

# MAINTAINING LONDON'S LEADING POSITION DURING A CHANGING REGULATORY LANDSCAPE



KEY THEMES FROM BDO'S WHOLESALE MARKETS  
RISK AND REGULATORY FORUM, LONDON -  
OCTOBER 2011

Financial Services

The inaugural BDO Wholesale Markets Risk and Regulatory Forum convened in a private room of One Lombard Street in The City on 5th October 2011. Hosted by Tim Kirk, Head of Financial Services at BDO, and addressed by Brooke Masters, Chief Regulatory Correspondent for The Financial Times, the forum discussed three of the most important topics facing compliance and risk directors in the UK today; European supervisory “creep”, the world after FSA and the implications for The City of London of new regulatory and taxation initiatives.

The event was attended by representatives from a range of City firms operating in the wholesale and capital markets. It was conducted under strict Chatham House rule ensuring all comments were not attributable, and thereby allowing a more frank and open debate.

## THE NEW EUROPEAN SUPERVISORY AUTHORITIES

Opening on the European supervisory structure which has emerged following the global financial crisis, there was a consensus that “Brussels is on the march”, seeking ever greater regulatory controls over a wide jurisdiction. Against this, there was criticism of the UK Government for being voiceless in Brussels, with many attendees expressing a sense that the UK at government, industry and firm levels lacked both the positioning and political skills to influence the regulatory debate in the EU. The UK was not alone. The concern was set against the view that as the European Banking Authority has already pushed around the Italians and the Germans, the British will be next. Some attendees cited the recently published Tech Advice on AIFM as an example of a regulatory landscape which is becoming increasingly unfavorable to the UK and, specifically, The City.

Warming to this theme, the forum complained of under-representation by the two trade bodies which serve the broking and investment banking industry. Specifically, it was argued that they tend to represent either the bulge-bracket banks or private client stockbrokers, and fail to represent the many mid-sized firms which, given their position in London, require a more focused approach to the European regulatory behemoth. There was a general consensus that The City needs to take lobbying Brussels more seriously and that this would only occur when a properly constituted and equipped trade body emerged.

On this point, it was suggested that either The City was employing the wrong public affairs strategy or that no such strategy was in place. Specifically, the forum raised the point that The City should be tackling individual MEPs and increasing their understanding of the risks posed to one of the most important segments of the UK economy. In addition, it was strongly suggested that this argument should be placed in the context of The City’s importance to the wider European economy and its relationship with the US and the developing economies in Asia and Latin America. The forum returned to this point in its later debate on taxation issues. Some of the attendees closed this section of the discussion with the strong point that firms across The City need to pay more attention to emerging European regulation rather than waiting for it to be enacted and then complain over the terms.

## CHAOS AT FSA AND THE BREAK-UP OF THE REGULATOR

With ongoing overhaul of the UK’s tri-partite regulatory system and, more specifically, what many perceive to be chaos at FSA during the break-up of that regulator, the forum articulated the view that the response to the on-going financial crisis will be far from “light touch”. Some participants raised concerns that the regulatory culture in the UK has evolved to a “guilty until proven innocent” basis.

However, the overwhelming view expressed by the forum when discussing the development of UK financial services regulation was less about the punitive stance taken than concerns over the quality of the people – particularly within the FCA – and their understanding of the companies they will regulate. Views were expressed that the break-up of the FSA is leading to an exodus of the best people towards the accounting and law firms. Furthermore, it was noted that the FSA “treats all firms as if they were large global institutions”. There was broad unity among those present that the “one-size fits all” approach is concerning and unsustainable. Some demanded that the FSA and its successors need to revise, or at least more clearly define their terms of reference and its aims, arguing that the current set-up is confusing to those it regulates and fails to inspire confidence in the system.

The forum recognised that the inability to understand the complexities of the industry was not only the fault of the regulator. It was suggested that The City should take more responsibility for managing regulatory relationships. In this way it was felt that regulated entities could make more progress in getting the FSA to accept evidence, highlighting the effectiveness of different approaches to deliver regulatory outcomes and convince regulators to be willing to debate different approaches rather than simply ignore alternatives.

Concluding this section of the debate, the forum recognised the need to communicate with professional advisers working alongside investment firms such that the advisers understand the regulatory issues facing the firms. By so doing, the forum concluded that the lobbying effort would be enhanced via the informal routes open to professional advisers.



## IMPACT OF REGULATION AND TAXATION ON COMPETITIVENESS OF THE CITY

The forum rounded off the evening with a discussion regarding the impact of regulation and taxation on The City's relative position internationally. The majority concluded that it was not the efforts of Frankfurt, Paris and New York but the challenges of Hong Kong, Singapore and, potentially, Shanghai which were the most concerning. Not that the former were helpful. Rather, it was suggested that European regulation prompted by Franco-German lobbying and tax issues raised by the US played into the hands of the Asian markets. Recent listings by Prada and Ducati together with the Manchester United plans have all raised the profile of these markets as a source of new funds for companies facing liquidity constraints in other capital markets.

It was stated that Singapore was developing a strong reputation for prudent regulation and, alongside Hong Kong it offers proximity to the high growth markets in Asia. As a result, one member of the forum commented that US employees looking to work overseas increasingly favoured Asia over London – a key leading indicator of where investment activity and related work could be taking place in the future.

However, against these points, members of the forum pointed to the high regard in which London is held by companies within emerging and developing markets. Praise was offered to the FSA for ensuring that, in relative terms at least, The City was seen as a stable centre in which they could conduct business. The continued pool of qualified individuals in finance, accounting and law, available in London, together with the systems and frameworks were all highlighted as key to maintaining The City's position.

The forum strongly suggested that this positive perception and position was in serious danger of erosion by ever increasing regulatory measures from Europe, a continuing anti-City mood within the political elite and wild ideas over potential taxation as a means of seeking retribution for the imagined "crime" of the financial crisis.

Finally, on the topic of taxation, whilst doubts were raised that the proposed Financial Transaction Tax could, realistically, ever be enacted, most agreed that the UK has not been robust enough in relation to exercising its veto on this point.

The Financial Transaction Tax was viewed as an archetypal example of a piece of legislation that could destroy The City's traditional position of preeminence as a global financial centre. However, one guest expressed the prevailing sense that "people are less worried than they should be because of a perception of a hugely disorganised European Government; the tax is horrible in the abstract but no-one seriously believes it can become concrete in its proposed form." FATCA (The Foreign Account Tax Compliance Act) was also mentioned, firms need to be thinking about the cost and impact of the complex legislation is going to have on areas of their business.

Questions were raised about how close the UK has come to the tipping point of an exodus from London. Some thought that "in 15 years time, the people running the global banks will have cut their teeth in Hong Kong or Singapore", citing the current trend for the brightest young prospects wishing to "do their overseas time" in Asia as opposed to London.

## CONCLUSION

The first in a quarterly series of forums encouraged lively debate among a well informed and informative audience. BDO would like to thank Brooke Masters for leading this debate and for participating fully. In addition, it would like to thank all of those who attended for offering their views in such a constructive manner.

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We offer exceptional client service backed by solutions that are technically excellent, practical and tailored to the special needs of each client.

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