HOUSE OF COMMONS

Treasury Committee

Oral evidence: Work of the FCA, HC 210

Wednesday 8 May 2024

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Watch the meeting

Members present: Dame Harriett Baldwin (Chair); Mr John Baron; Dr Thérèse Coffey; Samantha Dixon; Dame Angela Eagle; Stephen Hammond; Danny Kruger; Dame Siobhain McDonagh; Anne Marie Morris.

Questions 703 - 776

Witnesses

I: Nikhil Rathi, Chief Executive, FCA; Ashley Alder, Chair, FCA.

Examination of witnesses

Witnesses: Nikhil Rathi and Ashley Alder.

Q703 **Chair:** Welcome to this afternoon's Treasury Committee evidence session, which is part of your ongoing scrutiny in Parliament. Can I start by asking you to introduce yourselves for the record?

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

Nikhil Rathi: My name is Nikhil Rathi, chief executive of the FCA. As this is the first hearing since the announcement, many congratulations on your damehood, Chair.

Q704 **Chair:** Oh, gosh; thank you.

Mr Alder, I wanted to start with you. You will have seen the level of industry, ministerial and House of Lords backlash to the recent enforcement consultation. As chair of the FCA, were you expecting that level of reaction when the board signed off on that consultation?

Ashley Alder: Can I take a step back on this from a board perspective, back to the beginning? Then we can get on to the reaction to this. It is important to step back because, as you would expect, the board looked at the consultation before it was issued. Broadly, it felt that the rationale underlying the consultation was suitable for consultation.

The rationale is set out in the consultation. At the risk of repeating what it is saying, but it is important, we were looking at factors to do with deterrence and whistleblowing. We are looking more broadly at the whistleblowing framework to ensure that it is more effective going forwards. We were looking at factors such as the potential, or the reality, of speculation and rumour around cases and how that then plays into overall public confidence.

We were also aware that there had been, over a fairly long period, a number of asks, including from this Committee, around particular cases and what is happening in relation to a matter of public concern that involves enforcement. That was the envelope that we looked at. In terms of the reaction to it, in truth, at the time we put this out we were not expecting such a stern reaction as has come from industry.

Q705 **Chair:** What would your board minutes say about the discussion around this?

Ashley Alder: It was as I have summarised: that it was suitable for consultation, for the reasons I have just gone through. It is also important that no decision has been made. There is no decision to reverse.

Q706 **Chair:** It is a consultation. I understand that. When the special advisers to our Sub-Committee were talking to our Sub-Committee about it, one of the words they used was "bonkers". You used to work in Hong Kong. You understand how different jurisdictions deal with these kinds of things. Can you give me an example of where there is a jurisdiction that takes this approach?

Ashley Alder: No, not this exact approach. There are variations as to when and how they announce investigations, whether it is the outset of an investigation or partway through. There are examples. We can come back to you on this, but this is important. The consultation talks about a shift from exceptional circumstances, which basically means hardly ever, to a public interest test. Regulators elsewhere look at public interest. For example, I think that Australia has a public interest test in similar circumstances.

Certainly in the feedback that we have got to date, questions have been raised about, "Okay, it is a public interest test. Where is the bar set when we are judging public interest, if this goes forwards?" It varies. I do not believe that there is a proposal that is exactly like this. We felt as a board that there was an underlying rationale that made sense to consult on. It was against the background of a history of asks that are basically positioning those asks or requests from a public interest perspective and how we react to that.

Q707 **Chair:** Given that it was only last year that the FCA was given this secondary objective of international competitiveness, I think that it strikes all of us that this is one of the first acts that you consulted on

since you were given that secondary objective. You have mentioned Australia, but it is not something that other major competitive jurisdictions would do. The US would not do it. The Swiss would not do it. I do not think that the French would take this approach.

Ashley Alder: This is around an activity or a very important operational aspect of what the FCA does and other regulators do, which is absolutely core to underpinning public confidence in the financial system, which is enforcement, supervision and our gateway. So far as the competitiveness objective is concerned, there is a view that ensuring that that core operational work is as strong as is appropriate is really important and fundamental to competitiveness.

There is a sort of narrative developing that ignores, to an extent, much of the work that this organisation, the FCA, has been doing and is continuing to do, which is absolutely fundamental to practical concerns around competitiveness. I am referring to things on the supply side of life: equity capital markets, listing rules, intermittent trading venue. I could go on. There is a long list. On the demand side of life, there is the work we are doing around the help gap. One intended consequence of that is mobilising domestic savings for productive investment into UK enterprise. Ditto the work around pensions.

There is a lot of really important practical work that we are doing, which I personally believe falls firmly under the heading of competitiveness because it has practical consequences as to how savings are mobilised around investment, particularly into UK enterprise. That is the feeling around it.

My frank view on this, going back to the board meeting that we held when this consultation paper was discussed, is that it is legitimate, given, often, the expectations on the FCA as to what we may be expected to say when, for example, there is speculation and rumour about a situation and we are investigating. It was valid to go out with a consultation around what we might do in naming, not necessarily at the outset of an investigation. It could be, or it could be partway through an investigation.

I should say also that it is really clear that there is no presumption to disclose or to name. That is quite clear. There is no presumption to do so. As we develop this, discuss it and take on board the feedback, we will start thinking about what criteria would or should be applied in order to think about the public interest test.

Q708 **Chair:** I am going to come to some operational questions in a second. In terms of consumers, we represent our constituents. I can see that we would want our constituents to be prevented from investing in something that you guys know is crooked, is a Ponzi scheme or is completely flaky.

One operational issue that we are concerned about is that it takes the FCA such a long time to complete an investigation. I will move on to the operational questions and we will have more questions on this subject as

we go on. The average length of an investigation is nearly four years. That seems an awfully long time for a question mark to be hanging over an organisation once you have named it.

In terms of the operational point there, Nikhil, it says in the consultation that you already had had questions from Committees such as ours about specific cases that you were not able to speak about. I think that you have used your, quote-unquote, emergency naming powers once or twice. You already have those, do you not?

Nikhil Rathi: Yes. Today we have the flexibility under exceptional circumstances in the public interest to name in a very specific way.

Chair: You already have that power, yes.

Nikhil Rathi: One Committee that has raised this issue with us was the Public Accounts Committee in 2022 after the NAO did a report into the British Steel Pension Scheme situation.

Chair: Yes, we have published the letter you sent us yesterday.

Nikhil Rathi: One concern there was that we had information intelligence about problematic financial advisers. These were small businesses and they were being investigated. It takes a certain amount of time to investigate. I will come to your point in a minute around the length of time. The steel workers in Port Talbot, the pensioners, were not aware we were investigating. They were calling our hub up, our contact centre. All they got was the information: "This firm is on the register". Nothing else was disclosed. They then took advice and potentially lost their life savings. That was the point that the Public Accounts Committee asked us to look into in this context. Is there more that we can say in those circumstances? Our judgment is a delicate judgment, because there is no regulator quite like us anywhere in the world or domestically.

Q709 **Chair:** You already have the powers that would have allowed you to make that disclosure, have you not?

Nikhil Rathi: Yes, in exceptional circumstances. We do not think that that power would have worked in the British Steel case. You asked us about the Odey Asset Management situation and we disclosed to you. In one or two other cases we have, but it is a very small number of cases.

Q710 **Chair:** You do not think that the powers would have applied in this case.

Nikhil Rathi: We think that it would be difficult in this case to have said that that was exceptional, because, sadly, investment fraud is not exceptional. We are investigating a large number of those situations at any one time. There are other circumstances. I know that the Sub-Committee is going to look at it, but we are playing a more significant role in the Government's economic crime plan. We are leading or contributing to nearly half of the actions, including in relation to fraud. There is a major initiative there. That is unlike many other of our international counterparts.

There is a case that we gave to you that we did supervisory work on. In parallel, the Serious Fraud Office opened an investigation. In doing that, it said, "Any witnesses or investors affected, please send us this questionnaire so we can look at the evidence". Charging decisions have now been made in that case and I will not comment any further. It so happened that the Serious Fraud Office took that case. We can take cases such as that where there is a regulatory breach.

There is a question of how you encourage witnesses to come forward. Sometimes that is also relevant in the non-financial misconduct domain when we are investigating a firm.

Ashley talked about whistleblowing. We have had your recommendation in the *Sexism in the City* report around promoting awareness around our whistleblowing line. We are taking that very seriously, but there are two issues with our whistleblowing function at the moment. One is awareness; one is confidence. The whistleblowers continually tell us, both directly and in the surveys, that they do not have confidence in the framework because we do not say much more to them than, "We are taking your information seriously. It has been passed to the team". We do not tell them, because we are not able to, given the restrictions we are operating under, that their concern is being formally investigated. That impacts that framework for whistleblowing as well.

We have fast-moving consumer situations. This is different to enforcement investigation; it is about unauthorised business, but there are some parallels. Take FTX. I have raised this point. We were the first G7 regulator to put a public warning out about FTX. We were very careful in our wording. We said in September 2022, "We believe it may be operating illegally in the United Kingdom. Please be careful". That firm subsequently collapsed in the United States in 2022. There has now been a criminal conviction in 2024.

We did that at the same time as knowing that this was one of the largest crypto firms in the world. The UK, like many other jurisdictions, was vying to win its business, but the information we had at that point was sufficiently serious for us to feel we had to say something publicly.

Q711 **Chair:** The point I was trying to make is that you already have quite a lot of powers.

Nikhil Rathi: We have some, but I do not think that they would work for a number of these situations. That is what I am saying. We increasingly work with partner agencies on digital regulation and other areas where they name, such as Ofcom. We are a regulator beyond the financial services and we do not at the moment.

Those are the considerations. We recognise that this is a debate. We are very grateful that the Sub-Committee is looking at this, because this is exactly what the accountability framework is set up for on these

contentious issues to try to make sure we get the democratic input of this Committee as we think about it.

Q712 **Chair:** The consultation is closed. When are we going to hear what you have decided?

Nikhil Rathi: We have said that we are going to take several months. There has been a response from industry, consumer groups, whistleblowing campaign groups and others. We hope that will give time for the Sub-Committee to consider. We have written back to the Sub-Committee. The House of Lords is also looking at this, so we will obviously be really interested to hear what your feedback is. In a number of months' time, we will be able to come back with where we have got to.

Q713 **Chair:** Moving on, you mentioned the *Sexism in the City* report and you have sent us a reply on that, which we have published as well. One thing that we fed back to you was around the data-gathering exercise. We felt that too much emphasis on a data-gathering exercise would end up being tick box rather than actual cultural change. It sounds from your reply as though you are just going to go ahead with that anyway.

Nikhil Rathi: Thank you for the recommendations and thank you for taking evidence from us. Where we are on that is that there were two elements to our consultation. One was on non-financial misconduct and clarifying our guidance, and you recommended that we move ahead with that. We are prioritising our work on non-financial misconduct and being clearer that that constitutes an area where we may be able to take action, and I think that you are familiar with some of the cases.

On the broader data and diversity questions, we had 257 responses, so there has been a very extensive response to the consultation. We are not prioritising moving forward on that at this stage. We need to take the time to understand it.

Of course, you have given us a number of other recommendations, which we were looking at, including engaging with boards and senior leadership, and supporting equality impact assessments for family friendly policies, and you have asked us to do an equality impact assessments on the bonus gap. We also need to think about what data we would need to have to be able to fulfil those recommendations, and that will take some time. The priority right now for us is the non-financial misconduct guidance that you recommended to move forward with.

Q714 **Chair:** For the record, we are publishing that response next week, so I am correcting my own mistake there. Finally, on debanking, you will have seen our report out this morning. I appreciate that business lending and business banking is not really something that is within your perimeter, but were you as shocked as we were to discover in the course of that inquiry the extent to which businesses undertaking completely legitimate activities in the United Kingdom economy are being debanked by the banking sector?

Nikhil Rathi: It is an issue of concern and we are doing work, which we launched in the summer last year, on provision of banking services. We published an initial report, which focused on the question of freedom of expression and political views. We are doing some broader work and we will say some more later this year.

This question of debanking and derisking across the financial system is a concern. It is a concern not just in the United Kingdom. It is also a concern in the United States and other jurisdictions. I can entirely understand the Committee's legitimate concern around companies doing legal activity that may have difficulty obtaining bank accounts. As the Committee will be familiar with, in the UK banks have full commercial freedom over the types of businesses they do or do not bank.

Q715 **Chair:** You were very clear last summer at the FCA, in terms of the consumer lens shone by Mr Farage's account being closed, that you should not have an account closed because of your political beliefs as an individual.

Nikhil Rathi: Absolutely, that is very clear under the rules.

Q716 **Chair:** I wondered whether you were as surprised as we were on this Committee to discover how many businesses are being debanked because it turns out that they are in an industry that perhaps their shareholders do not particularly like, such as defending our country.

Nikhil Rathi: This is clearly an increasing problem. It is an increasing problem for companies in certain sectors, such as pawnbrokers.

Q717 **Chair:** Does the law need to change on this?

Nikhil Rathi: There is a judgment for Government and Parliament to make as to whether banking is such a fundamental service that there should be some kind of right. Other jurisdictions have a backstop right, where, if an entity or enterprise that needs a bank account cannot get one, there is a backstop mechanism. That has never been the choice made by the Government or Parliament in this country, but that exists elsewhere.

Clearly, you need a bank account to be able to operate your business. We are hearing from pawnbrokers, crypto firms, charities, cash-intensive businesses and even businesses such as adult entertainment and defence, all of these types of businesses that may be legal, that they cannot necessarily get the bank of their choice. That commercial freedom has been longstanding in the United Kingdom though.

Chair: That is interesting.

Q718 **Dame Siobhain McDonagh:** I wanted to look at the motor finance investigation and hidden discretionary commission arrangements. As you will know, that is where banks allow car dealers to unfairly raise the interest rates on people's car finance so that they could increase their

commission and earn more money. Nearly half of all car finance deals were affected, with an average family losing about £1,100 over four years. The best estimate we have is that £16 billion is owed to customers who were overcharged. The last time we had a scandal of this size was PPI, where customers had to claim the money themselves, often giving 40% of their compensation to a claims management company. This time around, will the FCA be setting up a redress scheme to help customers who have been overcharged?

Nikhil Rathi: We made an intervention in January, after board approval, to pause the processing of complaints until September this year. We were seeing an increase in the number of complaints going to the Financial Ombudsman Service and as reported by firms. There were also a significant number of court cases in the county courts.

Learning the lessons from past experience and given the cost of administering those, we took that exceptional action in relation to a pause so that we could appoint an expert to look at all the evidence across the market to understand the situation and what is happening here. That process is now well underway. What is important in that process is that firms provide us the data comprehensively and promptly, so we can assess the evidence.

There are also legal issues in dispute. One party that has been subject to a particular decision by the Financial Ombudsman Service has taken that to judicial review. We have applied to the court to be a party to that judicial review so that we can contribute our thoughts to how the courts might resolve some of those legal questions. As we look at that evidence and where the jurisprudence emerges out of the senior courts that will now look at this issue, we will then take a view as to what further action may be needed.

What I have said publicly, but I have not wanted to go further than that until we have assessed the evidence, is that I think it is unlikely from our work that we are going to find nothing to report, but I also would not want the Committee to think that this is going to be on the same scale as PPI. We will have to assess what we do against all of our objectives, including ensuring the market functions well. 78% of households in the United Kingdom own a car and it is in all of their interest and our interest to make sure we continue to have a functioning motor finance market in the UK.

Q719 **Dame Siobhain McDonagh:** If you find significant wrongdoing and people subject to discretionary commission arrangements, do you think you will be setting up a redress system?

Nikhil Rathi: That is absolutely one of the options we have open to us under the law. There are a number of tests that we have to meet if we want to go down that route in terms of the evidence base. That is what we are gathering at the moment. It is one of the options we would need to assess, based on the evidence we receive.

We have set out on our website and sought to encourage consumers not to use claims management companies. As you point out, while everyone is entitled to use a solicitor to represent them and sometimes claims management companies appear in the form of legal advisers, when we have done schemes like this in the past we have wanted as much of any redress to go direct to a consumer and not to an intermediary. I am not making any presumption about what we in the board may decide on this. We have to wait for the evidence to come through.

Q720 **Dame Siobhain McDonagh:** Should you go down that route, would you announce specific penalties for firms that game the system by failing to identify claimants or paying them less than they are entitled to?

Nikhil Rathi: The example I can give you, which is where we have used these powers most recently, is in relation to the British Steel Pension Scheme, where we launched a redress scheme. We made it very clear that anyone who seeks to circumvent the process would be subject to penalties. We have taken unprecedented enforcement action in that case. There is some information in the letter we sent to the House of Lords. Fifteen individuals have been banned. We have acted against a number of firms as well.

In the case of motor finance, in recent weeks we have written to those companies affected and made it clear what our expectations are around the maintenance of financial resilience at all times. That means that, if there are going to be unusual distributions back to shareholders or other unusual capital movements, we expect to be notified in advance. There should be nothing that might undermine their ability to pay consumers what they may be owed at the end of this exercise and we will be monitoring that very closely.

Q721 **Dame Siobhain McDonagh:** There is a big concern often among consumers that banks are able to put a great deal of pressure on institutions such as your own to set up schemes that let them off a bit more lightly. I am sure you probably know that, in a previous scandal about interest rates hedging, Martin Wheatley, who was the CEO of the FCA at the time, told this Committee that he had not come under any pressure to be easy on the banks, but an independent report then found an internal email proving that he had. With this in mind, have the banks put any pressure on the FCA to go easy on them by setting up a scheme that allows them to pay less compensation or to pay it out more slowly?

Nikhil Rathi: If you look at the line of questioning from the Chair at the start around the response to enforcement consultation, you can see that we take our decisions based on the evidence and independently. It will be of no surprise to you that the trade associations representing banks and motor finance companies are making very strong representations to us. I am aware that they are making strong representations to this Committee as well and likewise to consumer groups. That is a normal part of the policy-making process. We will make our decisions based on the evidence

against the statutory objectives that are given to us by Parliament, as we have set out publicly.

Q722 **Dame Siobhain McDonagh:** In any dispute like this, it is really important that both sides have clout to inform your discussions about how you set the scheme up. My concern, and that of other laypeople, would be that the consumer side is not as strong or influential as the bank side.

Nikhil Rathi: We hear that frequently. Within the framework of the FCA, there is a statutory consumer panel with whom we are engaging. We respond and engage. If we do a redress scheme the consultation is open to everybody, including Parliament and this Committee. I am sure that, through the Sub-Committee, if we go down that route, that might be the kind of consultation this Committee may wish to engage on. We would seek to do it openly.

With all of these situations, whether it is the enforcement consultation, the work we are doing on motor finance or the work we are doing on debanking, our approach in recent years has been to lay out as much of the evidence as transparently as we can about the different objectives and how we are trying to balance them. We know we are going to have to at some point make decisions and draw lines under the board's oversight. This would be a board decision ultimately and we set out and explain it. When it comes to decision time, I would imagine that nobody is going to be satisfied with us, because you have very polarised views on some of these topics.

Q723 **Dame Siobhain McDonagh:** Your investigation covers April 2007 to January 2021. Why is mis-selling of car finance prior to April 6 2007 out of scope? There has been some speculation, particularly in the media, that this practice was starting as early as the 1980s.

Nikhil Rathi: FOS jurisdiction commenced in 2007, so there are also legal time bars that we have to consider. That is all part of the evidence gathering that we are undertaking. Indeed, what the legal time bar is can also be something that is sometimes considered by the courts. I am sure that it will feature in this conversation as well.

Q724 **Dr Coffey:** Other colleagues are going to discuss things such as budgets and similar, but I want to get a sense of prioritisation and how that works between the executive and non-executive in that. You have statutory duties. You had a new statutory duty added, which is a secondary objective about competitiveness and growth. In my short time on the Committee, it has been quite interesting to observe that there are things that are very much of interest to consumers, such as access to cash. Again, my colleague will go into that in more detail. I have just had bad news today, Madam Chair, that TSB is closing a branch in Felixstowe.

Chair: I had exactly the same bad news today. TSB is closing the last bank in town in Tenbury Wells.

Dr Coffey: Coming back to that, one thing that everybody is very eager to hear from you on is the proposals that you are coming up with in that regard. It feels like that is taking some time.

The other aspect, which I was surprised by, is quite how long it is taking to do some of the regulatory elements connected to the Edinburgh and Mansion House reforms. Looking here, I am trying to understand what you are prioritising. Ultimately, we need a financial system we can trust, but we need one that is responsive to consumers and will still exist in years to come. Instead of you having 40,000 businesses, we do not want you to end up with just 4,000 because the market has gone elsewhere. Help me understand how you are prioritising in that regard.

Ashley Alder: From a board perspective, if you look at the main headline topics or areas that we prioritise at the moment, we can arguably split them up. One part is consumer protection. There is a lot to unpack there. Of course, we have the ongoing implementation of consumer duty, which is a flagship reform. Underneath that, or as part of it, there are important shifts as to how the organisation will operate over the next few years, including a shift from a prescriptive approach, possibly even an overly prescriptive approach, to outcomes. That is one.

There is a clear focus on investment fraud and how the organisation tackles that, again from a number of dimensions. When it comes to consumers under pressure, particularly those in financial distress, you will have seen the work we have done around forbearance expectations and, when it comes to consumer vulnerabilities and risks, how promotions are communicated, what promotions say and the disciplines around promotions. That is just a flavour, but that is under the broader heading of consumer protection.

There is a special area or particular area of importance, which is consumer investments. It crosses into the Edinburgh reforms. That is where we are working on advice guidance boundary. My view is that that is absolutely critical, because it is aimed at a very large, as it has been termed, "help gap". I think that we know what that is. What are the credible and impactful techniques we can use to fill that gap? We are also looking at the question of disclosure to consumers. That is moving away from PRIIPs to an alternative. There is also the work we are doing internally, operationally, around a tighter gateway. In other words, it is tougher to be authorised now than it has been in the past. You can see that through the statistics.

Q725 **Dr Coffey:** How are you balancing the secondary competitiveness objective?

Ashley Alder: I touched on that earlier on.

Dr Coffey: Sorry, it did not come across.

Ashley Alder: There is consumer investments, broader consumer protection and then the third bucket is often termed wholesale markets.

It is really important. It is a topic to deal with on a practical level. If you look at the many opinions and viewpoints about UK competitiveness as an equity capital market and a wholesale finance centre, there is obviously a great deal of concern around that, particularly when it comes to the often-cited examples of where companies choose to list, for example.

My own view is that, so far as competitiveness is concerned, the work we are doing around listing rules is, frankly, a radical change from a sort of ex ante protective approach to a disclosure approach. We are working on something called the intermittent trading venue. It now has a new name or acronym, but nevertheless that is really about bridging private markets and public markets.

Q726 **Dr Coffey:** I know about what you are planning to do. My question is about pace and prioritising resources. You are in the final year of your three-year strategy. I do not know when your next strategy is due to come out, but the recent consultation on enforcement seemed to get priority for publication now. I am wondering why that is timely and still your priority. I think that you have quite a small team working on various of the reforms that actually could unlock the economy and avoid the fall in competitiveness. That is why I am trying to push on prioritisation of resources.

Ashley Alder: I completely agree on the unlocking the economy point. A lot of what we are doing at the moment on the supply side, in other words the supply of enterprises that are able to attract investment, and the demand side, so the supply of capital to interact with those enterprises, is critical.

In terms of what we are looking at going forward, our next strategy will kick off formally in April 2025. As you would expect, we are working on that now at an executive and a board level. This goes back to the enforcement consultation. You are sort of asking, "Where does that fit in the context of prioritisation?" One aspect of that is, effectively, a sort of reset as to how we deploy our enforcement and supervisory resources and operate the gateway. It comes to speed, without doubt. I think that it was mentioned by the Chair earlier on that there is a perception that the enforcement often takes too long.

Q727 **Chair:** It is not a perception. It is data that you have shared with us.

Ashley Alder: We agree with that. The enforcement consultation fits within a broader piece of work that we are currently developing. We have not announced anything formally at the moment, but basically it is around making sure that our early interventions, whether at gateway or as a supervisor, operate in a way that is calculated to nip problems in the bud early on, so that the sheer number of cases that end up sitting within enforcement, around which we launch investigations, should be fewer, but they should be targeted at the greatest harms, as you would expect.

That is distinct from an approach that some regulators take, which is, if something comes through the door, to investigate it until the point at which you drop it some way down the track. You are not necessarily triaging and managing the cases in a disciplined way. That sounds very operational and suchlike.

Q728 **Dr Coffey:** That is alright. It is meant to be good operational. It does not feel that it is coming across as good operational if it is taking nearly four years to do investigations.

Nikhil Rathi: It is a very fair question about pace. When I think about the competitiveness objective, there are different dimensions to it. The first thing I hear from firms is operational efficiency. We have moved our authorisations performance very sharply. Some 97.8% of applications are processed within statutory timelines. Senior manager applications are dealt with, on average, within 40 days. We started digitising our forms, so we keep improving that operational efficiency.

Before anything, before we get to any of the reforms on the policy, the first thing you hear from industry is, "Make sure that works". We have done that at the same time as raising the bar. One in four are rejected post the LCF recommendations because we learned that, if you block things at the gateway, you can save an awful lot of time and damage to consumers and industry. We have taken a very robust approach on crypto and in other areas. That has moved fundamentally.

You have also seen in the letter, which I believe you have published, a whole set of other actions on prevention of fraud. There are 14 or 15 times more interventions on fraudulent financial promotions, twice as many for unauthorised businesses and more skilled persons reviews. The reason I mention that—I think you heard it from the CEO of Santander UK—is that one of the biggest drains of competitiveness for the financial services industry and, indeed, the United Kingdom economy is fraud and financial crime. We are stepping up. We have to work with partners.

The investment fraud numbers in the UK have come down in absolute terms by 40% year on year. That is still too much, but they have come down. That helps your constituents and the financial services industry. It is one of the reasons why we work so proactively with Google to get that down, so that plays into competitiveness as well.

Then we have a set of innovation services, which I believe are seen as world leading. Ninety-five countries around the world copied our regulatory sandbox. We convene the 85 regulators on the Global Financial Innovation Network. We are consulting on a digital sandbox for tokenisation. We are consulting on work around asset management and tokenisation, so we are at the forefront of innovation. As we do that, we need to have an open conversation with this Committee and others in Parliament about risk, because these innovations are not without risk. Some of them will go wrong and we need to have a good understanding

about how far we should go. That plays into the listings conversation as well.

I can run through all of the Edinburgh reforms. We have been delivering each one of them. A number of them await Treasury statutory instruments. In this Committee's own analysis, there is certain work for the Treasury to do, and then we can kick in and do our bit of the equation.

Dr Coffey: That is helpful to know. I wonder whether perhaps you could write to us with that and then we can interrogate the Minister on that.

Q729 **Anne Marie Morris:** After a helpful introduction from my colleague, it is indeed access to cash and consumer duty, which has already been touched on. Mr Alder, we regularly talk about banking hubs, so can I ask you where we are with this? Clearly it is not your responsibility to ensure that Cash Access actually delivers. You are producing regulations to ensure that there is a process whereby, when the last branch closes, there is a hub in place a year later. At the moment, the banks are operating in accordance with Government guidance, but there is no regulation.

In practice, on the ground, we have something like 40 hubs now established. We have something like 140 in the pipeline. From every conversation I have had with those in the industry, it is extremely unlikely that those 140 are all going to meet the 12 months. Some of the banks, mostly Barclays, have actually said that they will agree to keep their branches open, even if it is longer than 12 months, if there is no hub.

For example, in Teignmouth, a Lloyds branch we have discussed before, which has not committed to extend, will close in June. At the moment, the community has absolutely no idea whether a hub has been identified, whether temporary or permanent. It seems to me that, without the communication, and we have had very little with Cash Access, without taking the community with you, you are going to find that this hub—brave new world—replacing, if you like, the branches, is going to be seen as something that is, frankly, not happening and not really the cure or the offered solution to the closure of bank branches.

It seems to me that it is also probably not complying with the cross-cutting rules in consumer duty. Are we avoiding foreseeable harm by closing branches without replacing them? Are we helping our customers pursue their financial objectives by closing branches without a replacement? I do not think that we are. As a regulator there, while I know your rules are currently being baked, surely there is a role, given the consumer duty obligations, what you know is the intention of the Act and what the Minister has said, to intervene to ensure that this works, because right now it is not working. Mr Alder, do you have any comments on that?

Ashley Alder: In relation to the subject as a whole and the impact on communities, and in particular people within those communities, often the more vulnerable, obviously we have a great deal of sympathy. That is the first point. The question then is what we are doing about it and what the banks are doing about it.

Our expectation under our branch closure guidance is pretty clear. The expectation is that, with the consumer duty overlay playing a part, banks that are closing branches look, before they close, at the impact that might have on the customers they are serving. Ultimately, as it now stands, before we make rules, which is not too far in the distant future, the question of whether a bank closes a branch or not is ultimately up to the bank, but those are our expectations. We communicate with the banks around their decision-making closely. That is what is happening at the moment.

Q730 **Anne Marie Morris:** Given the consumer duty, which you have the power to enforce now, surely you have the remit to be able to step in when the banks, in my case the Teignmouth Lloyds, are not meeting your guidance or, indeed, customer expectation.

Nikhil Rathi: I understand the point. To Dr Coffey's comment earlier, I am sorry to hear about Felixstowe this afternoon. I hope that LINK looks at the position, in particular with respect to deposit services, in your constituency. We will keep an eye on that.

Parliament debated this vigorously last year and set a framework for access to cash, which set out that the Treasury publishes a policy statement about what is determined as reasonable access to cash. We should regulate against that policy statement. There was also an extensive debate in Parliament about whether we should have a power to prevent closure of branches and Parliament did not go down that route.

Q731 **Anne Marie Morris:** I agree. You and I are not disagreeing, but we are not talking about the consumer duty.

Nikhil Rathi: My point is that, when it comes to the consumer duty point, we have to be careful in using the consumer duty beyond what has been explicitly legislated for and debated in Parliament. Therefore, we do not think that we would be able to use the consumer duty to assume a power that you have explicitly decided not to give us. You have asked us to make sure that there is reasonable access to cash. It is channel neutral, whether that is a banking hub, a post office or an alternative service. There was a separate discussion about personal and business as well, and that is reflected in the Treasury's policy statement.

I entirely understand the frustration with the speed with which banking hubs are being rolled out. Is this going to be the long-term perfect solution? Let us wait and see. I entirely understand the point you are making. I was visiting Cumbria just a few weeks ago and I saw some of

this, really right at the front line of what is happening in some of those rural areas.

Q732 **Anne Marie Morris:** That does not answer the question. The fact that Parliament debated these two things separately, access to cash and consumer duty, and that they are on separate parts of the legislation does not mean that they are unrelated. It does not mean that there is no responsibility and obligation on the part of the regulator, you, to ensure the consumer duty, which says that there is a cross-cutting obligation to avoid foreseeable harm and to help customers pursue financial objectives, is observed. That is live law now. Are you still telling me that there is nothing you as the regulator can and will do to look at and address what you yourself acknowledge is a complete failure to deliver on the promise with regard to the rollout of the banking hubs in 12 months of the last branch closing?

Nikhil Rathi: We do not think that we can use the consumer duty to intervene in commercial decisions to close branches. Under our guidance, a number of banks have paused decisions where we feel their plans for closure have not been satisfactory.

Once the new rules are in force, we will have a little bit more bite, somewhat more bite, to prevent a closure where the suitable alternative has not been identified and is not up and running. There will also be additional ability for community groups, including Members of Parliament, to make requests for cash access needs to be considered. In some respects, the ability to ask banks to pause commercial decision-making would be very helpful in me coming here and answering these questions. I do not think that we could go that far at the moment.

Q733 **Anne Marie Morris:** Clearly, you are the regulator; I am not, but it would seem to me that those duties are meaningless if they do not include looking at the commercial decisions that banks make. Ultimately, when you are looking at what banks do, they are all commercial decisions. Let us leave it there, because clearly we are not going to agree. I am not sure where that leaves the residents of Teignmouth and Dawlish, who currently have a final branch closing next month, June, and know nothing about whether or not there will be a hub, but let us move on.

Nikhil Rathi: The briefing I received is that the two hubs are on the way by September. One in July and one in September. That is my understanding, but you are closer than I am.

Q734 **Anne Marie Morris:** There will be a gap.

Nikhil Rathi: We are happy to look at the specific case to understand whether there is a gap.

Q735 **Anne Marie Morris:** If you would, I would be very grateful. Let us move on then. If we move then on to the consumer duty specifically, there was a grace period for legacy products and closed products. How is that

coming on? There were all sorts of issues about vested rights, vulnerable consumers and migration challenges, effectively where the closed or legacy product did not meet the new consumer duty. Where have you got to? Has that given rise to some issues and problems?

Nikhil Rathi: We are very grateful to the industry both for the work it has done to implement the consumer duty for on-sale products last year, and for the work it is doing to deliver it by the end of July this year for closed-book products. It has been a significant regulatory change and we are seeing very significant progress in the market. It is not all visible and announced, but we are seeing better, simpler and more accessible language being used for products. We are seeing more upfront language about exclusions. Some fees have been restructured. Some you will be familiar with because they are in the public domain. We have seen sludge practices ended and there has been some good progress on savings and technology investment to get customer insights into a better place. We are seeing good progress.

There are certain areas that we are focusing on and I can say more about that. On the closed book, in our latest survey, which we ran in April, 83% of firms were aware of the deadline. There are thematic issues that are coming up, which they are working through. The first is data. Some of these are very old products and they do not always have data about the customers. Indeed, some of the customers are disengaged. There are the customers you cannot reach, you cannot contact and who do not seem to want to respond. How do you address that market? There are questions around, as you say, vested contractual rights and how they communicate around those issues too. There are questions about some of these products being on legacy systems and particular questions around vulnerable customers. Those are the themes that are coming through.

We are working with the firms. We have a large population, as Dr Coffey talked about, of 40,000 firms. We have to be sensible and proportionate. For a smaller firm, this may be harder than for a large retail bank. I would also stress, again linking back to the enforcement conversation we had earlier, and I have said this publicly, we are not looking to enforce every technical breach of the duty on day one.

Q736 **Anne Marie Morris:** Are you expecting the deadline to be met?

Nikhil Rathi: I think that the bulk of firms are going to make reasonable, strong endeavours to meet that deadline. Can I guarantee you there will not be technical breaches on 1 August? No, I cannot. We are also saying that we are not going to go and enforce every single technical breach that we identify. When a new piece of regulation comes into place, that would not be sensible. We are focusing on the most egregious breaches and harms, so that firms can adjust to this new regime in an orderly way. We want to see reasonable efforts to meet the deadline.

Q737 **Anne Marie Morris:** I have a final question for Mr Alder. Mr Rathi has given us an overview that all is going swimmingly, effectively, with

regard to the four outcomes of consumer duty and the three cross-cutting rules, but we need metrics. I would like to understand, Mr Alder, what changes are going on within your organisation itself so that you can ensure compliance with those four outcomes that are now required and that the cross-cutting rules are complied with.

Ashley Alder: With consumer duty, although it came into effect last July, it is still fairly early days. As Nikhil has explained, in relation to our interaction with the industry and expectations of the industry around closed books, it is an iterative conversation. My view at the moment is that we are not yet at a stage of nailing down the precise metrics, certainly quantitative metrics, by which we are going to hang our hat in relation to the success or otherwise of consumer duty.

Having said that, we are obviously very alive to the way in which consumer duty is having an impact. Nikhil went through a few examples. We had a discussion at the last Committee on savings rates. You have seen activity around wealth management, platforms and suchlike. There is a list. I will not go on. Those examples of changes in behaviour and, frankly, the genuine engagement of firms with the FCA and the duty are all important. All of that is important, certainly for the board as a whole, to understand how the duty is being embedded.

There are two elements of it that are not capable of being judged by quantitative metrics, or even qualitative yet, which are very important. I mentioned one earlier on, which is the set of expectations, which are absolutely reasonable, about how we shift to an outcomes-based approach.

The second is fair value assessments, which is quite a large conversation we are having with a number of institutions. It is quite an important one. Nikhil and other of our executives have made absolutely clear that it is not about price setting. Fair value is not an isolated price-setting or price-fixing exercise. It is much broader than that, which is why it is an iterative approach. To conclude, even though it is early days, a big shift and a flagship initiative, you can see already that there has been impact. Nikhil has mentioned some of those and I have as well.

Q738 **Stephen Hammond:** Good afternoon. I apologise that I had to step out for a statutory instrument Committee. Such are the vagaries of parliamentary life. Could we perhaps go back to enforcement, both the consultation and other matters? In terms of the consultation, I heard your answers to the Chair, Mr Alder. If I read the consultation, you are going from your long-maintained presumption against publication to a new position of using a flexible public interest framework, but there will be no presumption in favour of disclosure. Have you done any looking at why you have not used that presumption in favour of naming before? Have you given any thought as to how many more people might now be being disclosed? It seems odd.

Nikhil Rathi: The letter reached you only yesterday, but we set out for the Committee in annexe A of our response to the Sub-Committee all the cases from 2023-24 where we opened investigations. There were 11 investigations into regulated firms, four into listed firms and 12 into unregulated firms. Six of the investigations into regulated firms are already disclosed by the firms themselves, or, in one case, we disclosed. They are listed. They have disclosure obligations. Some of them disclose under their listing obligations.

We set out an example of case 7, if you get to it in the annexe. I do not want to give any sense of what the firm is, but that firm has announced that it may be under investigation by a range of authorities in an overseas securities market. It is subject to enforcement actions in other jurisdictions as well. It has several million UK consumers. We have surfaced that. We have not done a full assessment, but that is the kind of case where we might think that we would want to, in a very factual and measured way, simply confirm that an investigation is underway. We have given you three other cases where we would have to weigh the test and there is no presumption, and one case, which is a covert criminal case, we would not disclose.

Q739 **Stephen Hammond:** Is the reason why you might want to, in that particular instance, which I think you called case 7, that it would fit the public interest test you are setting out, or is it that you are concerned that other people might be considered as that firm and therefore you want to get rid of that possibility of speculation?

Nikhil Rathi: It would not be about speculation. The concern would be that there are several million UK consumers using this firm. We are investigating it and we have had discussions with this firm for three years. You asked another question in there as to whether these investigations come out of nowhere. Every single one of those cases that I have left that are unannounced have all had supervisory engagement for between one and three years. Sometimes we have had section 166s. Sometimes we have had supervisory action plans, Sometimes we have had private, voluntary agreements with the firms that they have not complied with and therefore we have opened an investigation.

We are also mindful that some of our regulatory partners around the world have public enforcement actions underway in relation to that institution. This is exactly the kind of debate we want to have with you. We do not think that that kind of case meets the exceptional circumstances test that we have in place today. We do not think that that would qualify. We therefore think that that is the kind of case that we may wish to consider.

There are other cases. The covert case, which is an investment fraud case, it is a criminal investigation, rather like the other one I mentioned to the Chair earlier. There may come a point where we feel it is necessary to announce, once we have gathered enough evidence and where we may wish to secure more witnesses. The bar for criminal charges is high.

The evidential threshold you need to meet is high and you want to gather as much evidence as possible.

We are not there yet, but those are the kinds of cases we are talking about in terms of a public interest test. On anything to do with financial stability we will talk to the PRA. Of course, we would be very thoughtful about that. Those are the kinds of considerations that we wish to share with the Committee and it reflects the breadth of responsibilities we have, unlike any other regulator in the UK or around the world.

Q740 **Stephen Hammond:** You think you potentially need this power, even though there is a method at the moment already to publicise enforcement investigations anonymously.

Nikhil Rathi: For example, in the area of fraud or non-financial misconduct, if you need to name a firm to encourage witnesses to come forward, doing it anonymously would not do the trick. We have not ruled out, in some cases, articulating the information anonymously, but that is not always going to be effective. Sometimes you have to be a bit careful, because what you might do is set off a round of speculation, where the firms that are not under investigation deny it and then subsequent rounds of speculation focus on all those firms that have not denied they are under investigation.

I am not ruling it out, but we would have to be very thoughtful about it. I would also stress that we would take our time over this to make sure we get it right. We have heard what the industry has said. We want to hear in detail the evidence around the secondary competitiveness objective. We want to weigh that up.

Q741 **Stephen Hammond:** You have just come on to exactly what I wanted to ask. In your first response to the Chair, you said, "We are not aware of any significant evidence that the approach to disclosure undermines competitiveness". Given that, when you responded to the Chair earlier, you were saying there were no other jurisdictions that are going to operate this in exactly the same way, what gives you confidence that there is no evidence that this would undermine competitiveness?

Ashley Alder: There is a narrative around this, which is along the lines of, "This change would imply that, in most cases, we would be naming the subjects of an investigation. It would be routine". Nikhil has gone through a few examples of the sort of considerations and the sort of fact patterns that would be important in thinking through the public interest test. From my perspective, the way in which Nikhil has articulated those considerations and the way they were articulated in the consultation itself are signalling very strongly that a public interest test would incorporate those kinds of considerations.

Incidentally, one of our practitioner panels, in commenting on this, quite rightly said, "It would be good to know more about where you set the bar and the sort of considerations that you would take into account, which

may not be exclusive, in coming up with a public interest decision around this". My short point is that a serious public interest test around disclosure in these circumstances, balancing all these factors, is not, on deeper analysis, inconsistent with the competitiveness objective.

Nikhil Rathi: The specific point we made there was around other regulators that do this in the UK. There is a large number that do it—in digital markets, in audit and elsewhere—and we have not seen the competitiveness point, but we are going to look at the evidence very closely. I am sure you will as well.

We are also very mindful that we are the most scrutinised regulatory authority in the United Kingdom in terms of parliamentary scrutiny. Independent analysis has shown we are before Parliament almost every month, primarily for this Committee but also for other Committees. We know that, if we egregiously or prejudicially name a firm, we will be accounting to you very quickly about what we have done.

If you look at the approach we have taken, and certainly my approach over the last few years, sometimes you have invited me to talk about specific firms. I have tended to refrain. The only one where I have been proactive, with the support of the Committee, was in the case of Google, where we judged that we needed a combination of public and intense private action to get Google to shift its policies to stop fraudulent, paid-for financial promotions appearing on its website.

I am very glad we did because, to Google's credit, once it did that, fraudulent promotions fell by nearly 100%. Sometimes you need to say something. Nothing we say is going to affect Google's share price. Sometimes some of the arguments that you might hear around this are important to articulate.

Q742 **Stephen Hammond:** I understand that articulation. The concern would be, as Mr Alder has just pointed out, how high the public interest test is and where those barriers are. It would be perfectly possible, if it were a low bar, that you could significantly undermine investor confidence in the functioning of markets and the viability of particular firms by this action.

Nikhil Rathi: We would be very thoughtful about that. My career in financial services was started dealing with 2008-09 bank runs and financial stability, and supporting interventions there. I am very conscious of the situation that can occur and we would talk to the PRA on a financial stability basis.

We have tried to give you the evidence of the sheer number of cases that are already disclosed, so you can look at what actual impact it has. In most cases, particularly for large firms, they make a technical disclosure in their accounts or in their listed documents. Investors note it. People around the world are familiar with the fact that very often these large firms have dozens of these investigations running in many parts of the world and they wait for announcements and updates.

In terms of the SICGO—the secondary international competitiveness and growth objective—I really hope, in this accountability framework we now have with the Sub-Committee, we can get into really detailed conversations about how we balance this with our primary objectives.

I was reading your report this morning about SME finance. One recommendation to us, among a number of them, is that we should extend the FOS perimeter to deal with personal guarantees, because you have identified a gap. That is an absolute flashpoint on competitiveness in terms of what the banks and the industry say to us right now: the way the FOS works, its inconsistency with the way it works in other jurisdictions, the lack of clarity to investors about when they might have to pay compensation and when they might not.

If we were to move forward with your recommendation, we would get a lot of pushback on that investability in the UK, secondary competitiveness argument. We need to be talking to you about how we trade off what you have told us you would like to see, for the protection of small businesses in your constituencies, with what the industry is going to tell us about what this is going to do to the investability of UK financial services.

That comes up here as well. Tackling fraud more robustly is going to enable us to drive competitiveness and growth benefits, and our objective is for the UK economy, including financial services. Being able to step into that more effectively than we can do at the moment will help us.

Q743 **Stephen Hammond:** In relation to your last point, at the moment you are taking sometimes between three and four years to close investigations. Is this new power going to help you with that and what exactly are you doing at the moment to decrease that length of time?

Nikhil Rathi: This is a very important point. We want to bring that time down. Our new leadership in enforcement started last year. They have brought the number of investigations down from 591 to 500, but they want to do that in a way that still delivers more outcomes. We are closing cases where there is no further action sooner, which is why that number went up last year. In one sense, that operational drive is more important than this particular consultation on transparency, because that is what is really going to drive the outcomes.

All the work we have done on prevention—which we have laid out in the report—on our gateway, on appointed representatives, on financial promotions, on 15 times as many cancellations where firms are not using their permissions, enables us to reduce the amount that goes into enforcement, so that those precious resources can be focused on the most serious cases. We are dealing with a lot more upstream and we have set out all the data for the Committee to consider.

I would also want to manage expectations, because there is only so far we can go. We are dealing with some of the most complex serious and organised crime cases in the United Kingdom. Criminal thresholds are

high. We made a charging decision in May last year. We do not have a trial date until January 2026.

Sitting suspended for Divisions in the House.

On resuming—

Q744 **Dame Angela Eagle:** I want to ask about the thing that probably ought to be talked about on most doorsteps in the country but, in my experience, never is, and that is pensions decumulation.

The recent data on how many people take advice when they start taking their pensions early, as the law now allows them to do, is not incredibly encouraging. The percentage of people who took money out of their pension scheme early without taking advice was about 48% in 2018-19. It has now gone up to 58%, which means that those people who are accessing their pension early, without any advice at all, and possibly making quite serious decisions that might affect them in later life without any advice, has gone up.

Why is this? What are you going to do to try to ensure that people do take advice when they access their pension fund early?

Nikhil Rathi: We have been quite open that we are doing some work with the Treasury on the advice guidance boundary review. The advice framework in the UK needs fundamental change and some of it is legislation. Some of it is regulation. Some of it is specific to pensions. Some of it is more broadly around savings and investment advice. It is clear we need to aim for a framework where people in the UK are taking financial advice at the time they need to take financial advice, at a price that they are willing to pay.

That is why we had the advice guidance boundary review consultation with the Treasury. That closed. We are looking very carefully at all the responses. We proposed some avenues to try to tackle this issue. I know the Chair has views on some of those avenues and has proposed amendments in Parliament as well. It is hard to be conclusive on the specific developments over the last year or two, but cost of living pressures may have played a role.

Q745 **Dame Angela Eagle:** It is driving people to think, "I have some savings sat here. I need them really now", and not think in an actuarial way about how that might actually mean they run out of support in their old age.

Nikhil Rathi: Yes, absolutely. One is taking some of the savings out earlier than they might otherwise have done. The other is reducing contributions. Actually, while there has been some reduction in contributions, it has perhaps not been as much as you might have thought, given the cost of living pressures we have seen. That points to the success of auto-enrolment.

There is a degree of stickiness around pension contributions through auto-enrolment, but that also points to a more fundamental issue, which I did a speech on a month or so ago. According to the Pensions and Lifetime Savings Association, our level of saving at the moment is far off what is needed to secure the retirement that most people are expecting, which would, in today's terms, be an annual income of between £30,000 and £40,000.

Q746 **Dame Angela Eagle:** There are several issues here. The move from defined benefit schemes to defined contribution schemes in pension savings means that people have to become their own actuaries, if they are then allowed to take money out of their pension. It may look a simpler proposition than it actually turns out to be, because of the problems with how you take money out of a pension, which might lead to bigger shortfalls than you can imagine, if you have not taken advice.

Now, over half of people are not taking advice as they decumulate. That is despite the fact that Pension Wise offers free appointments for the over 50s. What can you do and what can we do to try to ensure that, if people do this, they do it in the fullest knowledge of the consequences? The consequences are quite often much worse than people might imagine from the amounts they are taking out.

Nikhil Rathi: You have been very focused on this issue in terms of experiments and pilots on the pension nudge. We have done that work with partners in the pension system. We have encouraged DC pension providers to contact much earlier than one would normally consider making these decisions—at the age of 40 to 45—to encourage people to think about sufficiency of savings. Some employers are taking a more proactive role here in terms of workplace education and that is an area that is worthy of focus, because those who are saving may respond more actively to a prompt from their employer.

There are a number of issues here. One is the act of taking advice. The second is making sure the advice is of the right quality and that has been an issue, as we have seen in previous cases.

Dame Angela Eagle: It is not a sales pitch. It has to be proper, actuarily appropriate advice, rather than, "Join my pensions decumulating business".

Nikhil Rathi: The third angle, which Ashley talked about at the start of this hearing, is that we have an issue with the level of returns people are getting on their pensions. That is where you get into the whole conversation about whether our savings are transmitting into the investment the economy needs for infrastructure and in the way we need in terms of long-term investment, to get the returns that people need. That is also a critical part of getting sufficient savings: getting the returns you need in your pension, not just having the cash.

Q747 **Dame Angela Eagle:** Is that about bad investment decisions by pension

funds or is it about too many hidden charges being made on the money when people invest in, say, a DC pension pot? Where is the insufficiency coming from?

Nikhil Rathi: The diagnosis—the Chancellor has laid out a lot of his thinking on this in the Mansion House reforms—is that we have too many schemes that are underperforming. Therefore, we do not have the firepower in our pension system, such as exists in Australia and Canada, to make very sophisticated long-term investment decisions in infrastructure and other things that might generate better returns. The system has veered towards greater risk aversion in investment choices, rather than some of those long-term decisions.

We will be doing some work and we will be publishing our framework in the coming weeks in terms of value for money, to make sure that that longer-term return for savers is an important dimension of the value for money analysis. We have also approved new products—the long-term asset fund, for example—to make it easier for defined contribution pension funds to access infrastructure with a different fee and liquidity regime.

This also goes back to a much more strategic question, which we talked about: risk appetite in the economy and the willingness to take risk over a very long time horizon. How do we shift those societal and cultural barriers that we seem to have developed over recent years?

Q748 **Dame Angela Eagle:** You said in answer to my first question that you thought the entire landscape around pensions, saving and particularly decumulation needed fundamental reform. What would a much better structure look like to you?

Nikhil Rathi: We have the defined benefit schemes, which a certain generation have benefited from.

Dame Angela Eagle: They can kind of look after themselves. Let us deal with the more individualised pieces, please.

Nikhil Rathi: There is a question about whether we need so many. There are several thousand, each with their own cost base, each with their own trustees, each with their own specific objectives. Again, if you look at Australia, Canada and other countries, they have a much more concentrated pensions system.

A second issue is our performance management of pensions regulation and making sure they are delivering the value for money. The professionalisation of trustees is another. We have a lot of laypeople as trustees, which is important for the constituencies that are served by DC pension schemes, but, when it comes to making the kind of actuarial judgments that you are talking about, they may not feel equipped necessarily to do so.

We have said also that there is a gap in regulation with respect to investment consultants. Your sister Committee, the Work and Pensions Committee, has made recommendations on this as well, to make sure that they are properly advising the pension funds. Then we need a debate about sufficiency of contribution. That is something Ministers have previously raised, in terms of both employee and employer contributions. That is a very sensitive point to discuss at a point where we are coming out of a cost of living squeeze. That is not an easy discussion to have when there is still all that pressure in the economy.

Q749 **Dame Angela Eagle:** What about making it compulsory for Pension Wise guidance to be given ahead of decisions to take money out of the pension fund early? Let us face it: if people overdo that during a cost of living crisis and a funding squeeze now, they may get into their old age with insufficient savings, even if they had put enough away, and then the cost of dealing with their needs falls on to the state anyway.

Nikhil Rathi: I know that issue has been voted on in Parliament a few times and Parliament has not gone down that route. There is always this judgment. Everyone is offered a Pension Wise appointment, but some people choose not to take it. There will be people who say, "I do not want to be forced into an hour-long conversation. I know what I want to do and you should not be interfering with my rights to make my own decisions".

We do get that feedback. We get that feedback also when it comes to defined benefit pension transfers. There is always this judgment to be made, but that is, ultimately, going to be a matter for Government and Parliament to make a decision on, whether you want to go compulsory. That would be quite hard for us to move on.

Q750 **Dame Angela Eagle:** Can I just ask about insider trading? You have had a recent focus on insider trading in your enforcement and your communications with the market about all of that. Can you tell me how that came about? You have suddenly got more into enforcement in the aftermath of the pandemic, which is good. How endemic do you think insider trading is and do you think your warnings have been enough to stop it? If not, do you think the enforcement you have embarked upon now will deter it?

Nikhil Rathi: If I may make a point on that, linked to the enforcement consultation, those are the types of investigations we would not announce, those types of criminal investigations, until we have sufficiency of evidence.

There was a delay in the court system during the pandemic. Cases are now coming through. We are pleased that there have been some significant convictions, including one case that was sent for retrial.

It is important that we do enforce, because there is a deterrent effect of enforcing, and we have been issuing warnings. The insider trading

analysis that we do in terms of metrics includes a survey, which we will publish with our annual report later in the year, asking practitioners in the market whether they feel we are doing a good job in keeping the markets clean. That is one of the things we use to test. Market participants will tell us if they feel we are on the case and we will give you that data with our annual report.

There is a mix of patterns of behaviour we are dealing with. Opportunistic insider trading can often be quite small amounts of money, relatively speaking—£10,000, £20,000, £30,000, £40,000—where somebody has got the tip from someone who knows something and has traded. The other ones take much longer and are much more difficult. This goes to Mr Hammond's point earlier about the cases that take a long time. These are serious organised criminals who are operating cross-border in multiple jurisdictions; they are operating on an industrial scale, in multiple markets. We are co-operating with our partners around the world on this.

Those take time. We have to co-ordinate who is taking what action. We have to co-ordinate our investigations. Sometimes they know we are investigating them and are quite brazen. We all, in our different jurisdictions, have to meet the criminal thresholds.

Q751 **Dame Angela Eagle:** Are they brazen because they do not think that insider trading is properly dealt with by those who regulate markets? Do they think that the rewards are so large compared with the risks that it is a risk worth taking?

Nikhil Rathi: We run global markets with technology where you can trade on markets—whether it is United Kingdom, United States, European Union—from anywhere around the world. They will operate in jurisdictions it is quite hard for us to reach in order to get the evidence we need. We have to use multiple tools, covert and other, to secure the evidence we need and co-ordinate with our partners.

Those are some of the hardest cases and they take the longest but, again, going back to the enforcement point, when we look at timing of cases and no further action, we do not want to set a culture in our organisation that deters our investigation teams from going after those cases. We know, when we put a lot of resource into those cases, the criminal threshold is high. We may not get there. We will work as hard as we can, but that does not mean we should not put every effort to investigate.

The other point I would make—and it links to a broader point around technology—is that there is a lot of focus on equity markets, but 95% of the trading volumes in the United Kingdom on wholesale markets are non-equity. There are fixed income markets, commodities, derivatives and all kinds of things. The combination of the role of big technology, the role of artificial intelligence, the ability to trade asynchronously across a number of different markets, poses a huge challenge for us and

authorities around the world. How do we spot abusive trading, when it is being done on an industrial through technology?

There are also the interactions with social media. For example, a deepfake of the Pentagon on fire was put out on social media by a third party. That appears to have moved the US market a little bit, but if someone is trading on that, even with a little bit of movement in the US market, they can make a very large amount of money. Those are the kinds of behaviours that mean we need to invest in our technology, to be able to tackle them as best we can.

Dame Angela Eagle: These are very significant issues.

Q752 **Danny Kruger:** Mr Alder, I will start with a couple of questions for you, please. I am interested in the budget, which you have approved, and what is going on in the organisation itself. Just going back, you probably saw Andy Haldane's cheeky comparison of the number of regulators to workers in the financial sector. In 1980, apparently—I do not know how he did this maths—there was one regulator to 11,000 workers in the City, whereas in 2013 apparently it is one to 300. That is not because we have lost a huge number of City workers.

I want to come up to date now. I do not think Haldane looked at what the figure would be today, but I presume it is bigger. Just looking back—and I appreciate you have been in Hong Kong for some of this time—over the last 10 to 15 years, how do you account for what has been significant growth in the regulatory headcount in financial services?

Ashley Alder: To use one word, it is complexity. Complexity has not diminished. It has increased. Nikhil has given some good examples around the complexity that we all face into in relation to risks in wholesale markets, such as around technology. There are benefits, of course, to technology, to AI and suchlike, but there are certainly risks, which we have pointed out.

To go back to the financial crisis in 2008, that inevitably resulted in far more focus on components of regulation, particularly around financial stability, but also around conduct. We can go back to the Libor situation many years ago now. Those are all reasons why regulation as a whole—whether prudential or whether conduct—was taken more seriously, because there was a view that, if you do not get it right, the consequences to pay, as we saw in the financial crisis, are very serious.

That is my own perspective. That is not getting into ratios, numbers and suchlike, because that is not particularly meaningful. There is a point around compliance burden, which you might be thinking about.

Q753 **Danny Kruger:** In the new business plan, indeed, there are always new duties. There is consumer duty. The cost of regulating the financial promotions regime has gone up. There is the access to cash. We have been discussing the advice guidance boundary review. There is the boundary review and the Treasury's smarter regulatory framework. All of

these are costs that, essentially, Government have decided to impose on you. I wondered to what extent you think that the costs you are required to find and to pass on to the firms are an accurate reflection of the priorities that are being addressed here.

Ashley Alder: Let me give you a flavour, from the budget perspective, of where we are at now. I will give an overview, as you would expect, from a board perspective. The organisation has grown over the last few years quite deliberately, in part to take on board and staff increasing complexity and expanding remit, without any doubt.

Where we are at now is basically a consolidation of headcount. There has been an expansion and it is consolidating. That is what we are looking at in the current budget and I would expect that consolidation will continue for some time. You can never guarantee that, but that is the expectation.

Q754 **Danny Kruger:** When you say "consolidating", do you mean maintaining current headcount or decreasing it in due course? You mean you are not growing it.

Ashley Alder: Yes, roughly maintaining it.

Q755 **Danny Kruger:** The fees are going up this year quite substantially, having been frozen last year. It is nearly 9%, I think. Is that a reflection of the fact that they were frozen last year and you are, in a sense, catching up? Do you expect that fee to go up again or, indeed, your overall budget to rise again in any sort of similar proportion next year?

Ashley Alder: There is an inflationary aspect to it. There is an aspect to do with staff costs, inevitably, which is partly to do with growth and partly to do with pay scales. There is also an aspect around the contracts that every organisation has, which are increasingly focused on IT spend in practice. Those components are all material to the way in which—

Q756 **Danny Kruger:** Leaving inflation out of it, though, do you expect your budget to consolidate going forward?

Ashley Alder: It is subject to those factors around inflation, staff costs—which we look at very carefully and is a subject we have discussed in previous committees—and the way in which we approach IT spend. There is a really important point, which is that both the executive team and the board are heavily focused on efficiencies. Nikhil and I have had discussions around efficiencies within the organisation, the objective of which is to make sure that we have a value for money framework within which we operate.

As we are consolidating, as we are delivering under the remit we now have, it is very important to demonstrate, internally and externally, that we are able to achieve efficiencies. That is being looked at, at board level, with the executive every quarter through the year, to assess how efficiencies are being developed throughout the organisation.

Nikhil Rathi: Just to amplify on the technology, like any other organisation we place a lot of emphasis on operational resilience and cyber resilience for our firms. That is a huge additional cost for firms, because of the heterogenous nature of the threat we are dealing with. That is our single biggest technology spend, because of the scale of the threat, the level of data we have and making sure it is protected. Before we can get to doing any of the exciting, new things we want to do with technology—in terms of data analytics, machine learning, artificial intelligence, all of those things—we have to keep the perimeter secure.

To your point around what that might mean for the future, we are in a context that is very challenging geopolitically. The nature of some of these threats is very serious for critical national infrastructure. You will see that not just in our sector. You will see that in the energy sector, the aviation sector, other sectors.

Q757 **Danny Kruger:** Understood; thank you for explaining that. Can I come on to you, Mr Rathi, about a specific item of expenditure? There is £1.6 million being spent on the consultation over the new diversity and inclusion regulatory framework that is being planned. There has been an exchange of letters with the Business Secretary over the last few weeks and I understand you have replied to her yesterday.

I quickly had a look at your reply to her and there seems to be a difference of opinion, because she suggested to you that the diversity and inclusion consultation paper that you put out was premised on expectations in the Equality Act and the public sector equality duty specifically. Her point was, "No, you do not need to be making the extent of proposals that you are in order to comply with the Equality Act and the PSED".

From your reply, you are suggesting that, indeed, the rationale for the proposals is in your own regulatory remit from the Financial Services and Markets Act that set you up. Can I get you to confirm whether you agree with her that you are not obliged, under the Equality Act and the public sector equality duty, to be making the proposals that you are in a consultation paper on firms' obligations to meet diversity and inclusion objectives?

Nikhil Rathi: I will need to check the figure that you quoted. The Chair asked me about this near the start of the hearing. These are proposals we are making. We are not obliged to make them and it is a judgment as to whether they are consistent with our objectives.

In the Treasury Committee's recommendations to us in the *Sexism in the City* inquiry, as I understand it, this Committee has said you believe it is a legitimate and important thing for regulators to be focused on. In particular, there was support for the work on non-financial misconduct, which is one half of the proposals, where we have seen some very serious and high-profile cases. We need to take some action there to address that.

Then you have made some comments around data collection, which we are taking very seriously, alongside what the Minister has said and the 250 responses we have received, but you have said there are things you would like us to do in terms of engaging with boards and senior leadership, equality impact assessments and the like. We are thinking very hard about how to do that, to make sure we do it sensibly.

We think it does fit with our objectives, as does the PRA. This was joint work with the Bank of England and we laid that out. We recognise that, when we are acting in a manner that is potentially intersecting with social policy, a very thorough discussion with Government and Parliament is needed to make sure we stay relevant to our objectives. We appreciate the focus this Committee has given it.

Q758 **Danny Kruger:** Maybe I could ask Mr Alder. I appreciate the point you have made and you have replied to the Minister, but can I ask you as chairman, Mr Alder, how you see the diversity and inclusion agenda, as set out in the consultation paper that the FCA has put out, to be in accordance with the statutory objectives of consumer protection, the integrity of the financial system, competition and the new secondary objective of growth? How do you see the diversity and inclusion agenda as being within that remit?

Ashley Alder: The consultation paper itself went into elements that boil down to the way in which firms are able to organise themselves in order to perform more effectively. Part of that is having access to the widest pool of talent as is available.

In relation to the very heavy volume of responses to the consultation, we would be looking at those responses and weighing them very carefully. There seems to be a difference of view. There is no particular difference of view about access to the widest pool of talent possible. The differences of views seem to boil down to how you get there. That is a genuine question when we get to the point of thinking about next steps. As Nikhil has said, and has been said previously, in any event we have taken out the non-financial misconduct piece and will be moving forward with that at pace.

The other aspect, the remainder—which is basically around firms setting targets, how to report against them, whether there is a mandatory element to that, et cetera—we will need to assess because, as I say, there is very little disagreement on the goal or the overall objective. It is how you do it.

Q759 **Danny Kruger:** Can I quickly, lastly, just ask Mr Rathi to go into that point a little more? As I understand it, the consultation paper suggests that you would expect the FCA to set appropriate diversity targets, but these would not be sector-wide. Firms would be free to determine their own targets. Can you just help me understand what is meant by that precisely, in terms of what it might mean for firms? Would they have to have a target, but you would not mandate what it was? What does it

actually mean?

Nikhil Rathi: This has received a lot of feedback and, as this Committee said in its report itself, a lot of firms are doing this already of their own accord. We made the link to competitiveness, and this is a strategic point. The example I gave, when I gave evidence to the specific inquiry, was that we are the second largest investment management centre in the world. Only 12% of fund managers in the United Kingdom are women. That has barely moved, notwithstanding all the initiatives that have been put into that.

The question we were posing to the industry was, "Is this a sign of a healthy, competitive industry, which is going to deliver best progress for all the talent?" The competitiveness of the City of London has relied on those skills and talent progressing over many decades and generations. We were seeking to be very flexible about it, which is simply saying, for that small number of firms that have not signed up to the Women in Finance Charter and done something or signed up to any of the other initiatives, "If you do not have a target already, you should think about your data, look at what is going on, and make a judgment yourself about having one".

The actual content of that, the number, would be entirely for the firms to decide. There has been some suggestion that we were going to impose quotas. We have been really clear, publicly—and I have been really clear publicly—in the countries that have done quotas, it has been the legislature that has decided that. It would not be for a regulator. In Norway and elsewhere where that has happened, it has been a political decision. That is not what we are suggesting at all.

The Government's own Women in Finance Charter has set out evidence that they have published, which feels that target-led, data-led approaches can drive progress. That was the basis on which we were moving forward.

Q760 **Mr Baron:** Good afternoon. I would just like to address in this part of the session the re-bundling of research and MiFID II, if I may, before going on to the cost disclosure regime affecting investment trusts. In doing so, once again I refer the session and the Committee to my interests as declared in the register.

Kicking off with research and MiFID II, you will be fully aware that, as part of the Government's Edinburgh reforms, an independent review was requested of the investment research market. The FCA is now considering recommendation 2 of the report. The report concluded that MiFID II unbundling requirements have had an adverse impact on the provision of investment research in the UK and this is a potentially negative impact because, in doing that, it has reduced to a certain extent the amount of investment research. This was their conclusion.

You are now looking at this, and well done for that. Can I just ask, though, whether reintroducing bundled payments of research and

executing services is an acknowledgement that the regulators were wrong to push for this as part of MiFID II in 2018?

Nikhil Rathi: The debate about this, when we were members of the European Union, goes back sometime before 2018 and it was a legislative decision at that time. The evidence at that time, as I understand it, which was the basis of the legislation, was a severe concern around conflicts of interest in terms of the way research was being paid for. There were some very high-profile cases where it appeared there were inappropriate conflicts of interest, in particular with trading commissions.

We are now in a new environment. We are very open minded about this consultation. We have laid it out last month to enable, with a certain degree of guardrails, trade execution to be bundled with research payments. It will be optional, not mandatory, because some firms are saying to us they will not change. They are quite happy with the system as it is. Other firms are saying they might like to take advantage of this and it might also enable us to secure global consistency, particularly with those who operate in the United States.

The guardrails were around making sure you are doing value assessments, you are benchmarking price properly and you are disclosing properly as well, and there will be flexibility for firms of all sizes. We think this could help. So far, from our soft consultation, as it were, and in terms of the roundtables we have done, we have had a generally positive reaction.

The broader question of the supply of research is not just about this. It is about the move to passive. It is about the general attractiveness of equities and allocation to equities. It is about the growth in private equity. Part of the issue has been that people just cannot make enough money from providing these products, and that is one of the reasons why supply has constrained.

Q761 **Mr Baron:** I was interested to hear you say you do believe that, by and large, investors were getting the sort of research that was required, certainly in a large number of cases. Why, then, have you prioritised this policy reversal, or at least a review of the policy reversal? It seems a bit of a shift.

Nikhil Rathi: It is a shift and Dr Coffey asked me earlier about the Edinburgh reforms and our progress. This is an example of us moving to deliver on what was agreed—

Q762 **Mr Baron:** You are doing what you should be doing, and that is assessing the marketplace, realising that the original regulations were not, perhaps, up to scratch, and saying, "Right, we are going to revisit this".

Nikhil Rathi: Absolutely, and we have an appropriate requirement now, under the new legislation, to keep all of our rules under review. We will do that with our insurance pricing rules later this year, as well as with other rules, and, if we feel that we need to change something, we then

have a process to go through of consultation, cost-benefit analysis, engagement with this Committee—which takes a bit of time—to make those changes. This is one example and, as I said, my sense is that it has been fairly warmly welcomed by the industry so far. We will see what comes in the consultation from the final responses.

Q763 **Mr Baron:** Can I move us on briefly to the issue of the cost disclosure regime that is afflicting the investment trust sector at the moment? You will be fully aware of the importance of this sector to the economy. Some 40% of FTSE 250 companies are investment trusts. Many of them have been a conduit for tens of billions of pounds of investment into infrastructure, renewables, social care and all this sort of stuff, but we seem to have a regulatory regime at the moment that is encouraging them, if not obliging them, to double count their costs, so they are unduly expensive.

This is resulting in investors not investing, and in fact selling, discounts widening and investment into these important sectors drying up. I am not suggesting to you it is the only factor. There are a number of factors here, but it is definitely a key factor, when these investment trusts look unduly expensive. It is also misleading to investors.

Let me suggest a very simple solution. Under the Investment Association's guidance when it came to the UK's interpretation of MiFID II regulation, the guidance required companies to publish an aggregate cost figure in the European MiFID template feed, as you well know. That figure should reflect costs that deducted or detracted from the value of the financial instrument.

Given that investment trusts' value is determined by the share price, like other listed companies—unlike unit trusts, where those costs are deducted from the NAV, which is related to the price—why does the FCA not simply put out guidance to say, "In future, the OCF charge, the ongoing charges figure cost, should be put in as zero"? That is what the share price is taking account of for those costs and, therefore, they should not have to double count the costs by putting in a separate line of cost. Why does the FCA not do that?

Nikhil Rathi: First of all, I would agree with you. This is important to our capital market. We have £275 billion of assets under management in 359 funds. It is significant. It is a UK success story. You are quite right to point out that the discount issue is complex. In our exchanges at this Committee, and now with Baroness Bowles and the House of Lords Financial Services Regulation Committee, you have a similar interest in this topic. In October, the discount was 16.5%. Today, the discount is 8.5%. That is the latest data I have. There are more things that affect the discount than this. In the last two years, interest rates have moved up, which has changed the risk-reward calculus.

Mr Baron: We both agree there are other factors, but this is a key factor.

Nikhil Rathi: On the specific point around disclosure, we accept that the current regime needs changing and, once we get the powers on the respective PRIIPs—and the Treasury is looking at a statutory instrument around that, which it will need to present to Parliament—we stand ready to consult on a new regime. I would not agree with you that it is zero, and I can explain why, but I agree that where we are now is not right either. That is why we allow forbearance in the disaggregation of costs.

The reason we do not do it is that the legislation makes it very clear that this is what is required of us. The Treasury does not disagree with us on that point and they are the guardians of the legislation. We talk to them extensively about this. We cannot simply say something is zero when the law tells us that we have to require a disclosure. That law is now going to be changed in due course, when the Treasury brings the instrument forward.

Q764 **Mr Baron:** May I just question you on that very briefly? The reading of MiFID II and this regulation is that costs should be declared, those costs that detract from the value of the financial instrument. I am just discussing this with you logically, looking above all the regulations. Given the share price reflects those costs, like in any other company, such as Marks & Spencer or BP—costs that are disclosed elsewhere, in financial reports and so forth—surely those costs should be reflected as zero in this EMT feed, which is so important to the industry. It has a share price.

Nikhil Rathi: At the same time, if you put £100 into an equity investment trust today and all the equities that compose that portfolio and that investment trust stayed at the same price, your value in a year's time would be lower because of the management fee that the investment trust manager charges. These are products that are sold to retail investors. That is why it is important that there is a degree of disclosure around what the management fees are. It is also to ensure a level playing field, but I would agree with you that the current system is not right.

If we removed it completely—and I know some people are pushing for this—I would wonder whether, going back to Dame Angela's question earlier and others, advisers and wealth managers would feel comfortable recommending these products. I would just always caution the industry against pushing really hard to remove any disclosure completely. It might be counterproductive, because you might risk a degree of loss of confidence in the product.

Q765 **Mr Baron:** Nikhil, you will be aware that 330 industry participants, including major fund management houses, wrote to the Government about this and basically said that we need to reclassify, so these charges are not declared, because they are already accounted for in the share price. I would push back a little bit on that, with regards to you, but might I move us on? You are saying that, essentially, you are not going to move on this.

Nikhil Rathi: I am not saying that.

Mr Baron: I mean until you have had the Government clearance on the legislation.

Nikhil Rathi: The Government do not disagree with our interpretation of the legislation. We are in very close contact with the Government on this.

Q766 **Mr Baron:** Are you saying that they agree with you on this?

Nikhil Rathi: Ministers have been on record that they recognise that what we are doing is implementing the law, as passed by Parliament in the statute. We have taken forbearance measures. We can go further once the statutory instrument is laid by the Minister and we would obviously have to consult on the appropriate regime. We are very open to all the feedback to get to a more sensible basis, but I am not hearing anything from the Government suggesting that we are doing anything that is outside the statute.

Q767 **Mr Baron:** This is my final question. You believe that you need the legislative cover to change your position on this when it comes to guidance and the EMT feed. By the way, as you are probably aware, no other European country follows this example of the MiFID II guidance when it comes to costs. They have all said it is a nonsense and this has not been interpreted correctly.

Nikhil Rathi: We are the lion's share in Europe. Twelve out of 20 domiciled in the European Union have non-zero disclosures, and 60% of those in EU jurisdictions have some cost disclosure. Each country, as is always the case with European legislation, has a degree of interpretation, but it is not zero in the EU.

Q768 **Mr Baron:** Let us be clear. We are talking about the EMT feed here.

Nikhil Rathi: Which is a voluntary feed.

Q769 **Mr Baron:** It is a voluntary feed and that is why I am suggesting that, if you set guidance, "You can put zero, given costs are declared elsewhere", it would be a huge relief to the industry. Given your belief that the Government need to change the legislative position to enable you to provide sufficient guidance and clarity on this, can I just ask what the FCA is doing to push the Government in its deliberations on this subject?

It has been a little while now since the responses to the consultation have gone in. Can you give us a flavour as to the discussions you are having and how much pressure you are putting on the Government to say, "Come on. We need to get moving on this"?

Nikhil Rathi: It is not appropriate for us to put pressure on the Government about legislation. They are very apprised of the issues. They have received the letter. There are very intensive discussions going on, but those are questions for the sitting Minister.

Q770 **Mr Baron:** Have you relayed the urgency of the situation?

Nikhil Rathi: We are in intensive discussions with the Treasury, because this will be co-ordinated. It has some judgments to make about the nature and form of legislation that it may wish to bring forward.

Chair: We are expecting another set of votes. At that point, we will draw stumps and follow up with letters, but I do want to allow Stephen to ask a couple of questions before that happens.

Q771 **Stephen Hammond:** Thank you. I would like to come back very quickly on a couple of mortgage questions, if I may. When you were here in December, Mr Rathi, you said, "I expect repossessions to be rarer than they were in previous periods of economic challenge in the UK". I wondered if you could just give us the FCA's research on the number of mortgages with financial stress at the moment and your assessment of the pain that might still be to come through from delayed renewals of mortgages.

Nikhil Rathi: One of the benefits of having a short break is that my team told me something I should have said in answer to your previous question. On enforcement, you talked about disclosure of names of individuals. We are not changing our policy when it comes to individuals. Our policy proposal is around firms. For individuals, the presumption remains only in exceptional circumstances. Can I make that clear for the record, please?

On mortgages, the quarterly figure for 2023 in terms of repossessions was 725. That is our latest data. That is obviously very distressing for those families and mortgage holders who are subject to repossession, but that remains significantly lower than many years before the pandemic. That is because of the steps we have taken and because the industry has generally been responsible in providing tailored support. There is the mortgage charter and they really are going to repossession only as a last resort.

There are 10.7 million regulated mortgage loan accounts in the United Kingdom. Some 1.3% of them were in arrears at the end of 2023. That is the latest data we have. We will publish more data when it is available. There are approximately 350,000 mortgage holders refinancing off a fixed rate every quarter. Roughly speaking, we are talking about 700,000 people this year and another 1.5 million people next year. With a broad brush, they are coming off a rate of around 2%, so they are having to deal with a payment shock.

Q772 **Stephen Hammond:** They are going back to about 5.3%.

Nikhil Rathi: Absolutely, and the point I would make is that this cohort that is coming up in 2025—and it is painful for your constituents and others—have had more time to plan their finances. For the cohort that went through this in 2022-23, it was very acute. It happened very quickly. If you are coming off your mortgage this time next year, you have had two or three years to think about what you do in terms of

savings and other things to adjust. That does not mean the stress is over but, so far, it feels like this has been managed as effectively as possible by the industry.

Q773 **Stephen Hammond:** Presumably, on the basis of your latter point, you would expect that stress, while there, to be lower again in terms of the number of people experiencing repossessions. It could still remain low.

Nikhil Rathi: I am always cautious about forecasting repossessions, because some of the data is also affected by what has been going on in the court system. There was a backlog from Covid and some of that is coming through. I would expect repossessions may rise, but you are not going to see anything like what we saw in the 1990s or in 2008 or 2009.

Q774 **Stephen Hammond:** I noted your comment that lenders and banks were acting responsibly. How much of that is due, do you think, to the mortgage charter being in place?

Nikhil Rathi: Our rules on forbearance and tailored support predate the mortgage charter. We introduced emergency rules during the pandemic and then we are making them permanent now. We were consulting in April and they will become effective in November 2024. With respect to the mortgage charter, between June 2023 and February 2024 we have seen 98,500 moved to interest only and 37,700 take a term extension. It is about 130,000 mortgage holders who have taken advantage of it.

That has been an important flexibility for those people. The point I would always make about the mortgage charter and these flexibilities is what we always say: consumers should only take them if they really cannot afford to pay their mortgage. Any of these flexibilities mean that, over the lifetime of the mortgage, you will be paying more interest. That is typically not the best thing for households.

Q775 **Stephen Hammond:** No, of course not, but it may well be a solution to a—

Nikhil Rathi: For the short term, to help bridge, but only if you really need it.

Q776 **Chair:** A year ago, you were forecasting that by next month the number of households with financial stretch may increase to 356,000. Do you have an updated number on that?

Nikhil Rathi: We do not have an updated forecast, but the economic conditions are much better. Unemployment has not risen as much as one might have feared. Wage growth has been stronger and therefore the situation has eased, but that does not mean there is not still stress in the system.

Chair: We do have a lot of other questions, but I think this is the appropriate moment to call time on this session. We will follow up with our further questions by letter, if that is alright with you.