



BEYOND THE INTERIM FIX

Why Regulatory Divergence Is Now a Permanent Feature of Programme Life — Not a Temporary Disruption

A Practitioner's Perspective on Post-Referendum Compliance Programmes in Financial Services

Giovanni Leonardi

November 2017

Why Regulatory Divergence Is Now a Permanent Feature of Programme Life — Not a Temporary Disruption

Programme · No. 201

Originally written November 2017 | Re-edited and re-rendered for the WhereBeyond Edition, 2025

“The organisations that have adapted most effectively are those that stopped treating regulatory divergence as a problem to be solved and started treating it as a condition to be managed.”

1. The Assumption That Broke

For as long as most programme managers can remember, regulatory change has been episodic. A new directive arrives, a compliance programme is stood up, the organisation adapts, and the programme closes. The underlying assumption — that regulation converges towards a stable state, and that compliance is a finite journey — has shaped how we resource, govern, and measure these programmes for decades.

The past eighteen months have dismantled that assumption.

Since the referendum result in June 2016, organisations operating across the United Kingdom and the European Union have been forced to confront a possibility that most governance frameworks were never designed to accommodate: that the regulatory environment may not reconverge. That divergence, rather than being a transitional state between one stable regime and another, may itself be the permanent condition.

This is not a theoretical observation. It is already reshaping how programmes are structured, how budgets are defended, and how leadership teams think about the relationship between compliance and strategy.

2. What We Thought We Were Managing

In the immediate aftermath of the referendum, most organisations I observed treated the regulatory challenge as a large but conventional compliance programme. The pattern was familiar: identify the affected regulations, map the gaps, stand up workstreams, and drive towards a target state. The implicit model was that Article 50 — triggered in March of this year — would eventually produce a settlement, and that

settlement would define a new stable regulatory baseline to which the organisation could align.

The programme structures reflected this assumption. Fixed timelines. Defined end states. Governance boards that measured progress against a destination.

What has become clear over the course of 2017 is that the destination itself is moving. The regulatory frameworks that will govern financial services, data protection, product safety, and a dozen other domains are not converging towards a single answer. They are diverging — and the pace and direction of that divergence is itself uncertain.

3. The Three Patterns of Divergence

In my experience, the organisations grappling with this challenge are encountering three distinct patterns, each of which demands a different programme response.

The first is explicit divergence — where the UK and EU have already signalled different regulatory intentions. We are seeing this in areas such as financial services passporting, where the loss of mutual recognition is now a planning assumption rather than a risk. Programmes addressing explicit divergence can at least define scenarios, even if the precise outcome remains unclear.

The second is implicit divergence — where regulations currently remain aligned but the institutional mechanisms that maintained alignment are being removed. The transposition of EU law into UK statute through the European Union (Withdrawal) Bill creates a snapshot of alignment at exit, but without the ongoing ratchet of EU legislative evolution, drift is inevitable. This is the most insidious pattern for programme managers, because it generates no immediate compliance gap but creates a steadily widening exposure that is difficult to fund or prioritise.

The third is competitive divergence — where one or both jurisdictions deliberately diverge to create regulatory advantage. We have not yet seen this at scale, but the political signals are present, and any programme that does not account for the possibility is building on incomplete assumptions.

4. Why Existing Programme Models Fail Here

The conventional compliance programme model assumes that you can define the target state, plan the journey, and measure progress. Regulatory divergence as a permanent condition breaks all three.

You cannot define a target state when the regulatory landscape is itself in motion. You cannot plan a journey when the destination changes with each negotiating round. And you cannot measure progress against a milestone plan when the milestones are themselves provisional.

The organisations that have adapted most effectively are those that stopped treating regulatory divergence as a problem to be solved and started treating it as a condition to be managed. The distinction matters enormously for programme design.

A problem-to-be-solved generates a programme with a beginning, a middle, and an end. A condition-to-be-managed generates a capability — a standing function that continuously monitors, assesses, and responds to regulatory movement. The governance, funding, and talent models for these two shapes are fundamentally different.

5. What the Adapted Programmes Look Like

The programmes that are coping — and it is coping rather than thriving, because no one has truly solved this — share several characteristics.

- They have separated regulatory monitoring from compliance delivery. The monitoring function tracks divergence across jurisdictions continuously, while delivery programmes are spun up and closed as specific gaps crystallise. This separation prevents the delivery engine from being paralysed by uncertainty while ensuring that emerging divergence is captured early.
- They have moved to scenario-based planning rather than single-target planning. Instead of defining one target operating model, they maintain two or three plausible regulatory scenarios and design their compliance architecture to be viable under each. This is expensive, but it is less expensive than redesigning the programme every time a negotiating position shifts.
- They have invested in regulatory intelligence as a programme function, not an occasional input. The best programmes have embedded analysts who understand not just what the regulations say today but what the political and institutional dynamics suggest they will say in twelve or eighteen months.
- They have built modular compliance architectures — deliberately designing systems and processes so that jurisdiction-specific requirements can be adjusted without rebuilding the entire compliance stack. This is the technical expression of the strategic insight: if divergence is permanent, the cost of each adjustment must be low.

6. The Governance Challenge Nobody Wants to Discuss

Perhaps the most uncomfortable implication of permanent regulatory divergence is what it means for programme governance. Most organisations govern compliance programmes through steering committees that expect certainty: defined scope, fixed timelines, measurable outcomes. A programme that says "we do not know what the regulations will require, we cannot tell you when this will end, and our success metric is adaptive capacity rather than milestone completion" is a programme that most governance frameworks will reject.

The pattern I have observed is that programme leaders who try to force regulatory divergence into conventional governance language — committing to timelines they know are provisional, defining scope they know will change — create a cycle of re-baselining that erodes trust far more than honest uncertainty would.

The better approach, though few organisations have fully embraced it, is to govern these programmes more like standing capabilities than projects: with rolling funding horizons, capacity-based metrics, and regular strategic reviews that assess whether the programme's adaptive range still covers the plausible regulatory landscape.

7. The Talent Dimension

There is a further challenge that is less discussed but no less real. The people who are excellent at running conventional compliance programmes — disciplined, detail-oriented, milestone-driven — are not always the same people who thrive in conditions of permanent ambiguity. Regulatory divergence programmes need leaders who can hold multiple scenarios in mind simultaneously, who are comfortable making decisions on incomplete information, and who can communicate uncertainty without paralysing their teams.

This is not a criticism of traditional programme management capability. It is an observation that the operating environment has changed, and that the skills that served us well in an era of episodic regulatory change may not be sufficient for an era of continuous regulatory motion.

8. Looking Forward

We are, in November 2017, still in the early stages of understanding what permanent regulatory divergence means for programme management. The Article 50 negotiations have barely begun to address the substantive regulatory questions, and the full implications of divergence will not become clear for years.

But the structural insight is already available: this is not a programme that will close. The organisations that recognise this earliest — that redesign their governance, their funding models, their talent strategies, and their compliance architectures for a world in which regulatory divergence is the steady state rather than the exception — will be the ones that navigate the next decade most effectively.

Those that continue to treat this as a large but finite compliance exercise will find themselves perpetually behind, perpetually re-baselining, and perpetually surprised by a reality that was visible all along.