



Financial Services Regulation Committee

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

Wednesday 23 October 2024

11.20 am

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

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Questions 166 - 176

Witnesses

I: Shachar Bialick, Founder and Chief Executive Officer, Curve; Janine Hirt, Chief Executive Officer, Innovate Finance; Robert Kerrigan, Chief Operating Officer, TrueLayer.

USE OF THE TRANSCRIPT

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

Examination of witnesses

Shachar Bialick, Janine Hirt and Robert Kerrigan.

Q166 **The Chair:** Welcome to the eleventh oral evidence session as part of the committee's inquiry into the FCA's and the PRA's secondary competitiveness and growth objective. I thank Mr Bialick, Miss Hirt and Mr Kerrigan for attending. I believe that some if not all of you want to make a short opening statement. Shall we take yours first, Miss Hirt?

Janine Hirt: Well Lord Chairman, thank you so much for the introduction, and thank you to the committee as a whole for giving us the opportunity to speak to you here today. It is a great privilege to represent the views of our members and the wider FinTech ecosystem at what is such an important inquiry for FinTech and the broader financial services sector here in the United Kingdom.

I am the CEO of Innovate Finance—we are the industry body for UK FinTech. Our membership is comprised of start-up, scale-up, high-growth and also unicorn FinTechs—those that have a valuation of over £1 billion—and we cover a wide range of verticals, including challenger banks, payments, RegTech, consumer credit and digital assets, to name just a few. This means that we work predominantly with the FCA, and the majority of my comments today will reflect that work, although our work does also cut across the PSR, the PRA, the CMA and Ofcom.

Over the past 15 years, FinTech has been an incredible and tremendous success story for the UK. We have new entrants coming into the financial services sector that have truly transformed financial services and made it more inclusive, democratic and effective for everyone.

Ultimately, the adoption rate here in the United Kingdom for the use of FinTech tools, which is one of the highest in the world, is a testament to that: today, eight out of every 10 individuals in the United Kingdom are using at least one FinTech tool on a regular basis and, according to the British Business Bank, nearly 60% of all SME lending in the UK today is being done by FinTechs—that is, challenger banks or alternative lenders.

We are a global leader in financial innovation here in the UK. We consistently receive more investment every year in FinTech than any other country in the world bar the United States, and repeatedly receive on an annual basis more investment than nearly all of Europe combined. FinTech is also the crown jewel of our thriving UK tech sector, boasting 21 of the UK's 40 unicorns.

Moreover, FinTech is having a demonstrable and positive impact on society and our economy. Just last month, we released the second edition of our annual FinTech impact report with our partners, Accenture and Vested Impact, which quantifies the impact that UK FinTech is having on society, the economy and the environment. We found that 98% of UK FinTechs are having a significant positive impact on productivity in the UK, which is encompassing economic growth, job creation and infrastructure. UK FinTech currently contributes £11 billion to our

economy, and we employ more than 76,500 workers in our field and, by 2030, that number is set to surpass 105,000 people nationally. FinTech is also having a significant impact on inclusion, with 39% of UK FinTechs directly positively impacting financial inclusion in the UK, whether through reducing inequality, increasing inclusion or promoting financial education.

The power and the impact of FinTech is clear, but so much more can be done by these players and new entrants. Overall, we see the Government, but primarily the regulators, as having a key role in helping to foster that opportunity, which is why we feel that this secondary objective is so important.

Innovate Finance strongly supported the Financial Services and Markets Act 2023, where we provided written and oral evidence to Parliament expressing the FinTech sector's view that having a secondary competitiveness and growth objective for the FCA and PRA would unlock the potential of FinTech and support further innovation.

Now that this objective is in place, it is imperative that both regulators meet their obligations as set out in the Act. From our membership base there is sentiment that, while currently the UK regulators do remain at the forefront in promoting innovation and competition in financial services, there is a real risk, and we are at a pivotal moment, in terms of other regions around the world catching up and a threat of them overtaking us as well in specific arenas, which I know we will delve into more in the discussion.

Our members are facing a number of different challenges in today's regulatory environment, from differing approaches from regulators to a lack of support beyond the scale-up phase and before you become structurally important. We have several suggestions as to how to support the regulators to help deliver their secondary objective, which I would essentially bucket into three main categories.

First, we would encourage regulators to approach regulation with a tech-positive mindset. That means considering in their policies and regulations the impact on scaling and growing firms, whether that is ensuring that the cost-benefit analysis is including consideration of the impact on smaller firms or whether we ensure we have proper support for scaling firms through scale-up units—or through more secondments, as was mentioned earlier. We also need to see faster and better authorisation. That is one of the key points that is continually mentioned to us by our members, starting primarily with more detailed metrics and granular data.

Secondly, we believe that there is an opportunity to do things faster and more strategically. This will require a joined-up approach across all regulators. It also means that we need to look as well to government and have a review of our entire system's approach and ensure that regulators, government and industry are progressing and moving in the

proper direction. This is relevant in areas such as open banking, payments, digital assets regulation and open finance.

Finally, we would recommend removing outdated regulations and barriers to growth. That would include scrapping reporting requirements that are no longer relevant or that duplicate other activity, such as Covid reporting and provided credit information that duplicates what firms provide to credit bureaus already. We also believe that there is a need to streamline the consumer rulebook, and this is partly under way following the consumer duty as well.

Just one comment on the PRA—in terms of the PRA, we also believe that there needs to be a further look at how capital requirements impact on challenger banks.

So, in conclusion, ultimately, if we are to cement our leadership here in the UK as the global hub for financial innovation and FinTech for the benefit of consumers across the entire country, we need our regulators to be delivering on this secondary objective and to ensure that regulation is delivered with speed, ease and clarity. I look forward to delving deeper, throughout this session, into the issues and solutions I have outlined. Thank you once again for the opportunity to speak to you here today.

The Chair: Thank you. Mr Kerrigan?

Robert Kerrigan: Thank you, Chair, and the committee, for the opportunity to speak here today. I am COO at TrueLayer, which is creating a modern payment infrastructure for UK merchants and consumers. We are improving choice and competition in a payments market that is still dominated by cards.

Our company is a business born of ambitious legislation and a supportive regulatory environment. We use open banking technology to provide secure, instant and low-cost payments. Every month, 4 million people use payments powered by TrueLayer in the UK to manage their finances, make investments, book holidays, and even, in our latest big launch, to order doner kebabs on Just Eat Takeaway. The humble doner kebab might seem immaterial, but we consider it a sign that what we are building is not an alternative payment method but truly a mainstream payment method that we need the support to continue.

We have raised over \$300 million, most recently a \$50 million extension to our Series E funding round, so I am also happy to talk about fundraising in the current environment and in the UK.

TrueLayer's start-up story is illustrative of the UK's historic global competitiveness and therefore highly relevant to today's discussions. Our co-founders are Italian who moved from Silicon Valley not to Italy but to the UK, choosing London to establish TrueLayer as they were attracted specifically by the mix of effective regulatory frameworks, access to talent and availability of funding. The UK was definitely the right place to establish our company in 2016, as is demonstrated by our early success.

However, as we have scaled, perhaps to the point of this morning's conversation, it increasingly feels like regulatory support is slowing, or, if it is there in principle and expressed clearly in speeches, maybe it lacks timely and practical implementation.

All regulatory start-ups with big ambitions, such as creating a modern payment infrastructure for the UK that is not fully reliant on UK card companies, need support from the Government and regulators to ensure a level playing field. Disrupting a market of this size takes time, so that support must be ongoing. Time is of the essence, not just for TrueLayer but for all scaling UK FinTechs that stand ready to deliver growth and innovation that the country can be proud of, and for the UK, whose competitive advantage risks being eroded in certain areas by regulatory stasis compared to some European markets, including the EU itself.

My role at TrueLayer is to manage risk but also to enable the growth of the company, and I believe that financial services regulation should serve that same dual purpose.

Shachar Bialick: Thank you, Chair, and the committee for inviting me. I came to the UK about 12 years ago from Israel as an immigrant who had operated in multiple companies and start-ups that I started under some regulatory regimes, and who has a company that operates today under three different regulatory regimes.

There are some key points of view that I can share. I will start at the very end. When I came to the UK, I realised that you have one of the most structured and great Parliaments, with the upper House and the lower House of Lords, and regulatory regimes. If I were to give the FCA a score, I would give it seven out of 10, because 10 is for God and you can always do better. There is a lot that you are doing right—I say that as someone who has operated in the market for almost 10 years with my company, Curve—and there is a lot that we can do better, but let us not be too hard on ourselves and let us take the positive things and progress them.

I founded Curve about 10 years ago here in the UK to create a competing wallet for what we imagined then would become the wallet wars, which has indeed happened; it has started to emerge in the past year and a half. I have been asked to come here and share my first-hand experience of operating with the FCA, the PSR, and other regulators in the market, and how they have interacted with us and reacted to issues of competition and regulation. We think that first-hand experience will show you the gaps that exist in the regulation, with easy, practical bridges to bridge those gaps.

In terms of where we are with the regulation and the challenges we see today, I would bring up the lack of dialogue between the people on the ground, the regulators, and the legislators. We find that there needs to be dialogue whereby the regulators find gaps or a lack of mandate, and that goes up to the legislators to find ways to give leverage to the regulators.

We also see problems with talent. One reason why I moved to the UK to build my company is because the UK was—and, I believe, to a degree still is—the North Star when it comes to financial innovation. We have done it through regulations—the likes of EMI, PSD1, PSD2, industry share regulations, and open banking—but when it comes to practical implementation, in some aspects we have failed, mostly, I believe, because of the talent issue. One Lord just raised a question about Singapore, and in today's talk I hope to bring you the approach we have seen with Singapore. I believe that, because of the constraints of the FCA, the regulator, versus other regulators in the market, and the importance of the FCA in the British ecosystem and GDP, it might be a great testbed to use a different compensation structure in order to attract the best talent to the public sector and retain them.

From my point of view, if you do something that changes reality, you must be able to measure it. I disagree with things that cannot be measured. By creating objective measurements directly from the legislator to the regulators, and therefore downstream to the people in place, we would be able to bring better talent. As Charles Randell raised, that has to come with performance initiatives that allow the regulators to remove underperformers and to bring the best talent inside. Being a public servant is a privilege—in my view, at least—and having a good salary with performance-based compensation will ensure that talents remain in the public service and create the knowledge base and collective memory that allows us to build upon brick on brick. Let us get on with it.

- Q167 **The Chair:** Thank you. These are all very helpful statements, but, like a lot of the evidence that the committee gets, they are rather general. The committee would like to look at specific things that could be changed and that would enable us to be a more competitive economy and help new entrants in particular to grow. There will not be time to go through a list of things, but the committee would very much appreciate having specific examples that we can tackle of regulations, approaches or culture that prevent the kind of growth and enterprise that you stand for and which prevent innovation.

Having said that, some FinTech firms have received a lot of criticism for failing to protect consumers, in particular victims of authorised push payment fraud, which relies on social manipulation. What should, and could, consumers and users be expected to do? Should they take on more responsibility, or is the nature of FinTech such that it inherently creates these difficulties and this vulnerability for consumers?

Janine Hirt: Lord Chairman, shall I first answer the question that you posed at the beginning about specific deliverables that we believe would help? There are very specific actions for us to take. One of those, which was referenced earlier, is support for scaling firms as they go through a process with the FCA. We know that early-stage companies have what we believe to be really great support from the regulatory sandbox that we have here in the United Kingdom, and, as I am sure you have heard before, we were the first country to deliver on that.

It has now been replicated by nearly 100 regulators around the world, so I would just call out the fact that it is no longer necessarily a competitive advantage for us. But there is fantastic support for early-stage companies in that regulatory sandbox. There is also now a scalebox that has been created to support firms just once they pass through the authorisation. But then there is what some of our members term a valley of death—between the period of being a firm that has passed its authorisation point but before you are a structurally important firm and given a dedicated supervisory team. During that period, our firms, as they are growing and scaling, and are still large, have no direct dedicated contact at the FCA, or a dedicated supervisory team, and that can be very challenging for growing companies.

The Chair: You are dealing with a call centre.

Janine Hirt: Yes, absolutely to the call centre. That can be very challenging for a growing firm. This concept of supporting all the way through is something we deem very critical. The other component that I think there is opportunity to improve on with the regulators, and further to what Shachar said, is that we are very much a leader in this space, but we are trying to improve our positioning.

With regard to compliance and regulatory technology in particular, according to LexisNexis Risk Solutions, compliance alone cost UK firms £34.2 billion in 2022, which is a 19% increase from 2020. There is an opportunity for regulators to look at technology as an opportunity, not just a risk, and understand how they can be utilising technology both for themselves and to help firms comply and decrease the cost of compliance.

We released a report earlier this year in collaboration with the City of London where we outlined the need for regulators to utilise a RegTech test when they are implementing new technology, policies or regulations. The mindset of seeing technology as an opportunity and not just a risk is core to us.

Q168 **Lord Eatwell:** Would you therefore suggest that the regulator should have direct access to your systems, so that it can look at what you are doing all the time?

Janine Hirt: I believe that would be looked at on a case-by-case basis. Part of the purpose of the regulatory sandbox that has been created, for example, is to enable new technology to be utilised in a safe space. That concept is driving quite a bit of our growth going forward.

Lord Eatwell: If you are saying that you want the regulator to be able to take advantage of the technological possibilities, one thing it could do is have direct access to your systems all the time.

Shachar Bialick: If I may answer that, it would be very easy for me to get around that by creating different metrics and measurements and duplicating books on the way we operate.

Lord Eatwell: But as soon as you do that, you lose your licence.

Shachar Bialick: It is very hard to identify that. In my view, a better way to do it, taking automation view, is that the FCA needs to create a standard framework of reporting, as it does today for automated submissions on a standard framework of reporting.

More importantly, different companies look at different metrics differently, and as operational metrics. That is fine, it is right to do so, but some objectives and standardised metrics must be adhered to, such as capital requirements, safeguarding reporting, and so forth. Those should be open to the regulators for them to see, but the way to do it, in my view, is a sort of registration of assistant regulators that have procured and got a discount on behalf of all other companies to use, so you can automate.

The challenge for me, practicality-wise, is that you do not see automation because of a lack of automation—we now have GPTs and AI that can speak to you. The problem is talent. I learned about 15 years ago that if I do not see an impact on my company, it is a cultural problem, and if the culture is wrong, it is the leadership that is wrong. In the case of public services, the leadership can be bifurcated between the regulators and the legislator, but in the end it is a leadership issue, and it all comes down to talent. Once you have the right talent, they do not want to work on mundane things day in, day out; they want to automate those things so that they can do the more valuable things that the computer cannot do. In my very basic view, it all comes down to talent. Show me the incentive or show me the outcome.

The Chair: Did you want to finish your answer, Janine?

Lord Eatwell: Sorry to interrupt.

Janine Hirt: No, it is okay. Do you want to make a start on APP fraud, Robert?

Robert Kerrigan: There was question about whether consumers should take more responsibility. My view is that they should not. We are at an interesting point of history where a large number of consumers are using technology they have not grown up with. It probably is a relatively unique point in time for now. It creates a large pool of vulnerable and susceptible citizens, perhaps more than we will have in the future, and they should be protected.

It is the wrong approach to simply look at this as a financial services problem or a consumer problem; it is far more joined up than that. This is a very connected environment that involves scammers operating predominantly on online platforms, with 70% of the fraud cases we see originating on online platforms. The responsibility should be shared with social media platforms for hosting and supporting these online scams. The social media platforms have and use an extraordinary amount of data that could be put to better use to prevent this. I also think there is a

policing element to it. I understand that fraud accounts for about 40% of all UK crime, but only 2% of police resources are put towards fraud prevention or fraud policing.

So I do not think it is simply a case of putting financial services—or, indeed, FinTech as a subset of financial services—against consumers and saying, “It’s your fault”, or “It’s their fault”. It is far more connected than that.

The Chair: We had some evidence from Santander, which has what a Break the Spell team. Apparently, a lot of these scams are based on people going on to websites where they meet people.

Robert Kerrigan: Romance scams.

The Chair: Yes. I was searching for how to describe them, not having used them myself.

Lord Hill of Oareford: There is still time.

The Chair: I have been married for 47 years, so I am not sure that Lady Forsyth would appreciate that intervention.

Intriguingly, Santander said that the team rings customers to say, “Do not transfer this money. It’s a scam”, yet the customer still transfers the money and then expects the bank to compensate them. Is this not bizarre?

Robert Kerrigan: I think it is unique to Santander, which knows its customer base.

The Chair: It is not about Santander; it is about people taking decisions against advice and then expecting other people to compensate them for doing so.

Janine Hirt: There needs to be a distinction between the responsibility of the consumer and the role of educating them. We feel that industry does have a role, alongside the Government and the regulators, in educating the consumer, because we also know that the mental unwellness that comes from being defrauded comes from being defrauded in the first place, so if we could stop it at that point that would be a much more helpful position. One of our critiques of the APP fraud reimbursement programme, for example, is that it did not reference looking at a holistic approach to fraud in the earlier stages and how we can educate consumers across the board.

I would also just build, in terms of the Big Tech firms, on Robert’s number of 70%. We know that 60% of that 70% is being sourced from Meta alone. It seems wrong not to ensure that we have the Big Techs and large US platforms at the table.

The Chair: I got that point. Lord Vaux.

Q169 **Lord Vaux of Harrowden:** On APP fraud, new arrangements have just

come into force. We get criticism along the lines that the Chair has mentioned, but there are other aspects of it. Do you think the PSR has the balance right here? I am thinking partly of the consumer and what level they need to do for themselves, but also about the balance between the receiving bank and the sending institution. Looking at the latest metrics from the PSR, which I have in front of me, it is quite clear that the smaller, newer businesses are performing particularly badly in terms of receiving stolen money on behalf of fraudsters.

Do we have the balance right, and what do we do about that latter point, particularly the receiving of stolen money and the processing of it for the fraudsters through some of your smaller members?

Robert Kerrigan: The honest and unsatisfactory answer is that the jury is still out; it remains to be seen. We spoke to the PSR yesterday, and I think it is too early for it to form a view on whether the rules are effective.

TrueLayer was not in favour of the rules as they related to us specifically, because we offer a merchant bank account service where we are the receiving bank, but we still offer this as part of an intermediary infrastructure. That is not unique in FinTech terms where you are trying to create fast, unique, quick payments but you do not have the end-user relationship at all.

So, from that perspective, it is challenging to impose 50% of a liability on a payment that you have never seen initiated—you just provide the infrastructure in the middle. I would say that, for TrueLayer, it has shone a light on the merchants we onboard and the KYC we do at onboarding. If you have a payer relationship, a relationship with the person making payments—going to the bank traditionally, but making them online—you have multiple frequent touchpoints. With a merchant-customer onboarding relationship, you have fewer frequent touchpoints: you onboard them, do your KYC on them, and effectively track and monitor data for performance on issues and metrics like fraud.

I do not want to give you a high-level, boring answer or go too nerdy on it, but I would say that, for FinTechs and early-stage companies that provide receiving bank accounts or are on the side of the merchant bank account that receives a payment, their ability to evolve and develop a stronger relationship of trust with the merchants for whom they provide the bank accounts could be a very positive thing. I am not sure whether that will be possible.

I will reiterate my previous points. First, If I am honest, I thought the PSR rules were rushed, and I do not think that there was a good level of understanding. Anecdotally, we were talking to our clients as recently as August, saying, "Are you ready for the APP fraud rules?" and they would say, "What APP fraud rules?" So that area could be improved.

Secondly, the prevention of fraud in the modern digitally connected world is a very connected venture, and it does not serve anyone, least of all

consumers, to look solely at issuing and receiving banks. The platforms on which the fraud originates are far more interesting to me.

Q170 **Lord Vaux of Harrowden:** I cannot disagree with that. Are you happy with the level that it has been set at and the change that was made more recently?

Robert Kerrigan: Our average transaction volume is relatively low, so it was not meaningful to us that the level was reduced. I think if I was an early-stage company with lower capital on my balance sheet, it would let me sleep better at night knowing that I would not have one transaction that could knock me out for £300,000 or whatever it was, or an unlimited amount—I forget the numbers. Having an £85,000 limit probably helps certain CEOs sleep better at night knowing that one single transaction will not knock out their payroll for the next month.

Shachar Bialick: I will provide another angle from my side. Chair, you raised a conundrum: the bank called someone and told them, “This is a fraud transaction. Do not transfer it”, and they still did it. We know that people are irrational. There is another example where disclosure of a public company in the US, Bed Bath & Beyond, required it to write in its prospectus that if people invested, the company would use their money to go bankrupt. Yet people invested hundreds of millions. We must understand that markets operate in a certain way, and that people, as a public, are irrational.

There is a question about how much as a regulator, legislator or country we want to be on the side of more regulation or more market powers. The challenge I have with regulation is that there is a framework in law that basically says that those with the deepest pockets will pay. However, this framework applies in precedents—judged cases—and not by law. It is very hard to create deep-pocket law, which is what this law does, because it will create a moral hazard. I no longer have the moral hazard.

My second point is about enforcement, a point my colleague raised. We have sent to the police the IDs of fraudsters and rings of fraudsters who have taken hundreds of thousands of pounds over the years, and no action has been taken that we are aware of.

The Chair: Sorry, what were the hundreds of thousands of pounds?

Shachar Bialick: That was fraud that we accrued over the years from known fraudsters. With KYC, we have their passports, we know where they live and we know how much they have stolen, yet the police do nothing about it. Again, there is a philosophical area with legislation: if you have a law and do not enforce it, do you expect the behaviour to change? There is thousands of years of writing on that. There is nothing new under the sun.

Coming back to the very essence of APP fraud, the regulation does not apply to my firm, so I come at this specific case from a very objective point of view. Take the open banking issue. Open banking fell flat, in my view. The vision was remarkable, but over the years the industry has

raised the issue that open banking has lacked API, fraud and chargeback standards, which meant that it would not be successful. Indeed, the uptake of open banking is far from where I initially imagined it would be. The outcome, by the way, is that Visa and Mastercard are now bridging the gap at the organisational layer and chargeback layer, and they are going to charge for that. So the exact purpose of open banking—to displace those third-party American companies from our ecosystem—has fallen flat.

We could have taken an approach to APP fraud whereby we looked holistically at open banking and where the gaps are, the chargeback rules, the fraud rules, and the bank-to-bank account transfer fraud rules, gone to the principles of how the ecosystem works and who the gatekeepers are, and asked ourselves who is best positioned to prevent that fraud from happening.

The answer is pretty simple. It is the gatekeepers who have KYC-ed the fraudsters and enabled them to have a bank account to begin with. If we enforced the majority of the cost on that bank, I can assure you that the compliance costs would increase, but those fraudsters would not have access to bank accounts or the ecosystem, creating money-laundering risk and financial crime risk. There are also issues to do with social networks and maybe education, although if your parents did not educate you in financial understanding, it will be very hard for an app or a regulator to do that.

Q171 Lord Sharkey: Ms Hirt, you made some comment about removing unnecessary regulations and constraints. I echo what the Chair has said: that we would quite like a list of those. Mr Kerrigan talked about a stasis in regulation. Again, we would quite like some example of what that meant. Mr Bialick talked about creating objective measurements within the regulators, and I wanted to talk about metrics for making judgments about how well the regulators are performing. Ms Hirt, I think you said that you were interested in greater granularity in the measurement of progress on the secondary objective. We would like to know a little more about what you mean by that, if you could expand on it.

Janine Hirt: Absolutely. In terms of the data that is being released by the regulator at this point on authorisations or the speed of authorisations, there is no detail on the size, type, scale or vertical of the firm. It is an overarching sector-specific viewpoint. That makes it very difficult for us to tell whether this initiative is working to support growing firms as they scale. We would call for more granularity of data to be released from the regulators in order to provide that picture.

On the stasis of regulation, in terms of the progress and pace, there are a number of different instances that I am keen to discuss at a further level. I would love to call out one area that we have been quite positive about, the FCA's listing reforms. There has been very positive feedback from the industry about these reforms. They came off the back of the Khalifa, Hill, Austin and Kent reviews. However, unfortunately, the pace of delivering on these reforms have stalled. The EU then picked up this set of listings

review. In many of the cases, it is set to deliver on these rules and changes by the end of 2024, and the UK will be waiting through to 2025 to see those changes. One of those changes is the six-day rule, which currently prevents investment research being published until six days after a firm has IPO-ed. The EU is set to change that to three days before the end of this year, and we are still consulting here in the UK on that.

Those are some specific examples of where we would like to see faster pace, and where we are feeding input from the industry and would be keen for that to be delivered forward.

Shachar Bialick: Perhaps I can add a more specific case but, again, in my view, they are mostly behavioural or cultural. One of the advantages of my firm is that we have a real opportunity to displace Visa and Mastercard basically by building a layer on them. For eight years, one of the networks tried to kill us, blatantly going against regulations like PSD1 and PSD2—the PSR regulations. We went to the PSR in early 2020 and showed how they breached clear regulation from PSD1 and PSD2, yet nothing happened. Two months later, we went to the regulators in Europe, DG FISMA and DG-COMP. The breach by the network was so extreme that Vestager herself wrote a note to that network.

The outcome of the note was that the network changed the rules. Otherwise, we would get a fine so large that we probably would not be able to operate in the market. This was within a period of six months before it went to the European Commission, yet a year before the PSR used what they call a soft power against the kind of company that is known as anti-competitive; just open a Wikipedia page about it. Soft powers have never helped and would not help here. Eventually the PSR just adopted the decision by the European Commission.

At more or less the same time, we realised that Apple was being anti-competitive by restricting access to its wallet. So we started a project in the company called Project Elah, named after the Elah Valley in Israel where David fought Goliath. This time around, we did not go to the PSR; we went directly to DG COMP and DG FISMA. There, the intervention took longer.

Three years later, in January 2024, after submitting the appeal against Apple in the European Commission, the European Commission was able to move Apple's hand and Apple conceded to lifting the restriction and opening up the NFC in Europe for free. This was immediately after we had reached out to the PSR to tell them, "Hey, this just happened to our neighbour. Let's get moving". In April or May, the PSR sent guidance to understand whether there was a competition issue with Apple.

Let us just understand what happened in between. In February 2024, the DOJ, which is a very slow agency globally, submitted the lawsuit against Apple to open up the NFC. In April/May 2024, after an appeal to the PSR, the PSR sought guidance about that. It was very slow to respond.

What happened then? In August 2024, Apple made the first move to lift the NFC restriction across all key markets, including the UK, but it is going to charge for it, the outcome of which we are living with today. It will be open in the UK in around January next year, but it will be charged for.

Lord Sharkey: And it does not charge elsewhere.

Shachar Bialick: Europe will not be charged.

Lord Sharkey: And in the United States?

Shachar Bialick: In every key market that Apple conceded in, it will be charged for—so it will be charged for in the US, the UK, Latin America and Australia—aside from Europe, because in Europe the regulator was fast enough to say, “What you are doing is anti-competitive. It’s against our legislation, so stop doing that”, and it has stopped doing it.

Now, everyone can access the Apple NFC for free. The UK could have done exactly the same. We operate under extremely similar regulation for competition, and the CMA cannot get involved because the powers of the CMA were granted by the PSR, and the PSR, in my view, has a cultural problem in acting on its forces, leaving companies like ours with a problem. Imagine what companies like ours had to do. We raised £200 million. Imagine my ability to fund and to raise money in the UK—not in the US, which is one of the key FinTech markets—when I have the sword of Damocles over my head from one of the biggest networks to kill my business, or when I have a litigation issue with Apple to try to meet the competition in the market and provide consumers with more choice and better innovation, or when there are regulations and legislation in place preventing exactly that but the regulator is not acting upon them.

Lord Sharkey: Do I deduce from this that you do not feel that the PSR is on your side, or helpful?

Shachar Bialick: I would not articulate it as whether it is on my side or not, or helpful or not. The PSR does not act on the powers granted to it, so either the powers need to go back to the CMA or the PSR needs a cultural change. I cannot be more direct than that. No other firm would be able to raise the money or to continue. Another firm would die. Firms have died in the past due to lack of regulatory activity.

Robert Kerrigan: You asked me for some specifics. The European Union is already updating PSD2—the 2016 regulation for payments. Its stated ambition, among others, is to further level the playing field between banks and non-banks. That would help FinTech. The UK is not currently doing the same.

There were drafts or talk of a national payments vision earlier this year. That was parked, I presume, through the general election process, but Ireland has recently launched its national payments strategy, which recommends pursuing a pay-by-account—pay-by-bank—solution as a convenient and trusted alternative to cards. The UK should do the same.

I agree that it needs to go back up a level. Whether it is the CMA or the Treasury I am not sure, but there needs to be a stated objective that we need to deliver more competition in payments, because we are seeing the PSR and JROC are struggling to move forward without consensus, and consensus is hard to find. You will not find a FinTech that can build or replace MasterCard or Visa in stealth for 20 years. We just have to get going. It will take longer. It probable speaks to a wider conversation about the risk of doing that, and starting small and building up, but we just need to get going.

TrueLayer has built a variable recurring payments product that, in effect, replaces card on file. We have large consumers willing to use it for commercial use. We just need to get going. We need to start piloting these things. We need to move more quickly. We have been waiting on guidance or rules on piloting for the last six to nine months. That is specifically what I was referring to.

Janine Hirt: May I also build on this piece about JROC in particular, because the vehicle of JROC, by its nature, is very positive in terms of bringing the regulators together. The challenge, however, is that no single regulator is given the mandate to move things forward. So you end up in a situation where, without that progress, we are not seeing the momentum we need to see when it comes to open banking through to open finance, so that would be just an additional comment.

Q172 **Lord Eatwell:** I have been intrigued by the discussions about your progress and the way in which it has been supported and not supported, and the problems you have encountered—especially the comparisons with the European Union.

I turn to the question from earlier, about the impact of your growth on the growth and the performance of the rest of the economy. If having a more efficient payment system reduces costs, obviously it helps, but one of the striking things about the digitalisation of banking is that it has become increasingly impersonal and algorithmic. Therefore, the extraordinary SME that is peculiar and has some strange ideas finds it enormously more difficult to raise money now than when it could go to the neighbourhood bank manager and discuss the issue with him or her.

How do we overcome the anonymisation, or standardisation, of a company's algorithmic systems, so that we can support the truly innovative SMEs, which by their nature are strange?

Robert Kerrigan: Prior to joining TrueLayer I worked at Funding Circle, an SME lending company. Whether you would consider that tech, FinTech, financial services or somewhere between the three, I think back to the period of Covid when all the banks shut and everyone went home. Anecdotally, when bank workers went home from their branches they did not have laptops to open and work from. I know that it is an extreme example, but what you see there is that technology is able to step up in times of crisis and deliver emergency loans by pivoting its product legislation rather than being grandfathered in as the banks were.

FinTech has shown that it can provide exceptional service to SMEs through technology. The human touch, although not absent in companies like Funding Circle, remains in certain FinTechs, especially where they have consumer touch points. I do not see a widespread shift away from customer support in FinTechs that provide a direct service to the consumer or to small and medium-sized enterprises. That is my personal experience.

Generally across the banking sector—I am far less informed to talk about that—the closure of bank branches clearly provides a problem for a generation. The move to neo-banking provides a solution to another generation. We are in a period of transition. Those two things do not have to be mutually exclusive. In answer to a previous question, one does not have to be played off against the other. Both should exist.

Lord Eatwell: As I understand it, an institution like Handelsbanken is moving in the opposite direction. It is having more and more people on the ground and more and more relationship banking, and it is the fastest growing medium-sized bank in the country, I believe.

Robert Kerrigan: I think technology serves the purpose of pointing you towards an extreme, and customers and incumbents will decide whether they want to be a point of difference to that or to go along with the ride. What you are describing may be the existence of pure neobanks, where there is no call centre, there is no phone number to call. To certain people, that is an exceptional service and all that they want.

If you think about SMEs in particular, it is no good to a small business owner that a bank branch is open Monday to Friday, 9 am to 6 pm, because that is when they are working. So FinTech and a 24/7 automated service that can provide lending decisions at 11 pm after they have finished their working day are all the more relevant and useful to them.

I am trying to make a general point about what FinTech does. My sense is that it shows you what the reduced technological solution looks like, and then it is incumbent on the incumbents to say, "Actually, we want to do things a different way". If the customers follow them, great. These people are doing it not out of the goodness of their hearts but because they think that it creates a point of difference for them, which they market to customers. If the customers follow, they vote with their feet.

Q173 **Lord Eatwell:** One of you, I cannot remember which, said you had just had a secondary funding round of \$350 million.

Robert Kerrigan: No, it was just \$50 million. We have raised \$300 million in total. We definitely have not just raised \$300 million.

Lord Eatwell: So you said \$50 million.

Robert Kerrigan: Yes.

Lord Eatwell: Dollars, not pounds. Why not pounds? The issue that I wanted to get at was whether, as an SME, you found that there was a

lack of supportive finance in this country.

Robert Kerrigan: Yes. The UK is exceptional at private equity and at pre-seed, pre-product, seed stage Series A and Series B. At a certain point, every company hits what you may or may not consider to be around the Series C mark, where you are not raising against a market opportunity or a dream or vision. Inevitably, when you raise more money, you grow at scale, and the quantum of what you need to raise increases as well, so it is harder. If you are five years old and have 200 staff, you need more money to operate than you would if you were 10 years old. I think we do fine at those smaller checks at seed stage and pre-seed stage, and the UK is broadly competitive. At a larger stage, as TrueLayer experienced—like a lot of UK companies experience, I think—those checks come from outside.

Lord Eatwell: From the United States?

Robert Kerrigan: Yes, in our case.

Lord Eatwell: Thank you.

Shachar Bialick: There is a report that Innovate Finance was involved in, about which Janine could share more. The Valley of Death gap, not only in the UK but across Europe, is Series C and beyond, so we are starting to look for tickets of £50 million or £100 million and above for Series C scale-ups. That is the main challenge in the UK.

Lord Eatwell: It is interesting. We had a representative of a clearing bank here last week who, when challenged on this issue, just said: “We don’t do that”.

Shachar Bialick: It is important to differentiate between a business and a start-up. If I want to create a barber’s shop, that is not a start-up. I can definitely create more barber’s shops, but it is not a start-up. A start-up’s job is to accelerate in scale well beyond its means, so as long as you can drive growth into a targetable, addressable market, you will keep losing money, because it will burn into growth, but the returns should, hopefully, come sooner.

Lord Eatwell: Okay, thank you.

Q174 **Lord Vaux of Harrowden:** Why is it that we hit a point in the market where we are not able to raise money in this country? Are there regulatory issues that contribute to that, or is it simply that the US is a much bigger market in itself and has more money available? What is driving it?

Janine Hirt: For about the past eight years we have put out an annual investment landscape report, which measures investment in FinTech both in the UK and on a global basis. It repeatedly shows that in the UK about 50% of the investment comes from the United States. There is a very low level of domestic investment. One of the challenges we have here is the lack of growth capital. The Mansion House compact, which is being

delivered, will hopefully play a key role in helping to align pension investment as well into growth companies, and FinTech will be the largest recipient of that as a sector. That is an area where we hope to continue moving forward and to see progress, because that is one of the key challenges we see here.

Robert Kerrigan: I agree. There are other points, including the question of quantum, which I raised. There is more money available at larger scale to be deployed. There is also a cultural element. You have to be very risk-on at this stage, because, put plainly, if you have a very large cheque and you are investing in that growth stage, why not just put it in Nvidia? It is fully liquid; it is there. There is a kind of cultural difference.

Something Canada has done well is unlock pension fund investment, and that has been transformative for them. It is a kind of quick fix. There are many ways in which you can unlock more growth investment in the UK, and that is a pretty good example.

Lord Sharkey: I think my question has been answered. I was going to follow up on why the money came from America and not elsewhere.

Robert Kerrigan: Do you feel that I have answered that?

Lord Sharkey: Yes. I assume it has to do partly with risk appetite, as you said in your answer.

Robert Kerrigan: Yes.

Shachar Bialick: In Israel, we had similar start-up nation growing up. I think in the UK we are about 20 years behind. It is very nascent. Also, in Israel in the late 1990s and early 2000s it was very difficult to find growth capital. Most growth capital was small cheques—seed A or B class at the most. So I think the number one point is that we can be patient; it is fine. In the end, the best founders, the best companies will succeed. There is great work on pension funds and the risk adversity that the culture provides. I agree with Robert that there is a way to advance and accelerate it by giving subsidies or tax reductions for those kinds of investments, for losses and so forth. Those pension funds will come in and invest in Nvidia. A company that invests in start-ups will have the right compliance and capabilities to invest in this industry.

Q175 **Lord Grabiner:** To a greater or lesser degree, you all have very serious concerns about the enforcement side of the story, which we are obviously interested in, and you have all developed your own risk appetites as well. Have you found any concern about your being inhibited in maximising that risk appetite because of the rules that you are governed by? Has there been any inhibition on your ability to get on with your appetite because of the rules under which you are working?

Shachar Bialick: I tell my team all the time that it is great to work in a regulated environment: you have someone who takes care that you are not making any mistakes, for free, so enjoy it. I truly believe in that.

Lord Sharkey: It is not entirely free.

Shachar Bialick: The main challenge with risk is ensuring that we understand exactly the consequences of taking those risks. Another thing that is great about the FCA and the framework we have chosen to enact here is that it is activity-based and principle-based rather than being entity-based, as it is in the US, which is creating all the issues there right now with the chartered banks.

That is good, but there is a problem with being principle-based. In law, it is easy because you have judgment cases and precedents. You can read the precedents, interpretations or what the legislator had in mind when they brought this to the legislation floor, and you can learn from that to help you understand what may happen if you are doing this or that. When it comes to regulation in finance, you will find a huge lack of that guidance and those explanations, which means that, even if you go to the best law firm, it will tell you that this or that can happen, and, based on the risk the board was willing to take to the business, you can take those risks, but do you really want to take regulatory risks? You could lose your job as director and not be able to do what you have been doing all your life.

The conclusion, as Charles mentioned, is that the regulator, culturally and behaviourally, needs to be more comfortable providing guidance about how to read the law and interpret it, and maybe publish more cases that come to its table, so that we can see what is enacted or decided in this way and understand how it thinks and how this principle should be interpreted.

Lord Grabiner: So you end up erring on the side of caution because you have lawyers who are holding you back, which I entirely understand. They are obviously concerned about their own position. Is that because of the lack of clarity in the regulation? Is that the problem?

Robert Kerrigan: I will speak as a lawyer, as I am also a general counsel at TrueLayer. I was a corporate lawyer in my old life, and I have been in-house running legal teams in FinTechs for the best part of 10 years.

The advantage of a principles-based regulation is that lawyers can get rich interpreting them for you and saying that you are doing the right stuff and are hitting about the right level. The disadvantage is that you never know. There have been nights where I have lain awake thinking, "I've been working on this project for 12 months. Have I hit the right mark?"

As a business, you are risk-on. You have to be. There is one existential risk to all FinTechs, particularly those that are not yet making a profit: that they do not grow. If you do not grow, you become obsolete, you do not exist and you get snapped up, so you have to grow. That means that you have to take risk-based decisions on supporting that growth. Then you have to do that in a compliant fashion, so you interpret the principles

of regulation as best suits your company: where you are at this stage of your maturity, and what would the regulator reasonably expect?

You cannot pick up the phone to the regulator at this stage, because you do not have a dedicated supervision team. The best interaction I had with the FCA was during the period of Covid at Funding Circle, where we were deemed, momentarily perhaps, slightly systemic or whatever the word is. We were considered sufficiently important that they were worried about us. They came in and wanted to look our wind-down plans, which they were worried about. They suddenly took a very deep interest in our business model and understood it. Through that understanding, you could have nuanced discussions about what you were doing.

Then I moved to TrueLayer. We are early-stage. You are almost back in a dark room. You kind of go, "Okay, I have to navigate these principles and the guidelines". I look at Dear CEO principles-based letters, which are very helpful, by the way, but you are more or less making your own decisions by yourself, which can be slightly challenging.

I would say—and I feel like we should say, as I was in the previous session as well—that we really like being regulated in the UK. In my experience, the cost of compliance is negligible. I think that with other European regulators there is greater cost and more prescription around the number of people you need to have in different roles, which is not the case in the UK; it is largely principles-led. They are moving well towards this idea that you should focus on outcomes and risks of harm, and a business like ours has been told that, if you have an open risk by the letter of the law but your interpretation of your business model is that that risk is negligible or there is no risk of harm, do not build a controls environment around it, do not put people on that monitoring line or track the data on that. Just risk-except it, document it, have good governance and then move on. I think that, in many ways, that principle-led world suits us very well.

The Chair: Except, if you ask the regulator, "What is meant by this particular regulation?" or "How do I comply with the consumer duty?", they are reluctant to give an answer.

Robert Kerrigan: Those are two questions I never ask. I have some junior lawyers and junior compliance people in my team, and they say, "Shall we ask the regulator?", and we all just laugh at them. No, this is what we have to do: we call up this law firm, he charges me £600 an hour and he tells me what the regulator thinks. That is just how it works. I am being slightly flippant here.

Lord Grabiner: The point is that the regulator will not give you a quick and clear answer. Is that not the problem? That is a substantive criticism, is it not?

Robert Kerrigan: I do not see it as such, and perhaps I have just become so used to the way of working. I think the idea that the regulator wants you to start thinking about these things through your own prism of

risk is useful: it creates a healthy and fully formed risk appetite. It is not parent or student and teacher, which I think is the point that Charles made in the previous session. You are meant to think about it yourself. I believe that the outcomes are better because you are not asking, "Do I have to do this or that?" They cannot understand your business as well as you do. It would be impossible for them to do that.

The Chair: Yes, but in larger firms, what happens is that, in order to work out what the regulation means, you employ some lawyers and some of the big four consultants, and, without breaching any confidences, they tell you what your competitors are doing and what the common position is. I am surprised that you find that satisfactory.

Shachar Bialick: The main gap we are seeing—because we have such an innovative product, that no one has done anything like this before—is in the interpretation of the law. I agree with Robert that principles-based and outcome-based is the right approach. It is much more advantageous than other approaches, but it lacks the interpretation and guidance papers.

Lord Grabiner: There are two issues going on here at the same time. One is that you find it attractive that you are free to make your own judgment call and your own assessment of the possible exposure or downside might be to what you are proposing to do. At the same time, there is a separate question: "If I do it, am I going to break the rules?" That is quite a high-risk strategy. If there is nobody you can turn to without paying some extortionate fee to some noisy lawyer to give you some advice that might not be correct either.

Robert Kerrigan: Roughly 9% or 10% of our staff work in legal, risk or compliance. I often say to my colleagues, "We can do pizza delivery if you want to just work in tech. Regulated tech is a privilege, and you invest in those things". I do not think it is right to belittle—not that I am suggesting that you are—the act of interpreting policy and principle into something that is very literal for you. It is quite noble work, and I think it is essential. There is a utopia where every regulated firm has a case manager or case handler, they understand their business intimately, and they can pick up the phone and get free advice from the regulator. I just do not think we exist in that world.

I also think that FinTechs and regulated tech companies should be risk-on. They are trying to disrupt and they should be exercising risk-based decisions, but they should also be going quickly and growing quickly. There is not a regulator in this world that exists that can move at that same pace. So the only viable solution, if you have entities that want to grow, move quickly and take risk, and a regulator that wants to enable growth and competition as an objective of its own but also manage risk, is that the regulator can really only operate through two choices, I suppose—principles-led or rules-based regulation. My preference, having worked in countries where it is rules-based versus principles-based is that principles-based is preferable.

Q176 Lord Vaux of Harrowden: I think all of you mentioned open banking up front. It has been around quite a long time—eight or 10 years, or whatever it has been—and has not really achieved the potential it was expected to achieve when it first appeared as a concept. Innovative Finance talked about problems with JROC et cetera in that respect. What has held it back? Is regulation causing the problem, or is it that the promise of it was over what it says, and it does not have the commercial realities? Are there other examples where innovation in the industry is being held back specifically by regulation?

Janine Hirt: There are a few different components to why we are seeing open banking, through to open finance, not progressing with the momentum that we are keen to see. The first is that we need clear direction and strategy from HMT, and that means identification of the ultimate goals and deliverables but also a pathway forward for us to deliver on that.

I also suggest that government and regulators fail to see data-sharing strategies as critical national infrastructure, which means that we do not have the government funding to enable that to progress at the speed that we are keen to see. Part of this is because of the Data Protection and Digital Information Bill falling. We felt there was an opportunity there to put a smart data Bill forward with maybe two clauses as opposed to a lengthy Bill. Then, on the surface of that, as I mentioned earlier, JROC in and of itself is a great idea—bringing the different regulators together—but without one regulator being given authority to lead and take full ownership it is at a standstill.

In addition—we see this regularly with regulation more broadly—industry has spent a significant amount of time contributing to the ideas around how we can push open banking and open finance forward, including developing essentially a road map that industry spent six months on, which JROC has all but ignored in many cases. There is a question around the pace and the role of government, and there is a conversation about the regulation.

In other arenas, with regards to regulation and why it is holding back specific verticals, at the moment there is a review being undertaken about the advice and guidance boundary. That started in December 2022 and is yet to be completed. It also references one of the comments that was made earlier about technology becoming impersonal.

Actually, technology can create much more personalised financial services, at the end of the day. Specifically in the space of advice and guidance, AI solutions and tools could enable many more people across the UK to get access to financial advice and therefore could increase financial wellness. So we would like to see that move forward at a quick pace.

Crypto regulation is another one. We saw a great forward plan by HMT laid out in the spring of 2023. Eighteen months on and we have yet to see any movement in that arena. Payments are another, of course.

Shachar Bialick: Crypto regulation is a good example of a lack of clarity that prevents you from doing business. In early 2020, we had an ability for our customers to earn crypto rewards to spend on everyday purchases. The nice thing about that was that it could appreciate over time rather than depreciate like regular fiat currency. But then came the regulation, the FCA sent some guidance that made everything very blurry, and we just had to kill the product because we were not willing to take a risk, especially not a regulatory risk when it came to crypto currency. It was just not clear enough, so we killed the product. That had an impact on consumers, of course.

When it comes to open banking, the simplest way I can describe what happened is that it was a job half done. The lack of standardisation around the APIs and our charge books, and fraud not being addressed, made it a dead-on-arrival product. We in the industry have raised the issue time and time again that we have to finish the job and make sure that standards are in place. There are a lot of easy ways to inspire good standards from the likes of Visa and Mastercard. There is nothing new under the sun, but it was stopped.

The second problem in the way we designed the system was that we did not think about the jobs to be done, the purpose, the benefit for the customer. One benefit of open banking is variable recurring payments, for example, which Robert mentioned. It was left to the likes of TrueLayer and the private companies to build, but it should have designed from the get-go, because then as a customer I can just go to Amazon and open a bank account there, and every time I shop at Amazon I reduce the cost to Amazon, and Amazon, by definition, will pass to the customer, so there will be a lower cost to customers over time. That is just one example.

It is very easy to fix, in a way, and to finish the job there. The challenge we have is that we are too late. A couple of years back, Visa bought Tink, which is its largest European version. I believe it is an investor in TrueLayer, which means that it has a very big shareholding in one of the largest open-banking private companies. Visa has now announced that it is going to introduce exactly those caps: the standardisation of the API and the standardisation of charge banks. So, now, if I as a company had to choose to work with an SME, a British-founded company such as TrueLayer—we are their customers today—or with Visa, it would be an easy decision. It would be Visa, and Visa will charge me. It might not charge me the same net book fees it charges today, but they would not be far away from that, and rightly so.

Robert Kerrigan: You will have to give me a right of reply on that. We can argue in the corridor afterwards.

The Chair: I am going to draw stumps now because we are over time, but we have clearly not covered as much of the material as we could, so I think the committee would be very appreciative if you were to give us some written evidence, not necessarily repeating the points that have been made today, but on other issues. Can we say how much we

appreciate your frankness? This is something that we have found difficult to achieve from some of the bigger firms.

Robert Kerrigan: We are just unsophisticated.

Shachar Bialick: Just to mirror back at you, I have been involved in many companies, and in none of the countries I have lived in in the past have I seen such a celebration of dissent and invitation of opinions to find out how to make the country better, so well done. It is impressive.

The Chair: Thank you very much. We will take that as a compliment.