House of Commons

Treasury Committee

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

Wednesday 19 July 2023

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Watch the meeting

Members present: Harriet Baldwin (Chair); Rushanara Ali; Dame Angela Eagle; Emma Hardy; Danny Kruger; Dame Andrea Leadsom; Anne Marie Morris.

Questions 521 – 621

Witnesses

I. Ashley Alder, Chair, Financial Conduct Authority; Nikhil Rathi, Chief Executive, Financial Conduct Authority.

Examination of witnesses

Witnesses: Ashley Alder and Nikhil Rathi.

Q521 **Chair:** Welcome to the Treasury Committee evidence session on the work of the Financial Conduct Authority. Can I start by asking our witnesses to introduce themselves?

Ashley Alder: I am Ashley Alder, chair of the board of the FCA.

Nikhil Rathi: I am Nikhil Rathi, chief executive of the Financial Conduct Authority.

Q522 **Chair:** It is mid-July and in less than two weeks the consumer duty is going to start to be rolled out. This is something that Parliament has asked the FCA to implement. I wondered whether you could start, Nikhil, by saying to us how consumers—our constituents—will see things being different for them as a result of this rollout.

Nikhil Rathi: This is a really significant piece of regulation. As you said, it was instigated by Parliament in the Financial Services Act 2021. After substantial discussion and consultation, we have moved forward with these proposals. They raise the standard for consumer protection in financial services—we hope significantly. They are the most significant horizontal intervention for 20 years.

We are saying here that, through every part of their business, from the manufacture of products to the distribution, the pricing and the customer service support, firms have to think about how they are placing consumers at the heart of the journey. They have to think about their interdependencies, so not just what is happening in their own firm. If they are using a distributor, they should think about how that distributor is acting to deliver good consumer outcomes.

I am sure that we will come on to the topic of savings shortly. I hope that you will see more proactivity from firms in communicating with their consumers, making sure that the products are fit for purpose for the target market, that the value they provide is reasonable, that the customer service is matching their promises and that there are proper redress mechanisms when things go wrong.

Q523 **Chair:** How will our constituents, who are these consumers, actually be able to see any difference at all?

Nikhil Rathi: We have seen, over a number of years, practices in retail financial services markets that have been concerning, whether that is on pricing, for example in overdrafts, or exit fees in certain markets, where firms use what we call sludge practices and hold on to customers and make it hard for them to switch. Every single firm should have gone through all those practices by now, in the run-up to 31 July, and made sure they have cleared up any residual problems that are in their markets or firm.

We have put out outcomes around this, which we would want to measure. We would hope to see, over time, consumer trust in retail financial services go up. Over time, we would hope to see complaints going to the Financial Ombudsman Service go down. There are different measures of consumer harm, but, for example, the Financial Services Compensation Scheme levy has been a really difficult issue over recent years, because it has been very high because of the level of harm that has occurred in the past. We would also hope to see that come down. Those are the overall metrics we would like to see improve over the coming years.

Q524 **Chair:** Those are the three metrics that you will be using to see whether the consumer duty has been implemented. What will our constituents see happening differently? Will they still get paid very poor rates on their savings accounts? Will they still find themselves with banks closed in their faces? Will they still find themselves in a situation when their ISA earns a lower rate than their taxable account? Will they still find themselves in a situation where their insurance premiums have gone up radically? What will they actually see that will be better?

Nikhil Rathi: They should be seeing products that are better serving their needs, more proactive communications from their financial services providers, better customer service, and better ability to seek redress and address complaints when things go wrong. Each specific sector will be different. As I said, we will come on to savings rates. I think that you have seen the correspondence from the banks to you as to how they are approaching the consumer duty. In particular, they have called out the consumer duty enabling and prompting them to make more proactive communications to customers about what better rates are available. That is one example. We are expecting some announcements.

Q525 **Chair:** They claimed that GDPR would not allow them to contact their customers, so that is completely directly contradicting what you, as the regulator, just said.

Nikhil Rathi: We corrected that with a letter from the FCA and the Information Commissioner's Office two days ago and made it very clear that that is not the case. That should be something that your constituents should see. You should also see a greater focus on vulnerable consumers. There is a specific limb of the consumer duty that says that we recognise the digitalisation of financial services is here. That brings convenience. That brings many benefits for productivity, but there is also a question of making sure that there is effective access to financial services for consumers who may not be fully participating in the digital economy. Firms are specifically expected to take account of that when they are developing their products.

Q526 **Chair:** You have talked about how you will measure whether you have seen progress in terms of the rollout. You have talked about how you hope that consumers might see a difference. What clarity have you given to firms about what you expect them to do differently? Can you spell out, so that their boards understand, what you are expecting them to do differently?

Nikhil Rathi: There is an important shift that we are making here. This is a shift in philosophy of regulation in financial services for the coming years. We often get a complaint that we have extensive, very detailed rulebooks that are time-consuming for firms to engage with and take time for them to operationalise.

We are moving explicitly to outcomes-based regulation, which is requiring boards and firms themselves to look at how they are treating their customers against the different pillars we have set out, demonstrate to us that they have taken those points into account—fair value, customer service and all of the points that I mentioned—and not rely every single time on us having to produce a detailed rule, a piece of guidance or an intervention to regulate what they are doing. We have given clear guidance to firms about our expectations, but there is also now a shift to more outcomes-focused for firms to step up and deliver for their consumers.

Q527 **Chair:** One thing that firms have shared with us is that, for example, the new mortgage charter might directly conflict with what you are expecting firms to do differently as a result of the consumer duty. Do you see a conflict between the mortgage charter and the consumer duty?

Nikhil Rathi: We were engaged in the development of the charter. Within a week of it being announced, we made some enabling rules to enable firms to move forward with their commitments under the charter. The key point that I would make there is around communications. Where firms are a bit anxious, understandably, is that we recognise how challenging this period is for families all around the country, whether you have a mortgage, are renting or have other circumstances.

What is important, when you are coming to refinance your mortgage, is that, if you can afford to pay, you should. In nearly all circumstances, that is going to be in your best interests. Only take the extra help if you have a real difficulty. The extra help, whether it is an interest-only period or an extension of the term, will help in the short term, but overall, over the lifetime of the mortgage, you are going to be paying more. Where banks were concerned, understandably, is, where an individual takes that help, making sure that they are not responsible for the fact that they will be paying more over the life of the mortgage if they actively seek to take one of those offers.

Q528 **Chair:** Another thing that has been raised with us about the rollout of the consumer duty, which applies to new customers and renewals of existing products from 31 July, is that it is possible that the Financial Ombudsman Service, which I understand is independent of what you do at the FCA, may interpret things retrospectively to before 31 July. What is your view on that?

Nikhil Rathi: The Financial Ombudsman Service will apply rules to complaints as they were at the time that the issuer under complaint is concerned. It has been very clear publicly that it will not be applying retrospectivity. We have what is called a wider implications framework, where we work with the Financial Ombudsman Service and the FSCS to make sure that there is good co-ordination.

I believe that the head of the Financial Ombudsman Service has given evidence here and has also made some public comments recently to give assurance. The chair also chairs the oversight committee for the Financial Ombudsman Service and may want to add his perspective.

Q529 **Chair:** Thank you. I would like to hear that. Also, could you explain how the board of the FCA has made itself comfortable that the industry is ready for the rollout of the consumer duty the week after next?

Ashley Alder: When I first joined the FCA, now four months ago, there were high levels of concern among the industry around a number of dimensions of the new consumer duty. In fact, last time I was here there was a question around whether we would delay the implementation date from July, which I said at the time we would not and we did not. We only have a few days to go until it comes into effect.

In short, industry has come a long way in a few months, putting the work in to alter their processes and get ready for the duty to come into play.

My take is that we have been really explicit around topics such as retrospectivity and the FOS, as has the FOS. The level of anxiety around that has reduced.

There was quite a serious point about the potential of the duty to affect financial inclusion, effectively, around risk aversion. In other words, are we able to sell a product when we feel that there are aspects of that product, which possibly goes to your question around the mortgage charter, that we feel may not be in the longer-term interests of consumers?

All that has now been dealt with, partly because there has been a huge amount of engagement. In fact, I am not aware of any other project that the FCA has been involved in where there has been more engagement with firms, large and small, across the country. We are now in a good place. From the board perspective, it is all about what happens next.

To your initial question, the promise here is that this will make a very significant difference to consumers. I am not aware of another standard that is equivalent to this anywhere else in a large financial centre or where there is a large financial services sector. We will be interested, from a board perspective, in how it is supervised and enforced, the degree to which firms actually implement, the degree to which firms, particularly small firms, operate the duty and the intersection with financial advice in particular.

As I think you will be aware, a lot of the compensation claims that we see happening are around financial advice. There is a lot to monitor and unpack around its implementation. From the board perspective, it is coming into effect on 31 July. For us, it is really about monitoring the degree to which we are able to supervise and enforce effectively to ensure that it ends up making the difference we are promising it will make.

Q530 **Chair:** Is the board particularly concerned—this is your own research—that only 50% of debt advice firms and retail finance providers feel that they are ready to comply with the consumer duty?

Ashley Alder: Yes, it should be. We have not discussed that statistic specifically, but from my perspective absolutely.

Q531 **Chair:** It is quite an outlier in your own research.

Nikhil Rathi: That is right. We have been quite transparent with our surveys. I should thank many firms for the huge effort they have put in, but there are certain sectors that are a concern. That will be an area of supervisory focus in the early months of the duty. There are other statistics in that survey. Some 46% of small firms surveyed felt that this would be beneficial for the industry and their firms long term, with 16% disagreeing. There has been a lot of engagement with small firms. There are different views, but the critical mass believe that, over time, this will be beneficial.

Q532 **Anne Marie Morris:** I am going to turn to the issue of bank closures and access to cash. The FCA has been the lead regulator in terms of bank closures for some time. Under the Financial Services and Markets Act, the issue of access to cash also came within your remit. When a bank closes or is the last bank standing, the policy is that LINK is called in and asked to review whether a hub is viable. Alternatively, the community can make an application for a hub.

In my constituency of just short of 80,000, I have three towns. One of them is Dawlish. It is a sizeable town. You may remember it. The sea wall came down and the Government, effectively, put it back together again when the south-west was cut off. During the pandemic, three banks—all of them—closed, so they have had no banks since them. The community, bless them, made an application to LINK. LINK did not provide any information as to what the criteria were. They simply asked them for data. They were then given a decision. No reason was given for the decision. There was no opportunity to appeal.

Finding those criteria is a challenge. One of my researchers actually had to go to the minutes of the Bill Committee to find them. When we found them, we saw that Dawlish absolutely meets those criteria and should have a hub, so something has gone very badly wrong in that decision making.

You will be taking over this area. You have the ability to review the criteria, the rules and their application, but something is clearly not right. This is a significant town. It has no post office. It has a community store with a post office counter where parcels and so on are also dealt with, with long queues and no privacy, no banking services and it closes at lunchtime. It is very significantly rural and has poor broadband and infrastructure. Those banks were also supporting seven local villages. This seems to me to be very poor decision making in a process that I sincerely hope you would look into.

Matters are worse: just this morning, I had advice from Lloyds that the only bank left in Teignmouth, my second largest town, is to close in the spring. It is getting a hub, thankfully. That leaves me with a community of just short of 80,000 people, with many businesses, with only one town that is banked. In my view, that is unacceptable and simply does not meet the criteria that I understood the FCA was putting in place in terms of ensuring access to financial services. I would very much like your response to that. If you wish to have a test case, Dawlish will be more than happy for you to ask LINK to review how it went about that process, so you can see just how poor the current position is.

Nikhil Rathi: We understand how important this issue is for communities throughout the country. Rural communities and communities that have a high concentration of low-income families tend to be higher users of cash. The issue is not just about access to banking services. It is also about retailers accepting cash as well, which is becoming an increasingly important part of this debate.

We do not have the power to stop branch closures. That is now evolving with the Act that has been passed, but we have issued guidance about how firms must communicate, how they should treat their customers, how they should make sure that there is alternative provision. Where there is not, we have intervened to prevent or slow down closures.

The Act has now been passed. The next step is for the Treasury to produce a policy statement on access to cash. We envisage that that will happen in the autumn. That will set out the criteria and the guidelines that we then have to operate against as the supervisor. They are considering issues such as what alternative provision of cash should be and what the appropriate distance should be where a cash facility should be available for consumers. Once that is published, we will then make sure we supervise against that, including looking at where there are concerns around decisions taken by LINK or the oversight body that is setting up banking hubs.

There are six banking hubs in place already; LINK has recommended 114. There are 55 more on their way and 59 that are deposit solutions, such as post office enhancement. Each solution will be slightly different for each community.

Q533 **Anne Marie Morris:** Mr Alder, are you happy with that as an answer? Are you going to take responsibility, as chair of the FCA, to look not just at future but at historic decisions to ensure that communities are not deprived of banking services and access to cash?

Ashley Alder: My reaction to what you have described is that it sounds to me like quite a significant failure, once the rules are in place. As Nikhil has explained, there is a process that needs to be gone through until the rules are in place. Without anticipating specifically what we may do, clearly the board will be interested, just as is the case in relation to consumer duty, in how the FCA supervises.

If there is a failure or significant gap in relation to the promise, which is effectively that the current position in relation to access to cash and, linked to this to an extent—it is not formally linked, but clearly there is a relationship—bank branches does not deteriorate, our guidance is pretty explicit. The guidance is, effectively, if there is going to be a branch closure, the bank needs to look at alternatives. Although there are six banking hubs at the moment, clearly that is not enough right now. From a board perspective, there is a lot of work to do. As I said, from what you say, looking at the rules going forward—that position will obtain until the rules come into place—that sounds as if it is a significant failure.

Q534 **Anne Marie Morris:** Once the rules are in place, will you therefore undertake to review this case to ensure that the appropriate steps have been taken and that, if there is a market failure, you will look to fix it?

Ashley Alder: It is reasonable for you to expect the FCA to look at the whole situation and the evidence and come to a view.

Q535 **Anne Marie Morris:** Thank you. I am very appreciative. I do not wish to add to your pain, but there is an issue around ATMs and it is, again, in Dawlish. I got notice yesterday that one ATM was going to be converting from a free ATM to a fee-based ATM. As I understand it, having spoken to the provider, the challenge seems to be that free access of cash depends upon the willingness of the banks to pay the up-front fee—the interchange fee. As I understand it, in this case, in Dawlish, the banks are not prepared to pay it and therefore a charge is going to have to be levied for customers when they use that particular ATM.

It seems to me, from the conversations I have now had with those involved in the ATM delivery, and indeed the delivery of hubs, that there is beginning to be a picture whereby ATMs in small convenience stores and rural areas, where they are most needed, are moving from free to fee-based. It is those in the larger supermarkets that will remain, because the supermarkets clearly see that as a commercial asset and are prepared to pay. Are you prepared to have a look at that too? I appreciate that at the moment it is a separate regulator that looks at that, but, as I understand it, it is coming under your aegis.

Nikhil Rathi: There was an important amendment during the passage of the legislation, which added free access to cash to the provision. The Treasury now, in its policy statement, will define for us how we should operate against that provision. I hope that we will see less of the kind of situation that you have described in the future.

Q536 **Anne Marie Morris:** Thank you. I am very pleased to hear that. Cash acceptance is the flipside, if you like. There is not a lot of point having the ability to access cash if you cannot then spend it, not least because you need certainty in what, effectively, is a cycle. The consumer gets the cash, The consumer then spends it. The retailer that receives the cash then needs to bank it. You need both pieces and in the current legislation we have only dealt with one piece and not the other piece.

It seems that there is almost a movement towards a cash-free society. That has been tried in other countries and found to fail. The USA has now, in four states, an obligation on its retailers to accept physical purchases, cash. It is looking at making that a national policy. The EU is looking at doing the same and yet we have not done so. I have a real concern, given cash is the only real evidence of anybody's wealth and the need for the vulnerable—those who cannot have bank accounts—to deal in cash, as well as those who simply want to manage their money by using cash.

You talk, Nikhil, about the policy statement coming out. It seems to me that that policy statement needs to be very clear, looking at both of those pieces. I am absolutely sure that they will be looking to you for advice. What is your view as to the future of cash? Do you feel that the two sides of the coin must both be looked at and therefore this policy statement, while the core is about access, also must look at your ability to spend the cash?

Nikhil Rathi: You are right to mention both sides of the ledger here. In our Financial Lives survey in 2020, during Covid, one in six consumers who we surveyed told us that they find it difficult now to go about their lives because they are not always able to access businesses that accept cash. More recently, in 2022, 6%—that is approximately 3.1 million people if you extrapolate it—said that they used cash mostly in the previous 12 months to go about their daily lives. The fact that businesses are accepting cash less and less is clearly an issue.

It is particularly an issue for lower-income households. We should remember that, while we now have 7.5 million basic bank accounts in the UK and we have gone from 1.3 million unbanked a few years ago to 1.1 million, there are still 1.1 million people in the UK who do not have a bank account, so rely on cash or other mechanisms to go about their daily life. That is an important issue and we would hope that the Government would look at it. Ultimately, the situation you described in the US was legislative. It was mandated by the relevant legislature. I know that this is an issue that the Treasury is looking at as well.

Q537 **Anne Marie Morris:** That is helpful. In your view, is the importance of cash fundamental? Would you like to see cash retained? Clearly, it will be more limited, for the reasons that you express. Do you think that it is important that cash should be retained as a means of transacting business?

Nikhil Rathi: All the data we are seeing from consumers, particularly vulnerable and low-income consumers, suggests that this is very important for them to go about their daily lives. As long as that remains the case, it is important that cash remains usable.

Q538 **Dame Andrea Leadsom:** I would like to talk to you a bit about the new competitiveness objective. In the April FCA board minutes, you noted the significant work underway to embed the secondary objective in the FCA, building on existing practice. Is the secondary objective revolutionary or evolutionary for the FCA?

Nikhil Rathi: It is a very important milestone in terms of how we think about our operations. When I speak to businesses, the things that they are after from us, in terms of running their business, are speed, clarity and certainty. More than anything else, that enables them to plan, invest and grow their businesses. There is also an important dimension about us being open-minded to innovation. Businesses also recognise that strong standards with high levels of market integrity, strong levels of consumer trust and us taking assertive action to remove bad actors from the system is also critical to a competitive marketplace. The good firms that are doing the right thing, and their customers, end up paying the bill for those who are not doing the right thing.

We have taken a number of steps over recent years to make sure we are operating more effectively and efficiently. Our authorisations gateway has toughened up. One in five applications are now rejected, as compared to one in 14 previously. It is a much more assertive gateway, so we are preventing harm in the system. That led to some delays as we were working that through and raising the standards. We are substantially meeting most of our service standards in terms of delivering efficiency and timely authorisation, which is one of the biggest points that has been raised with us by the industry.

Q539 **Dame Andrea Leadsom:** Are you asserting that it is your efficiency that is making the UK more competitive?

Nikhil Rathi: It is one dimension. There are many dimensions to the competitiveness discussion. Some of it is regulatory but others relate to tax, skills and many other factors. Our regulatory efficiency is an important part of that, alongside the rigour of the standards. The two go together.

The other element that we have put a lot of focus on is innovation. We have led the world in terms of regulatory openness to experimentation with new technologies and financial innovations. We have the largest fintech sector in Europe here, second only to the US. Our sandbox has been emulated by dozens of countries around the world.

We touched on the new consumer duty at the start. One point that I would also mention in that context is that moving to outcomes-based regulation, where we are setting our expectations clearly at the beginning, should enable us to be more permissive when it comes to innovation. I made a speech recently about how artificial intelligence, with the appropriate guardrails, can provide benefits to consumers. We think that an outcomes-based approach will be quite important and that is also key to competitiveness.

Q540 **Dame Andrea Leadsom:** Coming back to my question, was the competitiveness objective already something in your sights? Is it evolutionary or revolutionary? To what extent has it changed the FCA's thinking and approach?

Nikhil Rathi: We have always been focused on making sure our markets function well. We will now—we have published some material on this—be tightening up our thinking around our interventions and policymaking to make sure that we are weighing up the competitiveness impacts. We are thinking hard about the impact on economic growth over the medium term, the ability for the financial services industry to innovate and the overall cost-benefit of what we are doing. I would say—the Chair may not agree with me—that it is probably halfway between evolutionary and revolutionary. I do not know what the word is for that, but it is probably somewhere in that.

Q541 **Dame Andrea Leadsom:** We can make one up. With that in mind, can you give us an example of something that you have done differently as a result of having a competitiveness objective that you previously would not have done?

Nikhil Rathi: The objective has only just come into force a few days ago, so it is early days to point you to something specifically.

Q542 **Dame Andrea Leadsom:** Is there something that you are working on? Is there something that you are minded to do?

Nikhil Rathi: For example, you may have had an opportunity to look at the Chancellor's speech at Mansion House, where he set out a whole set of reforms, building on the Edinburgh reforms he had announced a number of months previously. There was a large programme of work there that we will be very closely involved in, in partnership with the Treasury and others, including, for example, work on developing a new form of trading venue for private companies to be able to access capital before they go for the full public market.

We are looking at a financial markets infrastructure sandbox, specifically to enable more advanced digital technologies to be piloted before they are rolled out to the mass market. Those are two examples, but there are many more right across the work of the FCA.

Q543 **Dame Andrea Leadsom:** Ashley, what is the board discussing in relation to the competitiveness objective?

Ashley Alder: Actually, quite a lot, because—I am not sure what the word is between "evolutionary" and "revolutionary"—it is significant. It is a significant change, without any doubt. I say that partly because it has generated so much discussion, not only within the board but with virtually all stakeholders I have seen over the last four months or so.

I have a view on this. Nikhil is absolutely right that our primary objectives around stable markets, consumer trust and effective competition are essential drivers of competitiveness. There is no doubt about that. All concerned, including the Government, have emphasised the need to maintain high standards.

There is quite a difficult piece. The Treasury sent out, some time ago now, a call for evidence on what metrics might be relevant for ourselves to judge whether we are able to implement this, or how we are implementing this. Under the new Act, we will have to report in the first two years on metrics, effectively, or how we are implementing this. We have published already an attempt at looking at some of the metrics that might be relevant. It is based around the idea of, "What can a regulator do that is relevant to drivers of productivity and that then goes to growth?", effectively. Nikhil has mentioned some of those: innovation, proportionate regulation and so on. There is a list of seven or so metrics.

The difficulty is that it is difficult to take those metrics and apply them to a particular piece of work in reality. I am, and I think other board members are, having difficulty conceptualising how we use those metrics to properly track how we implement the secondary objective.

That comes on to my second point, which touches on Mansion House. It is important to look at the practicalities and specifics of competitiveness. The debate that has been accelerating, I suppose, up to Mansion House and beyond under the banner of productive finance is really important. You will recall that a few weeks ago now, at the end of March, we published a consultation on listing rules. That in itself was significant, but that is supply side, effectively. Those rules are aimed at corporate accessibility, companies accessing the market and broadening the scope of accessibility.

That does not achieve much unless there is the demand. A lot of the demand for UK equities is foreign demand at the moment, which is fine, but we were taking about unlocking domestic savings on the demand side. That goes through the whole question of pension reform. There are some dimensions to that. Some of the levers are within the FCA's hands and some in combination with the Pensions Regulator. It is not only about pensions. It is also around consumer investments.

Q544 **Dame Andrea Leadsom:** That would be a perfect example—consumer demand, around the conflict between competitiveness and protecting consumers. That is a fine balance for you to have to walk.

Ashley Alder: There is a very difficult question around risk in markets, consumers and risk, consumer investments and risk and compensation, particularly in relation to high-risk products. There is the question of whether compensation should extend to high risk products. I do not have a specific answer, but it is a genuine debate that needs to be had.

Q545 **Dame Andrea Leadsom:** It is something that the board is looking at. Presumably, once the consultation closes, you will be looking closely at what the markets have suggested that you might like to use as metrics.

Ashley Alder: Yes, we will. As Nikhil indicated, to date most of what I have encountered are issues around our speed of authorisations and similar, in other words operational effectiveness. My personal view is that it is more than that.

Q546 **Dame Andrea Leadsom:** That brings me to my last question, Nikhil. What have market participants changed about their applications, proposals and consultation responses to you, bearing in mind your new objective? Has it changed the way that they try to sell to you or persuade you to do things?

Nikhil Rathi: It is unsurprising, as the legislation has been passing through Parliament and now it is in force, that industry participants will frame everything as competitiveness: "You make this regulatory intervention and you are undermining the competitiveness of the United Kingdom." We have that on savings rates as well, by the way, which is a topic that the Committee has been taking a really close interest in. That is an argument that the banks will make to us: "If you go too hard on enforcement, if you go harder on us than other jurisdictions, that will make us less competitive."

On crypto, we went through a very tough period with the industry over the last 18 months to two years, because we turned down applications from some of the largest crypto firms in the world. We did that not because we were anti-innovation. It is because we were given a job to make sure anti-money laundering standards were met and they could not convince us that they were meeting them. We turned the application down because we want clean markets here.

That is a very important point around metrics. There are some people who will suggest that we should have a metric for market share. I would encourage everybody to think really hard about whether you want a regulator to be targeting that metric. That would give a bias towards larger companies. I want my supervisors on the front line and the people who are authorising to make robust decisions against the standards and have a strong, effective, clean market that firms want to meet the standards of, so that they can be successful and grow their businesses. That is then a benchmark for their operations around the world.

There is going to be a tension here. There is the listings conversation and the markets conversation that the chair talked about. I made a speech at the end of March around this. We are looking at some very far-reaching reforms, but I also made the point that we need a societal debate about risk here.

One thing the market will say to us, those who oppose the reforms, is, "When things go wrong here, the political and media tolerance of things going wrong is much lower than in other jurisdictions around the world." If we change these rules, for example around related party transactions or the level of investor protection, and move from ex ante rules to ex post rules, which is where most of the other major markets are around the world, including the United States and the European Union, more things will go wrong. There will be more risk in the system. That is the trade-off and we want to have a really open debate with this Committee—we are accountable to this Committee, and to Parliament through this Committee—about where we should strike that balance.

Q547 **Dame Andrea Leadsom:** You are saying that the competitiveness objective could be used by the market as a sort of sledgehammer to try to get you to regulate more loosely. It is something that this Committee needs to be very alert to, as well as the FCA itself.

Ashley Alder: I have a couple of points from all of the meetings I have had with industry groups, including panels. The first is that I have been really clear in all those meetings that the competitiveness objective should not be a lightning rod for short-term lobbying points. To be fair to all the panels, they get that completely. As far as I am aware, no one has characterised it as that, which is good news.

The second point is that, as I mentioned earlier, specific metrics or metrics of the type that Nikhil mentioned are not necessarily particularly helpful or measurable. The issue around risk in the system is really difficult, but really important. That is a topic that Nikhil raised in his speech at the end of March, we have discussed at board level and we will continue to look at very hard. It involves a broad consensus of what this looks like and intersects with the compensation system as well.

Q548 **Rushanara Ali:** I have some questions on saving rates. There has been some activity from the FCA. I would have hoped that it came sooner, but better late than never. We have seen some rates on instant access savings still below 1%. Do you think that it is acceptable that that is the case, given that the base rate is now at 5%?

Nikhil Rathi: As you say, we have been raising this issue publicly since May last year. I made a very forthright statement in a media interview in October last year. I spoke at the UK Finance annual dinner in November.

Q549 **Rushanara Ali:** Why did they not listen to you?

Nikhil Rathi: The pace has been slow. We have the consumer duty coming into force and you have seen in the last few weeks that that pace has quickened. I looked at the data just two days ago.

Q550 **Rushanara Ali:** Can I just check? You are waiting for the consumer duty before banks will act. Do you not have any powers to ensure that they act now?

Nikhil Rathi: Our powers relate to competition in the market. We have powers to make sure that there is effective competition and that is what we have been focusing on. The consumer duty goes further in extending the way in which we look at this to how they are communicating with their consumers and ensuring good outcomes for consumers.

When I take that first dimension of competition, as of two days ago, in the instant access market there were 53 accounts available greater than 4%, two greater than 5% and 227 greater than 3%. That is a total of 520 accounts.

Q551 **Rushanara Ali:** The rates I am looking are the current rates for Lloyds Bank early saver account, 0.9% for up to £25,000, NatWest flexible saver, 1.4%, Barclays everyday saver 1.5% up to £10,000, HSBC flexi saver, 1.75%, Virgin Money everyday saver 0.25%, TSB early saver 1.1%, including 0.1% bonus, which is just for the first year, which is, frankly, insulting, and Nationwide instant saver 2.15% for up to £10,000. The list goes on. I appreciate that you have just picked out an example that is much higher, but these are pretty poor, would you not say?

Nikhil Rathi: We have a longstanding position in our market where you tend to get the best rates from the building societies. The digital and challenger banks are close behind and the high street tends to provide the lowest rates. We are not a price regulator. We do not go in and set prices, but we want to make sure that customers understand what options are available and that, where a bank is delivering a better rate, it is proactively communicating with its customers. In the last few months, we have seen a significant shift of about 8% into term deposits. We are seeing current account balances come down, for different reasons.

Q552 **Rushanara Ali:** I have a broader question about interest rate rises. The Bank of England has had to, necessarily, increase interest rates, given the inflation rate. Banks are making, some estimates suggest, £7 billion in terms of profits from the rate rises, and they are not passing on large-scale profits—between £34 billion and £37 billion last year. Do you think that their inaction in passing on savings is acting as a blunting instrument on the Bank of England's attempts to try to bring inflation under control? Is there a risk of that because the incentives are lower for saving?

Do not forget that, during the pandemic, savings went up for those who were better off, who could not spend their money. Do you think that there is an issue and that the fact that we do not have banks passing on savings is actually undermining the overall economic objective of the Bank to try to bring inflation under control, notwithstanding the other issues that this country is facing in trying to bear down on inflation that are particular to this country alongside the wider patterns that other countries are facing?

Nikhil Rathi: Given the inflation numbers are out this morning, I would—

Q553 **Rushanara Ali:** That is a cop-out, because inflation is still much higher.

Nikhil Rathi: I have not answered the question yet. The Bank of England has commented in its previous minutes around the level of pass-through and the importance of pass-through. It would not be appropriate for me to go beyond that, because obviously it is responsible for the inflation target.

In my speech in November, if you look back at it, I said that the way the banks handle this period, in terms of supporting vulnerable customers and customers who are struggling and savers, which I specifically called out, will be very deterministic of their reputation for many years to come. We were highlighting that issue earlier. I would agree with you that the pace has simply not been fast enough. We have stepped up our engagement. We were always expecting, as the consumer duty comes into force on 31 July, that the pace would accelerate.

When you talk about the macroeconomics, there is also an important point around composition of savings. You are right that, during the pandemic, a lot of consumers accrued savings, particularly in their current accounts.

Rushanara Ali: It seems that they still are.

Nikhil Rathi: Because we have had a period of such low interest rates for a long period of time, the habit of switching eroded somewhat. That is coming back now. That is coming back. People are starting to move. People are moving into term deposits, which is better for the stability of banking books, to the extent that people are able to do so. Instant access rates are moving up. My advice to consumers would be to shop around. If your high street bank is not giving you a rate that you are satisfied with, move on.

Rushanara Ali: I have quite a few questions, but I wanted to bring in our new chair. Welcome.

Ashley Alder: I am not so new.

Q554 **Rushanara Ali:** I wanted to bring in our relatively new chair. What are your thoughts on this? Is it acceptable that the banks are behaving like this, given that the taxpayer bailed them out in 2008 during the global financial crisis? What are you going to do about it?

Ashley Alder: I have seen what the banks have said about the factors they take into account on savings rates. We do not set prices or rates. I am just going to look at Nikhil's letter of 14 July. If you look at page 3 of that, one factor that we will look at in our reviews of a firm's fair value assessment of rates is the cost to banks of providing savings products and the margins that banks earn on the provision of those products. That is relevant.

One other key factor in relation to this relates to the new consumer duty. An important aspect of that is an expectation of banks that they very quickly bring consumers' attention to better rates, putting it simply. We would expect that to be done.

Q555 **Rushanara Ali:** Do you expect this issue to go away as soon as the consumer duty comes in? What can we expect to see with this new consumer duty that is going to change the landscape to such an extent that we are not going to be so concerned? I have concerns about the transmission point. Lots of people do. Banks are obviously benefiting from rising interest rates while people are suffering in terms of mortgage rates as well as inflation. It is going to take some time to bring it back to target and interest rates are likely to continue.

What can we expect to see with the consumer duty? What is the trajectory in terms of timeline as soon as it comes in? I am a bit concerned that people are hiding behind the consumer duty and then the feed through in terms of consumer duty to see results.

Nikhil Rathi: We will be providing a report and we will share that, of course, with the Committee at the end of the month. In the coming months I would expect to see non-interest-bearing current account balances across the market coming down, partly because people are paying down debt, partly because of the inflationary pressures that families are feeling and partly because people are moving towards savings. Overall, as an economy, we have too much money, as consumers, in non-interest-bearing current accounts. People need to move that money into savings accounts. We hope that that will happen in the coming months.

Secondly, you will start to see, as is already happening at quite some pace, moves towards fixed-term deposits. Historically, 40% of the £1.5 trillion consumer savings market was in notice or fixed-term deposits. At the moment, it is about 18%. There are over 1,500 rates available now greater than 4% in fixed-term deposits and 500 greater than 5%. You are starting to see that move. That is happening and accelerating as people are adjusting.

We will also be looking at further measures that we can take to further improve competition. You saw the letter with the Information Commissioner. The Treasury is looking at the ring-fencing threshold, which might provide some competitive impetus. The deposit protection work that the Treasury and Bank of England are doing is also relevant here.

Q556 **Rushanara Ali:** Do you think that there is a case for a savings charter along with the mortgage charter? You mentioned data protection, so we should expect that there will not be any obstacles to banks contacting consumers about better saving rates.

Nikhil Rathi: I do not believe that there were obstacles. Since I have been at the FCA, I have always talked about partnerships.

Q557 **Rushanara Ali:** Were they made up by banks?

Nikhil Rathi: They have their advice, they made their points and we responded very firmly two days ago.

Q558 **Rushanara Ali:** Is it right that banks are behaving like this? It feels like they are taking the public for a ride, using excuses like that in order to not proactively offer customers different rates. Are you concerned about that sort of behaviour in the banking sector?

Nikhil Rathi: I do not think that it was a particularly convincing set of arguments around data protection. We made that very clear and very publicly so.

Q559 **Rushanara Ali:** I am glad to hear it. What about a savings charter?

Nikhil Rathi: I am less keen on a savings charter. The mortgage charter is different, because that is about how you treat customers in difficulty, vulnerable customers. In savings, we want a vibrant, dynamic, competitive market where people are competing with each other to win business off each other.

Q560 **Rushanara Ali:** They seem to be quite dynamic in not passing on, with respect, the rates though.

Nikhil Rathi: We have to be quite careful about seeking to co-ordinate pricing decisions in that market. We have a reasonably competitive market and we want to make sure that that is functioning effectively.

There is a bigger issue about savings though. The chair touched on it in terms of productive finance and allocating UK savings to supporting the

UK economy. We are talking here about the cash savings market. The Treasury has put forward some proposals around bond markets, making it easier for retail investors to access corporate bonds. Now we can move away from EU rules, so we can bring the denomination down. We would like a more vibrant market there. We would like to see more people investing in long-term infrastructure and in equities too.

Q561 **Rushanara Ali:** On savings and transparency around what customers can expect and go and to talk to their banks about, is there is a case for something that puts it in one place, like the mortgage charter does? People cannot see the wood for the trees at the moment. You picked a number that was much higher. I gave you about eight that were much lower. We spend a lot of time thinking about this stuff. Is there something that you can provide to customers, equivalent to the mortgage charter, where it is very clear what the expectations are?

It is like this point of banks saying, "We cannot offer better savings rates because of data protection". If they use these spurious excuses, what should they expect? There is a lack of transparency here. It is costing people and impacting the economy. You are the regulator.

Ashley Alder: To keep this relatively straightforward, the expectation from my perspective is that you do not take advantage of consumer inertia. You do not do that.

Q562 **Rushanara Ali:** They are here. They clearly are, and not enough is being done about it.

Ashley Alder: In terms of what the expectations of banks are, Nikhil's letter of 14 July sets that out pretty clearly. If a bank picked up that letter, read and understood it, the expectations are very clear, including the point around proactive engagement with consumers so they are able to switch. That is really important.

Q563 **Rushanara Ali:** The rates that I read out are today's rates, so I cannot see how much of a difference receiving the letter from the chief exec of the FCA has made. I am concerned about that. I am concerned that they are taking the biscuit and something needs to be done about that.

Nikhil Rathi: We will publish the data as to what has happened. Overall, in aggregate, there has been movement up of the rates. We talked about what the benefits of the consumer duty may be. It is very hard always to prove causation. With £1.5 trillion of savings in the economy, even a 0.1% adjustment in the rate is over £1 billion accruing to consumers. In terms of the explanations to consumers, you will have seen that we have worked to simplify and banks have worked to simplify their ranges. That is positive. They have also started to stop differentiating between front and back book.

One very important point that I want to make is about diversity of business models. We will have building societies, for example, that will have a different business model to banks. Some will have savings rates that may look low on the surface, but then they pay the money back as member dividends, or commit to keep their branches open. Whatever we do here, we want to make sure that we respect the diversity that we have in the market, including in the mutuals sector.

Q564 **Dame Angela Eagle:** Before I talk about consumers who are less resilient, you said something, Mr Alder. You said that you did not expect banks to take advantage of inertia when it comes to savings rates. That is a very big thing to say, given that many people stick with their existing bank accounts for their own convenience. There is quite a big loyalty penalty when it comes to that. A little throwaway sentence such as that implies rather a lot of change if you are going to deliver it, does it not?

Ashley Alder: The new consumer duty implies rather a lot of change, in reality. That is why I mentioned earlier on that the board of the FCA is going to be very interested in how it develops, the difference it makes to consumers, how it is supervised and how it is enforced. It is a step change. Part of it, in relation to consumer inertia, loyalty penalties and suchlike, is the emphasis on proactively engaging and supporting consumers. It is really explicit around that.

I mentioned this earlier on, but it is worth repeating. Four months ago, there was a lot of anxiety and concern in industry around this. Many firms have now got their arms around it and have put in place mechanisms and systems to enable them to do this, to reach out proactively and support the consumers. Many of them, to Nikhil's point, are seeing this as part of a healthy, competitive market, with a competitive advantage again depending on business sector, business model, et cetera. It is significant and so it is not a throwaway remark either. This question at the heart of it, which is consumer inertia, loyalty penalty and suchlike, is very important.

Q565 **Dame Angela Eagle:** I look forward to a really significant change with respect to that over the next period then. It is something that we will certainly be looking at. Are you therefore disappointed? You have said in your letter, Nikhil, that the resort to GDPR excuses that we had in all our letters only last week was disappointing. I wondered whether you might like to say something more publicly, rather than in a letter, here, now, about how you do not expect that kind of ridiculous excuse to be used by the major banks.

After all, last year I think that they made an extra £8 billion in their interest, the difference that they made in profit between the interest for savers and the changes for borrowers. There are pretty colossal profits to be just taken here if they are not shoved along to put savings rates up for those with money in the bank, are there not? A delay can be quite a few billion of extra profit.

Nikhil Rathi: The letter was quite public. As I remember, it was on the front page of the *Financial Times* two days ago, so it got attention. We were very clear about it.

Q566 **Dame Angela Eagle:** You are not going to take patsy excuses anymore. That is basically what you are saying, is it not?

Nikhil Rathi: I can tell you the arguments we have received. We have received arguments around social justice—that savers tend to be in the higher-income distribution versus lower-income distribution. We have received arguments about GDPR. We have received prudential arguments, but the Governor of the Bank of England has been very clear in the publication of the stress test that there is not a prudential concern around pass-through. We have heard concerns around overcommunicating with customers. There are many arguments that are put in our direction.

Q567 **Dame Angela Eagle:** Did they say that they were wanting to save the forests while they were at it?

Nikhil Rathi: We are quite robust. We will be very robust in how we look at this. We will not become a price regulator. That is not what Parliament has asked us to do. We do not set prices. We want markets that are competitive. Where we are seeing outlier behaviour and a lack of proactivity in engaging with a customer base, we will raise it.

I will also be clear that it is not the same for every single financial institution. This is the other thing about the new consumer duty. It enables us to differentiate between those that have made an effort and have been proactive—I am not going to name them here, but there are some—and those that have not.

The Committee asked me in a previous session whether we would bring back the single easy access rate. We have achieved a lot of that already. That cross-cutting intervention imposes costs on every single firm, even if they have done the right thing. The consumer duty enables us to be a bit more targeted about those who are not acting to deliver good outcomes for customers.

Q568 **Dame Angela Eagle:** Can we come to credit cards now? In the cost of living crisis, many people are relying on credit cards, sometimes to pay for ongoing bills. The Bank of England data indicates that the effective rate on interest-bearing credit cards rose to a record high of 20.44%. You are probably unlikely to find a savings account that has that kind of interest attached to it. How do you judge whether these rates are reasonable? They seem extremely high to me.

Nikhil Rathi: Where we have been concerned about rates in the consumer finance market, particularly consumer understanding of those rates, we have acted. In the case of overdrafts, for example, we put in place a very significant overdraft pricing remedy to equalise the rates that are offered to consumers and to be more transparent about it. That particularly benefited low-income users of overdrafts, who might have been only £100 overdrawn but sometimes were paying £1 a day for the facility. It was completely disproportionate. We published a review of that intervention. We estimate that it has saved consumers around £1 billion.

We have not had concerns specifically around the credit card market and the level of interest rates. To date, we have seen a fairly healthy market where there is competition, particularly around introductory rates, where you can often get 0% for a number of years before you move on to the standard rate.

Importantly, though, this is an expensive form of debt. It should not be a permanent form of debt. Again, this is where the consumer duty comes in. Where a firm is seeing that a customer is relying on these types of debt on a permanent basis, that is clearly not in their interest. The firm needs to be engaging with their customers to talk about what support they need. If it is temporary, if it is for a few weeks or a few months, that is a different position entirely.

That is also why we have been so keen to get buy now, pay later into the regulatory perimeter. We see a lot of credit card users also turning to buy now, buy later. We have acted in terms of challenging unfair terms, but we cannot regulate this sector until legislation is passed. There is harm accruing.

Q569 **Dame Angela Eagle:** I was going to come on to that very point a bit later, but, since you have raised it, now is as good a time as any. There was some very worrying reporting last week about how the Government, having issued a consultation on how you are going to regulate in the buy now, pay later market, may be considering shelving all such regulation. Do you know anything about this? Have you heard anything about this?

Nikhil Rathi: That has not been suggested to me in any of my interactions with Ministers. Our position is clear. We raised this in 2020. We published a report. We have engaged a number of times with the Committee. We are ready to go. The draft legislation has been published. It is a matter for Ministers and Parliament to finalise the legislation. Upon its finalisation, we will look to bring these firms into regulation within 12 months.

As always, whenever there is a discussion about bringing firms into the regulatory perimeter, going back to the competitiveness argument Dame Andrea raised earlier, you will have firms saying to you, "This will undermine the competitiveness of the UK market. It will undermine the fintech industry." A large number of fintechs, including Innovate Finance, their trade body, have been supportive of regulation here.

To the extent that this regulation might reduce the supply of credit, it will reduce the supply of unaffordable credit and irresponsible lending.

Dame Angela Eagle: That would be a good thing.

Nikhil Rathi: It would be a positive thing. It will enable sustainable credit. It will allow customers to go to the Financial Ombudsman Service. It will apply our borrowers in financial difficulty principles as well.

You asked me about credit cards earlier. Earlier this year we secured redress of £47 million for 195,000 customers. A component of that was from credit card providers who had not been treating borrowers in financial difficulty properly. We will also then be able to make sure other providers of credit are operating to similar standards, but we need to wait for Parliament to pass the laws.

Q570 **Dame Angela Eagle:** Clearly, there are some of us in Parliament who are very anxious to pass the laws. The coverage last week suggested that the Government might be backing away from regulating in this area at all, simply because they are worried that some of the big players would withdraw completely from the market. From what you have just said to me, it does not sound like you would be overly worried about that and you think we should just get on with it.

Nikhil Rathi: We will make sure there is proportionate regulation that supports innovation while also encouraging responsible lending. There is convenience to buy now, pay later. It does support customers. We want to make sure that can continue. The success of the industry will rely on it being a responsible industry that supports vulnerable consumers. I do not buy the argument about the supply of credit.

Q571 **Dame Angela Eagle:** How many people who use buy now, pay later do not realise that it is not regulated at all?

Nikhil Rathi: The answer to that question is that I do not know. It is credit. The data is very hard to come by because it is not regulated, but there are some estimates that one in 10 people who use buy now, pay later end up in the hands of debt collectors. We have evidence to suggest that there is a higher prevalence of buy now, pay later users who are in the "particularly vulnerable" category, who may have limited understanding of some of the consequences of building up this debt. That is why we highlighted it several years ago as an issue that needed to be addressed.

Q572 **Dame Angela Eagle:** The latest Citizens Advice analysis shows that one in 10 households, which is about 6.5 million people, cannot cover essential costs with their monthly income. That is up from one in 20 households in 2021. That is something I experience in my own constituency, in my advice surgeries, with the soaring levels of food and fuel bank usage.

What additional steps can the FCA take to protect the consumers who are hit hardest in the cost of living crisis? I appreciate that you cannot increase the wages coming into the house, but how can you help to protect the most vulnerable?

Nikhil Rathi: It is an incredibly challenging time. While a lot of time and energy has been spent talking about mortgages and savings, I did put a point in my letter to the Committee about how we all have to make sure we balance our resources to focus on vulnerable customers, who may not have mortgages or savings but who are being hit very hard indeed.

We have put in place rules around supporting borrowers in financial difficulty. We put those in temporarily during the pandemic. We are now in the process of making them permanent in our rulebook. That is to make sure that financial services providers are very proactive in how they work with customers, that they are sympathetic and that they look at the specific circumstances a consumer is in as they think about how they respond.

Two weeks ago, we sent a joint letter with the water, telecoms and energy regulators. One of the distinctive factors of what has happened in the last year or so is that sometimes it is not the financial services debt that is the first trigger. It could be energy debt that is the first trigger this time around. It is incredibly important to have co-operation between creditors and data sharing in order to work out what the right solution is across all the different debts that a consumer might face.

I have been on a number of regional visits. I was in Scotland a couple of weeks ago. I talked to Citizens Advice Scotland and I got the same picture you have described. We work with the Money and Pensions Service to make sure debt advice funding is properly modelled. There has been an increase in debt advice funding going into the system provided by the Treasury this year, with analogous increases in Scotland as well.

Finally, the vulnerable consumers dimension of the new consumer duty puts a particular onus on firms to look at the customers in the bracket you talked about.

Q573 **Dame Angela Eagle:** That is all very important work. To what extent do you communicate the fact these things exist, either to those who interact with vulnerable consumers or to vulnerable consumers themselves? They may not know what is in your rulebook or what their rights might be in certain circumstances.

Nikhil Rathi: I would not expect consumers to understand the detail of the FCA rulebook, but we do expect that financial services firms proactively monitor their customer base and proactively communicate to them the options available, should they be in distress.

The critical point is to get advice early, whether that is by going to Citizens Advice, StepChange or other debt charities or by contacting your financial services provider early. Trying to manage this alone is often the worst possible thing to do. We are trying to encourage financial services providers to take the lead here and to support the charities and others in this endeavour.

Q574 **Dame Angela Eagle:** I just want to ask a quick question about non-financial misconduct. It came up over the asset management issue. You wrote a letter to us about that and you made clear your ability to prohibit someone who you consider not to be a “fit and proper person” from being active in the markets you regulate. Can you tell us a bit about how you approach this, particularly where there is evidence of misconduct of a non-financial but still very serious nature?

Nikhil Rathi: I entirely understand your and the Committee's interest in this topic. Without going into the details of any specific investigation—as I said in my letter, I am able to disclose a certain amount, but there are limits to what I can say about a live investigation—I commend the bravery of women who come forward to talk about these experiences. I would strongly encourage anyone to speak to the police where there are serious allegations.

People should also feel free to come and talk to us and use our whistleblowing line. We will protect people's identity. We will take their information seriously. Where we are not the primary authority to act, we can pass the information on with the appropriate consents.

We have been one of the leading conduct regulators globally in saying that non-financial misconduct is relevant to conduct in financial services. We have taken seven cases. Typically, those have been cases where there has been a criminal conviction or a designated professional body has taken action. We are then able to take action in respect of the prohibition to operate in financial services. We will be further clarifying our guidance in a paper on diversity and inclusion in September this year, jointly with the Bank of England, to provide further clarity on our expectations.

You make an important point about the limits of what we can do. We are a financial regulator. We have to operate within the objectives you have set us, which are consumer protection, market integrity and effective competition. In any case we take, we have to prove that the misconduct in question impairs those objectives. Ultimately, that has to be proven—these are often contentious cases—in court. The case law on this is mixed. It is an evolving and sensitive area. It is tricky terrain. I would not want this Committee to have any doubt about our resolve to be proactive in taking on these types of complicated cases. I would like to thank my colleagues who work on these very sensitive cases, because they are very challenging.

Q575 **Dame Angela Eagle:** You mentioned an Upper Tribunal case where a conviction relating to child sexual grooming was deemed insufficient to justify a prohibition. Does this mean Parliament needs to look at this area again and perhaps give you a little bit more leeway with respect to these very difficult issues?

We know the culture around work has changed rapidly. It has caught out many people in the industries that have been left behind. Asset management might be an example. Some of what has been happening in our own Parliament might be another example. Do we need to do something to give you more proactive powers so that we do not have an Upper Tribunal case like that? It does not seem to allow you to strike off someone who has been convicted of child sexual grooming.

Nikhil Rathi: We were disappointed with that element of that judgment. We secured a prohibition on other grounds so we were unable to appeal that aspect.

Dame Angela Eagle: I am aware of that. It is still fairly appalling.

Nikhil Rathi: We are still taking forward cases on the basis that non-financial misconduct can be relevant to fitness and propriety. As I said in my letter, it is always a matter for Government and Parliament. If you wish to be more specific about the nature of the serious offences that you think should prevent an individual from operating in a regulated sector—it may not just be regulated financial services, by the way; there are other regulated sectors in the economy as well—that would provide important guidance to the courts.

We have to prove that the specific non-financial misconduct means that the individual is not fit and proper to undertake the specific financial services activity they are seeking to do.

Q576 **Chair:** If I heard you correctly, there is already a whistleblowing number that someone can use to call the FCA about non-financial misconduct. What is that number, please?

Nikhil Rathi: I will have to send it to the Committee. The precise number is on our website. As I said in my letter, we receive approximately three whistleblowing reports a quarter on non-financial sexual misconduct. We receive a range of reports about other forms of non-financial misconduct as well. We do receive those reports.

Q577 **Danny Kruger:** I have a quick question about philanthropy, and then I want to move on to another question. The UK has the potential to be the world's headquarters for philanthropy and innovation in the use of private money for public good, but it is not something that wealth managers and advisers are traditionally expert in or advise their clients on.

The Law Family Commission on Civil Society, which Gus O'Donnell chaired, and the APPG on philanthropy, which Rushanara and I co-chair, have both recommended that the FCA include in the curriculum for financial advisers and indeed in the compulsory professional development training they must do a requirement to develop knowledge and expertise in philanthropy and effective giving. Is that something you have considered? Will you consider it?

Nikhil Rathi: I am not aware of us having considered it. I would have to check with teams at the FCA. I am happy to take a close look at it. We have a world-leading investment management sector. We are the second largest investment management sector in the world, second only to the United States. We manage more international assets here than just about any other jurisdiction. Over £11.4 trillion is managed here. There is huge and deep expertise. As you say, there is a commercial opportunity.

Danny Kruger: There is a huge opportunity.

Nikhil Rathi: One thing I would say about our training sourcebook—again, this goes to the cost-benefit analysis—is that we do get challenged on imposing training requirements across the board on firms. That is a cost that is imposed on the industry. We would want to be really forensic about the benefits, the time period for those benefits and what the appropriate costs would be.

Q578 **Danny Kruger:** It is a burden, but it is one that we at least consider would be a helpful one. I would be very grateful to hear from you in response to those recommendations that have been made.

Nikhil Rathi: I would be happy to come back to you.

Q579 **Danny Kruger:** Mr Alder, can I ask you about the news today around Coutts and the apparent de-banking of Nigel Farage? There are other cases that we could also bring in. You may be aware of the response from Coutts today, which has been to say that there are three reasons they might terminate a relationship with a client: commercial viability, reputational consideration, and legal and regulatory requirements.

As the person responsible for the legal and regulatory regime that banks operate under, are you aware of anything the FCA might be imposing on Coutts and other banks that would cause them to terminate a relationship with somebody like Nigel Farage?

Ashley Alder: What do you mean by "imposing on Coutts"?

Q580 **Danny Kruger:** Might there be any legal or regulatory requirements that could explain why Coutts has decided to de-bank Mr Farage?

Ashley Alder: Not that I am aware of, no.

Q581 **Danny Kruger:** Nor am I. The suggestion, therefore, is that it is either commercial viability or a reputational consideration. It seems to be apparent from the subject access request that Mr Farage extracted that, although there was a query over his mortgage, the other bank accounts he held met the commercial viability requirement. It seems apparent—it is explicit in the documents—that the issue is reputational. Indeed, they say quite clearly that Mr Farage is at odds with the inclusive organisation that Coutts aspires to be. It is clearly an objection to his political views and his activities. Is that acceptable?

Ashley Alder: For banks as well as other commercial enterprises, it is fundamentally up to them to choose who they do business with. However, FCA-regulated firms must treat people fairly. Reputational considerations about who you take on as a customer are frequently cited in the financial services industry across investment banks and right through to retail.

That is really as much as I can say right now, not least because, from a board perspective, we have not considered this because it is relatively new in the press.

Q582 **Danny Kruger:** It has been in the press for a little while now. Just to push you, you are suggesting that it is up to the banks to decide who they do business with. Is that your position? You think it should be acceptable for a bank to terminate a relationship on the grounds of the client's political views.

Ashley Alder: It boils down to the fact that the obligation of banks is to treat their customers fairly and manage their relationships fairly. I am not aware of anything in the FCA rulebook that goes to the point around how banks judge their own attitude to reputational risk, if that is what it comes down to from their perspective.

Nikhil Rathi: If I could add something specifically here, there are different issues that are brought up. There is one issue about politically exposed persons. We will be doing a review following the legislation to make sure those rules are being applied proportionately by banks. There are important reasons for those rules, because of the potential elevated risks, under international standards that are being transposed to the UK. That is one set of issues.

The next set of issues is specifically, as has entered the public domain recently, around freedom of speech and political views. I would not comment on the specific case. Anybody who feels their bank has not treated them fairly can go to the Financial Ombudsman Service. The Financial Ombudsman Service will look at the information the bank provides and what the customer provides, and can direct the bank to reopen an account or keep an account open if they feel a customer is being unfairly treated.

The payment accounts regulations in the UK are transposed from European Union laws. There is a specific definition around payment accounts. I can give you the general position. You are not able to discriminate on the basis of protected characteristics; you are not able to discriminate on the basis of political views either. That is in the legislation.

Q583 **Danny Kruger:** Indeed, thank you very much. Given that, Nikhil, what is the obligation on the FCA to regulate this bank in particular? I have no doubt that further investigations are possible, but, if it does appear, as it does from the paperwork we have seen, Coutts has contravened that rule about discrimination on the basis of political opinion. What can you do, as the FCA, under your current powers to regulate the conduct of this bank? Do you need further powers in order to intervene or do you not think there should be any intervention from the FCA?

Nikhil Rathi: As you would expect, we are talking to NatWest Group about this. A specific adjudication on an individual case is a matter for the Financial Ombudsman Service. The Financial Ombudsman Service will investigate what the individual has to say and what the bank has to say and will make a judgment in light of all of the data.

At the moment it is difficult to comment on excerpts that have been released in the press. There may be other materials that would be considered by the ombudsman in deciding whether the decision was fair and compliant with our rules and, if it was not, what action should be taken. If a complaint is made and it is determined that there has not been appropriate consideration of the case, that would be relevant for us from a supervisory perspective.

Q584 **Danny Kruger:** You are in conversations with NatWest, and you regard discrimination on the basis purely of political views to be in convention of the rules and indeed the law.

Nikhil Rathi: The law is clear.

Q585 **Danny Kruger:** What do you think about the actions of Coutts in what appears to be a deliberate leak of confidential information about Mr Farage's finances to the BBC? Are you aware of that? Would you take steps in response?

Nikhil Rathi: I have seen the media reporting on it. I am not able to respond to specific allegations, but the allegation is that there has been a breach of data protection rules. That is a matter for the Information Commissioner. We regulate separate areas, but we would be concerned if there had been any breach of data protection rules.

Q586 **Danny Kruger:** Moving on to another very similar case, there is a vicar called Richard Fothergill who responded to an enquiry from his bank, the Yorkshire Building Society, for general feedback. He responded to say he was not very happy about their endorsement of Pride month and his banking relationship was immediately terminated. That is all the information there is. There might have been other information. Let us assume he was not abusive or offensive in his communication. If that were his only offence, would that be legitimate grounds for termination of an account?

Nikhil Rathi: I am very reluctant to speak about individual cases. These are sensitive cases about individuals' banking relationships. The rules are clear. There may be commercial reasons for shutting an account, in which case you should give two months' notice. We would say, particularly under the new consumer duty, a good clear explanation should be provided. It may be the case, particularly if there are financial crime concerns or other concerns, that an explanation is not provided. That is legitimate too. People would not expect a bank to reveal any intelligence they have had of illicit activity.

Banks are able to shut accounts at shorter notice where they consider, for example, the behaviour of the customer is abusive to their staff. We saw quite a bit of that during Covid in terms of aggression towards branch staff. I will not go any further than that in commenting on the specific case.

Q587 **Danny Kruger:** I doubt that Reverend Fothergill was abusive—let us assume he was not—or that there was criminality going on. It seems to be that he had his account closed just because he expressed a political view.

I just wanted to ask you a broader question—maybe this is one for Mr Alder—about purpose. Indeed, Coutts explicitly claim that their action was not political but driven purely by their purpose as an organisation. I am very supportive of the principle of purpose in business. It is a really positive recent development that businesses increasingly think beyond shareholder returns; they think about their wider role in the world. It is a really constructive development.

If the umbrella or concept of purpose is being used simply to further a progressive political point of view, are we potentially in some trouble? What can we do, whether as regulators or in Parliament, to ensure that basic freedoms are preserved and that businesses, especially such vital businesses as banks, do not use this concept of purpose as a cover for blatant politics?

Ashley Alder: It is a complex area, without any doubt. Pulling it back to the FCA perspective, Nikhil mentioned FOS and the responsibilities under equalities requirements. That goes to the point about political views. All of that factors into the extent to which a complaint might be laid.

I would not go further than that and get into a broader question about whether a financial institution's articulation of purpose should fall within the regulatory remit of the FCA. We are talking about a much broader topic than the part that falls within our own remit.

Q588 **Emma Hardy:** It was really good to hear you mention vulnerable customers when you were talking about the consumer duty. The final rule states, "Our rules require firms to consider the needs, characteristics and objectives of their customers, including those with characteristics of vulnerability". Do all financial firms really understand this for all types of vulnerability? How are you helping firms understand the requirements around how vulnerable customers should be treated?

Nikhil Rathi: We are on a journey here. I would not say that all firms understand this. A number of firms are making considerable efforts. We have produced specific guidance around vulnerability. We have published research to support firms as they bolster their processes.

Q589 **Emma Hardy:** One of the aspects that I am particularly keen to hear your thoughts on is this idea around transitional vulnerability. The cost of living crisis might be creating vulnerable customers who might not be vulnerable for long, hopefully. How can banks or financial services providers identify and support those particular people who may be falling in and out of the vulnerability criteria?

Nikhil Rathi: Big data has some very positive benefits here. The analytics that banks can now apply to the transaction-level data of customers gives them a very good sense of what the circumstances of their customers are. Is their food shopping or energy bill a greater proportion of their income? Are they seeing disruptive changes in incoming payments? Should the bank be communicating with its customer to make sure they know that support is available?

To be fair to the banks, this is an area where GDPR is relevant. Some customers will say, "Mind your own business. I do not want you monitoring my data. I do not want you monitoring my transactions and then coming to me and offering me support". There is a delicate balance to be struck between how banks use that data and the legitimate customer consent to use that data.

Q590 **Emma Hardy:** I understand that. I always think it is far better to offer help and have it rejected than never to offer it to begin with. Where a company has identified that there is a sudden decline in income that might indicate a job loss or, as you were saying, a greater proportion of their income is being spent on essential services, would you be encouraging them to reach out to those customers and say, in a sensitive way, "Can we offer you any assistance in any way?"

Nikhil Rathi: We encourage banks to be proactive. That proactivity can be generalised communication. You may have seen billboards on the streets and emails going around saying, "We are here to support you. Phone us. Contact us".

Some banks have experimented with anonymised chatbots. At one level that could seem quite impersonal, but one of the things we have observed is that sometimes people feel a sense of shame in talking to a human about the problems you are facing. For some consumers, particularly vulnerable consumers, the ability to engage anonymously about their circumstances can signpost them to support that they might not have secured by picking up the phone. They are doing it online. There are many different and innovative ways, using behavioural insights and data science, that banks can look at this.

Q591 **Emma Hardy:** Are firms doing enough at the moment to review how their products and services are working for vulnerable customers? You mentioned at the beginning of your comments that this is a journey. Where are they in this journey?

Nikhil Rathi: One of the reasons I made the point I did in my speech in November at UK Finance was because the banks were generally quite proactive during Covid in supporting their customers. They built a lot of good will. The point I was making there was that, if they do not sustain that during this next period, that will be reputationally costly for them. When it comes to borrowers and vulnerable borrowers, there is a fair amount of proactivity.

There are other areas, though, where there is certainly more to do. For example, a year or so ago I met the chief technology officer of one of the largest Dutch banks. I was at a conference in the Netherlands. They proactively reach out to elderly customers, who are often rural customers, provide them with iPads and visit them to support them in accessing financial services. That kind of mobile banking is perhaps less prevalent here.

For vulnerable customers who rely on a branch and who are struggling with digital access, there are different things that banks can try. There is more that can be done.

Q592 **Emma Hardy:** Are there particular financial service sectors that are not serving vulnerable customers very well? You have identified lending from banks as an area where there has been some good work. Where are the areas where we need to do more? In which areas of the financial sector do we need to do more?

Nikhil Rathi: There is always a concern about access to financial services for disabled consumers with a range of disabilities. Particularly as financial services become more digitalised, there is a concern about their ability to access the full range of financial services.

The other area that has been raised with us by Citizens Advice in particular is when there can be intersectionality based on consumers' characteristics, such as minority ethnic women and their ability to access insurance products. That has been called out as a potential area for us to look at. I am not drawing a conclusion there. I am just saying that that is another area that we are considering. Those are a couple that I would bring to your attention.

More broadly, we have taken some quite decisive action recently in the area of debt advice. Dame Angela raised this with me the last time I was before the Committee. This is about unscrupulous introducers pointing people towards debt advice solutions that are inappropriate. We have banned referral fees between the previous Committee meeting and this Committee meeting. We have banned those fees because this was clearly impacting vulnerable consumers quite significantly. They were sometimes paying £4,000 for a debt solution when they could have got it for £90.

Q593 **Emma Hardy:** You have said you have identified some areas where this needs more work. Will the consumer duty, when it properly comes in, help with that work? If so, how?

Nikhil Rathi: There is a limb of the consumer duty that specifically requires firms, as they develop their products, to consider the impact on vulnerable consumers.

Q594 **Emma Hardy:** You think that will give you greater clout. You mentioned digitalised products and people with disability. You have prompted me to mention touchpads for people buying through credit cards. I was lobbied about this by the RNIB. If there is a smooth surface, it is very difficult to put in your PIN. It limits transactions for people who are visually impaired.

It just seemed so obvious to me once it was pointed out. I am seeing these more and more when people are paying for products. It is a smooth touch surface. You cannot identify the numbers; therefore, you cannot put in your PIN. That could be a really quick and easy thing to do, if you could take that up.

Nikhil Rathi: Yes, absolutely. I will have a look at that.

Q595 **Emma Hardy:** Ashley, the last time we were in, we chatted about staffing. I know we have met since. To pay credit to you, I have heard that you have met with Unite members as promised. We have had a conversation where we talked about morale. What is your assessment of the current situation since the last time we had a conversation about it?

Ashley Alder: The last time I was here I said something about how I detected growing confidence and morale within the organisation. It is now evident to me that that take was correct. Since that point, the situation has improved. That is against the background of earlier in 2022. There were views about the pay and grading change, expressions of disappointment and an overall feeling that the morale was not great. That was roughly a year ago. The organisation has just completed a staff survey. The average engagement score is now around 62. That is not perfect, but it is a substantial improvement.

The other thing is that this comes down to practicalities. The union representatives and the organisation as a whole have been looking at the terms of reference for a revamped staff consultative committee, which we spoke about when we met. My point of view on this, which I did express when we talked, is that the value of the committee or the revamped committee will be apparent once it is set up. From my perspective, it needs to be set up as soon as we can. We are on track to do that.

The issues that were raised with me by the union representatives I met were basically around the way in which the revamped committee communicates with the executive team and how internal communication operates within the organisation. As I understand it now, both of those conversations are on track. Again, I am keen to get this committee going in a revamped form.

Q596 **Emma Hardy:** I note from the staff survey that there still seems to be low trust around communication from the chief executive. That still seems to be quite low. Only 35% of staff say they have trust and confidence in their chief executive. Why is that?

Ashley Alder: It is interesting. I have been here four months. The senior leadership team is of a very high calibre across the piece. That is my honest take on this. Many of them are relatively new to the organisation.

Q597 **Emma Hardy:** I saw that there has been a large turnover. There has been high staff turnover at the most senior level of the organisation. The new head of digital assets has been in post for less than a year. Turnover in the senior leadership of the FCA is well over 100% over the last two to three years.

Ashley Alder: I have seen the team make very strong efforts to engage. In my time, Nikhil has done two town halls all together and more in order to establish, frankly, much better communication with staff. It is on a positive track, certainly when you compare where we are now to the story last year.

Q598 **Emma Hardy:** In the March 2020 board minutes there was a reference to there being several programmes requiring a cultural shift for the FCA. The board advised that "careful consideration is given to making the culture changes relatable for all FCA colleagues". That issue of culture change does not appear again in the FCA board minutes. Is it still being discussed as an issue?

Ashley Alder: In relation to the question of staff engagement and the specific question about the set-up and function of the staff consultative committee, yes.

Q599 **Emma Hardy:** Nikhil, the bit I am struggling with, which I struggled with last time, is what it is about the culture and work practices of the FCA that make it so reluctant to recognise a trade union.

Nikhil Rathi: We have been on a really challenging journey over the last few years, partly instigated and encouraged by this Committee, transforming the organisation. There has been huge cultural change. I am very grateful to our colleagues who have really worked incredibly hard through this period to deliver the results we have.

You mentioned the staff survey. Of course, there is a mix of results. We always have a lot of work to do. One of the highest scores we have ever had since we started that survey in 2017 was this year's career and development score. 70% of colleagues are feeling positive about their career and development. Our retention levels have gone up considerably; our turnover has gone down this year. Our senior leadership is nearly 50% female, which is probably going to make us the largest financial services organisation to have secured that. We have tackled the issue of low pay. We have brought our pay gaps for gender and ethnicity down by 5%.

The point I made to you is that there is a mix of views around the organisation in terms of how colleagues wish to be represented. That was tested in front of the Central Arbitration Committee, which is the body Parliament set up. We are hoping—this is one of the reasons I opened up the conversation around what the forms of voice we should have in the organisation—that the enhanced staff consultative committee accommodates those who are very supportive of the SCC. We want to bring together those who do not want to change it, those who respect it.

We also hope that, as the terms of reference are concluded, it will bring in Unite and the FDA, which is another union. We have also heard from some colleagues that they might want union representation, but perhaps they want to have an alternative. It seeks to bring everybody together and accommodate the full range of views in the organisation. Not everybody wanted to be represented by just one party.

Q600 **Emma Hardy:** Yes, of course. That is the point I made previously. It is the same in the Bank of England. It is the same in the Civil Service and here in Parliament. There is more than one trade union, and people choose the one that reflects their views most accurately. That is not unique.

The Bank of England recognises a range of trade unions. Some people are members; some are not. It is not mandatory. It is not mandatory here in Parliament. It is not mandatory in the Civil Service for anyone to be a member. There is more than one. What I do not understand is what it is about the FCA that makes it so reluctant to recognise unions compared to all these other public financial institutions.

Nikhil Rathi: The request we received was to recognise, for collective bargaining purposes, all colleagues below the senior leadership team, which would be close to 5,000 colleagues. That was tested through the Central Arbitration Committee, which said there was not a basis of evidence of support from the workforce to move ahead with that.

On the back of that, we said that we recognised there were some colleagues who would like that representation. Therefore, we are broadening out our consultative committee to make sure those colleagues' voices could be properly accounted for in those arrangements. That is the way we are pursuing this.

As Ashley said, as an organisation, there is good momentum. There is a lot of work to do, but I am quite optimistic about the journey we are on. That includes our expansion in Edinburgh, for example. There were some very difficult issues in Edinburgh. We have now doubled our headcount in Edinburgh. We have established ourselves in Leeds. We moved very fast to do that. This is an organisation that is quite dynamic. It is giving our colleagues real opportunities.

Q601 **Emma Hardy:** It needs to work very effectively, which is why getting the staffing right matters. I would be really grateful if you could keep me and the Committee updated about the development of the staff consultative committee and when we are going to see it online. As you have picked up from this meeting, we need the FCA to be working effectively. If high rates of staff exits and turnover continue, how can it be an effective regulator?

Nikhil Rathi: Turnover in the first quarter of this financial year will be the lowest we have had for six or seven years. I cannot predict the rest of the year, but it looks like it is going to be less than 10%, which is the lowest we have had. In terms of experienced staff, a few years ago we had 1,200 people with eight or more years' experience in our organisation. Today it is 1,350. I am very happy to share that data with you on a regular basis.

Q602 **Emma Hardy:** I am sorry. I had down that 40% of all staff at the FCA are new to the organisation.

Nikhil Rathi: We have grown as an organisation from 4,000 to 5,000 over the last couple of years. By definition, arithmetically, you will see an increase in new staff. That is the reason. We bulked up to solve our authorisations backlog, build data and technology capability and prepare for the future. Half of those colleagues have come from private sector backgrounds, so we are bringing new capabilities into the organisation.

Emma Hardy: Thank you, again, to Ashley for continuing to engage on this matter. I share your desire to get this staff consultative committee up and running as quickly as possible.

Q603 **Rushanara Ali:** I have a question on mortgages. In March, Nikhil, you told us there were 32 institutions that had not treated borrowers in financial difficulty fairly. Have your recent interventions with those lenders been effective in improving their behaviour? Could you give us a number in terms of how the number now compares to March?

Nikhil Rathi: We secured £47 million of redress from those institutions. If we see further harm occurring, we will intervene. We are not seeing it on the scale I described to the Committee last time.

Q604 **Rushanara Ali:** How many would you say it is? You kindly gave a number last time—32. Has that number gone down? How many has it gone down to?

Nikhil Rathi: That was the group of firms we took action against. I am not in a position to give you an updated number.

Q605 **Rushanara Ali:** Have there been any new ones since then?

Nikhil Rathi: I will have to come back to you specifically on that. You should be assured that we have a dedicated team supporting our work on borrowers in financial difficulties. We are on this very diligently.

Q606 **Rushanara Ali:** On mortgage prisoners, would you be able to write to me to tell me what the circumstances are now? There have been some improvements with the changes from an absolute to a relative definition for affordability tests, but there are thousands more people who will potentially be badly affected by this, given the recent interest rate rises. Is that something you could write to us with an update on, please?

Nikhil Rathi: Yes, of course.

Q607 **Rushanara Ali:** I have a broader question about insurance, the Edinburgh reforms and the Chancellor's statement. You correctly raised the question—this is also one for the relatively new chairman, Mr Ashley Alder—about risk appetite.

In evidence we have had in the past from the Governor of the Bank of England, as well as John Vickers in one of our sessions—I will stand corrected, if Clerks want to check that—there were some concerns about the impact of the reforms on insurance policyholders and the potential impact of that, which the Financial Services Compensation Scheme would have to take up. They did raise certain concerns, depending on how these reforms are done.

Is the Chancellor getting the balance right? You mentioned risk appetite. Are we heading towards having the right balance in these reforms, if we are trying to get more investment from pension funds and so on?

Ashley Alder: The topic is incredibly important. As I mentioned earlier, this is about the specifics of competitiveness as opposed to abstract metrics. Certainly, it involves taking a view on market risk and allocation across asset classes in the context of market risk.

The point that I have made to everybody I have talked to about this subject is that it is perfectly valid to talk about regulatory and other levers in order to encourage more risk-taking in markets. If we think about what we have been doing recently, since we last met, on long-term asset funds, we made a decision not long ago that they could be extended to retail, to a degree, with certain protections and outside the default option within DC schemes. That is an explicit decision around risk.

The point I really want to make is that there is a big distinction between market risk, including the way we approach that and how it interacts with competitiveness and UK investment, and conduct risk. In that context, Nikhil mentioned earlier on that our gate is that much tougher. It should be because the consequence of that is fewer failures, fewer claims on the compensation system and, ultimately, a lower levy requirement.

There is a valid and very important discussion to have around market risk, but, nevertheless, our operations around conduct risk need to be appropriately tough.

Q608 **Rushanara Ali:** Is the Chancellor muddying the waters? Are they likely to remain appropriately tough? The Governor of the Bank of England raised this point, as did other witnesses. Where things do not go according to plan, there is a risk that there will be impacts on certain groups. They referred specifically to the Financial Services Compensation Scheme.

Ashley Alder: Yes. In my relatively early interactions with industry, I did get a sense that there was a degree of conflation between the whole question of productive finance and risk in the system. Does this mean a return to light touch? Some of those in the rooms I was in were in favour of that across the board, in favour of a deregulatory agenda.

Q609 **Rushanara Ali:** What do you think about that?

Ashley Alder: I was very clear. As I have tried to make clear here today, there is a valid conversation and debate to be had around market risk freeing up savings in order to invest in UK plc, but that does not mean a return to light touch. There is no doubt about that whatsoever.

Q610 **Rushanara Ali:** We are looking for reassurance and clarity that these reforms are not going to end up with the consumer or the public in some way losing out. It is not clear yet where we are going to land.

Ashley Alder: There is a difficult conversation here. I alluded to this earlier on, and Nikhil has alluded to it as well. If you accept that retail investors have access to higher-risk investments, such as illiquids within LTAF, the debate is effectively about the degree to which a compensation system should cover investment losses or other issues. That is a genuine debate to be had. We have a compensation mechanism in the UK that is quite extensive, with a high levy. I have been lobbied around the levy.

Q611 **Rushanara Ali:** Specifically in relation to pensions and the Edinburgh reforms, is there anything else you want to add about the proposals and the reforms that are coming? Is that something we should revisit perhaps further down the line? Some concerns have been raised about what the impacts could be if the balance is not struck correctly.

Nikhil Rathi: There are different debates here. There is a question around returns. A lot of the data being circulated suggests that returns in the UK for pensioners are systematically lower than in other pension systems. Some of that might be about investment risk. Some of it might be about structure.

We touched on this last time. The disparate nature of pension funds—we have 5,000 DB pension funds and many tens of thousands of DC pension funds—does not enable the scale to go after the returns you might see in other markets. We would be supportive of the direction of travel there, and we would support appropriate qualifications for trustees.

Q612 **Rushanara Ali:** I will move on to my other questions about insurance. In July you announced that you had uncovered examples of lengthy complaint handling times, people not being given appropriate settlements and instances of motor insurance customers being offered a price lower than their car's fair market value after it had been written off, which is against FCA rules. Which firms were doing this? This has certainly affected many of our constituents. We get complaints all the time about these sorts of cases.

Nikhil Rathi: I know there is a keenness from the Committee for us to name the firms we are engaging through supervisory and potentially other actions. If we take enforcement action against a firm, we will name them at that point.

Q613 **Rushanara Ali:** You will name them so that other consumers can see this. That is great.

You will be aware that we have had some evidence sessions around insurance more generally and buildings insurance. I know there is action coming down the line around the ridiculous commissions that have been taken in relation to freeholders, and leaseholders then bearing the costs.

There are also very high premiums that depend on crime data, for instance. If you look at my end of London, east London, the premiums tend to be higher. There are also other issues around people not being insured or being insured at very high premiums: those with disabilities, those with pre-existing health conditions or those who are older. These are groups that are not going to be able to get affordable insurance, given the current cost of living crisis as well.

Are these areas ripe for reform at a policy level? Are the powers you have sufficient to enable these groups to get better deals? It seems like people are being penalised because of where they live as well as the other characteristics.

Nikhil Rathi: It is a mix. Insurance is an area where there has been a need for policy-level intervention as well as regulatory action. We have intervened on loyalty penalty pricing. Earlier, I cited an area that has been raised with us around the treatment of minority ethnic groups in certain areas.

Where insurers are pricing based on objective risk, they are allowed to do so. The crime rate in a particular area is a relevant factor when you are deciding on car insurance.

Q614 **Rushanara Ali:** It is also done for residential property. It is taking account of where you live. The social indicators tend to follow as well. The poorer you are and so on, the more likely you are to live in an area with a higher crime rate, which has a knock-on effect for the cost of insurance.

Nikhil Rathi: That is why I say this is probably going to require a mix of policy and regulatory intervention. You have seen, for example, policy interventions on flood insurance because of some specific issues there.

Q615 **Rushanara Ali:** Could you do something similar in relation to pooling other types of risk? At the moment, if you have a pre-existing condition or disability, or you are much older, it is prohibitively expensive to get travel insurance, for instance.

Nikhil Rathi: The ABI is looking at that in the area of leaseholders, as you heard from my colleagues last week. Those risk-pooling type mechanisms would typically be mechanisms that the Government would need to instigate. If we saw harms like that accruing, we would input into that consideration.

This is going to be a bigger issue for us in the coming years because data and artificial intelligence is enabling firms to price risk even more accurately. There is this question of what happens to those who are excluded.

Q616 **Rushanara Ali:** Do you have any examples of ethnic profiling by insurance companies?

Nikhil Rathi: It is an issue we are looking at. I am not aware that we have identified any egregious examples at this point in time.

Q617 **Rushanara Ali:** I just have one final question, which is linked to the evidence we have had in our session on insurance, third-party loss adjusters and the linked institutions that insurance companies appoint. Similarly, they run down the clock in terms of delays and do not respond to claimants for months. The FOS takes a very long time to respond. Maybe Nigel Farage will get a quicker response than everybody else because the Minister has got involved, but for ordinary people that is not the case.

They can be in very difficult circumstances. We have had evidence from somebody who had a fire in their house and this is still ongoing. The FCA has a complaint about is, as does the FOS and so on. Are you looking at this? The FOS has said to us in written evidence that they are concerned. The largest numbers of complaints are coming in about loss adjusters and delays. Is this something the FOS has to deal with?

Nikhil Rathi: No, it is something we are looking at as well. Of course, we take into account the data we get from the Financial Ombudsman Service about complaints and uphold rates. We have contacted major insurers to look at their settlement times and their claims handling processes. Where we see outlier behaviour, we will act.

Q618 **Rushanara Ali:** What about small and medium-sized insurance companies? We think some of the bad practices are coming from those firms. Are you talking to them?

Nikhil Rathi: We have looked at a sample of insurers. I will have to check the size of that. If you have specific concerns about a firm, feel free to share that with me confidentially.

Q619 **Rushanara Ali:** Would you be able to write to us with more information as you make progress on that?

Nikhil Rathi: Yes.

Q620 **Anne Marie Morris:** I will be brief. I just have a couple of follow-ups on insurance following what Rushanara has said. Insurance is clearly going to be an increasingly complex and difficult area. You recognise and accept that. Now we have this new consumer duty of care, effectively, you will need to look at the operation of insurance companies in a slightly different way to see whether what they are doing, under the existing rules, delivers that consumer duty.

I am concerned about two areas. First, when an individual makes a claim under insurance policy, the insurance company rightly requires evidence of the loss and they will want it quantified, etc. The evidence that is required by the insurance companies sometimes requires a significant financial outlay by the insured to get the evidence, which often means that the whole thing becomes pointless and therefore they give up the claim.

It becomes a very complicated and expensive operation, which effectively makes the benefit of the insurance null and void. I do not know whether that is being looked at. Clearly, there has to be reasonableness between the two parties, but at the moment it seems to me like it is much more in favour of the insurer rather than a fair playing field. That is the first thing.

Secondly, insurance is based on the level of risk the insurer believes they are undertaking. One of the challenges following Grenfell was that the insurance sector went into freefall in terms of the size and nature of the risk they were insuring. That was not helped because there was lack of knowledge in the industry. There was a shortage of fire engineers. Effectively, fire engineers were very constrained in what they could and could not do because of the way their own personal insurance was being affected. As a result of that, the risk that was perceived to be being insured went up exponentially. As a consequence, the premiums went up exponentially. In the real world, that bears no real relationship with the actual risk.

I appreciate this is quite a complex issue—what is the real risk?—but is this something you, the Government and/or any other body could or should be looking at? At the moment it seems to me that the only beneficiary of this panic and lack of evidence is the insurance companies, and that benefit is being paid for by the consumer.

Nikhil Rathi: I will take each question in turn. We expect insurance companies' policies to do what they say on the tin. A consumer should reasonably expect to be covered in a proportionate way, if they need to make a claim on the policy, without having to undertake onerous information requests. As you say, if it is a reasonable and proportionate information request to prove your claim, that is fine. There needs to be proportionality.

We had this issue in the business interruption saga. We went to the Supreme Court in the end, as you may recall, to get some clarity on the rules here. Firms, small businesses in particular, were quite legitimately expecting this to pay out given the pandemic, but then they were being asked to prove all kinds of things about which days they were closed, how long they were closed for, what their turnover was, whether they were employing staff and whether the staff were on furlough. There was a whole set of things, which would take a huge amount of management time to prove.

Eventually, after a lot of engagement, we got to a more streamlined process. We monitored that very closely, and well over £1 billion of claims have been paid there. If there are specific areas where this is coming up, we are happy to look at that.

On buildings insurance and the post-Grenfell situation, that was a very specific set of issues around building safety standards not being enforced over a significant number of years. Ultimately, that needed very significant Government intervention. The number of insurers willing to keep insuring in that market went down, and therefore there were challenges around sustaining buildings insurance. With the measures taken by the Department for Levelling Up, Housing and Communities, that situation is now easing.

As I say, that was one specific area, but there will be others—we hear this about indemnity insurance for small businesses and we hear it in other areas too—where we will need to watch this closely.

Q621 **Chair:** Unless my colleagues have further questions, I am going to summarise the session. We have covered a lot of important issues today. This is quite a historic moment because you are just about to start the consumer duty and you have the new competitiveness objective. We will be seeing you again in just over four months' time, and we will be keen to hear how you are seeing progress in both of those subjects, as well as covering many of the others we have covered today.

Mr Alder, in the four months you have been at the FCA, you have clearly been doing a lot of external outreach. Is who you are meeting with a matter of public record? Is it something you could perhaps send in a letter to the Committee as a follow-up?

Ashley Alder: My diary is published. It is public record. I can also send it to you.

Chair: If it is a matter of public record, that is absolutely fine. Thank you very much for your time today.