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Regulatory Gravity and the Competitive Equivalence Imperative

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I. Introduction

In January 2021, UK alternative investment fund managers lost their EU marketing passport overnight; in its place stood twenty-seven separate national registration processes, one per member state, that no domestic reform can eliminate.

When the Berne Financial Services Agreement entered into force on 1 January 2026, it demonstrated something domestic regulatory reform never can: market access is won through bilateral negotiation, not unilateral simplification; that outcomes-based agreement offers the first proof of concept for this essay's argument.[1] The government's Leeds Reforms of July 2025, however, still treat streamlining as primarily a domestic legislative project. This essay argues that approach is structurally insufficient.

[1] HM Treasury, 'The Berne Financial Services Agreement' (1 January 2026). The Agreement uses outcomes-based mutual recognition of domestic laws to enable cross-border trade in financial services with Switzerland.

FSMA 2023 gave the FCA and the PRA a secondary objective to facilitate the UK's international competitiveness and growth.[2] That programme addresses real inefficiencies. But competitiveness cannot be legislated into existence at home while the forces determining market access abroad remain unaddressed. This essay terms those forces *regulatory gravity*: the pull that dominant jurisdictions exert through market-access conditionality. In practice, a UK firm seeking EU market access must meet EU requirements that the FCA cannot influence, however efficiently it drafts its own rules. The UK's most durable path requires not just domestic simplification but a proactive strategy of *competitive equivalence*: deploying regulatory recognition to open markets that domestic reform cannot reach.

II. The Domestic Programme: Necessary but Bounded

FSMA 2023 moved regulatory rule-making from onshored EU statute to FCA and PRA rulebooks, enabling more agile regulation.[3] The Leeds Reforms built on this with accelerated authorisation timelines, a reformed Senior Managers and Certification Regime, and Overseas Recognition Regimes ('ORRs') replacing the EU-inherited equivalence framework.[4] Removing prescriptive MiFID II disclosure requirements and repealing the PRIIPs regime address genuine structural inefficiencies.[5]

Two structural limitations constrain domestic reform. First, compliance costs are set not by UK rules alone but by the most demanding regime a firm must satisfy. A UK

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[2] Financial Services and Markets Act 2023, s 25(3), inserting s 1EB into the Financial Services and Markets Act 2000 ('FSMA 2000'); Financial Services and Markets Act 2000, s 1B(4A), inserted by Financial Services and Markets Act 2023, s 25(2).

[3] Financial Services and Markets Act 2023, ss 1–7; HM Treasury, 'Building a Smarter Financial Services Framework for the UK' (9 December 2022).

[4] HM Treasury, 'Financial Services Growth and Competitiveness Strategy' (15 July 2025), introducing Overseas Recognition Regimes, accelerated authorisation timelines, and Senior Managers and Certification Regime reforms.

[5] HM Treasury, 'PRIIPs and UK Retail Disclosure: Consultation Response' (11 July 2023); Financial Services and Markets Act 2023, s 1, revoking onshored MiFID II product governance rules and related requirements.

fund manager marketing to EU professional investors must comply with AIFMD regardless of how the FCA rewrites its own rulebook.[6] The UK is the world's largest net exporter of financial services, a position built on market access that domestic reform alone cannot sustain. Second, regulatory divergence; which domestic streamlining produces; can actively undermine the equivalence assessments that determine market access abroad. The more the UK's rulebook departs from EU templates, the harder it becomes to satisfy EU equivalence criteria. Domestic reform advocates counter that simplification reduces costs within the UK's own control, which is a valid point, but one that confirms the limitation rather than resolving it. This is regulatory gravity.

III. Regulatory Gravity: An Analytical Framework

The gravitational model in trade economics predicts trade volumes are proportional to economic mass. [7]Applied to financial regulation, mass is market size and regulatory divergence is distance; the EU and the US generate gravitational pulls that no medium-sized jurisdiction can legislate away.

Equivalence conditionality is the legal mechanism through which regulatory gravity operates: large jurisdictions grant market access only where a third country achieves equivalent regulatory outcomes. EU decisions under EMIR, MiFIR, and AIFMD exemplify this.[8] The UK lacks EU equivalence recognition across most financial

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6 Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers [2011] OJ L174/1, art 42 (national private placement regime for non-EU AIFMs).

7 Jan Tinbergen, Shaping the World Economy: Suggestions for an International Economic Policy (Twentieth Century Fund 1962) 262–265.

8 Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories [2012] OJ L201/1, art 25 (CCP equivalence); Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments [2014] OJ L173/84, art 47 (third-country firm equivalence).

services sectors, and domestic streamlining may widen the gap through divergence. The Leeds Reforms introduce ORRs; but these are instruments for the UK to recognise others, not for securing recognition of the UK abroad. That asymmetry is the structural deficiency this essay addresses.

IV. Competitive Equivalence as Legal Strategy

The solution lies in reconceiving equivalence as an active strategic instrument rather than a passive outcome of domestic reform. The Berne Agreement provides the template: outcomes-based mutual recognition that asks whether regimes achieve comparable ends, not whether they replicate identical rules.[9] Switzerland was admittedly an easy case; the generalising insight is that outcomes-based recognition is structurally possible wherever regulatory standards are genuinely comparable. This resolves the divergence paradox: the UK can simplify domestically whilst preserving the functional equivalence that market-access assessments require.

First, the UK should place its outward equivalence strategy on a statutory footing. The ORRs govern inward recognition only; there is no mandate for the UK to pursue recognition of its own framework abroad.[10] A statutory duty modelled on FSMA 2023, s 26, requiring annual parliamentary reporting on equivalence progress would supply the accountability that transforms aspiration into obligation. Such a duty cannot compel the EU: Brussels has withheld equivalence for political, not technical, reasons, and no UK statute changes that. But the EU is not the only market that matters; CPTPP membership, the UK-India FTA, and supervisory ties with Singapore and Japan create a non-EU network whose potential remains untapped.

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[9] HM Treasury, 'The Berne Financial Services Agreement' (1 January 2026); HM Treasury, 'Guidance Document for the UK's Equivalence Framework for Financial Services' (9 November 2020).

[10] HM Treasury, 'Financial Services Growth and Competitiveness Strategy' (15 July 2025), setting out the Overseas Recognition Regimes framework and the Office for Investment: Financial Services.

Second, the UK should use its ORRs proactively, granting equivalence to jurisdictions (Singapore, Japan, Australia) whose standards are comparable. This reframes streamlining: a single UK authorisation opens access to a wider network of aligned markets. Proactive UK grants position the UK as a credible bilateral partner; a jurisdiction that receives UK recognition acquires an economic stake in the standards that earned it, since losing recognition means losing UK market access. That mutual dependency creates the conditions for bilateral formalisation rather than unilateral assertion. The ORR framework exists; what it lacks is a strategic mandate to deploy it offensively.

Third, the FCA's duty under section 1B(4A) of FSMA 2000, as inserted by section 25(2) of FSMA 2023, to advance the competitiveness objective in section 1EB, [11]should be supplemented by an obligation to advance equivalence arrangements. The House of Lords Financial Services Regulation Committee found that cultural risk-aversion was preventing the secondary objective from being operationalised; a statutory equivalence mandate framed as a reporting obligation would supply the external pressure needed; courts can review failure to report without being asked to supervise diplomatic outcomes.[12]

V. Innovation and the Scaling Problem

Competitive equivalence addresses the innovation scaling problem. UK-incubated fintech firms face parallel authorisation costs when expanding internationally; [13]

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[11] Financial Services and Markets Act 2000, s 1B(4A) (as inserted by Financial Services and Markets Act 2023, s 25(2)); Financial Services and Markets Act 2000, s 1EB (as inserted by Financial Services and Markets Act 2023, s 25(3)).

[12] House of Lords Financial Services Regulation Committee, 'Growing Pains: Clarity and Culture Change Required' (2024-25, HL Paper 133); HM Treasury, 'Growing Pains: Government Response' (2 September 2025).

[13] Financial Conduct Authority and City of London Corporation, 'The Digital Sandbox Pilot' (April 2021); HM Treasury, 'Financial Services Growth and Competitiveness Strategy' (15 July 2025), identifying fintech as a priority growth sector.

outcomes-based recognition with Singapore or Japan would reduce those costs materially and close the gap between originating and scaling innovation.

VI. Conclusion

The Leeds Reforms are necessary but not sufficient: domestic streamlining cannot address the structural forces that determine market access. Regulatory gravity ensures competitiveness depends not only on the quality of a jurisdiction’s rules but on the recognition they receive abroad.

The deeper point is that the UK now has a sophisticated inward-facing recognition architecture in the ORR framework, and no outward-facing equivalent. FSMA 2023 built half the structure. The proposals above complete it: a statutory equivalence mandate, an offensive ORR strategy, and annual parliamentary accountability. Streamlining regulation for international growth requires the same thing that all serious diplomacy requires: a clear legal mandate, a defined objective, and someone accountable for delivering it.