Linklaters and the International Regulatory Strategy Group have published a report, *The Architecture for Regulating Finance after Brexit*, which builds on our previous publication *The Great Repeal Bill: Domesticating EU law*.

The report considers how the UK system for financial regulation will change as a result of Brexit. Whilst it finds that it will be broadly fit for purpose, the report recommends a number of reforms aimed at ensuring the system will remain robust and respected at home and abroad.

The report firstly outlines five principles by which an effective regulatory system should be judged:

- **Regulatory independence**
  Regulators should be impartial and free from political influence. They should be pursuing clear, rational objectives that balance relevant conflicting interests, and they should be widely seen and understood to be doing so.

- **Flexibility**
  A regulatory system needs sufficient flexibility to anticipate and respond to market developments and innovations. It also needs to recognise that a one-size-fits-all approach does not always result in proportionate regulation.

- **Regulatory accountability**
  Accountability is needed to balance the privileges of independence. Regulators should be accountable both to the public, primarily through elected representatives, and to those whom they regulate.

- **Clear and appropriate regulatory objectives**
  Given their significant powers and their independence, regulators need to be guided by a small number of clear and appropriate objectives.

- **Coherence**
  Where there are multiple regulators, the division of responsibilities should be clear and transparent and regulatory powers should be allocated appropriately so that those responsibilities can be met. Cooperation between the regulators is essential. Coherence between domestic and international regulatory frameworks is also necessary.

The report then considers how Brexit will change the UK system of financial regulation. Leaving the EU will involve a transfer of power and of functions to the UK, which will need to be allocated appropriately as between the FCA, the Bank of England/PRA, HM Treasury and Parliament. The significant differences in how the UK and the EU make and amend regulation could mean that, whilst the UK may have greater flexibility to adapt its rules for changing markets and technologies in the future, this may happen with less political oversight than before.
In light of the principles for an effective regulatory system and the impact of Brexit on the UK system for financial regulation, we make 14 recommendations for reform.

**The recommendations divide themselves into four categories:**

**Those that intended to ensure the powers and resources of the regulators will remain appropriate.** We conclude that, in the interests of flexibility, the regulators should assume general responsibility for financial regulation derived from EU law after withdrawal. However, we also propose a mechanism to prevent this from inadvertently jeopardising mutual market access arrangements set out in the IRSG report *A New Basis for Access to EU/UK Financial Services Post-Brexit.*

**Those that would enhance accountability by increasing general scrutiny of the regulators, both by the public (through their elected representatives) and stakeholders.** We make recommendations about how this might be achieved without compromising regulatory independence, suggesting refinements of existing structures.

**Those that would contribute towards accountability by ensuring that the regulators’ expanded powers are appropriately framed.** We recommend introducing an additional regulatory objective and increased engagement by HM Treasury, where appropriate, over what the regulators must take into account when exercising their powers.

**Those that concern how financial regulation is made.** We recommend reforms that could improve the quality of regulation, including through specialist scrutiny mechanisms that fill a gap in current mechanisms for regulatory accountability and by providing more systematic opportunities to assess regulatory coherence and flexibility.

The report is available to download from [www.linklaters.com/RegulatingFinance](http://www.linklaters.com/RegulatingFinance)

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