulators should follow when implementing and/or enforcing regulation."

Question 23: If you are a business or consumer, how does the approach that UK regulators take to risk impact your own decision-making?

Please provide further detail here if this question applies to you. Examples are welcomed.

Much of the feedback we have received about the impact of regulation is of a general nature, not specifically about the risk approach of one regulator or another. However, we think it is pertinent as the Call for Evidence asks how the amount of regulation might be reduced and the sheer volume and extent of regulation in the UK is perhaps symptomatic of a low threshold for risk taking by government, regulators and the public, who bear some responsibility by virtue of the democratic process.

We have had widespread feedback about the difficulties of small businesses, charities, non-UK companies and individuals being able to open and maintain bank accounts in the UK. We believe that regulation and the approach of regulators and the banks they regulate has a part to play in this, although commercial factors may also be relevant.

It is sometimes difficult to know whether regulation or regulators are the cause of difficulties, but we received feedback to the effect that some exporters are "just giving up" exporting due to regulatory hurdles. Similarly, some small accounting practices are merging or giving up; to quote one: "The burden of red tape is one of the main reasons I have sold my practice" with tax, data protection and AML being cited as examples of burdensome regulation. Others decide to continue in business, but highlight the cumulative impact that regulation has on them for example: "I am finding that all the regulation that is applicable to a Chartered Accountant is becoming more and more time consuming and expensive…..FCA client assets and money rules are extremely complex.....tax regime, audit...".

The serious impact regulation can have on decision making is illustrated in the charity sector where some charities have decided that the increasing cost of insurance for directors and officers (trustees) means that they no longer provide such insurance for their trustees. The insurance covers the personal liability that charity trustees have in running the charity, including, notably the risk of being responsible for breach of regulation by the charity. Such decisions may reduce the willingness of individuals to serve as trustees of charities.

From our engagement with firms that are potential competitors to the biggest participants in the audit market we believe that perceived regulatory heavy handedness is a significant contributor to a lack of willingness among such firms to enter the PIE audit market.

Question 24: UK regulators often need to balance delivery across a range of different legislative duties or regulatory requirements, some of which may involve trade-offs. Do you consider that they balance these trade-offs effectively and transparently?

Please provide further detail here if this question applies to you. Examples are welcomed.

Please see our answer to Q6 on competing objectives.

Question 25: If you are a UK regulator, are there specific areas where you consider it would be beneficial to seek further steer or guidance from the Government?

Please provide further detail here if applicable. Examples are welcomed - you may wish to consider the extent to which existing steers support you to balance trade offs in decision making.

We are not responding in our capacity as a regulator, but we do not generally think it is helpful for government to provide guidance or steers to regulators when there is no legal basis for them to do so. Neither do we find the idea that government can make regulation or binding interpretation of it in the place of the courts without following due process (e.g. legislative processes) an attractive one.

Question 26: In general, do you consider the approach that UK regulators take to requests for information to be proportionate to any burden they may impose on you?

1. Yes
2. No
3. N/A

Please provide further detail here if this question applies to you. Examples are welcomed.

No, this is an area of the regime on which we frequently receive criticism from members. Concerns have been raised in many contexts including the charity sector, audit, pensions and insolvency. It is not always clear whether regulators need the information for their own purposes and, if so, whether there might be less intrusive ways of meeting the need, or if they are acting in the interests of categories of users, in which case there may not be clear evidence that the users actually find the information useful. Examples include progress reports for insolvency cases for even small cases with no prospect of returns and other examples given in answer to Q27.

Question 27: Do you ever receive duplicative requests for information from the same or multiple UK regulators? (i.e., requests asking for essentially the same information)?

1. Yes
2. No
3. N/A

Please provide further detail here if this question applies to you. Examples are welcomed.

Yes, we believe this is a significant issue.

We copy below an extract from our response to the recent consultation on non-financial reporting requirements by way of illustration:

> "……there is an overlap in the information required in order to meet the reporting requirements relating to:

• Information on trends, company strategy and business model.

• Information on environmental matters, the company's employees, and social, community and human rights issues. •

Non-financial information statement – information on environmental matters, the company's employees, social matters, respect for human rights and anti-corruption & anti-bribery matters.

• Non-financial and sustainability information statement – additional climate-related disclosures.

The scoping for each of these various overlapping disclosure requirements all vary, which also confuses matters. Therefore, any efforts to eliminate duplication of reporting requirements within the strategic report will need to take into account the attached scoping requirements and any ongoing plans to streamline company thresholds more broadly. We also note that for listed companies, there is also some overlap between the requirements of the strategic report, the requirements of the FCA's Listing Rules and Disclosure Guidance and Transparency Rules, which might also need to be considered when considering the extent to which the reporting requirements might be streamlined."

To give another example, limited liability companies are required to file accounts both at Companies House and HMRC. Some of the information that the Charity Commission requires charities to provide for its annual report is the same as, or similar to, information in the charity's annual accounts, which charities are also required to file with the Commission. The requirement for charitable companies to file their accounts both at Companies House and the Charity Commission is duplicative.

But government should consider the burdens v benefits of requests for information more broadly than this because, even if not duplicative, it is not always clear why information is sought, how it is used, or whether it proved to be of value.

For example, the FRC, has a deep pool of information about situations in which auditors have failed to meet standards. It has in recent years started to share this information, which is good. but it persists in justifying regulatory activity on the basis that it 'believes' 'considers', or 'feels' that audit quality would be improved if the proposals were implemented. This is not a sound basis for regulatory action and there is a great need for more evidence-based regulation. An example is a recent set of proposals regarding the audit approach to entity's non-compliance with laws and regulations. The proposals do not reflect any failings the FRC could identify, or point to in its regulatory reports, and there is just a single example of auditors failing to meet standards in the public domain. It is very hard for the auditor to calibrate the extent of change required when the regulatory justification rests solely on the regulator 'considering' that the proposals will improve performance.

Section Five: Process and Governance

Regulators have a variety of governance structures (for example decision making boards or external advisory committees) which underpin their decision making. Responsibility is also assigned throughout the regulatory system between Government departments and regulators. The balance of this relationship is vital for the successful delivery of regulatory outcomes. Regulators are in place to deliver certain outcomes, as set out in their duties and guidance. As in any organisation, internal processes need to be put in place to operate effectively and consistently. It is however crucial that those processes drive rather than limit outcomes.

We are aware that not all questions will be relevant to all respondents, please address as many questions as are relevant to your experience.

Question 28: Do you consider that UK regulators have in place the right governance structures to deliver the best outcomes? If not, how can they be improved?

Please provide further detail here if this question applies to you. Examples are welcomed.

The desired outcomes are not always stated in the legislation and stated objectives vary between regulators so it is difficult to know whether they have been met at any time let alone to what extent any failure might be attributable to a governance structure (as opposed to, for instance, competence or availability of resource).

In some cases, regulators might produce the best outcomes if they have a high degree of independence from government, so they are not subjected to short term political interference. We comment further on this in Rep 11/24.

Some of our members are increasingly concerned about growing climate and nature risks. The NAO has warned that weaknesses in Defra's oversight of regulation is putting further progress towards environmental goals at risk, calling for Defra to set out a detailed operational plan for how it will achieve the goals including the role of regulation by the end of 2024. Consideration of governance issues and required reforms should be a key consideration, as part of a comprehensive long-term approach to aligning the institutions and regulations with government policy objectives on this issue, for example net zero and nature positive transition.

Question 29: Do you consider that UK regulators use digital systems in their interactions with you in an efficient fashion? (e.g. data transfer or other digitised methods)?

Please provide further detail here if this question applies to you. Examples are welcomed.

We believe that use of digital systems could be improved in various regulated sectors, including in insolvency processes and the charity sector. Experience with HMRC also demonstrates the potential advantages and the challenges of increasing use of digital systems. The potential for increased use of AI should also be considered.

Question 30: Do UK regulators sufficiently communicate the processes they follow to make decisions?

1. Yes
2. No
3. N/A

Please provide further detail here if this question applies to you. Examples are welcomed.

We have no comment on this question.

Question 31: Are you provided sufficient opportunity to input into decision making by UK regulators processes (e.g., via consultations, workshops etc)? If not, how would you suggest improving the process?

Please provide further detail here if this question applies to you. Examples are welcomed.

Some of our members highlighted improved practices by some regulators in this regard in recent years, for example by FRC and Department for Business and Trade, but we believe there is room for further improvement in this regard.

Many regulators engage with us on a regular basis for instance through participation in our technical committees. This helps us to identify issues of potential concern arising in the sector of interest to them and also to communicate their concerns to our members etc. We have also participated in various roundtables and workshops which is often a more fruitful way of reaching decisions than written consultations, if discussion is required.

But there is another side to the coin which it is important for government to bear in mind. Taking part in consultation exercises is time consuming and itself involves a cost to business. Regulators will typically seek input from experienced experts whose time is a valuable commodity. It is therefore important that consultation exercises are organised in an efficient way so that unnecessary duplication is avoided and that proposals are sufficiently well developed for questions needing expert input to be framed and the right experts identified. This is another reason why regulators should coordinate better, so that all relevant issues arising from a proposal can be considered at the same time, rather than in a succession of consultations from different regulators. It is also a good reason for “Smarter Regulation” where changes to regulation are only made where necessary so that the need for consultation is also kept to a minimum.

The above point is illustrated by the process involved in the proposals for corporate governance reforms, some of which are no longer being pursued. Examples such as this, risk eroding the goodwill of the private sector which is essential if Smarter Regulation is to work.

It is also important for the relevant regulators, including government departments, to be clear about the likely outcomes from any consultation exercise and to demonstrate that they have at least listened and understood the issues being raised with them, even if they do not ultimately agree with, or act on, them.

Question 32: Do you consider the processes that UK regulators follow deliver reasonable outcomes?

Please provide further detail here if this question applies to you. Examples are welcomed.

We think that some UK, and non-UK, regulators push through proposals based on their own belief in their efficacy, in the face of opposition from a wide range of stakeholders. This diminishes confidence in consultation processes and is ultimately counter-productive because the process fails to build the consensus necessary for effective implementation.

Question 33: Do you think UK regulators treat those that they regulate consistently?

Please provide further detail here if applicable. Examples are welcomed, including any detail on how this impacts your planning and decision making. Examples are welcomed.

We do not comment on this question.

Question 34: As a business, do you think the process to challenge a UK regulator you interact with is sufficiently clear, robust and fair?

Please provide further detail here if this question applies to you. Examples are welcomed.

Those involved felt that the FRC might have paid more heed to the concerns we raised in our responses to its proposals to register PIE auditors (Rep 44/22) copied below:

> "39. These proposals are the most potentially risky for the FRC and damaging to audit firms. They permit the FRC to suspend a firm or impose conditions without warning and the FRC must therefore provide examples or criteria covering the circumstances that would necessitate such a decision.
>
> 40.. Despite the fact that no reasons will be provided to the firm, and that written representations will not be permitted, such decisions 'will usually be publicised'. This raises the prospect of the FRC publishing reasons that it has not provided to the firm concerned, which is contrary to natural justice, and a high-risk strategy. The FRC must address this before the proposals are finalised.
>
> 41. The FRC must make it clear whether the appeals process applies to an urgent decision, and how this would work.

Question 35: What steps, if any, do you think could be taken to further improve the effectiveness and clarity of the reviews and appeals processes?

Please provide further detail here if this question applies to you. Examples are welcomed.

We note that where regulators have judicial or quasi-judicial powers it is important that appropriate review and appeals processes are in place in accordance with good practice.

Section Six: Regulator Performance

How regulators seek to meet their objectives, implement and enforce regulation is just as important as regulatory structures. Regulation is only effective if it achieves its desired outcome and tackles the problems that it is trying to solve.

We are aware that not all questions will be relevant to all respondents, please address as many questions as are relevant to your experience.

Question 36: In your experience, have UK regulators that you interact with delivered on their stated objectives in that interaction?

Please provide further detail here if this question applies to you. Examples are welcomed.

We are not clear what is meant by "their stated objectives". If it means the objectives that the regulator has been set, including to follow the behaviours expected by the Regulators' Code, then there are many cases where they have not delivered.

Question 37: Do you think UK regulator performance reporting is proportionate, objective and transparent?

Please provide further detail here if this question applies to you. Examples are welcomed.

It will depend on the regulator and reports concerned, but as a general observation, it seems than many regulators in effect report on themselves in their annual reports and, to some extent, in the manner of their own choosing.

One member in business commented that "We think there is an opportunity to improve and standardise UK regulator performance reporting to ensure it is proportionate, objective and transparent. This is likely to include greater scrutiny on regulators to ensure the right set of criteria and metrics are used to monitor their performance and hold them accountable."

Question 38: Do you think UK regulators report on the right set of criteria and metrics to monitor their performance and ensure accountability?

Please provide further detail here if applicable. Examples are welcomed. If you think that there are better criteria and metrics that regulators do not report on, please provide details.

We do not believe that accountability is ensured, because the mechanisms for holding regulators to account are not sufficiently robust. It will take more than simply requiring regulators to produce their own reports on themselves. See Rep 11/24 for suggestions on a new body.

Section Seven: Concluding Questions (Required)

Question 39: If you could suggest a single reform to improve how UK regulators operate, what would it be?

Please provide further detail here. Examples are welcomed.

Establish more effective ways to help Parliament scrutinise the UK regulatory regime as suggested in Rep 11/24.

Question 40: Are there any examples of international approaches to regulation that you think set best practice that UK regulators could learn from?

Please provide further detail here. Examples are welcomed.

We do not believe that accountability is ensured, because the mechanisms for holding regulators to account are not sufficiently robust. It will take more than simply requiring regulators to produce their own reports on themselves. See Rep 11/24 for suggestions on a new body.

Question 41: What is the best designed regulation you face, and why?

Please provide further detail here. Examples are welcomed.

We do not have a suggestion for the “best” designed regulation, but we believe that the pensions auto enrolment regime has proved to be successful despite enormous challenges and legislation that was perhaps more complicated than necessary. The regulatory approach adopted by tPR at that time had some notably strong qualities. We also note the active engagement by many industry participants, including ICAEW, over a sustained period of time, without which we do not believe it would have been so successful.

Question 42: Are there any further points you would raise about regulation, including the functioning of the regulatory system or any recommendations you have on the stock of regulations from the Government which should be removed or reformed and modernised?

Please provide further detail here. Examples are welcomed.

We have raised additional points and made some recommendations about the regulatory system in Rep 11/24. We have noted some points where regulations need to be reformed in this Response Form.

Section Eight: Closing Questions (Required)

Question 43: In what capacity do you interact with UK regulators or regulated businesses? (Please select the most appropriate option that represents you, and respond according to your primary responsibilities)

- Regulated entity (i.e. business)
- Consumer
- Regulator
- Academic or think tank
- Other X

If you selected other, please specify here: We are a professional body, with regulatory responsibilities and also being regulated. Some of our work involves thought leadership (e.g. akin to a think tank) and knowledge/capacity building, including around evolving issues related to risk, strategy, reporting and compliance. We also aim to help shape and inform policy and regulation.

Question 44: If you are a business, how many employees do you have?

- Not Applicable – not a business
- 1 – 9 employees
- 10 – 49 employees
- 50 – 99 employees
- 100 – 499 employees
- 500+ employees X

Question 45: Please name the Sector(s) that you operate in – you may wish to reference Standard Industrial Classifications

Please provide further detail here.

Please see Rep 11/24 for a summary of our status.

Question 46: If you are a regulated business, how much as a percentage of turnover does demonstrating compliance with regulation cost your business?

- Not Applicable
- Less than 1% of turnover
- 1 to 5% of turnover
- More than 5% and up to 10% of turnover
- Over 10% of turnover

If possible, please provide more specific figures on the cost of compliance with regulation here. Compliance costs may for example include costs of staff responsible for engaging with regulators, responding to requests for information and demonstrating compliance.

Compliance costs may for example include costs of staff responsible for engaging with regulators, responding to requests for information and demonstrating compliance to the regulator. It is these costs we are concerned with, rather than the costs of delivering the policy intent of the regulation.

We do not comment on this question.

Question 47: What is your name, or the name of your organisation?

Please provide further detail here.

The Institute of Chartered Accountants in England and Wales

Question 48: What is your e-mail address (optional response)?

Please provide further detail here.

Representations@icaew.com quoting REP 11/24.

Question 49: We usually publish a summary of all responses, but sometimes we are asked to publish the individual responses too. Would you be happy for your response to be published in full?

- Yes X
- Yes, but without identifying information
- No, I want my response to be treated as confidential