HOUSE OF LORDS

Financial Services Regulation Committee

Corrected oral evidence: The FCA and the PRA's secondary competitiveness and growth objective

Wednesday 4 September 2024

10.15 am

Watch the meeting

Members present: Lord Forsyth of Drumlean (The Chair); Baroness Bowles of Berkhamsted; Baroness Donaghy; Lord Eatwell; Lord Grabiner; Lord Hill of Oareford; Lord Hollick; Lord Kestenbaum; Lord Lilley; Baroness Noakes; Lord Sharkey; Lord Vaux of Harrowden.

Evidence Session No. 3 Heard in Public Questions 33 – 56

Witnesses

I: Caroline Wagstaff, Chief Executive Officer, London Market Group; Christopher J. Lay, Chief Executive Officer, Marsh McLennan UK.

USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witnesses

Caroline Wagstaff and Christopher J. Lay.

Q33 **The Chair:** Welcome to this meeting of the committee. It is our third oral evidence session as part of our inquiry into the FCA and the PRA's secondary competitiveness and growth objective. I am very grateful to our witnesses for attending and offering to answer some of our questions. A list of Members' interests relevant to the inquiry is available online.

The session is open to the public, is broadcast live and is subsequently accessible via the parliamentary website. A verbatim transcript will be taken of the evidence and put on the parliamentary website. A few days after this session, you will be sent a copy of the transcripts to check for accuracy and it would be helpful if you could advise us of any corrections as quickly as possible. If, after this evidence session, you wish to clarify or amplify any points made during your evidence or have any additional points to make, you are welcome to submit supplementary written evidence to us. We would very much welcome that. Would you like to make a short opening statement, or do you want to get on to the questions?

Caroline Wagstaff: I will make a short opening statement. First, thank you very much for inviting me to give evidence today. The LMG, of which I am the CEO, is a strong advocate of the secondary growth and competitiveness objective for the regulators and lobbied hard for it through the process of the Financial Services and Markets Act.

The London market is 350 speciality insurance businesses. It brings in $160 billion of income every year and is larger than its next three competitors combined. It is a genuine world leader in risk transfer. But it is not without challenge. Our competitor markets are growing faster than we are, our market share has been stagnant for a decade and we feel we need all the help that we can get in making sure that the market can thrive in the future. A proportionate and agile regulatory system is a vital part of that mix. That is why we are very interested in the topic. We were delighted that this committee was established for accountability. We have been a strong advocate for accountability and metrics, because that which gets measured gets done.

We look at regulatory activity in two ways. One is what I call business as usual—operational efficiency. It is not a sexy topic but it really matters to the firms which are being regulated on a day-to-day basis. It has been a matter of concern for some years. The second is thinking about regulation that is proportionate and really understands the risk posed to the regulatory system and the risk to the buyer of the product, because those things are not equal, depending on who you are looking at.

We are a year on from having got the objective. What do we think the scorecard looks like a year on? On business as usual, we have definitely seen some improvement. The anecdotal evidence I hear from my members is that a lot of the operational stuff has got better. That was in some cases from quite a low base, so there is definitely still room for improvement. On proportionality, we have seen a couple of examples recently from the FCA; it is looking at the consultation around consumer duty with respect to the wholesale insurance industry, which we really welcome. We have been asking for that for a long time. Also, it has given us greater clarity on international territoriality—literally, where the border is. I genuinely think that neither of those things would have happened without the objective. It is the thing that is causing change to happen.

If we are being generous, it has been only a year. There is lots of talk in the annual reports about putting in foundational work and making sure that the systems and processes are fit for purpose. I guess one can cut people some slack for that but, going forward on the reports, we want to see more actions and possibly fewer words. There has been a good start but, no doubt, the job is not yet done.

Christopher J Lay: Thank you for inviting myself and Caroline to give evidence today. I take this opportunity to publicly welcome the establishment of this Select Committee. I and we believe that it is essential in making sure that the UK makes the most of the reforms that have been introduced in the recent Financial Services and Markets Act to ensure that we remain the best place in the world for financial services, specifically insurance.

Marsh McLennan is a global leading professional services firm in the areas of risk, strategy and people. We have four businesses: Marsh for insurance broking and risk management; Guy Carpenter for reinsurance and capital strategies; Mercer for health, wealth and career investments; and Oliver Wyman for strategy and economic and brand consulting. I am the CEO of Marsh McLennan in the UK and of Marsh in the UK. I have worked for Marsh McLennan for over 35 years, not just in the UK but in Europe, North America and globally. I am also the immediate past president of the Insurance Institute of London. Here in the UK, we employ over 11,000 people across our businesses. We have about 50 locations across the UK. We are not just a London market player but a true UK player. After the United States, the UK is our second-largest market. We are regulated domestically by the FCA.

The UK and, more specifically, London, as you know, is a global centre for insurance. Without the UK and the London insurance market, a great deal of progress on the most pressing challenges that society has faced would not have been possible. Most recently, there have been some great examples of the crucial role that our market has played in supporting the global deployment of the Covid vaccines and in restarting shipping of goods from Ukrainian ports to support the Ukrainian economy. I am proud of the role that Marsh McLennan has played in leading on these issues and many others, and of the work that the London market does generally to support growth. Enabling risk to be understood, managed and financed is a critical enabler of growth.

There are many reasons for the success of the UK insurance market, not least the capital that can be accessed, but also the regulatory environment that has been established here. That may sound surprising, since the perception of the industry can sometimes come across as opposing all regulation because it gets in the way of business. But the truth is, in fact, the opposite. We welcome regulation that supports consumers and ensures the integrity and stability of the system. We welcome stable, proportionate and agile regulation. The issue is that, in recent years, we have seen regulation designed to protect consumers and the most vulnerable in society—which we support—be introduced in a disproportionate way as it is applied to not only consumers but businesses. The needs of consumers are very different to businesses, which often have access to considerably more information and advice.

According to our trade association, BIBA, which has undertaken research over the last 10 years with London Economics, the result of this disproportionate application has seen a 40% increase in the direct regulatory cost for brokers in the period up to 2023. We are now four to five times as high, from a cost perspective, as the 21 other jurisdictions covered in that research.

We see this on a day-to-day basis. We find ourselves being regulated not for the size of the risk we pose to the system but the overall size of our business. This is relevant when we consider that insurance brokers and intermediaries do not represent a systemic risk to the stability of our market. As Caroline did, we welcome the recent publication of the FCA and PRA recommendations or discussion documents and their warm words on how they will tackle competitiveness, but we look forward to exploring what actions can be taken to ensure that they implement those new secondary objectives with the right mindset and culture. We cannot succeed in growing the economy without making sure that we have a competitive regulatory regime. It is not about a race to the bottom but it is important to do things better so that consumers get the outcomes they need while businesses that we work with get the outcomes that they need to thrive and grow.

The Chair: Thank you. Perhaps I do not have a big enough brain, but I find one thing very frustrating in looking at these issues. I have read, obviously, the annual response from both regulators.

At the end of it, I was left thinking, "What did that actually mean in practical terms—what are the things they will do?" Equally, when I listen to you, Christopher, talk about the excessive costs of excessive regulation and lack of proportionality and when I ask people, "What specific things would you like to be changed?", it all goes a bit cloudy and misty. Can you tell the committee, not necessarily now but perhaps in writing, what specific things we could change?

Caroline, when you talk about proportionality, I absolutely see the argument that regulating for a pensioner buying an insurance product is completely different from dealing with a hedge fund. I get that. However, when I look at what the regulator has to say, both the FCA and the PRA state their commitment to proportionate regulation; you then say, "And? What does that mean?", but there is no indication of what it means.

We are a year on from the discussion we had during the passage of the Bill, which some members of this committee were very much involved in. How do we solve the problem of people on both sides talking a good game but not getting to the detail and specifics of what needs to be done?

In the report, for example, great emphasis is laid on how they have consulted and talked to businesses and so on, but they do not say what they have learned from those businesses or what they propose to do about it. Is it just me who does not understand this? I see this as being the fundamental problem—and a year has gone by.

Caroline Wagstaff: I do not think it is just you. I also read the reports—great bedtime reading—and they definitely passed the drop test. I made the error of printing them out and thought, "Oh, that was quite a lot of trees that died". Slightly in their defence, there is what I call a "snapshot problem"; they are written at a moment in time. It is like reporting accounts for a company: you have to stop the clock somewhere.

As I have said, the good thing for us is the consultation that the FCA has announced on the consumer duty. This is a good example of proportionality in doing something, but it is not in the report because it happened afterwards. That is why we need things like this committee to keep the foot on the gas because it is an ever-moving picture.

For a long time, we have said, as Chris articulated so clearly, that the people who buy cargo insurance are not the same people who buy car insurance. The FCA rulebook currently uses the word "consumer" n-thousand times, but with no definition of what it means by that—all consumers appear to be equal. We have said for a long time that we must have a more nuanced definition of a consumer in a wholesale market, and why that means that something different needs to happen.

We are really pleased that the regulators have engaged in that discussion. I do not think it is any coincidence that they have engaged in that discussion now that they have that objective. It is a conversation that we have been having for a while, but they have been having good conversations with the market about what we think that definition needs to look like, how we simplify reporting and information flows so that there is a lack of repetition, and the consultation that is out really reflects what the market says.

I agree that the reports, currently, have a lot of words but are slightly short on verbs and actions, but we feel that there have been some signs that they are taking this seriously, getting underneath the surface layer and getting into the grit of the detail.

The Chair: Could you provide a list to the committee of things that you think should be on that list?

Caroline Wagstaff: Yes, we definitely have a list. The other thing that strikes me about the report is the metrics. We were very strong proponents of metrics—

The Chair: I am going to stop you there and turn to Lord Sharkey, who I know wants to pursue the issue of metrics.

Q34 **Lord Sharkey:** In talking about metrics, a few questions present themselves. Do you think that the metrics used by the regulators, which are more or less identical to the kind of suggestions made by the Treasury in any case, are meaningful and sufficient to do what they are supposed to do? In particular, do you feel that they will promote the necessary cultures in the regulators—both the FCA and the PRA—and how would we really know that?

I see that the PRA had what might be an outside evaluation of its progress by the Independent Evaluation Office, which is, as I recall, a committee of the council of the Bank. Quite what the force of the word "independent" is here is not immediately clear. However, the Independent Evaluation Office generally approved the progress that the PRA had made so far, or claims to have made, and made some recommendations. Perhaps you can tell us what you think of those recommendations.

Finally, the FCA has not had any outside assessment, as far as we know, of what it is proposing. Do you think that it should and, if so, how should it do that?

Caroline Wagstaff: I will talk briefly about metrics, because we think that there are three issues there. First, we were very supportive of them, but we also said that they needed to be more granular. The problems with the metrics fall into three buckets: ambition, granularity and lived experience—having Chris here is great for that final one, because he has had experience of dealing with the regulators on a day-to-day basis.

On ambition, they have reported things like 97% of stuff being done to a statutory deadline for the FCA and 96% for the PRA. Those sound great but, first, I am not sure that that is what the lived experience feels like and, secondly, if they are doing that well, why do we not make those targets more ambitious? The turnaround times are still quite long and are much slower than those of many of our competitor markets. Where is the impetus? We would ask: if you are genuinely hitting them, let us get more ambitious.

The second point is granularity. What they do not talk about is when the clock stops. There was an interesting statistic from the PRA: it said that the time taken to appoint a caseworker, which is when the clock starts, has reduced from 87 days to 55—not consecutive days but working days. That is quite a long time before the clock starts ticking. Then, once the clock starts ticking, every time you are asked a question, the clock stops and does not start again until the answer is back. The lived experience is not the 90 days, or whatever it is, that people feel it should be. That could be 90 days stretched over a whole year.

We have always said that we need to break down the process: how long does it take to get a caseworker? How long does the first stage take? Without that, you will not understand where the pinch points are that you need to improve—how you make yourself better—and you are not being transparent about what is actually going on in that process.

The third thing is the lived experience. Chris can also talk about this. It feels like it has got better, but is still very laborious.

The Chair: Chris, is it right that you are regulated only by the FCA, not the PRA?

Christopher J Lay: We are regulated by the FCA. I will give you some statistics that might be helpful on this issue of proportionality. In the past 12 months, we had 270 separate email exchanges on different substantive topics with the FCA alone. We had to complete 241 returns, which is about one per working day, and we completed over 3,000 fair value assessments. We are a business where 90% of our revenues come from mid-sized to large-sized clients, and half our revenue comes from clients overseas accessing the London market.

The question is whether it is proportionate and effective. It feels heavy and unfocused relative to where we see risk, having an American parent, which has obviously invested a lot in the UK, and worked around the world. The perception is that it is not proportionate when you think about those volumes, relative to the construct of your clients.

Because of the regulatory regime, I would say that, because of the lack of clarity of definition when these publications and exchanges happen, we tend to gold-plate because we do not want to get caught out for having made the wrong assessment on what something might mean in the absence of definition, and it is not always easy to get to that.

So, from a practical perspective, there are a couple of things. One is whether we can have clear outcomes, definitions and a regulatory calendar—that is supposed to be published twice a year, I think, but we do not see it regularly—so that we know what is coming and we can be much more pointed as to what it is trying to achieve and where we need to deploy our resources. The other things that we would really love to see are some international comparison metrics, because if we want to get to competitiveness and growth, we need something to measure against. You are aware that TheCityUK—I am on the advisory board—and Freshfields put a paper together and talked a bit about that.

It is complicated, but we have our own experience at Marsh McLennan. We work in more than 100 countries around the world and, on a direct-cost-only basis, the UK is at least six times more expensive than our next most expensive country from a regulatory perspective. We have more than double the number of compliance colleagues in the UK compared to the whole of North America, which is a vastly bigger business than us. So we somehow have to address the perception of volume and lack of proportionality with some metrics that go across the international framework.

BIBA did the study that I mentioned; 8.1% of revenues were their direct and indirect costs. Could we perhaps take that methodology across the G7, the OECD and the 21 jurisdictions referenced in that research and start to get some benchmark? It is complicated, because there needs to be a cost-benefit analysis. We understand that—the cost and the volume in themselves do not necessarily mean that it is not appropriate—but we do not have that. What we see in the metrics is a good attempt to get at the operational efficiencies that Caroline talked about. Those are super important, but they do not give us the international comparison that, over time, might help to address more factually whether we are competing more effectively and in a more proportionate way.

Q35 **Lord Sharkey:** Can I press you slightly on the issue of the culture in the regulators? The Independent Evaluation Office made a recommendation, having looked at what the EPRA proposed, that the EPRA's vision and desired culture be clarified. It set out two or three things that needed to be done. Do you agree with that?

I come to my question. How do we get a handle on whether the culture is actually changing or whether the words are simply getting slightly shorter? The same question applies to the FCA, which, as far as I know, has not done this quasi-independent investigation. Should it, and should it be concerned with the culture within the organisation?

Caroline Wagstaff: Taking those in reverse order, I think there should be as much independent scrutiny as possible, because it is only with that sunshine of disinfectant that you start to get through the mists—I am mixing my metaphors here completely—that Michael was talking about.

In fact, we did a piece of research this summer. A lot of what I hear is anecdote, and knowing that I was going to come and talk to you this autumn I particularly wanted to go and get some granular detail. So we created a sentiment index for both regulators. We talked to 50 firms regulated by each body, and we asked them a series of questions reflecting the questions that the regulators themselves ask; we never really see the answers to those, but I wanted to know what they felt like for my sector, not for the whole of the city.

In the case of the FCA, 90% of respondents said that the manner of regulation in the UK negatively impacts the attractiveness of the London market. In the case of the PRA, 84% of respondents needed to hire external consultants most or all of the time to handle regulatory obligations. That speaks very powerfully to both perception and operational costs; the first thing that people do is lawyer up because of the complexity of what they are dealing with. We shared all that with the regulators. We shared the questions with them, they have seen the data, and so forth.

The good news is that, overall, the FCA and the PRA did not score badly. It scored 71 out of 100 and the PRA scored 61 out of 100, I think. They are well respected, there are good things in there, but clearly there are areas where there needs to be improvement. We hope that the more this sort of data comes from more places, the better they can get to the "What can we do? What is the verb we are looking for?" to change.

Changing culture is an incredibly difficult thing to do. There is a lot of talk about it from the top. They are both large organisations. They are also large organisations with a reasonable turnover of staff, which is also quite hard to manage. But, like you, the whole thing absolutely will not work if they do not change the culture. This is a risk-averse culture. It is a culture that, quite rightly, has always focused solely on its primary objective. They need to widen that out and demonstrate to us that they are thinking about it and doing something about it.

There need to be more case studies, examples and proof points, rather than just saying, "Yeah, we've done it". That was what always worried us about this objective: without metrics or some sort of accountability, you can just say, "Yeah, we thought about it".

Lord Sharkey: Or, "We have a training course".

Christopher J Lay: It is a great question. It is quite difficult to measure culture, but you can measure it. Like many firms, we do culture surveys, and there are tried-and-tested methods for getting in. That would be a good thing to do.

We have a good relationship with the senior leadership of the FCA. They come to one of our board meetings a year. I do see a mindset and culture shift, but getting that through an organisation of 4,000-plus people is hard. What happens in the day-to-day interactions as a fixed firm? We have a team that looks after us. It is not always necessarily about what is being said at the top of the house. It takes time; we need to understand that and have mechanisms for addressing it.

We are not regulated by the PRA, but there is a mindset issue that needs to be addressed. I was in a meeting where we talked about proportionality and stability—"Do we have the right volume? Is it focused on the right issues for risk? Is it stable? Do we have surprises or things coming at us regularly?", and so on.

On agility, are we spotting opportunities for growth and competitiveness that we can focus our efforts on? All those things are important. Like Caroline, I am a proponent of us looking into the captive regime, which is a topic that you may want to touch on. I was in a meeting where this issue came up. A member of the PRA said, "Won't that cause us more work?" The conversation could have been, "Oh, that's interesting. What's the size of that opportunity? What would it mean? How would we go about analysing it?" A shift needs to happen. We have not really seen it come through yet.

Q36 **Lord Hollick:** My reading of the material that we are discussing is that there is tremendous passion for discussing process but little focus on outcomes. We have talked about you wanting to see some actions rather than words.

The area where this is particularly relevant is innovation. The Industry and Regulators Committee talked to your predecessors in 2023. They were very excited about the prospect of captives and securitisation, but they complained that the FCA was dragging its feet and did not approach this with the vigour and enthusiasm that was needed. As we were dawdling along, Singapore was taking the exact same set of rules—it regarded them as the best of the best—and it zoomed past because it had a much faster process to deal with these things.

To what extent have those findings from 2023 changed? To what extent has the FCA responded to those comments and improved the processes? In your debates with the FCA about this—the same applies to Marsh in terms of the innovations that it wants to see—how does it respond to your concerns? We have talked about culture but, on the day to day, have they actually changed the way they approach dealing with these things, or are they nervous about the risks associated with the new?

Caroline Wagstaff: The bad news is that nothing has changed. Let us get the bad news out of the way first. On ILS, the early adopters have not been attracted back, because they do not feel that there has been sufficient change to make it attractive. The PRA is working on some changes. We held a series of round tables with it last year. We had a meeting last December and it is now September 2024, and we are being told it will probably happen in 2025. That is not encouraging people, because, to be frank, they are just going to other venues and jurisdictions and doing what they need to do there. I have always said that we have only one chance to restart this market. So we need to make it as good as possible. I have said to your Lordships before that that lesson on ILS needs to carry over.

The Chair: ILS is securitisation.

Caroline Wagstaff: Yes, securitisation. Sorry. We love a three-letter acronym in the London market.

The Chair: We hate them.

Caroline Wagstaff: TLA. The captive problem is slightly different, because it currently sits with government, not the PRA, because it does not exist, and we need a statutory instrument to make it happen. You may have noticed that there has been a bit of change in government. There was an Autumn Statement last year. A consultation was promised in spring 2024. Spring came late. The election came early. The consultation did not get out of the door. We are pressing hard on the new Government that this is a great growth opportunity. They are talking a lot about growth opportunities. This is something that they could pick up and run with, and we have been had numerous conversations with the Treasury. We hope that this will come out of the door in in the autumn.

I went to a round table run by the PRA on the innovation, growth and competitiveness objective—ne of the problems is that it is a bit like the use of the word "consumer"; it covers a huge amount of stuff—and said that we need to sort of bifurcate this debate. Things like securitisation and captives are not innovative; they are existing products that are being done in other jurisdictions. There is a huge track record to look at. It is easy to understand the risks; they are not big, risky things. We are not talking some sort of crypto something or other being sold to consumers. We need innovation. We need to be clear what we mean by that and understand that if we are just trying to bring existing products into the UK that have a track record, we could be doing that much faster. All those are ongoing conversations.

My biggest concern is that if we get the Government interested in captives, it is almost worth us not doing it if we cannot get the PRA to do it and regulate it in the same way it is regulated by competitor markets. As Chris will tell you, because he has great experience in this, they will just go somewhere else, like they are doing with ILS. Singapore has done 28 now; we have done seven.

Q37 **Lord Hollick:** Christopher, in 2023, you or somebody from your firm said that UK regulators can be slow to engage with innovations in financial services, leaving you, the firms, to navigate pre-existing statutes. Some of these innovations have already been introduced in other markets, so this is not new. Has that changed at all since 2023?

Christopher J Lay: I will give credit to the to the FCA. In some sense, it has created an innovation sandbox environment, but, as Caroline said, I do not think it is getting to the core of it. It perhaps provides an opportunity for some fintech start-ups, smaller businesses, to come and explore and so on. But the core of what we do every day does not need to go into a sandbox. It needs to be enabled to accelerate. But the innovation sandbox is a good thing.

We could pick the captive example. I used to run our global captives business for a number of years. We manage about a third of the global captives in the world. I have spoken about this some years ago. In the UK, we have seen in the last couple of years people domiciling in France, Germany and Italy. People can move quite quickly. If we are talking about first-party risk that otherwise will be held on a company's balance sheet that is not regulated, we are just moving it into formalised vehicle, which means you have more opportunity to understand that risk. I can understand if we are talking about third-party risk, which might include employee benefits, but there are many jurisdictions that do not allow that to happen and you can limit it to first-party risk. You can move quickly.

With the regulators, although a statutory instrument may be required ultimately, you can lean in. We have conversations with the Treasury and regulators. We cannot get too siloed on issues where people need to come together and help us to understand what that would take, what the information is, what the evidence is, how we bring that to the fore. So, yes, it is clunky and there is not enough of a mindset to lean in at speed on those issues.

Q38 **Lord Hollick:** What more could the Treasury do to make innovation really take off in these markets?

Christopher J Lay: The Treasury to some extent needs to have its own agenda. We were told that the captive consultation was delayed last time because it was asked to do other work for another department that was consuming its time. So prioritising an agenda at the Treasury around certain issues that do not get deflected is important. I am unable to talk to how easy that is to do across government, but that is where I would focus the efforts.

Caroline Wagstaff: I think that is right. Treasury put a lot of time and effort into looking at this, and I think we should give it credit for doing that. I think it has been a bit frustrated by the delays as well. But there is always that being buffeted off, whatever the latest storm is that takes you off course.

There is another thing that Treasury can helpfully do. Captives may or may not need a statutory instrument, but a lot of it just needs the regulators. I think people are nervous in the industry. The regulators say, "Give us a dataset going back five years on what this risk looks like". Well, some risks that we are facing in today's world we do not have a 10-year dataset for, because they only arrived 10 minutes ago or the products were developed only recently. There is just a sense of: is this going to be hard work?

So we really need the Treasury to really take up the baton on regulatory accountability and making the regulators stick to this objective and think about it. That would be a really important thing to do, because there has been a change of Government, of course. The regulators know what the last Government were thinking about it, and the Labour Party put out its financial services review while in opposition. But, for me, the regulators knowing that the things laid down in this Act and the things coming from this committee are important will be one of the biggest drivers.

Q39 **Baroness Bowles of Berkhamsted:** I am sitting here thinking to myself, "Why do you need regulations in order to do something?". Do regulations not tell you what you cannot do or how you must do something? So why can you not just go away and do it? Is that not the basic situation that we are supposed to have? I am just pondering on that, which is not my question, but if you want to answer it, by all means do so.

I am supposed to be asking you about the recent action by the FCA, including improving authorisation rates, new guidance on politically exposed persons, and a review of duplication between existing rules and consumer duties. That shows a certain amount of responsiveness to industry. Is that level of responsiveness yet at a satisfactory level? However, nothing has been done on the enforcement side, it would seem. On that side, the FCA is criticised for ignoring industry concerns about the potential damage to the UK's competitiveness.

Is there a lack of consistency in the way in which the FCA listens to industry and its concerns? Is there something wrong at the strategic level, especially when it comes to the enforcement side and how that interacts with competitiveness?

Caroline Wagstaff: I think that is right. It definitely feels that there are different tunes from different bits of the house at the moment. As I said, we are really pleased with the work being done on the consumer duty and looking into that. The action on enforcement, however, as you say, feels— We signed a letter along with the rest of the City; it is very rare that you see the entire financial services industry united in opposing something and opposing it so publicly.

As well as whatever the detail of it is, one problem with that was that it really came out of the blue. As Chris said earlier, if you are an international investor, that is the kind of thing that spooks you. We want transparency and clarity and an understanding of the direction of travel. The other piece of work that is ongoing is all the stuff on non-financial misconduct, but that seems to be on pause. Lots of information was gathered, but we do not know quite what is happening there. For me, the problem with the inconsistency is that it rattles investors. When people are thinking about where to put money, capital and people, consistency, clarity and transparency are really important, and we need more of that.

Baroness Bowles of Berkhamsted: So they are becoming the regulators of everything.

Caroline Wagstaff: There is definitely a debate about scope creep, yes.

Christopher J Lay: I would say that they are too consistent, in the sense that there is a one-size-fits-all mentality, which does not differentiate between the risk to a consumer and the risk to a business. Therefore, we need greater inconsistency in the way they think about risk and tackling risk.

There needs to be more consistency about a regulatory calendar that engages with business to have a conversation about those thematics. If we take the enforcement example, there are only 20 fixed firms in the insurance industry, which means that we are proactively regulated. Inevitably, they are the 20 largest—we are the largest intermediary. As I have said, we are interacting with the regulator every day and are therefore much more likely to be talking about the things that have not quite worked and the things that we are trying that need improving. Perhaps the other 5,000-plus are reactive.

As a very large, global firm and a public company, we would be concerned to be suddenly exposed for things that we may be talking about that have no substance or that may not be proved to have substance. As Caroline said, 16 trade bodies wrote to the Chancellor about this and the FCA seemed to be surprised. Again, that says something about the mindset. Pushing through that name-and-shame regime before you have the substance of the issues, particularly for large investors, which is where the fixed firm regime operates, was clearly going to be a surprise. It was of great concern to my board in the US, when they look at the UK and think about our potential reputation.

So I think it is both: we need less consistency in focusing our agenda to consumers, as differentiated from business, but more consistency in the way we go about putting together a regulatory calendar so that we can engage in a sensible set of discussions.

Q40 **Baroness Bowles of Berkhamsted:** This is a more general question. How much more do you think the regulators are looking at their stability than at the stability of UK businesses?

Caroline Wagstaff: In some ways, the stability of the regulators is good for UK business. We want less turnover of staff, more consistency in approach, and staff who understand the industry better. Getting its house in order was definitely required. I think the travails of the FCA have been fairly publicly played out in the press, and when members tell me that they feel it has got better, that is a good thing for all of us, because losing vast swathes of your staff all the time is not a good thing.

The Chair: Is not part of the problem that your members have pinched them and pay them far more?

Caroline Wagstaff: Yes, although I do not think that is a problem. I think it is a good thing, but you have to persuade other people to go back into the regulators. The exchange of experience and knowledge on both sides is good for everybody. The problem we have at the moment is in the asymmetry: it is quite hard to persuade that—I was going to say "doing time", but that sounds pejorative—spending time with the regulators is good for their CV at the moment. That is where we need to get to. We are doing very proactive things about secondments between our market firms and the regulators.

The Chair: So is there merit in looking at the kind of model that you have with a takeover panel, where people are seconded and it helps their careers? The concerns that might be expressed about conflicts of interest have certainly not been evident in the conduct of the takeover panel.

Caroline Wagstaff: Yes. I genuinely think that the more interaction you have, the more people understand both sides of the debate. The FCA is doing things about this: it is holding a day of training for all its staff on wholesale insurance, and I am going to speak to them about the London market and the issues that we are facing. It is definitely trying, but you need to keep doing that, particularly if new staff keep arriving.

That is the answer: a bit of getting their house in order was definitely required.

Q41 **Lord Eatwell:** I must say I have been a bit puzzled listening to what you have to say. For example, you told us right at the beginning how enormously successful the London market is, but then you said that 94% of participants said that regulation had a negative impact.

Ms Wagstaff said at the beginning that the UK share was stagnant. That is a terrific achievement. To maintain the same share in a market that is growing around the world is terrific. So the question that immediately occurs to me is: if things are so good, why are they so bad?

To be more substantial, the growth and competitiveness objective applies both to the financial services industry and to the non-financial economy as a whole. I would be grateful if you could sketch out what sort of regulatory changes in your sector would change the growth of the non-financial economy?

Caroline Wagstaff: Should I apologise for us being quite so successful? London has always been the market leader in global risk transfer, and you see that other markets, Bermuda and Singapore particularly, are definitely trying to eat our lunch. Bermuda would definitely like more of the business that comes to London. The US is the largest supplier of business to London, and you will also see that American firms might keep more of that onshore domestically. They are also a competitor for us.

There is no room for complacency if we want to maintain being a market leader. I could sit here and say, "Look, our market share has been great: it's gone from 7.6% to 8% in the last decade. That's great, job done", but I do not think we should be complacent. We need to look at where the threats are coming from, see what we can learn from them in terms of new products and new ways of doing things, and look at how we can be supported by government and regulators to keep making London a great place to come and do business. The roof is not falling in, thank goodness, but we definitely need to keep an eye on the future.

A successful insurance business is the oil that makes the economic wheels run. How does that drive growth in the real economy? Chris will be able to talk about this, because this is his day-to-day world. It is by making sure that risks are managed, mitigated and taken off people's balance sheets—that there is economic growth in the real economy. I am not sure why we are not the real economy. Take something like captive insurance companies: it is a way of companies managing their risk. If they understand where damage is happening and where insurance claims might fall, they can do something about stopping that.

If we want to be the leader in global risk transfer, we need to have all the tools in the toolkit for our clients, and that will help UK plc. There are a lot of UK businesses that really want this captive regime to come back to the UK. It is not just the insurance market asking for it.

Q42 **Lord Eatwell:** There was a consumer survey which argued, with respect to businesses, that the settlement of insurance claims in London was notably slow and damaging to businesses. Is that related to regulation or to the operations of the insurance industry?

Lord Grabiner*:* Lawyers.

Lord Eatwell: Lawyers? I hear from distinguished counsel: my learned friend on my left.

Christopher J Lay: It is probably more of an operational issue than a regulatory issue, or an issue with the work that is done to get the right understanding of risk and alignment of solutions.

I talked in my opening remarks about making sure that regulation is strong. We welcome regulation, particularly when it is pointed at the consumer, to make sure that we have a proper understanding of their needs and their understanding of how products and solutions work. For businesses, it gets more complicated when they look at their risk exposures. Most risk exposures of businesses are not insured; they are held within the company. It starts with their strategic risks and so on, and they will decide. Often, two companies that look very similar can have very different attitudes to using insurance in their toolkit. So the claims can often be quite complicated relative to the solutions that are delivered for businesses, but it is more of a process issue.

Coming back to your previous comment about the non-financial economy, we have some thoughts on that. It might be better for me to write to the committee about this afterwards, if that would be okay, because it might be a long-winded answer right now. We need to talk to the Treasury, not just the regulators, when we start to think about the opportunities we have in areas like public-private partnerships, a more resilient economy, and some of the systemic risk issues that we see. There is a lot of policy tied up in that. We have some very strong points of view on that, but it might be better if I set some of that out to you in a subsequent follow-up.

Lord Grabiner: As a point of information, I am happy to say that there is quite a lot of insurance litigation.

Caroline Wagstaff: I am delighted that we are helping out.

Q43 **Lord Grabiner:** You are doing a fantastic job—certainly here, and in Bermuda and elsewhere—because many of these claims give rise to complicated points of construction. May they always do so.

I have a different take from my learned friend Lord Eatwell on your use of the word "stagnant". I did not think you were telling us that you had retained the market share; I thought you were saying that there were inhibitions in the marketplace that were undermining your ability to grow, by which I mean your members' ability to grow. I think that was what you meant to say. You are in a better position to answer that than I am, but that was my sense of your comment.

I would like you to deal with both that and a couple of other points. In terms of the inhibitions on innovation, you have given evidence about the factors or considerations that have caused them. You mentioned the process, which is long-winded, time-consuming and expensive; the culture; and the mindset. I am just a lawyer but, on a simplistic level, all these matters seem to me to be focused on the way the regulator thinks and works. Is there anything in the current legislation that you think should be done away with because it represents an inhibition on innovation? Alternatively—or and/or—is there anything that you would put into the legislation to improve the facilitation of innovation?

I am sorry to be long-winded but, on the "big picture" level, is it about the legislation, or is it about the way the regulators operate on a day-to-day basis?

Caroline Wagstaff: Your first question was whether there is inhibition to growth in London. Looking at it from the other side, if you are a business or a company, you think about where you are going to do this business. Say there is a large catastrophe and people want to set up and put new capital into the insurance industry. They will do that in Bermuda, because they can get a class C reinsurer up and running in about four days—at least; it is very fast. That business will then be written out of Bermuda, not London.

Insurance is a very interwoven industry, so it is not always a zero-sum game, but the real problems we have are, first, that people will take capital to other centres and that business will get done there; and, secondly, that they will know that London may be a more difficult place to do business, so it will slightly become a market of last resort. People will say, "We'll go to London, because we know they've got the risk appetite and they will do it, but we'll try and do it somewhere else first before we do that".

That is some of the problem. I do not think it is a legislative problem: if you look at our competitor markets, which are more nimble in these things, they do not have some piece of legislation that we could look at; they have a responsive regulator whose culture is about being responsive.

We talked about securitisation. One of the people in the market who talked to us said, "When I ring the regulator in Singapore"—first of all, he rings the regulator and has a conversation with them; they know who he is, and they have a discussion in principle—the basic answer is, 'That all sounds very sensible. If the paperwork supports it, we'll be minded to approve it'".

That is not the way it works in the UK. We need more of that discussion and conversation so that it feels like a two-way street, not something where you put something in, it disappears, something maybe comes back and you ask some more questions. It just feels like a much heavier process.

Christopher J Lay: I agree that it is not the legislation but the execution.

I just want to comment a little on the London market in the UK. We like London and the UK. We have a great business here. We have been here for well over 100 years and we have invested a lot in the UK, even in the last decade.

Lord Grabiner: Including in lawyers, I imagine.

Christopher J Lay: It is a fantastic ecosystem with brilliant talent, and that is the issue where we want to enable things to move faster. Proportionality, stability and agility will enable us to do more.

As an intermediary, our largest expense is people. If we are not spending money on things that we do not think are pointed towards the right risks, we can spend it on jobs and: "Can we accelerate further? Can we do things faster? Can we become a more attractive area for capital when investors are looking at us versus India, the Middle East or what have you?" That is really what we are getting at, but the market is brilliant; I would not want anybody to think that it is not terrific, it has not delivered or it is not continuing to deliver great results.

Q44 **Lord Kestenbaum:** I have an observation first on one aspect of your evidence, and then a question. As a committee, we have spent a fair amount of time trying to get to grips with this issue of proportionality, and you have both spoken with great fervour about that. From all the data points I heard on what you called the perception of a lack of proportionality, I note that you, Mr Lay, said that you have double the number of compliance officers in the UK than you have in all your businesses in the US, and that the US is a much bigger business. For me, that is a cautionary tale; it is a very simple, practical observation, but that one very much stayed with me.

In the spirit of practical observations, my question to you is this: one of the things we search for here is evidence that will lead to practical proposals. You spoke about your 241 annual responses—one per day. That is a datapoint that stayed with me. I would love you to give us a bit of colour. You described them as often being "heavy and unfocused". In speaking to the Lord Chairman and Lord Sharkey, much of that was attributable to what you describe as the culture.

I should like you to say something about the skills, capability and talent that you are encountering in these exchanges. I do not mean the senior executive team; I am talking about the tier below and the tier below that, who ultimately are the counterparties for your firms in your continual exchange.

Give us a little colour on the kind of talent, expertise and capability that you are finding on the other side of the table. By the way, I will kind of give you a lead as to where I am coming from. You may be on to something about the kind of flow of talent between the sectors in terms of the secondments. Do not underestimate the financial incentives; that is a real challenge, and it is not good enough to say, "Oh, you know, it is all very collegial and a great thing", and all the rest of it. That is a challenge. I would love to hear a little more about your experiences of the talent and capability among the case officers you are encountering. If you were the CEO of the regulators, what type of talent would you be hiring and how would you upskill?

Christopher J Lay: The capability of the talent that I interact with in our daily supervision team is strong. They do not lack skill and capability, but they are executing a set of rules. The problem is starting somewhere upstream. The 3,000-plus fair value assessments could have been much better focused on where we are really trying to make sure that risk does not show up by the consumer and not right the way across our portfolio. But by the time it comes to our supervision team its hands are, in a sense, tied, because this is what it has been given to execute. We often find that we are answering questions because they need to be answered, but the outcome that we should be trying to address is a different issue. It is not the talent and skill of the individuals. It is the way things are put to the supervision teams to execute.

The Chair: You lost me on that. I did not really understand what you were saying. Could you explain how, with talented people dealing with you, it is necessary for you to do a load of stuff that is unnecessary in what you are operating?

Christopher J Lay: If a new rule is issued. Our supervision team executes what it is being asked to do. I do not know what happens behind closed doors. Does it go to the executive and the FCA and say, "I think this rule isn't well framed?" We are not party to that conversation, but I suspect that the team is being asked to do a job and it does that job well. I have not come across anybody who does not have the skill to have an intelligent conversation about risk. But the framing of the regulation is the issue that we need to get at. How do we ensure that it is well thought through before the rules are being asked to be executed?

The Chair: I apologise for cutting across Lord Kestenbaum's question, but are you saying that there is no clarity on what is required and therefore a whole load of work needs to be done so that the regulator can work out, with help from outside consultants, what they meant you to do?

Christopher J Lay: More clarity would be welcome. Caroline mentioned earlier that the definition of a consumer is close to 1,000 words long. The definition differs in different parts of the 7,000 pages of the handbook. To me, that says we would benefit from greater clarity, because we do not need at that point to be left to interpret how that might be viewed. When we respond to the regulator, we are going to take the most holistic, gold-plated approach, because we do not want to be caught out.

The Chair: If you ask the regulator what it mean by that, will it not tell you?

Christopher J Lay: Sometimes it will struggle to tell you. We are in a principles-based regime, largely. Therefore, we do not always get what we need from a clarity perspective.

Caroline Wagstaff: Possibly a good example is the consumer duty. A good piece of legislation protecting individual consumers—great. In the law of unintended consequences, it wound in the wholesale market. The business comes to us, but it is not just one intermediary in the chain; there will probably be an intermediary in the US, maybe two. The regulatory rule says, "Tell us what the cost is. Tell us how much those people are charging in the US”. Nobody is going to tell you what they are charging in the process. Because it is a rule, it is a question of, “Best guess. Everybody make their best guess”. It is the rule. This is Chris’s point. They have been told to execute the rule, the rule is slightly daft, and that is why we are having a consultation about that and about how we can clarify some of these things. That is an example of where it is the rule that is the problem, not the behaviour. Maybe that is helpful.

The Chair: Sorry, Lord Kestenbaum. Do you have a follow-up?

Lord Kestenbaum: No, I have said enough.

Caroline Wagstaff: I do not deal with caseworkers, so I do not think that I have anything to add to what Chris said.

Q45 **Baroness Noakes:** I want to start with something that Ms Wagstaff said earlier, which was that the Treasury needed to be holding the regulators to account. It needs to be better at accountability. There is a problem: the regulators are independent and relatively few mechanisms exist. How do you see the Treasury holding the regulators to account in the context of the new objectives?

Caroline Wagstaff: Independence is obviously an important part of this, but I always think about that operationally. The objectives are put in place by Parliament and there should be better accountability. That is why this committee exists. Just knowing that Treasury still thinks that this is important is a good start. That is always the issue with a change of Government; Treasury knows what the last Government thought about it, but does it know what this Government think about it, or is this an opportunity to slightly take its foot off the gas because there are other things going on? Some of it is just about knowing that Treasury thinks that this accountability is important and is having those conversations.

Baroness Noakes: Accountability needs weapons, but there are none. The Treasury does not have any weapons and nor, actually, does Parliament. What are we are searching for in this accountability area?

Caroline Wagstaff: It is difficult. We need them to be demonstrating that they are doing something about it. If you asked me what, this time next year, we would want in the annual reports from the regulators, I would say that we want many more actual examples of what they have done, why they did it, and the effect that they think it will have on growth and competitiveness. In the short term, I think it will be mainly about competitiveness. It is quite hard to draw the line to growth, although things like captive insurance might. That, to me, is where we want to get to, with as many people as possible asking for those examples—you, Treasury. That is possibly as good as we are going to get. That, for me, is the clarity about what we want to get to.

Christopher J Lay: Coming back to the metrics, it is inevitably an evolution. We have seen some metrics, which is good. We would like to see that as a journey, and for them not to claim victory; that these are the metrics that ultimately we will succeed with. Just as with most regulation when we respond, like with consumer duty, we think we have a good lens. We learn, evolve and share best practices. It would be really helpful if we take the metrics that we have just published, particularly when I look at the FCA, and say, "How could we take this to the next level?"

As I referenced earlier, some international comparisons might be helpful, because this goes beyond the operational effectiveness of the organisation into how we compete or show up internationally. I recognise that that is potentially complex, but there are ways we could get at that, and we have started to put some practical work together in the TheCityUK report. From my interactions with the senior leadership at the FCA, I get the sense that they are very keen to go on this journey. So I do not think there is a barrier there, but we need to find a way of doing that and making sure that it is at pace and crisp and that it gets done.

Baroness Noakes: You said that TheCityUK is doing something.

Christopher J Lay: TheCityUK and Freshfields put together a piece of work on potential international comparisons, which you have probably seen, and it highlighted some of the opportunities and complexities. There is a way of coming at that, I think, and we would like to see that journey continue. The FCA leadership are open to that and our interaction with them on it has been positive.

The Chair: We have circulated that report.

Q46 **Lord Hill of Oareford:** I will stick with the same theme briefly. Like Lord Kestenbaum, I was struck by your example on the size of the compliance department. You said, I think, that it costs eight times as much to comply with regulation in the UK as it does in your nearest—

Christopher J Lay: —other geography.

Lord Hill of Oareford: I think those are figures that you should be—

Lord Lilley: Nearest geography, was that, or the nearest in cost?

Christopher J Lay: I have a number of the geographies listed here. I looked at the direct cost of compliance across 20 geographies within the Marsh McLennan world. We are six times more expensive than the next one, and we can drop all the way down in that top 20 to being 40 times more expensive. It depends on the geography.

Baroness Noakes: Is that in absolute terms or is it relative to the size of the business?

Christopher J Lay: It is absolute. I had a little look at relative size of business, and it does not skew too much.

Lord Hill of Oareford: The point I wanted to make is this: I thought that those figures were truly astonishing, you should be extremely angry and we should all be very agitated. Presumably a whole range of other businesses could perform that same calculation. There is nothing intrinsically to think that you are, for some weird statistical reason, some crazy outlier? The process that you did would be fairly easily replicable by other companies?

Christopher J Lay: If you were other firms of the same scale and size—a fixed firm with the same characteristics. As I say, it is just a data point. I recognise the complexity. Everything has a cost-benefit analysis. It may be that the absolute cost is worth while, but we do not know. So the perception in a global organisation is, "It feels heavy, because we can feel that direct cost". Then, when we put the indirect cost in—I mentioned the BIBA—it gets worse. We want to understand whether we are actually better off, what this looks like in other jurisdictions, and how we can start to build that comparison. That would be a good thing to do and to try to get at, I think.

Q47 **Lord Hill of Oareford:** I think you should all do it—and as fast as you can.

I come back to the Chair's first opening point. On the nature of our conversation this morning, I have found some of it quite depressing because we are trying to work out how to grapple with this blob-like jelly. We have to think about whether there are some things that we could go after within particular timescales. The only way to start chipping away at this, I think, is to start making it more specific. Incidentally, that has been the lesson from the review of the listing rules with the Stock Exchange. The FCA has been leading a process of reform there, unlike the flavour of what may be happening in other bits of the organisation. Some of that happened because it had a focused, consistent approach.

You do not have to answer now, but it would be really helpful if you could tell us the top three metrics that you would like us to think about and include. One looks at the list of metrics and knows that these have been constructed not to be very arduous in certain respects. I completely take your point about the international comparisons. It is unbelievable; it seems to me that those are one of the most basic things we should think about. What would your top three metric changes be? What are the three most important things, whether it is making progress on the captive insurance market or something else? What could we do over the next year that would most shift our position as a competitive centre for insurance and reinsurance, help our growth and make things better?

Caroline Wagstaff: On metrics, we can give you more details, but I think that granularity would be the thing to break down the process more accurately so that we see what is really going on and what the real elapsed time is.

Lord Hill of Oareford: Can you give us that detail—not now, but could you write?

Caroline Wagstaff: We have a list, like, "How long does it take to get a caseworker? How long does stage 1 take?", and so forth. We produced a document, which we gave to Treasury, with a whole load of these suggestions a couple of years ago. That is the first thing.

The second point is about data and information requests. Another piece of our research found that a large number of people said they that felt that the amount of information being requested by the regulators had increased in the last 12 months. There was also a strong sense that they did not know why they were being asked for that information. This goes back to your listings comparison. None of this feels terribly sexy, but it is actual real-life things that make things easier.

So there is definitely something around data requirements and how data is supplied, because quite often they are asking for a slightly different data point from different regulators for possibly a similar or different thing. We need an amalgamation around a data point that everybody could use more obviously.

The third thing is the idea of having more transparency on what is coming down the pipe.

You could do all those things in one year, and there are lots of other things you could do. You could create a one-stop-shop for regulatory information. It is literally all over the shop at the moment. On a micro level, for our market, Solvency II reporting requirements were not affected by the main changes of Solvency UK. Data that used to go to Europe is still being supplied to the PRA. We keep saying, "Could we just reduce these reporting requirements?" They have gone down a bit, but we think that they could go down more.

Lord Hill of Oareford: Forgive me but, if you could—

Caroline Wagstaff: You want the specifics.

Lord Hill of Oareford: We do not want a shopping list. We want to know about the biggest impact. Everyone can always come up with any number of things: "Oh, we could do that. It'd be nice to do that". You end up with 50 and nothing gets done. Knowing the ones that you think would have the biggest effect would be really helpful.

Christopher J Lay: I would be happy to follow up; we will do that. Cost will be there and time will be there. They are two things that we can measure. They both speak to investment because, if we can reduce cost, time and effort on things, we can deploy that investment here in the UK. But let us come back to you on this.

Lord Hill of Oareford: And on the three biggest opportunities. I do not know what they are, but it would be really helpful to know that.

Q48 **Lord Vaux of Harrowden:** To an extent, Lord Hill has shot my fox slightly.

Baroness Donaghy: And mine.

Lord Hill of Oareford: Sorry.

Lord Vaux of Harrowden: The frustration I have with these discussions is that we hear about the sorts of metrics you have talked about—the massively higher expense, the fact that competitors are growing faster, et cetera—but, when we probe, we tend to get generalities, with the exception of needing to get approvals out of the way faster. We hear things like, "It's got to be more proportional", "greater stability", or whatever, and we are tasked with the job of coming up with actual recommendations on how we can improve the thing.

I reinforce the point: can we please have some specific examples of where we are doing things worse than other regulators? You made a comment about the US costing you half as much as we do. Why is that? What specifically could we do differently or should be being done differently? What regulations are causing the problem? We need specifics. I urge that, when you come back to us, we get real, specific, precise examples of things that are done badly—and things where we are doing it well, too; those are also helpful.

The Chair: Just before you leave that point, we have not had evidence from them, although I am sure we will, but it is regularly said to me that the attitude of the Monetary Authority of Singapore, which is the regulator there, is one of, "How can we positively bring business into this country?" So, in addition to the points about regulation, there is also the mindset thing. The point was made about culture and how you change that in the context of anxieties about risk—as mentioned earlier. It is important that there is a welcome mat instead of a bunch of people at customs asking to see your papers.

Caroline Wagstaff: The issue with that is that the welcome mat idea is not done by the regulator but by another bit of the monetary authority. Bermuda does the same; it has the Bermuda Business Development Agency alongside the regulator. We do not have anything like that; we have no welcome mat at all at the moment, so all you get is the regulator.

The other thing about Singapore, which maybe speaks to the point about caseworkers and so forth, is that remuneration is an issue. One reason why Singapore is very well respected is that it pays really well and gets really smart people. I know everyone will say "core budget" and so forth, but it comes back to Chris's point about where the money is being spent and whether it is being spent in the best way. Do we need fewer, smarter people and more AI or technology doing data-gathering or whatever? And does the regulator have a plan for all that?

We would like what the Monetary Authority of Singapore produces, which is a five-year plan that says, "This is how we're going to not just welcome people in but make ourselves a great centre of excellence for financial services in south-east Asia".

Lord Vaux of Harrowden: To an extent, you are asking the questions that we are asking of you. What are your views on how we do those things, as opposed to: "What is the regulators' plan?" We need you, the industry, to tell us what the regulators can be doing to help you, the industry, grow both yourselves and the economy. That is my simple question: please can we have some specifics from you about what we can do?

Q49 **Baroness Donaghy:** I go back to your statements about the capability of the FCA being strong, but executing a set of rules that is "further upstream", I think you said. The Chair tried to get some clarification, and so am I. You know almost exactly how many times more expensive this country is compared with others, yet I am not quite sure whether you know the breakdown of why it is that many times more expensive. If you are that definite about the number of times more expensive we are, what is the breakdown that makes the difference between this country and comparator countries?

You talked about clear outcomes, definitions and a calendar, which all makes a normal organisation, frankly. When you are dealing with the regulators, what precisely is missing from that? Is it their lack of urgency? You have said that it is not their ability. Is it the tight or unclear framework within which they are working? Or is it that they are just waiting for you to leap over hurdles and the facilitation attitude is not there? It is not clear to me: you can make definite statements about cost, yet the breakdown of that cost does not seem to be all that clear.

Christopher J Lay: We certainly know what comprises the cost. We know what comprises the hard cost, because we have fees and bodies, and we know what comprises the soft cost because we have time and we know what type of activities we are deploying. I gave you some statistics earlier about the number of interactions that we have and why, so we do have that information.

There will be many differences. I have run a number of our geographies around the world and I know what it is like to turn up in that geography as a chief executive and interact with the regulator, and the things I would have to do differently here, just as an individual, and the amount of time I would have to spend.

To your point about looking at a specific, I can try to illustrate that again with the fair-value assessments work that has been done. It is an area that our industry has talked a lot about. We completed over 3,000 fair-value assessments. We have to go through these products and solutions and demonstrate fair value, even though 90% of our revenue is not a consumer or small business and 50% is a client coming to the UK from overseas that, by definition, is a large and complex client accessing the London market.

The genesis of the fair-value assessment, which we do not disagree with, because we want great regulation for our consumers, was to think about the retail consumer, home insurance, motor insurance—the increasing amount of non-advised sales that go on. Yes, there should be assessments, but when the fair-value assessments are deployed to our industry, that clarity is not given.

That is the type of thing that would be really beneficial. It is not that we should not do some of these things, but we should point the initiative towards the risk that we are trying to address and not allow it to spread across the organisation. I do not know whether that helps.

Q50 **Lord Lilley:** You said that there is a great deal of expertise in London on insurance. I am not part of it, and I realise, as I listen, that I do not know what the regulations are that we are talking about, and I do not know what they are for. You have said that there is a book of 7,000 pages, which I should clearly get and peruse so that I know a bit more about what the regulations are. Can we therefore concentrate on what they are for?

I assume that there are two main reasons why you should regulate this industry rather than just let it happen. One, as far as the ordinary consumer is concerned, is to stop mis-selling, which you have mentioned. However, I want to focus not on the ordinary consumer but on the international and complex business. I assume that the reason there is to stop underprovision for risk, either because of deliberate criminality or a Ponzi scheme or because of irresponsibility or incompetence.

Obviously, you want to stop criminals. I was briefly responsible for regulating the insurance industry when it was part of the DTI, and I was anxious that people like Maxwell should not be on the boards of insurance companies. That seemed to me a helpful thing that one could do. However, in terms of underprovision for risk other than the criminally irresponsible, surely that is the nature of the business. That is what you are doing: you are trying to have adequate provision for the risk. How can the regulator tell you how to do your business better when they are paid less and are less experienced than you? I just do not understand what it is all about.

Caroline Wagstaff: From the PRA's point of view, its job—as it says very clearly—is the protection of the policyholder. It wants to make sure that the insurance company does not go bust so that it can still pay out all the claims that will be made on it for a long time, because some of these claims can come a long time after the policy was incepted. The FCA is clearly making sure—to your point—that there is no fraud or mis-selling or any of those things.

Our point about proportionality, and for the PRA particularly, is that we want it to understand what risk is actually posed to the financial system. With a captive insurance company, as Chris said, the company has a choice. I can just not insure that risk and hold it on my balance sheet. That is not then a regulated activity. That is their decision, as you say, and no one tries to stop them doing that. But the moment that they want to have a captive insurance company, the regulator steps in and says, "That might look like a real insurance company and now we need to really worry about it". We want them not to do that and instead to recognise the proportionate risk that is being placed on the system. The only person who will suffer if it all goes wrong is the company that owns the captive.

That is what we need them to do: we need them to not treat all risk as if it will all bring the world to an end forthwith.

Christopher J Lay: We agree with the primary objective of protecting the consumer and the market. As I said from the outset, we think that regulation is a good thing. As an intermediary, I do not deploy a balance sheet against risk; I just advise. We are regulated by the FCA, not the PRA. We need to be proportionate to the risk we might be posing in that system, since not everyone in the system has the same impact on risk. That is where part of the challenge comes—in proportionality.

Lord Lilley: So if you are not providing insurance as you are a broker, why do they regulate you much?

Christopher J Lay: Brokers should definitely be regulated when they interact with vulnerable customers.

Lord Lilley: I am sorry: forget about the consumers.

Christopher J Lay: When we talk about businesses that are sophisticated and have access to information and advice, there will be certain things that should probably looked at. You mentioned a particular firm. Who serves on its board? Are they fit and proper individuals, and so on? However, the activities that we engage with our clients on should be the focus, not the range of things we have to do today. We should not be dealing with the 200-plus issues across that client base. That is where we need greater clarity on where the regulations really should apply and where they do not need to.

Lord Lilley: I still do not understand why they need to apply to you.

Christopher J Lay: In the sense that we need to be a well-run firm.

Lord Lilley: All firms should be well-run. We do not go around regulating Mr Patel’s newsagent to make sure that it is well run—or Shell, for that matter. You assume that the market does that.

Christopher J Lay: I understand that there are certain things that are probably beneficial if they happen, but the client interaction needs to be focused on whether we are going to cause harm to the customer or to the market. Large and sophisticated clients have that ability themselves. Obviously those sales are advised sales, and through the process of advice there is a whole set of processes that govern the way that works.

Aside from regulation, from before we were regulated by the FCA, we have what I will call our own internal regulatory handbook—because, as a big business, you would do—called *The Greater Good*. I have been through it with the FCA. It has over 200 things that we say we should be doing ourselves that constitute good practice. So, to your point, we do not need the regulator to tell us to do good things and good work. But I understand that there are certain things that from a market perspective it is important to govern. They are just not proportionate relative to the work that we do.

Q51 **Baroness Bowles of Berkhamsted:** I want to go back to the point about the regulatory perimeter. It seems to be what a biologist might call a semi-permeable membrane: it works one way but not the other. The business has to regard almost everything as regulated, but when something bad happens like banks behaving badly against small businesses, the FCA says "That's not within our regulatory perimeter".

To come back to the point, why can you not do a captive? Is it because they say that it is not an insurance company and therefore is covered? Where does it say that things that are not specifically covered are prohibited? Do we need to look more closely at exactly where the regulatory perimeter is set?

Caroline Wagstaff: It is definitely an international perimeter. Seventy per cent of our business's business comes from overseas, and that is advised; as I say, there is probably a broker sitting in the States before it gets to Chris's guys in London. That is one of the issues where the FCA has now given clarity. It would never give clarity before on whether it would ask about the advice that was given further down the value chain, which meant that brokers, in order to be cautious, felt that they needed to know more, but it has now given us clarity on that.

We would ask for the same thing for the PRA. Many of the businesses are regulated in their home country and only have a branch over here. They may not even be doing business in this country; they are just here providing capital and doing business with people overseas.

There is something to be said for asking whether we could trust other regulators more. Could we have a list of good, approved regulators? If you are approved by, say, FINMA in Switzerland, we will take the fact that it has done senior manager checks, and then we do not need to redo them over here. There is something about that semi-permeable membrane in the international context that is really important to us, as well as the proportionality issue about not treating captives like a normal insurance company. There is no risk to an individual policyholder there.

Lord Eatwell: You have just raised a puzzle. Does the Basel split between home and host not apply to your business? You said that if someone has a branch here, they are regulated by their home regulator, not the host.

Caroline Wagstaff: I am not a regulator expert, but I believe there is still some branch reporting required here. I think there have been some changes, but they could go further.

Q52 **Lord Eatwell:** Okay. The main issue I want to raise is the persistent division between wholesale and retail. It occurs to me that behind every wholesale transaction there are some retail holders. Therefore, the issue of the risk to retail is in the relationship between you and the wholesale transactor in that chain. Following on from what Lord Lilley said, where should the responsibility lie? Should it lie with the wholesale firm that is representing a bunch of families, firms or whatever, or should it lie with you as the broker to assess the transaction with the wholesale firm? That is the point, isn't it?

Lord Lilley: That is a very good point. I do not think it is quite the same as mine, but I would like to hear the answer to it.

Caroline Wagstaff: Possibly we are all using the word "wholesale" slightly differently. When we talk about wholesale we mean a business-to-business transaction, so there is no chain as you might have in other financial services, where it starts as retail and then gets packaged up and becomes wholesale. For us, it just means that our customers are businesses that advised; they are not individual consumers where there is an asymmetry of information.

Lord Eatwell: But there are still families and individuals behind that. They are shareholders in the company, they are taking the risks and so on.

Caroline Wagstaff: Well, there is the issue of where that stops.

Christopher J Lay: We all have responsibilities in the chain, but they can be different. If we were placing a piece of business in the London market and our client was in the United States, for example, and had a retail broker, that broker would be doing what we call the demands and needs—understanding their business requirements and so on. We would be taking that information; we would not be redoing the demands and needs work again. So our responsibility would be different; it would be about making sure that our solution set was appropriate. So we all have responsibilities, but they are different. That comes back to my point about how regulation needs to understand the differences and try to pinpoint itself to the risks that those throw up, as opposed to having one size fits all.

Lord Eatwell: To go back to my earlier point about timed settlement, it can be very damaging, especially for SMEs, if an insurance company takes a long time to process a claim. I could produce some examples for you where SMEs have gone bust simply because of the time it took to process a claim.

Q53 **Lord Hollick:** Could I be right in thinking that the majority of decisions that are being put to the regulators actually confirm that the rules are being abided by properly? That is a well-travelled path. There are 7,000 pages or whatever, and presumably there is a data centre that has all the precedent held by the regulator, so most of the problems or issues that they are being asked to regulate have already previously been settled. It is just a question of whether the information matches up with the outcome, et cetera.

Is this not something that artificial intelligence would be able to do rather more quickly? Therefore, the significant increase in information could be put into a data centre and the report would then be produced that fully understood the 7,000 pages of rules and previous precedent. That would therefore provide the case handler with a report saying that this complies, or does not do for these reasons. Could that happen relatively quickly? Is the use of AI in the insurance industry and the regulator focusing on that sort of approach?

Christopher J Lay: There is definitely a big opportunity. In my industry, the intermediary industry, there are 26 fixed firms. The regulator had interaction with us every day and so sees more than just data. For the vast majority of cases, its only ability to understand where to intervene is on the basis of data that it receives. We see everybody looking at the use of AI. I have talked to the regulator about this. When you think about customer segment in the consumer world, you do not necessarily need to wait for a complaint any more if you can use AI to look at what is happening in the language in email traffic, for example, or on social media, which will be much more powerful at trying to get at the front of the queue, rather than the person who perhaps complains.

There is a lot of opportunity and I see a lot going on. I do not know what the FCA is doing specifically with AI, but generally as an industry we are working, experimenting and looking at ways in which we can deploy AI to do exactly those things.

Baroness Bowles of Berkhamsted: Have you ever tried ChatGPT on a regulatory response? That is not a fatuous question, because I was in the audience at a session over in the Commons where the British Business Bank suggested that applications for loans could be made assisted well by ChatGPT. This was in response to suggestions that the requirements took an awful long time to comply with. I have an acquaintance, who I will not name, who has managed to do an application for a banking licence using ChatGPT. Most of what the answer is supposed to be is in textbooks. What is the point of doing a process where you are copying in from some professor's textbook or you can get it online? Why do not they just say, "Tick here", if you are doing everything in X's book or something like that?

Caroline Wagstaff: Someone tried running ChatGPT against the FCA handbook. I think it fell over: "Computer says no".

Baroness Bowles of Berkhamsted: Realistically, is that not the problem? A lot of the questions that you are filling in you should not have to answer, because it is: "Are you behaving properly?" Answer: yes.

Q54 **The Chair:** Can I get something clear in my mind? I have listened to you and the relationship you have with the FCA in looking after consumers. Suppose you have some smart artificial intelligence program that hugely reduces your costs, which means that you are still providing value to the consumer because you are cheaper than everyone else. Does the regulator think it is its job to look at your margin and suggest that you are not treating the consumer fairly because of that? If that is the case, what on earth is the incentive to make yourselves more efficient?

Christopher J Lay: It is not the job of the regulator to look at our margin or pricing.

The Chair: But does it?

Christopher J Lay: It has reconfirmed that recently in some publications. However, some of the things that we get asked to lean in on give us concern that there is always the potential to get involved in pricing.

The Chair: Because it is about whether you are treating the customer fairly.

Christopher J Lay: Yes. That would not drive great outcomes. We talk about two levers—transparency and competition. The better the transparency, the greater the competition and the greater the outcome. We have our own protocols around pricing that are driven a lot by our interaction with our clients, our competitive environment and what we think is appropriate, sustainable and resilient.

The Chair: I am seeing dragons where they do not exist.

Q55 **Lord Sharkey:** It has been suggested that firms are reluctant at times to share in public their candid views on regulators' performances and the impact their regulation has on industry. To what extent have you heard this sentiment expressed? If you have, how widespread is it?

Caroline Wagstaff: Chris gets credit for being here and possibly being the exception that proves the rule. That is why trade bodies exist, because one of our jobs is to be the squeaky wheel. We are unregulated and do not have to sit down and face the regulators. That is not to say that we do not have a working relationship with them. There is definitely a sense that a lot of chief executives in my market would be perfectly happy to speak in private. They would be very nervous to speak in public and candidly.

Christopher J Lay: I have heard that. We are the largest intermediary and a significant player in the market. It would not be right not to have a view on things. But, as I have tried to express, we think regulation is a good thing. We just think it can be done better. That is how we tend to look at our own business. We think that we run a good business, but everything can be done better. That is life, isn't it? It is a useful question.

The Chair: That is not the question. Are people fearful of speaking out publicly because the regulators have powers that would be to people's disadvantage? Have you heard that?

Baroness Bowles of Berkhamsted: He does not want to answer, in case it would be to his disadvantage.

Christopher J Lay: I think some individuals might be more nervous, yes.

Caroline Wagstaff: It may be more perception than reality. No one has ever come to me and said, "I said this and was reprimanded by the regulators afterwards". Maybe it is just nervousness and caution, which exists.

Q56 **Lord Sharkey:** Would public candour potentially benefit the industry in the end?

Caroline Wagstaff: At this stage, my sense is that we all know what the problems are. We need to think about what the solutions are to Lord Hill's point. What can we recommend? What can we suggest is done? What can get measured and can be looked at? The scale of the problem is pretty well understood. The useful thing is to try to get some convening power around the top three things that we would like to be done better. We could all sit here and tell you stories about costs, time and so on. We all have lots of anecdotes about that.

The Chair: Sadly, we have run out of time. Thank you. It has been an interesting session. Christopher, you have certainly been forthright in helping the committee to see what some of the issues are—as have you, Caroline. Thank you for that.