

Treasury Committee

Oral evidence: Work of the Financial Conduct Authority, HC 142

Wednesday 8 March 2023

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Members present: Harriett Baldwin (Chair); Rushanara Ali; Mr John Baron; Anthony Browne; Douglas Chapman; Dame Angela Eagle; Emma Hardy; Danny Kruger; Andrea Leadsom; Siobhain McDonagh.

Questions 415 - 520

Witnesses

I: Ashley Alder, Chair, Financial Conduct Authority; Nikhil Rathi, CEO, Financial Conduct Authority.

Examination of Witnesses

Witnesses: Ashley Alder and Nikhil Rathi.

Q415 **Chair:** Welcome to the Treasury Committee evidence session on the work of the Financial Conduct Authority. Can I start by inviting the witnesses to introduce themselves?

Ashley Alder: My name is Ashley Alder. As of just over two weeks ago, I am the chair of the board of the FCA.

Nikhil Rathi: Good afternoon. My name is Nikhil Rathi, chief executive of the Financial Conduct Authority.

Q416 **Chair:** Welcome, Mr Alder. It is nice to meet you in person. You have been two weeks in the new job. I wondered what your first impressions are and whether you think that there need to be any major changes to the FCA's priorities.

Ashley Alder: The first impression is that the FCA is midway through quite an ambitious reset. Aspects of that flow from the consumer investment issues arising out of LCF, the Gloster report and suchlike. That reset is quite advanced and goes to ways of working, and that is around transformation. My impression is that that is on track. For example, the way in which the authorisations process is operating has improved a great deal. As I think I mentioned in my last hearing, the



confirmation hearing in December, there are some embedded, rather idiosyncratic issues around promotions, how that structure operates, and authorised representatives, but there is very specific work being done on that. The way in which the organisation is reorientating around some of the problems that have been seen in the past, both internally and externally, is very positive. That is the first thing.

The second is that we are just about to get into the second year of a three-year strategic reset. We now have, for the first time, a three-year strategy. I am coming in at the start of the second year of that. From a board perspective, that is really crucial because the core role of the board is to set and agree the strategy with the executive, and then ensure that the resourcing and other efforts of the executive actually deliver that strategy. Also, we have to be really sensitive to the changing external environment. We do not live in a static world, so the strategy may need to adjust to take account of that.

We have, as a board, relatively recently emphasised three elements of that strategy specifically. One is fraud and scams. I can get on to this later. Quite appropriately, you identified at my confirmation hearing that I have a lot of experience in markets and in relation to investor protection, but the sheer size of the consumer remit for the FCA is quite unique globally, in my experience, so I spent some time looking at that. I can get into this, but basically, in terms of pressure on consumers from mortgages to consumer credit et cetera, what I am hearing is not a good story.

Q417 Chair: I am hearing from you that, in terms of the FCA's strategy, it is too early for you to conclusively articulate a need for it to change or do anything different in terms of the strategy.

Ashley Alder: Not radically, no, but it is really important for the board to make sure that it is on top of that strategy and that it is sufficiently agile. The external environment is changing.

Q418 Chair: Can you tell me what your initial thinking is about the likelihood that you will be required by legislation through a secondary objective to operationalise the competitiveness duty?

Ashley Alder: If that comes to pass, which seems to be likely, as a secondary objective, I have a few thoughts about that. First, it is incumbent on the board to be on top of how we articulate that in all the work we do. Secondly, we need to be cognisant of the fact that it is being positioned as a secondary objective, so in other words it does not compromise the primary objectives around consumer protection, market integrity and suchlike.

My previous experience as a regulator is that, in reality, regulators rarely depart from outcomes that promote competitiveness of their financial centre. Because it is a specific new objective, the board will need to be interested in how we measure our performance against that objective.



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There is work being done within the FCA at the moment—it is early days—as to how we do that, the measures, metrics and outcomes. As I say, that is early days, but as we move forward with this objective, we need to make that a bit more concrete and obviously more public. I am also aware that there is an annual report that the FCA needs to produce, which will go to a description of how it reacts to that objective.

Q419 Chair: When you came in front of us for your confirmation hearing, you said that you still needed to read in quite a lot about the role. Have you now done that?

Ashley Alder: I think that I have. Maybe this is not too surprising, but there is a big difference between reading in and then joining the organisation and getting a real feel for the issues at stake and in particular how individuals—senior, mid-rank and junior—feel about the organisation. There is a big difference there.

As I say, I joined the organisation formally on the 20th and I have learned a lot since then, but there is certainly more to pick up on. Even after two weeks, speaking with Nikhil a great deal, the executive team and the non-executive directors, I have a fairly good grip on the basics of where the organisation needs to go in the context of its strategy, which the board is seized of.

Q420 Chair: Are you planning to get out and about across the UK to talk to some of the businesses in the sector?

Ashley Alder: Absolutely, yes.

Chair: You have built that into your timetable.

Ashley Alder: Yes, absolutely. The way in which the chair of the board interacts with consumer associations, say, which I have already been doing—the first port of call for me was two or three consumer associations—but also industry at large, is significantly different to the way in which the executive team interacts.

I need to go out there, in large part to listen and bring insights back to the board for when we are looking at how we develop overall strategy, how we ensure that the executive teams are working within that strategy and how resources are being deployed. It is really important that I get that external information to bring back into the board. It is not just me, incidentally. We have had a discussion within the board around all of the NEDs, who are actually very enthusiastic about getting more involved.

Q421 Chair: You are going to go out and see what is going on across the country. That is good to hear.

Nikhil, looking at the budget for the FCA over the last few years, if I am reading these figures rightly, the total operating costs have been broadly flat at around £590 million a year. The operating surplus seems to be consistently in surplus. Is it your goal when you are running the budget to generate a surplus, or is that to do with some of the staffing issues



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that we will come on to?

Nikhil Rathi: Our goal within the budget is to spend what we collect every year, but to maintain an adequate level of reserves so we can assess that we have enough resources to manage risks that may be coming. Obviously we have been in an elevated risk environment over the last two to three years, with very unexpected events coming upon us, so we need to have a degree of flexibility in terms of our reserves to respond to those. Overall, we have been staffing up and I wrote to the Committee about that.

Q422 **Chair:** What is the maximum level of reserves that you would keep?

Nikhil Rathi: We do not have a maximum level.

Q423 **Chair:** How big are the reserves at the moment?

Nikhil Rathi: The reserves at the moment are around 12% to 13% of our overall annual operating expenditure, so we have a degree of flexibility there.

Q424 **Chair:** That is in cumulative reserves?

Nikhil Rathi: It is cumulative reserves at the moment. We have some flexibility to draw on those reserves, particularly into the coming year, as we are addressing cost of living challenges, future regulatory framework and the other things that are coming our way, but I would be surprised if the board would be too happy for us to go much below 9% or 8% on that. We will be using our reserves and we will also of course be levying in the normal way.

We have invested very heavily not just in our people but also in data and technology, to ensure operational resilience, security, moving to the cloud and now bringing out new innovations, including the use of artificial intelligence and machine learning. I can come on to that later in the hearing. I see that as a very significant part of the next stage of our investment.

Q425 **Chair:** You are recruiting a second personal assistant at the moment, I understand. Is that correct?

Nikhil Rathi: It is somebody who has left and we are replacing that person.

Q426 **Chair:** It is to work alongside another personal assistant, according to the job advertisement, the chief of staff, the head of your office, the three private secretaries and the personal assistant to the chief of staff and head of office. Does that sound like an accurate description of your office?

Nikhil Rathi: Yes, that is broadly the office I have inherited. I am very focused on making sure that we are as efficient as possible. One thing that I have noticed coming in is that, while it is the largest office I have had in any role I have been in, there is a massive volume that comes



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through the chief executive's office, including very extensive correspondence from members of the public and externally as well.

As Ashley said, there is a very broad remit, which we need to make sure that I am across. Overall, they are very fully occupied individuals, because they are operating 24/7. There are very often things going on over the weekend as well, so it is important to make sure that there is appropriate cover in the office. We are very mindful of the overall efficiency of the operation.

Q427 **Chair:** Is that a bigger office than your predecessor would have had?

Nikhil Rathi: I do not believe so.

Q428 **Emma Hardy:** The FCA has always been crucially important. Arguably, since Brexit, it has become even more important, and since the Financial Services and Markets Bill, even more crucially important. Any organisation is only as good as the staff it has. Staff can only be good and effective if they are treated in a decent way and treated fairly. You have 650 staff leaving the business. Over a fifth of FCA staff left in the last year. According to a survey, more than half of the employees are actively looking to leave the FCA.

It is fair to say, Ashley, that there is so much hope riding on you being able to clean up some of the current mess at the FCA in terms of morale and wellbeing. It is not just individuals who need the expertise in the FCA; it is actually, arguably, our country as well. I wonder what your view on staff morale at the moment is, as you have found it with fresh eyes coming into this organisation.

Ashley Alder: It is a very good question, not least because I am fully aware of the news and reports around staff morale and related issues over quite a long period. When I came into the FCA physically, one of the first things I wanted to do was, inevitably somewhat anecdotally, talk to people, ask what they felt and see whether there was any disparity between what I was hearing and the reports that had come to my notice beforehand.

As I say, it is necessarily anecdotal. It is a very large organisation and I could only have talked to a relatively small number of people so far. I have seen a growing level of confidence around purpose and the specifics of what the FCA has in front of it. I am fully aware that the challenges now for the staff are probably greater than they ever have been. They include consumers and issues to do with the cost of living crisis, which has multiple dimensions. There is a great deal of external expectation on the staff of the FCA and the organisation as a whole to deliver on that front.

I should have mentioned this earlier, in my opening remarks. The reform agenda is really significant and getting that right is fantastically important. In relation to morale, I have seen a greater level of confidence and focus around that agenda.



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In relation to staff engagement, I am used to operating in an organisation that is a little bit less than a quarter of the size of the FCA, and I know that the right approach to staff engagement is really important. Maybe Nikhil can supplement this, but I know that the executive team, who I have talked to, are absolutely determined to ensure that staff engagement is best in class. I am not saying necessarily that that has already fixed all problems and, as I say, that is somewhat anecdotal. The question of how, for example, the staff consultative committee operates effectively to ensure that any issues are aired and are visible to management is really important.

Q429 Emma Hardy: I completely agree with that. Of course, the staff survey found that only 33% of employees had confidence in the FCA's leadership, which was down on 61% in the previous year.

This is a publicly funded organisation that has an issue with trade unions and is refusing to recognise them, under the spurious claim that some people would want to join them and some people would not. That is what you said, Nikhil. You said that there is a "broad spectrum of opinion in our organisation, from colleagues who wish to be represented by Unite, colleagues who wish to be represented by a union but not Unite, and colleagues who do not wish to be represented by a union at all". You will find that that is probably the case in every public sector organisation up and down the country. That is why some organisations recognise more than one trade union. People wish to be members of different ones. When you have an organisation that is refusing to recognise any, you can see why that brings up huge red flags.

I have spoken to people personally who work at the FCA, again anecdotally. I am hearing that those staff feel incredibly demoralised. They feel like they are not respected. They do not feel like they are treated very well and they are looking to leave. As I said at the beginning, we need the FCA to work effectively. I wonder, Nikhil, whether we can ask a bit about the Colleague Voice. You promised that a report would be published containing the full findings. Has that been published and when will it be published?

Nikhil Rathi: Thank you for the question, because we have been through a very difficult reform process. Public service reform is hard. It is tough. We have been on a journey with this Committee as well and I have appreciated the engagement of the Committee over the last two years, as we were tackling a number of issues in terms of our performance individually and collectively. That has been challenging. I am very proud of everything that our staff and my colleagues have achieved during that period.

Q430 Emma Hardy: Sorry to interrupt, I do not wish to be rude, but I only have 10 minutes. I wondered if you could just answer the question about the Colleague Voice exercise. Has it been published? When will it be published?



Nikhil Rathi: We published the outcome of the core element of that, in terms of the representation outcome, in December. To your point around staff representation, Unite made an application to the central arbitration committee for full recognition. It did not meet the threshold for that recognition in terms of support across the organisation, but I said at the time and at this Committee as well that that was not the end of the conversation.

What we have now moved towards, following the outcome of that work and listening to a very broad range of views across the organisation, is that our staff consultative committee will be enhanced with representatives from Unite and its membership. Also, as I mentioned earlier, there are colleagues who wish to engage with a union but have said that they wanted an alternative. On that basis, the First Division Association is engaging as well. That is being worked through.

Q431 **Emma Hardy:** To clarify what you said, it has not been published in full. You have just published a summary of Colleague Voice. One of my questions would be whether you can publish Colleague Voice in full. I am aware that Unite submitted a freedom of information request on 6 January on the Colleague Voice finding. I wondered whether you have had a chance to respond to that freedom of information request. It seems to be slightly concerning that a Colleague Voice inquiry has been done, not fully published and not shared with the trade unions.

Nikhil Rathi: The outcome of the Colleague Voice work in respect of representation was published. There were quite literally hundreds of ideas that came through in the Colleague Voice exercise, including from our staff survey. There is a staff-led working group that is looking at all those ideas and breaking them into different categories. We will be synthesising them and then reporting in full, instead of publishing several hundred all in one go, so that people can understand not just what the ideas were but the actions that are being taken in response to them.

Q432 **Emma Hardy:** Staff are telling you that they do not feel listened to. You launch something called Colleague Voice and do not fully publish. I do not really understand what the blockage is to just saying, "Here is the information. Have a look yourselves". The staff who work at the FCA are incredibly intelligent and capable people. I am sure that they are able to interpret a document that you would publish for them. In terms of listening to what staff are saying, is it correct—I am happy to be corrected if it is not—that you have issued new guidance blocking staff from sharing union links?

Nikhil Rathi: We have said that we have to be clear about the information that goes round the organisation in terms of blogs and posts on chats. There is a discussion underway with Unite and another union to make sure that there is a dedicated space on the intranet through which they can communicate.

Q433 **Emma Hardy:** So it is correct that from 28 February you have blocked



the use of FCA staff platforms and comms for anyone sharing any information about Unite the union, and made it more difficult for people who are in Unite the union to communicate with each other, because they cannot use any of your platforms.

Nikhil Rathi: I do not believe that we said that there is a complete block. There is a discussion going on about what the appropriate use of internal communications should be. That discussion will be part of the establishment of the enhanced staff consultative committee.

To your point around staff turnover, it is worth the Committee noting that in the last few months we have seen our staff turnover fall considerably, having fallen very sharply during the year of the pandemic, then risen. The number of colleagues with eight or more years' experience in the FCA has gone up by over 100 in the last year. It was 1,200 at the end of 2021. It is just under 1,350 here. While there may be some numbers you are referring to, those are the actual numbers in terms of our staff headcount and the experience levels that we have in the organisation.

Q434 **Emma Hardy:** Ashley, you have heard what I have just been saying there. Unite has been limited from sharing its links and information through the staff site. The Colleague Voice has not been published in full for the people who took part in it. Unions are still not being recognised by the organisation. When I talk to people, they are telling me that they are looking actively to move away. This sounds like a complete mess. As I said at the beginning, there is a lot of hope in you that you can do something about this. What can you do about this?

Ashley Alder: I know that the FCA has been through a difficult period in terms of staffing. I also know that the NEDs are very focused on the question of staff morale. It is almost a trite term; there is more to it than that. As I said earlier, I was slightly surprised at the extent to which, when I was talking to people, I got a greater sense of confidence around mission than I thought I would get, given what I had heard. From the point of view of the board and taking this forward, making absolutely certain that the way in which we engage with staff is appropriate is really important.

To be frank, I have to dig into the specifics of this, but it is clearly really important. There is one other thing I will mention. I think that last year the number, sheer number, of staff who were recruited was roughly 1,000.

Q435 **Emma Hardy:** Yes, 1,200.

Nikhil Rathi: It was 1,250 over the last financial year.

Ashley Alder: Okay, it was more than 1,000. Again from a board perspective, there is a training and integration challenge. That is really important. If you think about it, around a quarter of the workforce is new.



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Q436 **Emma Hardy:** That is because so many are leaving.

Nikhil Rathi: No, there are three reasons why we are recruiting. One is turnover of colleagues leaving. The other is lateral moves where we have vacancies. We have been actively encouraging colleagues to move across the organisation. One issue that we had previously was silos in the organisation. Thirdly, there is new recruitment for new responsibilities.

Q437 **Emma Hardy:** Ashley, could I finally ask you two things? One of them is to publish all the information from Colleague Voice in full as soon as you can. The other one is whether you would be able to meet with me outside of this Committee to discuss this further.

Ashley Alder: Yes, I would be very happy to.

Emma Hardy: Is that on both?

Ashley Alder: Let me speak to Nikhil, because I do not have the detail on Colleague Voice and publication.

Q438 **Emma Hardy:** It was basically a survey done with staff and they have not published all the information from it. I would have thought that there would be a simple way of pressing "publish". Could you also look into the other really simple thing that would be a step in the right direction, which is to stop blocking information about trade unions?

Ashley Alder: I will look at those issues and I would also be very happy to meet.

Q439 **Siobhain McDonagh:** The FCA seems to deal with everything that I am interested in, such as access to cash. Do you think it is a reasonable provision that people should have free access to their own cash and the ability to have face-to-face services?

Nikhil Rathi: We believe that access to cash is important. Access to banking services and financial services that customers, particularly vulnerable customers, need is important. That is why we are looking forward to the passage of the Bill, which is now very advanced. That will give us new powers.

Q440 **Siobhain McDonagh:** My specific question is whether you should have free access to your own cash, or whether it is reasonable to be charged £2 every time you want to take some money out.

Nikhil Rathi: The current practice, particularly with current account banking, is that people have free access. We can certainly see the case for that to continue, but I am also very cognisant that this is a live debate in Parliament and is being debated through the passage of Parliament. We need to wait for the outcome of Parliament's deliberations on that topic.

Q441 **Siobhain McDonagh:** What about face-to-face services?



Nikhil Rathi: There are different ways in which face-to-face services can be provided and there are different types of service. We are encouraged by the fact that banking hubs are being established and the industry is taking the lead on establishing banking hubs. In some cases, banks have innovated, not just in the UK but in other countries too, by having branches, but where some complex services are needed, for example in the context of probate or specific advice, they provide those in branch but digitally, so people can speak to experts.

To some extent, it will depend on the particular service that we are talking about. We support the idea that there should be access within a reasonable distance, particularly in relation to cash, for retail customers but also, importantly, for small businesses to deposit. When the Bill is passed, one key element that we will have to take account of is the Treasury policy statement.

Q442 **Siobhain McDonagh:** That is my next question. Nobody has seen it as yet, unless you have secretly, so how are you able to make arrangements for your new responsibilities, given that it will be guided by the statement? There are issues such as geographical distance to services. How are you going to go about organising when you appear to be as in the dark as we are?

Nikhil Rathi: We are clearly engaging with the Treasury on this. It will publish its statement once the Bill has been passed. We are mobilising so that we can supervise to these new standards. We have already stepped up our guidance with respect to access to cash and branches. We have intervened in certain cases where we feel the information to consumers has not been satisfactory. Once the Bill is passed, there will be a process of engagement between us and the Treasury as it finalises that statement and we will then supervise against it, but we cannot pre-empt what the Treasury is considering.

Q443 **Siobhain McDonagh:** My constituent, Sue, feels that she was defrauded of £10,000 of her pension by Blackmore Bond and we have asked a number of questions in the Committee about it. From the different pieces of correspondence, it has become unclear when the FCA investigated the Blackmore Bond case. You told the Committee in November and again in your letter of December that the Insolvency Service had investigated and had concluded not to take any action. By this statement, are you confirming that the FCA and Insolvency Service found no evidence of wrongdoing, or fraud, or perhaps that Blackmore Bond was part of a Ponzi scheme?

Nikhil Rathi: First, I should say that I can understand that it is very distressing for consumers who lose money in these situations. Blackmore Bond was itself not regulated, and it was not a regulated product, but there were other firms in different ways, particularly in relation to approval of promotions, that were part of the perimeter.



You are quite right to explain that the Insolvency Service has looked at this case and decided not to take action against directors. We are continuing our inquiries in relation to the financial promotions and whether there are any issues there.

Q444 **Siobhain McDonagh:** That is ongoing?

Nikhil Rath: That is ongoing, yes.

Q445 **Siobhain McDonagh:** You do so much and I am interested in so much. Before I stop, I want to ask you about IVAs—individual voluntary arrangements—which we had a discussion about at the Committee yesterday. My experience as a MP with my constituents is that IVAs appear to be often arranged with the people who simply cannot afford to pay them back, at rates of repayment that could never be sustained. I have been trying to find out more since our discussion yesterday.

I understand that 90,000 IVAs were arranged last year. Citizens Advice is saying that three-quarters of those who are or have been in an IVA said that they struggled to make repayments. Nearly 40% said that it had driven them into more debt, which is my own experience on behalf of constituents, and 84% of debt advisers said that they had spoken to clients in either failed or unsuitable IVAs when there were much better systems available to help people with their debt.

People are being drawn into this through the use of third parties like Facebook pages called “Mums With Debt”, believing they are talking to mums when actually they are talking to third parties who are going to make a substantial amount of money out of the referral to some sort of insolvency company. They are often encouraged to lie about the debt they have and the income they have to pay it. I wondered whether you would agree with a definition of IVA as debt Wonga.

Nikhil Rath: I recognise some of the picture that you are describing. One of the very disturbing things about what we have seen during the pandemic and the subsequent cost of living challenges is the way in which unscrupulous actors particularly pursue vulnerable customers. In the context of IVAs, we do not particularly regulate them, but we have taken action in terms of a specific campaign against loan fee fraud, where people advertise, “With a small payment of a fee, we can make your loans disappear”.

We ran a significant campaign against that at the end of last year and we have dramatically stepped up our actions in regard to damaging financial promotions. Last year, using technology, we intervened 8,000 times to bring down scam or problematic ads, compared to 570 the year before, so more than 14 times additional intervention.

We also support the Online Safety Bill being passed and are very encouraged that that is now making progress through Parliament. We believe that some of these products, if you can call them products, are being advertised through the mainstream platforms. We have made



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progress with Google, in terms of it taking responsibility for some of these financial promotions, but the Online Safety Bill will give Ofcom, supported by us, further powers in that regard.

Finally, I would make the point around the new consumer duty, which I am sure we will come on to later in this hearing. We said, and I have said it clearly a number of times through my evidence in the hearing, that we want to make sure we put consumers at the heart of everything we do and that every financial services firm does that as well. We believe that the new consumer duty coming into force in a few months' time will give us some additional tools there as well.

The specific issue on IVAs is that they are outside our formal perimeter. We do seek to make sure that we are doing what we can within the remit that we have.

Q446 **Siobhain McDonagh:** Can you put these third parties out of existence?

Nikhil Rathi: We cannot.

Q447 **Chair:** You are running a consultation.

Nikhil Rathi: We are running a consultation on debt-free packages in particular. Within the powers that we have, we are looking at what we can do to use the regulation, but the formal oversight of IVAs does not rest with us. That remains a matter that I think is going to be looked at in the Consumer Credit Act reform, which the Treasury has now kicked off.

Ashley Alder: I approach this from a board perspective of course. What I have picked up in a relatively short period is that there is a whole series of harms that are particularly important because of the cost of living crisis. People are under pressure, and there are undoubtedly actors who are exploiting that. That is without any debate whatsoever.

The issue for me and the board, and me probably more so because I am relatively new here, is to look at these perimeter issues. The FCA perimeter is really quite complicated. On occasion, we will have the jurisdiction. In relation to debt packages, the proposal is around banning referral commissions, effectively. That is very specific around a particular type of conflict of interest that can lead to harm.

Promotions goes back to Blackmore. When I looked at the UK regime afresh, or for the first time, it seemed to me to be quite particular, in that, basically, you have a situation where authorised firms approve promotions at one remove from the regulator, effectively. There are proposals to tighten that up and that is absolutely right, but the broad point is that there is a range of consumer harm in a very difficult environment. The FCA has powers in some respects to intervene and in other respects not.

I need to look a little more carefully, as I say, from a board perspective, at that whole perimeter and to see where other agencies with whom we



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partner have a role. To be clear, that was reflected to me by a conversation I had with the chair of Citizens Advice, which was really quite informative.

Siobhain McDonagh: Some of these firms that are involved in this are really respectable.

Q448 **Rushanara Ali:** I have some questions on the consumer insurance market and the competitiveness of bank savings and mortgage products. I do not have very long, so I would really appreciate swift answers. The recent "Dear CEO" letter to general insurers noted that, "Under the duty, we expect senior managers to ensure customers are at the centre of the claims process and we encourage firms to review their procedures to make sure they mitigate the risk of poor practice and customer harm". Have you done much work to assess how that is being conducted? What kind of customer harm is taking place in the insurance market?

Nikhil Rathi: I will talk about three things. First, we have put in place specific proposals around general insurance pricing practices to tackle the loyalty penalty, an issue that Citizens Advice and other consumer groups have drawn our attention to. Those are now embedded and we believe that, broadly speaking, they are starting to make a difference, but it is early days and obviously there has been a lot of volatility in the supply chain in the last year.

Secondly, a few months ago, we put out a warning, alongside the "Dear CEO" letter, about claims, particularly motor insurance claims, where we felt insurers were not paying the fair value of the claim. We have warned insurers that used car prices have gone up and therefore, when they are settling those claims, we expect them to be paying a fair value to the claimants.

The third issue that you talk about is in terms of claims handling. Thank you for raising that. There is an issue here in relation to the outsourcing of claims handling, where an insurance firm may outsource it to a third-party insurer or another claims handling firm. That can provide benefits in terms of efficiency, and it may provide benefit to the firm, but sometimes, as you point out, consumers may not be getting the service they need. This is exactly the kind of issue where we think that the new consumer duty will help us.

There are some good practices from insurers. We have told everybody that they need to be thinking about the entire chain. They cannot simply say that they are outsourcing and then their responsibility for dealing with a claim will no longer persist, including in relation to disputes being sorted out at the Financial Ombudsman Service. This is very much on our radar and we think that, through the new consumer duty that is being implemented now, we will have very strong tools to deal with those practices.

Q449 **Rushanara Ali:** Could you write to us to let us know what the pattern is



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in terms of these outsourcing practices and what you are finding? I know from direct experience, as well as experiences of constituents, that it can take months. I wonder—I do not know—whether an incentive structure has been built in with outsourced companies that is leading them to treat customers badly and that is causing serious detriment. Would you be able to do that?

Nikhil Rathi: I would be pleased to write to you. One limb of the new consumer duty is customer service and how firms, when they are selling and distributing products, are thinking about not just the initial product but the customer service they provide through the journey. That is a key component for us to look at.

Q450 **Rushanara Ali:** Do you have any proposals to deal with, in some cases, two or three different outsourced companies that are involved, from the broker that one might get insurance from to the company that does the payments, the companies that do loss adjustments and so on? You have multiple groups involved. I understand that something raised in one of the letters was the responsibility of insurance companies to track what is happening in terms of the chain that they are using. I do not believe that that is happening effectively. Do you have any insights into what is going on in terms of implementation? Anecdotally, I am aware of some very poor practice, which can lead to people spending a lot of money on legal action and cause a lot of harm.

Nikhil Rathi: I would not say that we have specific proposals. There are examples of best practice. I will not name the insurers.

Q451 **Rushanara Ali:** I am very pleased that there is good practice, but, with respect, I am interested in bad practice, because that is what we need to sort out. Good practice is great.

Nikhil Rathi: The point I am making is that there is an example of some very good practice from some insurers. Through the new consumer duty, we want to raise everybody's standards to the examples of best practice where, if you buy an insurance product from a car insurance provider, it takes ownership of that relationship with you, not just at the point where it sells the product but when you make a claim or something else goes wrong. That is where the new consumer duty will make a very significant difference to our ability to act.

Q452 **Rushanara Ali:** We are talking about the consumer duty, but do you have a sense of what has been going on in that market in terms of the experience of consumers? You have alluded to some issues that you have already picked up where there are serious concerns that need to be rectified. What can you do proactively—the letter helps—to track, monitor and assess what they are actually doing?

Nikhil Rathi: We have written to the firms and we are collecting data. We also engaged with the Financial Ombudsman Service. One of the frustrating things for customers is that, when something goes wrong, particularly with these outsourced providers, they go to the Financial



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Ombudsman Service and they do not feel they can get their dispute resolved. That is clearly a gap that needs to be sorted out. Those are things that we are doing already. I am saying to you that, in the coming months, our tools to deal with this will get further strengthened.

Q453 Rushanara Ali: Would you be able to share with us the information that you are getting, in terms of this work you are doing?

Nikhil Rathi: I am happy to cover that in our letter to you.

Q454 Rushanara Ali: On the Financial Ombudsman Service, as you know, we have been looking at this for many years; there was an inquiry into its work, with a major report. There is a big issue, and I raised questions about whether it is resourcing. It can take months after a consumer makes a complaint, even if it is relatively straightforward, before the FOS will actually be able to resolve that particular complaint. It can take two to three months sometimes, or a lot longer; that is not very satisfactory. Do you think that there is an issue about the interface between these things, so the consumer experience is actually not a particularly good one, even if the outcome might be a positive one, because of the length of time these things can take?

Nikhil Rathi: I believe that Ashley is going to be taking over chairmanship of the oversight committee of the Financial Ombudsman Service. I cannot speak for them. I know that they have been working hard on their backlog. The overall point you make is that, when a dispute is raised, of course one would want that to be resolved as speedily as possible.

As well as through our wider implications framework, working with the FOS to make sure we are as aligned as possible, we are also trying to reduce the number of complaints that get to the FOS in the first place. One point we have put in our strategy, in terms of an outcome metric, is to reduce that number of complaints, which is part of what we want to test in terms of the new consumer duty. Of course, that is the last resort. You much prefer the firms not to take action that results in a complaint or to resolve the dispute themselves.

Q455 Rushanara Ali: Is there a case for financial penalties or some sort of penalty for companies that are behaving badly? I do not remember whether there are any.

Nikhil Rathi: The Financial Ombudsman Service can award compensation. We will take up cases where we believe a firm is not responding appropriately to Financial Ombudsman Service rulings. We will take that up through supervision. That would ultimately be a breach of our rules if they do that systematically.

Q456 Rushanara Ali: Some of these third parties that are being used are acting like cowboy contractors. Is there a case for cleaning that up and actually penalising insurance companies that use companies that do not provide a good service to consumers?



Nikhil Rathi: I would agree that insurance companies need to take responsibility for the entire chain.

Q457 **Rushanara Ali:** Who should be doing that? Are you prepared to take action against insurance companies that are not taking due care in respect of the companies that they are contracting to settle cases and so on?

Nikhil Rathi: Yes, we will. I said that the new consumer duty will help us in that. We have a track record of taking action on insurance issues when we have needed to, in terms of both business interruption, where we took a case to the Supreme Court, and the general insurance practice. We have a strong track record of tackling those practices where we have the evidence to do so.

Q458 **Rushanara Ali:** I am going to use up my final few minutes on the competitiveness of bank savings and mortgage rates. This has come up quite a lot in terms of savings rates, for instance. Among the major retail banks, financial results for 2022 show an increase in profits and net interest margin. What work, if any, has the FCA done to monitor whether retail banks are earning disproportionate profits through increasing the interest rate margin and increasing rates on mortgages far more quickly than rates on savings products?

Nikhil Rathi: We are monitoring this. We are engaging with firms in terms of how they have been moving mortgage rates and savings rates. You will have seen that we wrote a letter to banks in February, setting out our interest in this topic. We do not set prices in markets, so we do not set savings rates or mortgage rates, but we have an objective to make sure markets operate with competition in the interests of consumers.

The fair value rules that are coming into force and the new consumer duty will mean that banks have nowhere to hide on this. The kinds of issues we are looking at are whether, in pricing decisions, banks are relying on customer inertia. We did some work a few years ago and, broadly speaking, 80% of savings products are back book off sale and 20% are front book on sale. Are they relying on lower passthrough for those that are back book for loyal customers? We want to understand how those decisions are being made.

You rightly pointed out the speed with which decisions are made. Is there a governance process that is encouraging decisions on mortgages to be made faster than decisions on savings. In some cases, we have seen that.

Q459 **Rushanara Ali:** What are you going to do now to signal to banks? We need to make sure you use the powers you have so that banks are fearful enough that you as the regulator—it is one for the new chair as well—are going to take action, that they are not being unfair in the way that they are applying interest rates on mortgages and not passing on increased



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rates in terms of savings.

Nikhil Rathi: We have already raised this specific issue with, in some cases, boards of banks, so it is firmly on their agenda. We expect them to be looking at it. We certainly do not want to be raising it repeatedly with them. That has been pointed out to them.

Q460 **Rushanara Ali:** Have you set them a timeline and what your expectation of results is?

Nikhil Rathi: As I say, we do not set prices for these banking products.

Q461 **Rushanara Ali:** I am not talking about that. I am talking about them taking you seriously as the regulator, so that when you tell them you are concerned about something, they take action within a given period. There have been issues about certain banks not taking seriously the regulator.

Ashley Alder: From my perspective on this, it is obviously an extremely live issue and it is important. There is a question around the set of justifications. Are they credible or not for that differential?

Q462 **Rushanara Ali:** Do you think they are?

Ashley Alder: It is a little more complicated than first meets the eye, but if one of the major dynamics is taking advantage of customer inertia, that is not acceptable.

Q463 **Chair:** There is a loyalty penalty, is there not?

Ashley Alder: That is my own view. The new consumer duty comes on stream effectively for new products in July. I know that the FCA, notwithstanding the fact that that comes on stream in July, has been engaging with firms, having that conversation right now around what the consumer duty actually means and, in particular, the concept of fair value. Once you start drilling into fair value, that is a very useful hook to have those conversations.

Nikhil Rathi: We have also been supportive of steps to improve competition in this market. We have been supportive of the open banking work and challenger banks.

Q464 **Rushanara Ali:** I wanted to come on to that. Between 2018 and 2020, the big four have increased their share of residential mortgage advances from 46% to 53%. Your work, I think last year, was very helpful in projecting that there could be 750,000 mortgage defaults. My understanding is that 200,000 mortgage holders are already in default. There are real concerns, given interest rate rises, about what the impact will be. We also have a history of certain groups who are mortgage prisoners. We have people who are stuck in mortgages despite some work that has been done around EWS1 certificates, which we had raised in the past.

What is your overall assessment in this context? There are double standards, with banks being quick to pass on mortgage rate increases but



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not to increase saving rates. There is an inherent unfairness in what is going on. As the regulators, how can you use your powers to ensure that people do not face financial distress; that banks behave appropriately; and that they do not abuse their powers and the fact that they can do what they are doing, which is not passing on rates to savers while being quite quick to increase mortgage rates?

Nikhil Rathi: If I take the mortgage rate situation to start with, since I was last before the Committee the situation has become somewhat more encouraging. Pressures on households remain significant, but they have eased somewhat since December, with energy prices coming down and the employment market holding up somewhat more strongly than we feared might be the case a few months ago. Our latest figures would be that approximately 356,000 consumers will be financially stretched by the end of June 2024, which is an adjustment down.

Q465 **Rushanara Ali:** Is that on mortgages?

Nikhil Rathi: Yes. It is an adjustment down from where we were a few months ago because of just how quickly these markets are moving.

Q466 **Rushanara Ali:** Does that include the 200,000 in default?

Nikhil Rathi: That includes the 200,000. I want to clarify that. The 215,000 are in some degree of payment shortfall; that does not mean default, but that they are in some degree of payment shortfall. That is approximately 2% of the mortgages. Around 116,000 have arrears greater than 1.5% of their mortgage balance.

We have been very proactive in our engagement with banks to make sure they treat customers fairly, work through issues, encourage them to contact them early and give them multiple options when they are facing difficulties. So far, broadly speaking for the largest institutions, we are seeing them acting appropriately. The number of repossessions is at 1,054 in the most recent quarter where we have data, which remains significantly below where we were before the pandemic.

There are 32 institutions where we felt that they have not treated borrowers in financial difficulty appropriately. We have intervened with those institutions to encourage them to remedy their conduct. We are very alive to these issues and we are watching them very closely indeed. I believe that the leadership of banks understand that their reputations are at stake if they do not handle things appropriately in the coming months..

Q467 **Chair:** Would you be kind enough to send us a follow-up letter to the one you sent us previously with those refreshed statistics please?

Nikhil Rathi: The statistics will be ready for publication in a week or so. After that, I will be able to share those with you.

Q468 **Anthony Browne:** I have two questions on two different areas. The first is on Arm and the London stock market, which obviously Nikhil, as former



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chief executive, knows something about. My colleague, Danny Kruger, is going to ask more questions about that. Secondly, I have a couple of questions on scams.

On Arm, I have a constituency interest. It is just outside my constituency, but many of its employees live in my constituency. Clearly, there is huge disappointment that its owner, SoftBank, has decided to list in the US rather than in London. I know that the Government made a lot of efforts to try to persuade it otherwise. One reason that was given was FCA rules particularly relating to third-party transactions, which, according to media reports—I do not know whether they are true—you offered to suspend for it. I was wondering what your take is on Arm not listing here and whether FCA rules played any role in that decision.

Nikhil Rathi: If I could step back, there has clearly been a lot of coverage of this in the last few weeks and I want to take a multiyear perspective. It is worth bearing in mind that, in 2020, there was very strong equity capital raising in London, supporting firms restructuring during the pandemic. 2021 was a record year. Last year, the economic conditions were more volatile. In the light of the Hill review, we adjusted listing rules at the end of 2021, in the most far-reaching reforms in capital markets for a number of decades.

In any individual decision, there will be many factors at play. Certainly in the case of Arm, we were aware and the Government indicated to us that this was a company of national importance. Therefore we engaged to look at our rules to see where there was a case for making modifications and where that evidence was presented to us. I will not go into any more specific details, because we tend not to go into company-specific details, but you can rest assured that we are very engaged on these issues. We understand the importance of our role as a regulator and are very proactive.

When we are thinking about the overall equity market in the United Kingdom, we have to take a much wider picture. We are one part of the conversation and will continue to do everything we can to reform the rules to make sure we are internationally competitive. There are also wider issues around tax, with the fact that we have a stamp duty in the UK. Dividend tax was removed in the late 1990s. There have been specific changes to capital gains tax, which is different to other jurisdictions.

The DB pension fund market has largely closed now and it is in run-off. They used to be major investors in the UK market and that percentage has fallen. There is the attitude to risk. We have had this debate here in this Committee sometimes as well. If a company fails and there are losses, including potentially for your constituents, either directly or indirectly, what is the level of tolerance as a society for some of these risks? Across a portfolio, inevitably some will be successful and some will not. Sterling volatility has been an issue in the last year as well.



There is a wider question for us as a country. How much are we prioritising the development of our capital market in broader public policy? When Arm was taken over by SoftBank in 2016, the Takeover Panel applied certain conditions, which were committed through post-offer undertakings. Retention of a capital market nexus in the UK was not one of the conditions. Other jurisdictions—for example Australia—when they have had similar companies of national importance have attached a condition when those takeovers have happened. As a country, for different reasons, we have had different priorities.

I know that Mr Baron, for example, has a very close interest in investment trusts. When we were in the EU, we were not able to market those into the European Union. We have not always prioritised the marketing of those listed vehicles in our trade negotiations. Again, those are choices that we make. There is a wider conversation for us to have about risk around the full range of these issues and where this fits in terms of all the other public policy priorities that exist for the authorities.

Q469 Anthony Browne: You make a lot of very interesting points and largely answered my second question. There have been statistics showing a very big decline in the London market. At the beginning of this century, the London market was 13% of global equity value. It is now just 4%. In terms of total global IPOs, we were 18% in 2006 and just 1% last year. It really is a dramatic decline.

You gave lots of reasons for that and that is all accepted. Do you see the London Stock Exchange rules and, in particular, the FCA requirements in the London Stock Exchange rules as part of the reason for the uncompetitiveness? You mentioned the related-party transaction rules as one example of that, but there are lots of rules on qualifying for a premium segment, which they do not have an equivalent of elsewhere, for example. I know that, on the AIM market, there are a lot of complaints about the bureaucracy in relation to why people choose not to go on that.

Nikhil Rath: I will answer and then maybe Ashley could give an international perspective. We are one part of the system here.

Anthony Browne: I accept that there are lots of factors.

Nikhil Rath: We have reformed our rules and want to make sure that we continue to keep those dynamic. The related-party transaction rules are in place for a reason. They arose because there were a number of scandals.

Anthony Browne: It stopped conflict of interest—

Nikhil Rath: There were a number of scandals a couple of decades ago, which prompted greater investor protections to be put in place. We are always open to discussing how those could evolve in the future. Comparisons are made to the US, which has a disclosure-based system. That also relies on a system of private litigation, where investors will



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typically pursue companies in court. We do not have a system of private litigation in that same way.

We have some rules, for example, that arise from our philosophy on corporate governance. For example, if a director who is a major shareholder in a company or connected to a major shareholder in a company wishes to take a personal loan out of a listed company to benefit themselves or their connected company, we have rules that say that they should not vote in the board on the consideration of that loan. Sometimes that loan can be below market rates, or it can be on preferential terms. The independent directors should vote on it.

Those are standard governance conflict of interest provisions that we have across UK public life. Not all markets have those, but those come out of societal preferences that have emerged over a number of decades in the UK. It is very healthy for us, as we are looking forward, to think about this debate. You talked about the global market share.

Q470 Anthony Browne: Can I be really specific? Do you accept that FCA rules played any role in the decline in the global market share of the London capital market over the last 20 years?

Nikhil Rath: I would not want to come to the conclusion that our rules, in and of themselves, would be the single determinant there.

Q471 Anthony Browne: I did not say "the single determinant". I said "a contributing factor".

Nikhil Rath: In terms of IPOs, the two largest markets in the world are China, which is the fastest growing market in the world, and the United States. Chinese companies tend to list in China, Shanghai, Shenzhen or Hong Kong. The next market is India and it is very protectionist. Those are where the big sources of growth have been over the last 20 years.

Q472 Anthony Browne: You are not answering the question. Do you agree that FCA rules are a contributory factor to the decline of London in the global equity markets?

Nikhil Rath: I would hesitate to say they are a major contributor. Often in these cases people will say one rule or the other is making the difference.

Anthony Browne: Ashley, you are trying to get in here.

Ashley Alder: It is absolutely standard for market participants to say the rules are too tight, whether those are the related-party rules, the track record rules, et cetera, as part of the rationale to go elsewhere. There is always room for review, and the FCA is in the middle of that review. Going forward, there is a discussion around the relevance of track record and whether the listing rules should shift the centre of gravity more towards a disclosure perspective.



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That is quite a serious conversation. I say that because Nikhil referred to China and Hong Kong. Hong Kong is a major IPO market. It does one thing: it lists mainland China companies in Hong Kong. But not only Hong Kong lists those companies; so does the US. At the moment there are roughly 250 mainland China companies listed in the US. They went there for a number of reasons. They did not go there to enjoy the class action system or the notoriously lax SEC—just the opposite. It is a tough environment. They went there mainly because at IPO there was a valuation gap, which is quite significant.

That brings us back to the UK. Over the last week or so, I have seen lots and lots of commentary about what went wrong. That has not been only over the last week or so; it has repeated over the last few years. There was the “Jurassic Park” comment a couple of years ago, which was similar.

You have to go through the whole question of defined-benefit pension funds, the insurance industry, other aspects of liquidity and, as Nikhil alluded to, foreign takeovers, which may also be partly a valuation issue. I do not yet see a holistic effort around how to address all of that. From my personal perspective, there should be one. It is just not possible to say that X percent of the problem is listing rules.

Q473 **Anthony Browne:** I was not asking that. I was asking whether it is contributing.

Ashley Alder: It is an element, but given all the other elements, we need to look at this holistically.

Q474 **Anthony Browne:** That is a challenge to the Government there, so the Government should look at it. Can we have very brief answers in my remaining time, please? I was not intending to ask so many questions about that.

We have quizzed the FCA and the banks before on the issue of fraud compensation, in particular “on us” fraud. As you know, this is where the bank is the bank for the fraudster as well as the victim, so therefore they do not get compensation through the faster payments scheme. From the victim’s point of view, it is ridiculous that they get compensation if the fraudster happens to be with a different bank to them, but not if the fraudster is at their bank. Is there a remedy to this? Are you talking about it? I have raised it with Treasury. They know it is an issue.

Nikhil Rath: We can see the case for symmetric treatment. We are in discussion with the Treasury as to how we can resolve the issue.

Q475 **Anthony Browne:** You think it is resolvable? It might need a tweak to the legislation.

Nikhil Rath: It is resolvable, but it is a legislative solution to change the rules for so-called “on us” fraud.

Anthony Browne: One of the things we have asked the FCA about in the



past and done several sessions on is scam advertising on online platforms such as Google, Facebook and so on. You have been heavily involved with this and you monitor it. As you know, Google has brought in the rule that FCA-regulated products can be advertised only by FCA-regulated companies. Facebook is also introducing this, if it has not already. Do you have an update on that? How do you see that working? Is it still an issue of concern for you that there are investment scams and other scams being advertised through online platforms?

Nikhil Rath: It remains an issue of concern. I have come before this Committee and raised concerns about the behaviour of firms like Google, but I should also give them credit. When they changed their policies 15 or 16 months ago, we saw a very quick and dramatic decline in the number of fraudulent ads being promoted through their platform. That showed it was worth applying the pressure we did to make sure that happened. The Online Safety Bill will give us other tools. Not every single social media company has followed. Meta has work to do; Twitter has work to do. We certainly expect that the Online Safety Bill, when it has gone through, will give us additional tools to be able to tackle this.

As I said earlier, we have been using technology to step up dramatically our own action. We have gone from taking down or requiring amendment to 500 ads in 2021 to 8,000 today. We are using web scraping technology to look at 100,000 websites every week and we are triaging them much more effectively. That is part of our transformation: to use data and tech so we can get to these problems more quickly and on an industrial scale, because the scammers work on industrial scale.

We ran a sprint with telecom companies and banks so we could think about how we could combine the data the telecoms and banks have to spot fraud typologies more quickly. That is the first globally in terms of how we use technology to do that. That emphasis on public-private information sharing is also key to the next stage of this work.

Q476 **Chair:** To clarify what you said to Anthony just then, you are asking the Treasury to put a legislative solution for “on us” fraud into the current Financial Services and Markets Bill.

Nikhil Rath: We are engaging with the Treasury on the solution. We have not formally asked for it, but we recognise there is an issue here that should be solved. The Bill is being passed and it is now at a sensitive stage. It is not for us to request specific amendments when it is at this advanced stage of parliamentary passage.

Anthony Browne: There is still time for amendment.

Nikhil Rath: I know, but we are always respectful of the fact that this is right in the advanced stages of parliamentary discussion. The Government handle the Bill. We can certainly see the case for a change here, but it is for the Government to decide what amendments it wants to bring forward.



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Q477 **Danny Kruger:** I have a couple of questions, first about Arm and then more general. Can I ask Ashley first and then Nikhil? It would be great to get a quick answer to this first question.

Arm began life as a British firm. It is still based here. It was listed here until a few years ago. Do you accept that it is a national humiliation that Arm has decided to list in New York?

Ashley Alder: I am not sure “humiliation” is the right word. “Disappointment” is probably a better one. From a UK perspective, clearly, a different outcome would have been very desirable.

Q478 **Danny Kruger:** Do you feel we have been humiliated by this decision, Nikhil?

Nikhil Rathi: I would not use that word. I would echo what Ashley said. It is always disappointing if companies of national importance choose to raise their primary capital elsewhere.

Q479 **Danny Kruger:** You say it is a company of primary importance. Indeed it is. It is an absolutely key sector that is essential to so much of the future of our economy and, we would have hoped, an essential part of the UK’s industrial base.

I recognise that so many other factors went into their decision—I take what you said earlier about that—but say you had a free hand and were, in a sense, setting wider policy. I want to come on to capital markets policy more generally, but in the case of Arm in particular, if you had been able to have a bespoke arrangement that would have kept it in the UK or got it to list here again, what would that have been? What would it have taken for it to list?

Nikhil Rathi: I am expressing a personal view here—I have to be careful not to step outside my remit. The core decision was taken in 2016 when conditions were attached to the takeover. The post-offer undertakings that were requested at that time, quite legitimately, as you can understand, were attached to jobs in the UK and the retention of IP here. As a country, we did not prioritise in those policy choices the retention of a UK capital markets nexus, whether for this particular company or others. Other countries very openly do that for specific companies of national importance, including Western markets, or for investment trusts and other things. Those are choices that rest in the wider public policy environment. To me, that would have been the key point. Those choices are always available to a Government.

We always have to be mindful that, if we are going to waive rules for which there is a strong market consensus—we will have a very open discussion around the future framework, and we will not be found wanting in having an open discussion—we have to have a strong justification for doing so, including around things like conflicts of interest, director loans and so on, which have been the source of a lot of problems in markets in the past. Look at some of the market issues that are going on around the world, for example in India in recent days. This issue is



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right at the heart of one of the big issues they are dealing with and their Supreme Court is grappling with right now. We have to have a justification. We are very open to those kinds of conversations and discussions, but we are one part of the discussion.

Q480 Danny Kruger: Would you have welcomed the opportunity to have more of a bespoke arrangement for Arm, given its significance?

Nikhil Rathi: We stood ready to make a number of significant adjustments where we had evidence they were justified. There were broader issues at play here in terms of some of the things Ashley talked about that contributed to this decision.

Let us be mindful of the fact that the business and the revenues of a number of these companies, including a number of companies that have talked about using the US markets, are now anchored in the United States. It is a larger economy and their customers are there. That also contributes to some of these choices. That is partly the nature of the relative size of economies globally.

Ashley Alder: I will give you a personal opinion on this. Regulators need to be very careful about designing or agreeing bespoke regimes for individual companies.

Dame Angela Eagle: Hear, hear.

Ashley Alder: Reflecting on my past experience as a regulator in a different jurisdiction—it may come as a surprise—we thought the related-party transaction rules were absolutely core to the credibility of the whole system. Without going into any detail, we would relatively frequently come under pressure around those rules, particularly when it came to very large corporate ecosystems.

I have interacted with Nikhil and the team on this over the last few days. There is a point to which a regulator can go without upsetting the level playing field for other companies, but once you get to that point you need to be very careful. Making those judgments is very important, but my core point is that having very different bespoke regimes from company to company is a very difficult path to take.

Q481 Danny Kruger: That principle is absolutely right; I completely concede it. I am just interested in what might have worked in the case of Arm and whether there should have been that consideration, given its significance.

Let me move on to the more general question and invite you to philosophise a bit. As Anthony was saying, we have this problem of firms not listing in the UK, including smaller firms. There is a real problem with them having access to equity. Companies increasingly raise finance through debt. If they do raise equity, it is private equity. That seems to be the destination and the route firms take.

You talked a bit about the wider capital markets policy in the UK. Is it not



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an appropriate ambition to strengthen our stock exchange? If it is an appropriate ambition, what would it take? I am asking in the context of your point about the place of the UK in the world. What is the role of the London Stock Exchange in the global financial economy? What would it take to improve access to public equity?

Nikhil Rathi: What is important is that companies that are seeking to grow and create jobs have access to the capital they need, long-term equity capital. Public equity is one component of that, but venture capital and other forms of equity are also important components. You want the entire system to be working effectively, and different companies will have different preferences. The diversity of the system is important.

Over the last 10 years, we have been in an environment where we have had very low interest rates. That has meant private equity firms, which rely on debt and leverage, have been able to raise very significant amounts of debt and leverage up companies in order to be able to invest at scale. That is not just a phenomenon here in the United Kingdom; the number of listed companies in the United States has fallen very significantly as well.

The other thing that has happened—this goes a little bit into the question about whether companies list on their own or through other mechanisms—is that the companies at the top of stock markets have risen in size. Look at the top of the US stock market or even the top of our market. The US has trillions of dollars of market capitalisation with big pharma. They use their equity to buy up these companies at a particular valuation.

One trend in the UK, which is a little bit of a discussion point and is hard to understand, is that founders will tend to sell out once they get to between £1 billion and £10 billion. They do not tend to go for £100 billion, as you might find in China or the United States. They will tend to sell out to a larger buyer at that juncture.

Danny Kruger: Yes, to American private equity.

Nikhil Rathi: It could be private equity; it could be a listed company in the United States. Some of the big tech firms are buying up new tech firms very actively. As a regulator, we can make sure the regulatory environment is effective and efficient. We are working intensively on that and have already put through reforms.

We are—Ashley can comment on this from his international experience—one of the world leaders in terms of innovation. As the FCA, we sponsor and we have led the Global Financial Innovation Network. Over 80 other countries participate in that. We have more fintech investment in the United Kingdom than the rest of Europe combined; we are second only to the United States. We can also support new products. The long term asset fund, which is to support investment in long-term infrastructure, has been established and we expect to approve new applications there



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very soon. What we cannot do are those things I mentioned around the relative tax treatment of equity versus debt, pensions and all those other things.

Q482 Danny Kruger: Ashley, can I quickly ask you about the senior managers regime? It is relevant to this question about attracting foreign investment. The Government are reviewing the senior managers regime. Famously, there has only been one penalty under this regime, for Mr Staley. Presumably, we do not think that is the only effect of this regime. There is a cultural or behavioural impact from its operation. I hope you would agree that is what is going on. Could you quantify for us or outline to us what the effect is? Does the regime need to be tightened or loosened?

Ashley Alder: My view is that the regime is pretty much fit for purpose as is.

Incidentally, there is a similar regime in Hong Kong—my old patch, as it were. In my experience, banks have initially been reluctant to embrace it and then, once they have implemented it, they have been quite enthusiastic. The reason for that is it gives the bank the ability to assign accountability in reporting lines. Many global banks in particular had a tradition of matrix management, which basically smears responsibility over the organisation.

In my experience, it has operated quite effectively as a preventative mechanism. It does not prevent everything, but it is a preventative mechanism. There is a question about the link between the senior managers regime, enforcement and individual responsibility. My view is that that is yet to play out. It is an interesting point.

Q483 Danny Kruger: Do you mean that we need to see more enforcement?

Ashley Alder: The theory of the senior managers regime is that it is preventative and that, if there is accountability, there should be an enforcement nexus around that. That is my simple view.

Danny Kruger: The regime is right, but it needs to be enforced. That is a good answer.

Q484 Dame Angela Eagle: I want to ask about the consumer duty, which is impending but about which there seems to be some doubt. Is it fair to say that bringing this whole concept in is a shift away from the concept of fair game to your concept of fair value? Is it going to benefit consumers a very great deal if you can get it right?

Nikhil Rathi: I would agree that it will benefit consumers a very great deal. In 2021 Parliament passed, with a Government-sponsored amendment, a piece of law asking us to bring this into force with the rules being published by the end of July last year. At its heart is an expectation that financial services firms put consumers' needs first, all the way through the product development and distribution process.



It is an outcomes-based piece of regulation. As we get to the July deadline, we are in a phase where firms are getting to the finish. Generally speaking, we are finding that the largest firms—you heard from the banks—are ready, but there is always stress as you get to a deadline.

We also hope that, once we have got to outcomes-based regulation, this along with things like the senior managers regime, will enable us to regulate for innovation more effectively. For example, we know artificial intelligence is being used increasingly in retail financial services. We are not always going to be able to keep up with every single development of the big tech firms as they enter, but we think setting some clear outcome-based standards with some clear principles will be very effective for us. Hopefully, that will mean we have less detailed rules in the future because we are able to hold people to a higher outcome-based standard.

Q485 Dame Angela Eagle: It has been reported in *The FT* on 27 February that Andrew Griffith, the City Minister, is on a collision course with the FCA about these rules and has been scathing about the consumer duty in private. From your interactions with him, have you had any indication that this is the case? Are you concerned by these reports?

Nikhil Rathi: As I say, this was a Government-sponsored amendment in 2021 that secured cross-party support. It is on that basis that we are implementing it. It is natural for firms to raise concerns at this point in the process, particularly given the importance of the change. I am sure they raise those concerns with the Treasury and the Treasury properly passes them on to us. We will engage with those in detail and understand what they may be.

There will always be concerns as you get into implementation. However, I believe the firms themselves, and the large firms in particular, are working hard on this. I am grateful for their work. This will collectively be very significant for UK retail financial services consumers for decades to come.

Q486 Dame Angela Eagle: I agree. The consumer duty is a very good thing, but I have been picking up that banks and some of those affected have mounted a ferocious backstage lobbying attempt to try to delay implementation of these reforms. We now read that the City Minister has been scathing. Are we going to wake up and find out they have been put off because of all of this backstage activity that is not transparent or out in the open? Are you going to be knocked off your deadline by this nefarious behaviour?

Ashley Alder: We have discussed this. I chaired my first board meeting on the 23rd. One of the topics that came up, which was discussed with our NEDs, was the implementation date. The decision of the board was that it would stay. The implementation date for stage 1 is July.

Dame Angela Eagle: That is not going to change.



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Ashley Alder: No, not as far as I am concerned. It was discussed at board level and July is the deadline.

Nikhil Rath: Not as far as I am concerned either. Parliament is free to make up its mind on these dates, but we have followed your instruction.

Q487 **Dame Angela Eagle:** We will see whether that intensifies the backstage lobbying being aimed at you by people who do not want to do this. If this did carry on, or if Ministers continued to be scathing even to your face in meetings, demanding that you delay this, it would be a threat to your independence, would it not?

Nikhil Rath: I have talked about our operational independence here before. We make our decisions based on the objectives Parliament has given us.

Q488 **Dame Angela Eagle:** Do you value your independence?

Nikhil Rath: We absolutely do. Ms Hardy talked earlier about staff engagement and staff morale. It is hugely significant to our colleagues. They are incredibly proud of the work they do. I am very proud of the work they do. They follow the evidence and they make decisions in line with our objectives that seek to serve the public interest.

It is incredibly important, but I would also make the point that we do not operate in a vacuum. We have to be aware of the environment around us. We heard about the Arm IPO. Last year we mobilised huge resources to deal with sanctions. We did not sit there and say, "We are independent. We are not going to respond to a major global need and support the Government". The Treasury is in the lead on sanctions, but we mobilised and shifted resources around, using our objectives to support that. We always have to be alive to the broader context.

Q489 **Dame Angela Eagle:** Of course, you are not independent of the society you live in. That is not what I am claiming. If you were put under pressure by current Ministers, such as the current City Minister, to knock you off this target and water down some of what you are trying to do with the consumer duty, would you proactively tell us it was going on so we could at least get it out in the open?

Nikhil Rath: You asked me how I would address these issues when I came to my pre-appointment hearing. I believe my track record shows that I have been very open with you as to what we think.

Where we have felt there was a sufficiently significant area of discussion, for example in relation to the call-in power at the end of last year, we have been open with the Committee about our issues and concerns. It is not particularly healthy for us to debate every issue. Where there is a legitimate public policy debate, there should be a private space to have those conversations. Should we ever feel our independence is compromised, I am accountable to you.



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Q490 **Dame Angela Eagle:** To sum up, there has been activity, as you would expect, and maybe even ferocious lobbying. At least one Minister has been scathing about what you are doing because he thinks it is wrong, and he happens to be the City Minister. Despite that, this is still going to go ahead on the deadline you set last year. On 31 July this year, the consumer duty will be in place.

Nikhil Rathi: I tend not to comment on anonymised press reports. You have heard from the chair about where the board's decision is. We have been very public about it. I repeat: I am very grateful to all the firms that have been working incredibly hard to deliver this by July. They do not want to see their competitors, some of whom may not have done the work, getting a free pass.

Q491 **Dame Angela Eagle:** What will happen if, when this duty comes in, some of those competitors that did not do the work are not complying with it? What will you do to them to ensure that the new level playing field, including a consumer duty that is output-driven, will be level? How are you going to enforce the expectation?

Nikhil Rathi: We will be pragmatic in our implementation and oversight of implementation. We are not going to go for every small slight delay. In the first instance, we will go after those firms that have egregiously not complied and have made no effort. With a scale of change like this, there is always a big effort. There are systems changes. Where firms have made really solid best endeavours, that is not our issue. We will be going off those that are causing the most harm and that need to be addressed. That will be our approach.

We have been investing incredibly heavily in our data capabilities so we can get updated regulatory reporting. That enables us to look at outliers in terms of behaviours, performance and products where people are making the most money. That gives us information that enables us to target our supervision resource more effectively than we have in the past. That is what we will be focusing on.

Q492 **Dame Angela Eagle:** Are you particularly worried about e-money?

Nikhil Rathi: We are worried about e-money. If I think about our authorisations performance—the Committee has engaged with us on that in recent months—we are now substantially back on track to meet our statutory and voluntary metrics.

One area where we do not see as strong a performance as we need to see is in e-money. We are having to turn down approximately 80% of the applications coming our way because of the quality of the applications. That is an area of concern. We have specific work on that, and we have written to firms about that.

Q493 **Dame Angela Eagle:** Are there any other sectors, apart from that obvious one, that are laggards or you are worried about? Is it just particular companies within wider sectors?



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Nikhil Rathi: We have around 20,000 firms in the consumer credit landscape, and Ms McDonagh touched on some of the practices that can exist in that landscape, particularly with respect to vulnerable consumers. That is a concern. We have invested heavily in our data there.

There were some very bad practices in funeral plan providers. They have come into the perimeter, but we continue to want to make sure they follow the consumer duty, which will now apply to them.

Buy now, pay later will be an area of focus for us, subject to the Treasury consultation and the legislation Parliament will decide on later this year. We have not even come to crypto yet. We have given evidence in other fora to the Committee on that. Those are some of the areas we will focus on in the first few months.

Dame Angela Eagle: I certainly look forward to taking evidence from you after the implementation of the consumer duty, hopefully with its full force despite what the City Minister might think.

Q494 **Mr Baron:** May I turn to how the FCA's work on green finance fits into the Government's wider strategy of achieving the net-zero target? Given that we are talking about green finance, may I refer the session to my declarations in the Register of Interests?

The green finance strategy has a number of planks to it, but two of them relate to addressing the information gap for market participants, as you know, and creating expectations and requirements that sustainability information is mainstreamed into business and financial decisions. I know the FCA is fully aware of the extent of so-called greenwashing that there is in the industry at the moment, with market participants claiming to be green or to have ESG credentials and so forth where that might not be the case.

We know there are no standard definitions, particularly when it comes to ESG. There are no accepted accreditations or indeed terminology. The FCA—correct me if I am wrong—accepts that this is confusing for consumers. What is the FCA doing about it? Can you tell us more about your current consultation and, perhaps more importantly, where is the teeth in all of this?

Nikhil Rathi: This is a hugely important agenda for a number of reasons. Parliament has set a net-zero target. The work in this area was a feature of the remit letter that came to us from the Government. It is also important for the competitiveness agenda. There is a big opportunity for the United Kingdom financial services sector to be a leader in green finance, and we want to make sure that we are facilitative of that.

We are working very closely with our international partners here. We are very heavy contributors to the development of international standards. Two years ago we introduced the Task Force on Climate-related Financial Disclosure standards into our listing framework on a "comply or explain"



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basis, so that companies could start to disclose according to those international standards.

We have been monitoring the development of ESG products in the market. We have written to fund management chairs about making sure that standards are maintained and that engagement with consumers is clear. We are considering, with the Treasury, the regulation of ESG data providers. It is interesting: that is one area where the market is asking us to regulate because it wants some common standards.

I know you took evidence on the sustainability disclosure regime, which we are consulting on at the moment. It is a very active consultation. We have had around 240 responses. That is going to the consumer dimension you talked about. I very much appreciate the work of the Committee on that and the amount of time you as members are devoting to it. It is an important element of the new regulatory framework that we take account of your views as we finalise those rules.

What are we trying to do there? As this market has evolved, standards are also evolving. We want to make sure consumers get products that meet the objectives they are after.

Q495 Mr Baron: If I may press you slightly, Nikhil, I hear all that and I realise this is not a simple black and white situation, but can I push back a little bit? Your investigation into this area has been ongoing for a little while now, but we still have this confusion in the marketplace. Consumers are still being misled and not being well informed when making investment decisions. Can I ask you to address the teeth aspect of my question? When are we going to get to a situation where this has been sorted out?

If I can just add to that, there are very possibly consumers now who have been misled. What is the FCA going to do by way of compensating them?

Nikhil Rathi: On your first question, we would hope to be introducing rules around labelling this year. We have put the consultation out. As you have heard, it got a lively response. We are seeking to make these consumer-focused standards, which will require adjustment over an appropriate period for some participants in the industry.

As we are doing that work, we have to be cognisant of the fact that there have not been standards in this area and this has been evolving over a number of years. I would be cautious about saying that there has been mis-selling in all cases where a firm is now moving into a different category in terms of its sustainability label. This is evolving and dynamic. We have to be careful about saying, every time we introduce a new standard, that everything that went before was somehow tainted.

At the same time, where we see egregious examples of claims being made, about sustainability or otherwise, we will investigate. Under our existing powers, we have the ability to act to ensure that promotions are



fair, clear and not misleading. There are investigations underway in a small number of cases where that has been the case.

We are certainly hoping that our disclosure rules will set a framework and will be world-leading in terms of the clarity with which consumers are able to participate in this market going forward.

Q496 Mr Baron: I hear what you say, but can I examine the nitty-gritty a little more? It is fair to say that the asset management industry has been generally slow to respond. It has perhaps had little or no effect in reducing the growth of our carbon footprint. That is a sweeping generalisation, but it probably holds scrutiny.

For example, may I press you on the need for perhaps shorter-term incremental targets? There seems to be a disconnect between what the chief executives of larger fund management companies actually say and then how they vote when it comes to climate change resolutions, using the votes they control within their own organisations. Is that something you are looking that? There seems to be a great disparity, if not disconnect, between what these chief executives say and what they actually do when it comes to important things.

I will give you another example. Is there something to be said, again in order to give these measures more teeth, for pay remuneration perhaps being linked to action? It just feels at the moment that it is all very woolly. We know there is an issue out there. We know there is greenwashing. We know consumers are being misled. We know the FCA is looking at it, but there does not seem to be a lot happening.

Ashley Alder: Can I come in here? You are right. It is woolly. The phrase "alphabet soup" has been used in the context of all things green finance. That is pretty much the situation we are in right now. However, over a period of around two years, there has been a very large concerted global effort around fixing this. A phrase that sticks in my mind is that sustainable investing is not sustainable unless we get a grip. Otherwise it can lead to results that are effectively opposite to those that you wish to achieve from a carbon perspective.

In simple terms, when it comes to the global community, including the FCA, which as Nikhil mentioned is a leader and has positions on various taskforces and suchlike leading the work on this, there are a number of layers. There is the way in which the asset manager assesses its own portfolio of risk and communicates that to investors, and the way in which it engages with companies around that; you are quite right. From a regulator's perspective, it is matching what they do to the expectations of investors and how they communicate that. Frankly, that is work in progress globally, but it is important.

The other angle to this, which the FCA is effectively consulting on, is around product labelling. In the UK right now, we are not looking at taxonomy, which is at the heart of European efforts. I only illustrate or



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mention that to show how potentially fragmented approaches are globally.

Mr Baron: I accept that.

Ashley Alder: The other angle to this is listed companies, or companies generally. That is about their own disclosures. It comes to a global effort around something called the International Sustainability Standards Board.

Q497 **Mr Baron:** There is one other subject I briefly want to touch upon and time is short. Can you write your answers to us on this issue of where the teeth are, what happens if investors have been misled and what you are doing to look at the detail, particularly when chief executives are saying one thing but actually doing nothing in voting the shares they own or control? These are important examples of where the FCA could make progress.

Can I quickly just move on to one other issue? We are fully aware that, as the Chancellor has said, the Government are ensuring that the financial system plays a major role in the delivery of the UK's net-zero target. Mr Sacha Sadan in evidence to the Treasury Sub-Committee made the point that we need significant additional investment into climate change. I do not think anybody would disagree with that.

What is the FCA doing on the central point that, when it comes to investment, often a medium to long-term time perspective is required? Open-ended funds are not as well suited as closed-ended funds to take a long-term view. We are obviously talking about investment trusts. Yet tens of billions of pounds have been raised by investment trusts to go into climate change infrastructure, as well as many other assets that require a long-term view, but they are having to compete on a unlevel playing field because they get charged stamp duty when investors purchase them, unlike open-ended funds. That does not seem to fit in with the overall agenda of encouraging greater investment.

What is the FCA doing about this to encourage a levelling of the playing field?

Nikhil Rathi: First, in terms of the channelling of investment, we participate actively in the transition plan task force, which was established by Government to deliver on the UK's transition plans. That is the appropriate role to play, but obviously there are many other parts of the system that take the lead there.

Secondly, we have established a long-term asset fund to support investment in infrastructure, including green infrastructure. That came out of some work that I co-chaired with the previous City Minister and the Governor of the Bank of England as to what regulatory changes we can make to provide the vehicles for this investment. I am optimistic that we will start to see some movement there.



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Your specific question was about closed-ended funds. It is an apt year to be talking about this. It is the 155th anniversary this year of the oldest investment trust. They do not have a completely unblemished record, but they are very much a strong UK success story, which is why I mentioned them earlier. I have been pleased to see that they have been used for solar investment, wind investment and so on.

You will have to forgive me if I do not comment on tax issues, because that would be outside our remit. Obviously, that is a matter for the Treasury.

Q498 Mr Baron: I take that point. Very quickly, the long-term asset fund has not had the best of starts. There has been very little support from that in the early years, certainly, for all sorts of reasons. I come back to the point that you cannot talk about taxation affairs, obviously, and to a certain extent this is at the periphery of your remit, but you can lobby Government in order to try to encourage a fairer level playing field, i.e. investment trusts being discriminated against by way of stamp duty and investors so being discriminated against, when they have a track record of investing in the sort of funds that we want to support, i.e. climate change funds. Are you actually raising this with Government or not?

Nikhil Rathi: We tend not to raise tax issues with the Government and with the Treasury, particularly in the week before the Budget, because that is not our role. Where we can raise issues is around regulatory level playing field questions. I made the point earlier that, when we were members of the European Union, because investment trusts were not classified as UCITS, they could be exported outside of our jurisdiction. Actually, as we are thinking about our financial services trade agenda, there is a very significant potential export here and a case for treating those products equally to other forms of investment management products. Trade priorities will ultimately be a matter for the Government.

Chair: As you know, we have written on behalf of the Sub-Committee on a lot of those issues and we covered some of the points that were raised by John. We will make sure that all of the points are fed in.

Q499 Douglas Chapman: Good afternoon. I am going to ask a few questions just about the buy now, pay later schemes that are on the go. I just wondered what you thought of the Treasury's buy now, pay later consultation and draft legislation as it stands.

Nikhil Rathi: We welcome it. We look forward to the progress against it and we stand ready to move with our consultation once the first decisions have been taken by the Treasury and Government.

Q500 Douglas Chapman: When you were last at the Committee in November, you suggested that you had been clear on what you think should happen. I am a bit like Mr Alder in that I have been on the Committee only a few weeks. Looking back to November, what were your expectations at that point?



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Nikhil Rathi: We are on track with the consultation to address the issues that we talked about. We need to be able to regulate so that firms consider creditworthiness when they are extending buy now, pay later products; that proper information requirements are established for consumers; that there is fair treatment when it comes to the handling of arrears and late fees; that there is access to the Financial Ombudsman Service when there are disputes; and, importantly from our perspective, that the new consumer duty will apply to these firms. We have already engaged with the firms, even before this had come into our perimeter, to make sure they are treating vulnerable customers properly during the cost of living challenge.

I would say, at the same time, we also support innovation. There are many consumers who find benefits from using these products. They want the option of paying in instalments. For them, there can be circumstances when it is cheaper than other forms of regulated credit. We want to regulate in a way that supports innovation but provides fair treatment of consumers, particularly vulnerable consumers.

Q501 **Douglas Chapman:** Of these things you were talking about, in discussion with the Treasury, are they being fully accepted, especially in terms of consumer protection, access to the ombudsman or recourse to the ombudsman? Is there section 75 protection within what you are proposing as well? There has been a lot of controversy around there not being enough information for consumers regarding missing payments, for example, and the repercussions of not knowing about that. Obviously, there are strong financial repercussions for the consumer.

Nikhil Rathi: The discussions with the Treasury on this have been quite constructive. Our thoughts have been reflected in the consultation that they have put out. We stand ready to move, as and when that process is finalised.

Ashley Alder: From my perspective, looking at this again as a relative newcomer, this is an obvious regulatory gap that needed to be filled. I am impressed by the way in which the FCA have been proactive in engaging with these firms around information requirements and how to treat those who are in arrears. When I spoke to Citizens Advice, it wanted to make a strong point around the use of buy now, pay later for essentials or basics, which goes to Nikhil's point that there is an innovation aspect to this. There are potential benefits for some consumers, and for others there are not. Configuring the rules around those concepts is going to be very important. That is what the board will be interested in.

Q502 **Douglas Chapman:** The Treasury has said that it has significant ambition to have the relevant legislation in place this year. From the FCA's point of view, can you provide the Committee with a clearer picture or a timeline of when your regulations might come into force as well?



Nikhil Rathi: Realistically, it will be next year, because I do not believe the Treasury will have completed its process until the back end of this year. Then we cannot move until that has happened.

Q503 **Douglas Chapman:** Now that you have seen the proposals as well, how big is the implementation task for the FCA? What additional resources do you think you will require to make sure that everything is up to speed and good to go when regulations come in?

Nikhil Rathi: There is a significant implementation task but, as the chair said, we have been working on this already, building the connections with the firms and setting out our expectations. We voluntarily persuaded the firms to adjust some of their terms and conditions, where we felt they were not clear. We have included them in our correspondence on cost of living challenges to make sure they understand what our expectations will be. I believe we are, through our investments in data and technology, becoming more effective at adjusting our perimeter. We brought funeral plans into the perimeter last year. We will establish the reporting requirements from these firms and I think we will be able to secure this relatively smoothly.

We are also engaging with our international counterparts. I had lunch last week with my counterpart from the United States, the consumer protection body there. They are grappling with exactly the same issues that we are, with some of the same firms, and we are learning from each other's best practice too.

Q504 **Douglas Chapman:** There were comments about temporary permissions regimes as well. What lessons have you learned from previous situations like that with these regimes? How do you apply that to buy now, pay later as it comes in?

Nikhil Rathi: The Committee has taken evidence. By the temporary permissions regime, are you referring to the crypto money laundering regime? I really hope that the quality of applications is of a different standard to what we experienced in that case. That was exceptional by any historical experience to us in terms of the quality and, frankly, the integrity of the answers we were receiving from some of the firms that were applying.

One of the lessons that we have learned is to communicate our expectations. In particular, in relation to that temporary permissions regime, just a few weeks ago we published information on an anonymised basis as to what type of application was effective and where there were problems with applications. We are setting out clearly the kinds of best practice for applications that we expect of firms, so they can prepare such that, when they do apply to us, we do not have some of the problems we had with the crypto firms.

Q505 **Douglas Chapman:** There are a couple of questions just on economic crime as well, if that is possible. We mentioned earlier, through the Chair



and with Anthony as well, the Financial Services and Markets Bill going through Parliament now and whether that might be a good way of looking at the financial crime issues. We talked about the legislation regarding that.

Since that legislation is being discussed at the moment—I am referring to the onerous transactions—is that not a great opportunity to stick that particular ball in the net? It seems like an open goal that you have legislation on the stocks at the moment. Can you not make more of a determined effort to make sure that others are listening to your concerns?

Nikhil Rathi: I cannot say too much more than what I said earlier, which is that we certainly want to engage on this and we see that a legislative solution is needed. It would be going beyond what we should properly do in the middle of a Bill, when the Government is handling that and handling the amendments, for us to start suggesting they have a particular legislative strategy. I can agree with you that the legislative solution is necessary. The vehicle for that legislation is really a matter for the Government and Parliament to decide. There is the Financial Services and Markets Bill; there is the Online Safety Bill; there is also the Economic Crime and Corporate Transparency Bill. There are different vehicles, which are really for the Government to determine.

Ashley Alder: The principle makes every bit of sense. The question of how it is implemented, as Nikhil says, is not for the FCA. The principle does make every bit of sense.

Q506 **Douglas Chapman:** In terms of enforcement action with anti-money laundering, we have seen a number of significant failures over the last few years. Are the banks becoming complacent over money laundering? Do you sense that there is maybe a stricter regime required to actually deal with this?

Nikhil Rathi: You are quite right to point out that we have been one of the most prolific enforcers globally on money laundering standards. You have probably seen that in terms of the fines that have been coming out last year and earlier this year. We took a criminal case against NatWest at the end of 2021, where it pleaded guilty, with a very significant fine of over £260 million.

Q507 **Douglas Chapman:** But also HSBC, Barclays and Santander have all been in the news for all the wrong reasons with money laundering issues. Is there a systemic issue around banks in the UK?

Nikhil Rathi: You also asked me earlier about the temporary permission regime on money laundering, where we have been very assertive in terms of the risks of money laundering from crypto.

Those cases—it is important to give this context to the Committee—date to practices, systems and controls often in relation to the banks of many years ago. It is important that we enforce against those breaches from



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many years ago, but alongside that we have engaged with each of those institutions on remediation, and substantial remediation in each case. We supervise that intensively and proactively, sometimes cross-border as well, because sometimes these cases are not just UK cases. We see some good practice from banks that are taking it seriously. Where we see poorer practice or lack of grip of the issues, we stand ready to intervene again.

I would make a broader contextual point around money laundering, because there have been interesting contributions to this debate in the last couple of weeks. There are some infrastructure points that would really assist in this area. One point is digital identity. Our digital identity infrastructure in the UK is not as comprehensive and as advanced as in other jurisdictions. A former Prime Minister and a former Leader of the Opposition did a joint paper on this recently. With an increasingly complex environment, if we can focus on that, that will help everybody, not just banks but all players in the system.

Q508 Andrea Leadsom: Good afternoon. I wanted to ask you a few quick questions about how you deal with complaints, both about regulated entities and about the FCA itself. This is on behalf of a number of constituents, who make a complaint to the FCA about the way a bank has behaved, for example, or perhaps I make it for them, and then they find that it is all terribly secretive. There is no feedback and it is endless. I would really like your overall comments. First of all, do you welcome complaints from consumers? Does it matter? Do you take them seriously? Would you look at a single complaint or would you aggregate complaints and gather the data together to try to form a picture of malpractice by a regulated entity? What is your approach to the concerns of consumers?

Nikhil Rathi: To the point about whether we welcome complaints, obviously we would prefer that consumers were being treated fairly and did not need to complain. That is a key component of the new consumer duty. When complaints come to us, it is not our mandate to investigate individual complaints. That is a matter for the Financial Ombudsman Service. That is how the statute has been set up.

We have a framework in which we engage with the Financial Ombudsman Service to understand the trends it is seeing in complaints. Are there particular institutions where there is an elevated nature of complaints? Are there particular issues where cross-cutting themes are coming through? Are there particular firms that are not responding proactively, when complaints are made, to addressing those complaints and that require supervisory attention? That co-operation will be strengthened through the Bill, with a statutory duty of co-operation with the Financial Ombudsman Service. That is important. We have also said with a new consumer duty that one of the many important metrics is that we would like to see the number of complaints to the Financial Ombudsman Service going down, as a test of outcomes-based regulation.



We have heard from the evidence today some examples where that work with the Financial Ombudsman Service has been useful. Ms Ali raised the point around insurance. That is information that has also been engaged with by the FOS. Another area is appointed representatives, where we have taken quite strong action in the last few years to tackle that, because the FOS was telling us, "This is a very significant source of consumer harm". We have acted quite assertively and seen the numbers of ARs fall by 10% as a result of that action.

Q509 Andrea Leadsom: Thank you, that is really interesting. My next question was going to be where you have really changed things as a result of consumer complaints. Perhaps you have given an example in the insurance sector. What about in the banking sector? Very particularly, in the SME sector, you will no doubt be very aware of the frequent and detailed complaints of businesses that feel that their banks have not treated them fairly. For us as MPs, who often take up the case on behalf of SMEs, it goes into a big black hole. Nothing ever comes out. First, are these things important to you? Secondly, is there anything you can do to give more satisfaction to the customer, the constituent or the business who comes to their MP seeking some form of redress and just never realistically hears anything back, other than a few comments about process?

Ashley Alder: It is always frustrating when a consumer makes a complaint and it falls into a black hole, which it frequently does from their perspective. I am sure you will be aware there is a core issue there, which is to do with confidentiality when it comes to the FCA, supervision and enforcement. There are occasionally justifications to do a bit more in terms of communication, but they are fairly rare because it is all to do with compromising our ability to do the job we are meant to be doing around enforcement supervision.

In my second week with the FCA, I spent some time in the supervision hub, which is basically our call centre. That was quite interesting, not least because I was able to hear how distressed people were. It was not that their distress was unexpected, but for someone who had arrived in the UK from Hong Kong after being away for some time, it was the experience that impressed me most. The reason I mention that is that the FCA, as far as I could tell from my time in the call centre, was handling those complaints and some of the apparent distress very well.

The difficult was partly around remit, because what I was hearing was, in relation to a scam or attempted scam, "What is the name of the firm that has contacted you?" The call centre was able to pull up a list of unauthorised firms and then basically say, "This is not authorised by the FCA". Then, in reality, there is relatively little you can do, but at least it was a very honest, clear communication.

When it comes to individual complaints, that falls primarily with the ombudsman. What I also heard was some very clear advice around how to contact the ombudsman. I have formally already taken over the chair



of a board sub-committee called the oversight committee. One of the organisations of which we have oversight is the ombudsman.

One of the topics that arose in relation to that, which again effectively comes to the consumer journey around complaints, is the point at which an ombudsman makes a decision, and then what happens next, both in terms of the FCA aggregating information to take a serious, broad supervisory or even enforcement approach, and a question of how long it takes for the firm to actually pay compensation, if it is an adverse decision.

Q510 Andrea Leadsom: There is a third question too, though. How does the consumer business, the victim, the complainant get to hear about what is going on? Fundamentally for us as MPs, we are seeking resolution of complex issues. I myself have had a number of businesses come to me saying, "My bank made me go bankrupt. They stole my business. They appointed a private equity firm they play golf with." You can imagine this, over many years. How did they actually hear what happened? What did you consider and what was the end result? In many ways, just finding out that information is extraordinarily difficult.

Nikhil Rathi: There is an important point here. This has been a delicate issue. Small business lending above a certain threshold was taken out of our remit and out of our perimeter. That was further amplified during the pandemic, in order to speed up the delivery of lending to small businesses. That does not mean we are not interested in the conduct. We have engaged a number of banks on the conduct, but specifically that was not covered by us. The banks established the BBRS—Business Banking Resolution Service—to help address these very longstanding complaints, some of which go back to 2008 and 2009. In the cases of some specific banks, we have pressed them on their implementation of those issues.

It is always going to be difficult for us to engage on individual cases, rather than looking at how firms are operating as a whole. Individual cases give us useful intelligence. We are not going to be able to resolve every individual case, although we do get thousands, if not tens of thousands, of pieces of correspondence—the Chair asked me about my office—from members of the public every year. We are not going to be able to solve every one.

Q511 Andrea Leadsom: Is it a gap in regulation? There is a missing link. People's lives are destroyed; their businesses are destroyed. Indeed, I had someone recently coming to me about a mortgage where they tried to split the deed and the bank just messed them around—appalling behaviour. They get nowhere. They go to the Financial Ombudsman Service; they get nowhere. They come to me; I write to the FCA; they get nowhere. They get nothing back. Is there something that we should be thinking about legislatively to try to solve this problem?



Nikhil Rathi: I do not know whether it is a gap in regulation or choice in regulation. The threshold for complaints to the Financial Ombudsman Service went up to £350,000 turnover a couple of years ago. That was a legislative choice. It was judged that firms above that size were of a sufficient size to exercise contractual rights through the courts if they felt that they were not being treated fairly. That choice was made following a consultation. Those choices can always be revisited, but, again, that would be a matter for the Government to look at that threshold.¹

Q512 **Andrea Leadsom:** Sure, but what would your advice be? Ashley, you have just said it was quite impactful going to the call centre. You can clearly see the problem. Do you think we should do more to fix it? For me as an MP, I am deeply frustrated that I write to Nikhil and I get nothing useful back to say to my constituent.

Ashley Alder: Yes, if there is a significant gap that really has impact between the availability of resolution mechanisms, which is basically FOS, and what the FCA does, which is much more thematic from a supervisory and enforcement perspective, that should be looked at. There is a level of expectation in the community around the access to resolution. To echo Nikhil, that is not for us to decide. That is a legislative issue.

Q513 **Andrea Leadsom:** It is helpful if you observe it and you point it out.

Nikhil Rathi: It goes to the question about the kind of regulatory framework in the future and at what point we think that entities are able to manage their own risk. When they need regulatory protection from us or investor protection, it goes to the related-party transaction point earlier in terms of how much we should protect retail investors and how much protection they need versus relying on disclosure. Those are all judgments around risk appetite. This kind of interaction with you and the Sub-Committee is very important in us trying to understand what the political risk appetite is.

Q514 **Chair:** You have a great big pile of papers in front of you, Nikhil. We have not even come on to crypto yet. I just wanted to ask a very quick question on that. The Government have published their consultation paper. My understanding of it is that potentially bitcoin is going to suddenly find its way inside the regulatory perimeter and become more involved in the system. Ashley, your predecessor Charles Randell has sent us a letter in which he says that speculative crypto is gambling, pure and simple, and that it should be regulated and taxed as such. I am going to start with you, Ashley. Where is your head on the whole crypto regulatory issue?

Ashley Alder: I have a very small pile of papers, but I have Charles' letter. He is my predecessor bar one, really. I will try to keep it concise, because it is a big topic. Charles is basically saying this is not fit for

¹ Witness correction: The turnover threshold for SMEs to be able to refer a complaint to FOS increased to up to £6.5 million in 2019. At the same time the maximum amount the ombudsman is able to award increased to £350,000. This was following consultation, not legislation.



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financial regulation, because it is not financial services; it is gambling. That is how I read it. That is not an uncommon view. I am not just talking about the UK but globally. There is a choice.

Chair: I am looking for your view.

Ashley Alder: That is what I am going to come to. My view is, first, that the reality is that the international trend—there is a lot of international work around this—is a rubric you will have heard before: “same activity, same risk, same rules”. By and large, whether it is the Financial Stability Board, IOSCO, which I used to chair, my old regulator or the FCA, it is a realisation that globally this is not going to be looked at from a regulatory perspective other than by financial regulators. That is proposition 1. SEC is in the same place. Europe and others, by and large, are in the same place.

Secondly, the content of that regulation under a “same activity, same risk, same rules” perspective needs to be appropriately tough. If you just take one element of crypto, crypto platforms, which alongside stablecoin are basically where the public interact with unbacked crypto assets, the way in which they have operated traditionally is evasive. I used that word in the last hearing. There are multiple conflicts of interests. There are huge issues around safety and safeguarding client assets. There are underlying issues around the intrinsic value of tokens, which Charles points to in his letter.

Q515 **Chair:** Yes, he says the social purpose of regulated financial markets is to facilitate economic growth by enabling people’s savings to be channelled to productive business ventures. Do you see crypto as fitting that bill?

Ashley Alder: Arguably, some aspects of the financialised world do not fit it either. It is an ideal world where every piece of financial activity basically is involved directly in converting savings into productive investment. If only it was, but it is not. This is what I am going to come to. In my view, the issue with crypto is that the regulation regime should be appropriately tough in the sense that, when it comes to platforms, for example, the inherent conflicts of interest, which are close to deliberate, and the evasiveness need to be dealt with.

I did some work about 18 months ago with Jon Cunliffe around stablecoin on an international basis. One of the conclusions we came to was that, if you put together a regulatory regime that basically amalgamated the expectations we would have of conventional financial services and applied them to a crypto business model, those models would have to change radically.

This has been one of the questions in my mind. When you put in place a regulatory framework around crypto, the interesting aspect of this is the degree to which crypto will need to adapt and effectively detoxify in order to fit within that regime. I thought that, from a UK perspective, that statistic of 85% was interesting. I know this has been mentioned and



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discussed previously. That in itself is symptomatic of the readiness of the industry to engage seriously with a serious regulatory regime.

Chair: This is the 85% of firms that did not make it through the anti-money laundering rules.

Ashley Alder: Yes.

Q516 **Chair:** Nikhil, are you going to share with us what we have not covered in your pile of papers that you were dreading questions on, please?

Nikhil Rath: That is a very difficult question to answer.

Chair: That is why I asked it.

Nikhil Rath: I always enjoy these hearings, because they are wide-ranging and they can ask about anything the FCA does. Sometimes you ask me about specific cases. Sometimes I will write back to you on those, if there is anything you would like me to follow up in that area. On the crypto point, whatever we do on regulation, we are not going to be able to put in place a framework that protects consumers from losses. It is really important we make this point here, through you, to the public. Under no circumstances whatsoever should people expect compensation through this.

Q517 **Chair:** Should a consumer buy a crypto coin?

Nikhil Rath: There is also the question of free choice. What we would say is that they should not be buying—

Chair: Would you?

Nikhil Rath: I personally do not. It is not something that I have considered desirable to do, so I do not invest in crypto. It is not for me to dictate to everybody else what they should or should not do. I would say, though, that it is profoundly inadvisable to put your entire life savings in. What is at least encouraging in terms of the data we have in the UK is that, while millions of consumers are investing, very often it is several hundred pounds, less than £1,000. It is speculative and it is not, in the majority of cases, a life-changing sum of money, but there are some very distressing cases where these are life-changing sums of money.

Q518 **Dame Angela Eagle:** Isn't the issue with this that you start off with a little bit and then, when you see the theoretical returns that are in your crypto wallet, you get drawn in more? There are cases like that.

Nikhil Rath: Yes, absolutely.

Dame Angela Eagle: That is gambling. That is precisely what happens when you are at the roulette wheel.

Nikhil Rath: That is why we want to make it 100% clear. People get a bit fed up with us, because we keep saying it in all our statements and all our documents. You need to be ready to lose all your money if you go down this route.



Q519 **Mr Baron:** Like a lot of people, I am very sceptical about cryptocurrencies, particularly channelling them to productive ends and so forth. Is there not a danger here that any prospect of regulation gives cryptocurrencies a credibility that they do not deserve? You cannot attach a proper value to a cryptocurrency. It is all down to supply and demand. But the sheer prospect of regulation might encourage this. Apparently we have at least a couple of million people in this country who have crypto accounts. Is that not a danger?

Nikhil Rathi: I agree. At the same time, there are wider public policy objectives here, including in relation to money laundering. One of the areas that we are working on with our international partners is how we develop international standards so this does not turn into a global money laundering network. We cannot manage that public policy risk by ourselves or globally without some form of regulation.

Q520 **Chair:** To go back to my question, what are the subjects in your pile that we have not yet asked you about that you were worried about us asking you about?

Nikhil Rathi: I was not worried. Understandably in this Committee, given the nature of the correspondence that comes to you, there is always a very heavy focus on our consumer protection objective. We touched on the equity capital markets in the context of the Arm IPO.

From my perspective and when I am looking at systemic risk right now, markets globally are fragile. In fixed income markets, we have the debates going on about the US debt ceiling. We had issues in commodity markets and pension funds last year. Those are very significant issues in terms of our responsibilities as a supervisor of a global market. They also play through into consumers, because they impact the prices that people pay for energy or their mortgage rates. I would certainly hope, as the new accountability arrangements are evolved post the Bill, that we have an opportunity to engage with you in detail on some of those issues as well.

Chair: Thank you. I declare this session closed.