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Streamlining Regulation for International Growth and Innovation: A Legal Perspective

Introduction:

Post-Brexit, the Financial Services and Markets Act 2023 (FSMA 2023)[1] was passed, which allowed for the repeal of EU-inherited rule in favour of a new domestic regulatory regime that could now diverge in policy terms. Parliament also enabled an expansion of powers to the Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA), giving them more decision-making power surrounding financial regulation combining principles-based oversight with a new commission to promote competitiveness without triggering deregulation. This essay will argue that the UK's comparative advantage is in 'intelligent divergence'; in other words selectively adapting measures to achieve greater efficiency and investment into the economy, whilst also persisting with able and necessary regulation, as to prevent another financial crisis like 2008, but also to protect consumers and businesses alike. Ultimately, the effectiveness of these new reforms depends not only on statutory changes, but also on the accountability of the institutions who implement the reforms, and their practical effects on the economy and society as a whole.

Historical Background, The Competitiveness Mandate:

Before 2008, the Financial Services Authority operated under a duty 'to have regard to' competitiveness[2], a mandate that was criticised for resulting in 'light-touch' supervision. The current formulation is expressly subordinate to consumer protection, safety, and soundness. Yet the House of Lords Financial Services Regulation Committee's June 2025 report identified persistent 'cultural and regulatory barriers' that may be undermining this qualified objective[3].

FSMA 2023 transferred rule-making substantially from Parliament to the regulators (the FCA and PRA)[4]. Accountability mechanisms such as a cost-benefit analysis panel and select committee notification are procedural safeguards rather than substantive constraints on regulatory discretion. In *Miller II*, the Supreme Court affirmed that executive power must be exercised consistently with Parliamentary sovereignty and accountability[5], principles flowing from the *Case of Proclamations*[6]. While the FSMA 2023 was authorised by Parliament, and is legally legitimate through Parliament's will, in a way prorogation was not; the underlying concern is analogous, power delegated without effective oversight risks undermining Parliament's supervisory function. As Black has argued, outcomes-based regulation requires trust earned using transparent standard-setting[7]. However, Parliament retains the power to amend or repeal the FSMA 2023, and in that sense continues its supervisory function.

Intelligent Divergence, The Mixed Record:

Solvency II, now Solvency UK, is one of the most commercially significant reforms that has occurred. Reducing the risk margin cost-of-capital rate from 6% to 4% cut risk margins by approximately 65% for long-term businesses, releasing capital for investment that may lead to growth[8]. Expanded matching adjustment eligibility now permits assets with 'highly predictable' cash flows, widening insurers' investment possibilities, whilst maintaining safeguards through senior manager attestation and graduated breach penalties[9]. The EU's parallel reduction to 4.75% confirms the UK identified a genuine area for growth policy[10].

The Consumer Duty, however, illustrates the limits of outcomes-based regulation. Introduced in July 2023[11], it has generated significant compliance uncertainty for wholesale firms, which have reported 'defensive implementations' from its unclear scope[12]. The Chancellor tasked the FCA with reviewing the Duty's wholesale application in July 2025[13]; the FCA's four-point action plan acknowledged disproportionate burdens while resisting wholesale exemptions[14]. This exemplifies what Black has termed the 'paradox of compliance'[15]. Principles-based regulation promises flexibility but can generate uncertainty through its vagueness and ever-changing nature. Hence, the notion that outcomes-based approaches are more beneficial for regulation than detailed rules is contested, their success depends on changing variables that cannot be assumed.

The PRA's repeated delays to Basel 3.1 raise a different concern. Having postponed implementation to January 2027, citing uncertainty around the US and competitiveness considerations[16], the UK is now behind when compared with the EU, which implemented the rules from January 2025[17]. Whether this represents intelligent gradual adoption depends on whether the additional time produces better tailored rules; if not, the delay simply defers compliance costs while forfeiting the reputational benefits that international alignment could provide.

Two further reforms merit attention: the Leeds Reforms which proposed a 50% reduction in the SMCR burden, including removing the Certification Regime from primary legislation[18]. And, the Overseas Recognition Regime, introduced in November 2025, which replaces the inherited EU equivalence framework with an outcomes-focused assessment and diverges market access from rule-by-rule correspondence[19].

The UK's Approach to Crypto-Assets:

The UK's innovation framework now reaches beyond the regulatory sandbox and Digital Securities Sandbox to implement a comprehensive cryptoasset regime. The Cryptoassets Regulations 2026, laid in December 2025[20], integrates crypto activities into the existing FSMA authorisation framework through undertaking an approach of 'same risk, same regulatory outcome', rather than constructing a standalone regime. This approach occupies a middle ground between the EU's Market in Crypto-Assets Regulation (MiCA)[21], which imposes comprehensive licensing and harmonised standards across 27 member states, and the regulatory fragmentation of the United States. MiCA achieves passporting, but at high cost; something the UK cannot replicate unilaterally. The UK's approach, in fact, more closely resembles Singapore's graduated sandbox model[22], through improved clarity of exit criteria and a credible supervisory commitment. The lesson of FTX's collapse reminds us that innovation-friendly regulation must mean actively setting strong standards, and the UK's new regulations are beginning to achieve this.

Counterarguments, The Limits of Regulatory Reform:

Intelligent divergence does not come without drawbacks. The EU has not granted broad equivalence, and each divergence reduces the likelihood of dual recognition of financial standards. For dual-jurisdictional firms, divergence creates compliance duplication; by 2021 Brexit had already resulted in roughly £900 billion in assets being moved outside the UK, equivalent to about 10% of the UK's banking sector[23]. The EU's own Simplification Omnibus packages demonstrates a parallel competitiveness agenda, narrowing any first-mover advantage.

Furthermore, the historical precedent counsels particular caution. Lord Turner identified the FSA's competitiveness mandate as having generated a 'regulatory philosophy which was flawed'[24]. The PRA's Chief Executive, Sam Woods, has cautioned against compensating for broader competitive deficiencies[25]: the absence of meaningful tax reform, notably regarding non-domiciled individuals, risks potentially undermining the programme's objectives. Nor can regulators' capacity be assumed; the NAO has noted the FCA's constraints in absorbing new responsibilities, raising questions about whether it can simultaneously simplify inherited frameworks and build novel crypto and AI regimes[26].

Conclusion:

The UK's post-Brexit regulatory trajectory is neither a deregulatory race nor a repackaging of EU rules. At its best, policy decisions such as Solvency UK and the Overseas Recognition Regime, represent recalibration that will lead to greater efficiency in output and growth. On the other hand, Basel 3.1's delay, the Consumer Duty's wholesale uncertainty and the competitiveness objective risks generating ambiguity rather than the clarity needed for growth. The Growth Strategy's ambition to position the UK as the world's leading financial services centre by 2035 is credible insofar as streamlining means smarter, less onerous, but not necessarily less credible regulation. In order to achieve sustainable investment and growth it shall require democratic scrutiny for delegated rulemaking, honest engagements surrounding the limits of outcomes-based approaches, and recognition that adaption of regulatory policy is necessary for growth and innovation but is not the sole thing that needs to be taken into consideration: tax, talent, and trade policy may determine the rest.

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[1] Financial Services and Markets Act 2023, ss 24–27.
[2] Financial Services and Markets Act 2000, s 2(3)(f) (repealed).
[3] House of Lords Financial Services Regulation Committee, *Growing Pains: Clarity and Culture Change Required* (HL 2024–26, 133) 3.
[4] Financial Services and Markets Act 2023, pt 4.
[5] *R (Miller) v The Prime Minister* [2019] UKSC 41, [2020] AC 373.
[6] *Case of Proclamations* (1611) 12 Co Rep 74.
[7] Julia Black, 'Forms and Paradoxes of Principles-Based Regulation' (2008) 3(4) *Capital Markets Law Journal* 425, 445–449.
[8] PRA, *Review of Solvency II* (CP12/23, June 2023) paras 1.25–1.26; SI 2023/1346.
[9] PRA, *Solvency UK Matching Adjustment Reforms* (PS10/24, June 2024).
[10] Directive (EU) 2025/2 amending Directive 2009/138/EC (Solvency II), art 1(37).
[11] FCA, PS22/9: *A New Consumer Duty* (July 2022).
[12] House of Lords Financial Services Regulation Committee (n 3) 30–31.
[13] HM Treasury, *Financial Services Growth and Competitiveness Strategy* (Cm 337, July 2025). [14] FCA, 'Our Commitment to Growth' (Statement, July 2025).
[15] Julia Black, 'Paradoxes and Failures: "New Governance" Techniques and the Financial Crisis' (2012) 75(6) *Modern Law Review* 1037, 1050–1055.
[16] PRA, PS9/24 (September 2024); PRA, Statement on Basel 3.1 Implementation Timeline (November 2024), confirming postponement to 1 January 2027.

[17] Regulation (EU) 2024/1623 (CRR3), in force 1 January 2025.
[18] HM Treasury, 'Leeds Reforms: Regulatory Efficiency and Accountability' (Speech by the Chancellor, 15 July 2025). [19] SI 2025/1104 (in force November 2025).
[20] The Financial Services and Markets Act 2000 (Cryptoassets) (Designated Activities) Regulations 2026, laid before Parliament December 2025.
[21] Regulation (EU) 2023/1114 (MiCA).
[22] Monetary Authority of Singapore, *Guidelines on Provision of Digital Payment Token Services to the Public* (PS-N16, April 2023).
[23] EF Hamre and W Wright, 'Brexit & the City: The Impact So Far' (New Financial, June 2021) 4–6.
[24] Lord Turner, *The Turner Review* (FSA, March 2009) 87–88.
[25] Sam Woods, Letter to the House of Lords Financial Services Regulation Committee (13 August 2025) 4–5.
[26] NAO, *Financial Services Regulation: Adapting to Change* (HC 2024–25, 647) paras 2.10–2.14.